Rape and Sexual Assault Analyses and Laws

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ÆQUITAS
THE PROSECUTORS' RESOURCE ON VIOLENCE AGAINST WOMEN

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INTRODUCTION

This compilation includes a comprehensive look at the rape and sexual assault laws in all fifty states, U.S. Territories, U.S. Military, and federal jurisdictions. The coverage ranges from laws against rape and sexual assault, abuse, misconduct, or battery to marital rape and sexual assault related to domestic violence. This project was initiated in response to a request from the Bureau of Justice Statistics' Committee on National Statistics; as a result, the laws on which we focused address sexual assault crimes against adults, with the exception of the section regarding the capacity-to-consent statutes that discusses age. In that section, some of the information was pulled from or relates to child abuse statutes. When information refers to child abuse statutes, we indicate so in explanatory footnotes. In the future, this compilation will be expanded to expanded to include laws against child sexual assault that appear in this document's explanatory footnotes

In addition to the law supplied in the main section of this compilation, we have also included appendices analyzing issues inherent to rape and sexual assault crimes that may arise throughout the course of a prosecution and are important to consider. These appendices are not meant to create restrictions or limitations but rather to be tools for prosecutors to utilize with their jurisdiction's applicable law in order to achieve the best possible outcome in a case. Each appendix will link directly to the relevant statute and the following chart is present at the beginning each jurisdiction's law to will redirect the reader back to each one of the specific analyses, via hyperlink.

CHARTS	PENETRATION	FORCE	CAPACITY TO CONSENT	VICTIM PERPETRATOR RELATIONSHIP	OTHER SEX CRIMES
CONSENT ANALYSIS	ALCOHOL/DRUG FACILITATED SEXUAL ASSAULT	MARITAL RAPE	SAME SEX PERPETRATOR	STATUTORY RAPE	CONSTRUCTIVE FORCE

ELEMENTS OF RAPE AND SEXUAL ASSAULT[1]

The charts below were created to summarize the rape and sexual assault laws throughout the United States, U.S. Territories, U.S. Military, and federal jurisdictions. Each chart looks to a specific element of the crime and breaks down that element into additional categories for analysis. The analyzed elements of rape and sexual assault include (1) penetration, (2) force, (3) capacity to consent, (4) victim-perpetrator relationship, and (5) categories of other sex crimes. Charts include each jurisdiction's statutory citations when the jurisdiction has a relevant provision in its laws. The appendices also include a chart focusing on drug and alcohol facilitated sexual assault, including provisions for voluntary versus involuntary intoxication, and physical helplessness or incapacity. All charts should be used in conjunction with the "Rape and Sexual Assault Laws" compilation, which includes the text of the statutes.

[1] This analysis was created by Charlene Whitman, Associate Attorney Advisor at AEquitas; with Pamela Martin and Lydia Lee, students at the University of Pennsylvania School of Law; and John Gunther, Laura Paliani, Evan Johnson, and Brad Thompson, students at the University of Virginia School of Law.

PENETRATION

Sexual penetration crimes may include penetration of the vagina, anus, or mouth (os) by the penis or other body part, or penetration of the vagina or anus by an object. Some jurisdictions will group all penetration crimes together under the umbrella of rape, sexual abuse, sexual battery, or sexual assault and use terminology such as sexual intercourse, sexual act or sexual penetration and defining what those terms include within the statutes.[2] Other jurisdictions will charge different crimes depending on the orifice penetrated, for example penile anal penetration or penetration by an object or other body part may be charged as a deviate sexual assault, criminal sodomy, sexual torture or object sexual penetration. The below Penetration chart provides the relevant pin-cite for each category, but note that several statutes are applicable to more than one category in this chart and thus are listed more than once. Note the cross-over and look to the text of the statute and definitions provided in the jurisdiction's code for any clarification.

STATE	PENILE VAGINAL	PENILE ANAL	SEX ORGAN ORAL	OBJECT VAGINAL/ANAL[3]	OTHER BODY PART (I.E., DIGITAL) VAGINAL/ANAL	HOWEVER SLIGHT	EMISSION NOT REQUIRED
Alabama	Ala. Code § 13A-6-60(1) Ala. Code § 13A-6-61 Ala. Code § 13-A-6-62 Ala. Code § 13A-6-65(a)(1) Ala. Code § 13A-6-65(a)(2)	Ala. Code § 13A-6-60(2) Ala. Code § 13-A-6-63 Ala. Code § 13A-6-64 Ala. Code § 13-A-6-65(a)(3)	Ala. Code § 13A-6-60(2) Ala. Code § 13-A-6-63 Ala. Code § 13A-6-64 Ala. Code § 13-A-6-65(a)(3)	Ala. Code § 13A-6-65.1(a)(1)	Ala. Code § 13A-6-65	Ala. Code § 13A-6-60(1)	Ala. Code § 13A-6-60(1)
Alaska	Alaska Stat. § 11.41.470(6)[4]	Alaska Stat. § 11.81.900(59)	Alaska Stat. § 11.81.900(59)	Alaska Stat. § 11.81.900(59)	Alaska Stat. § 11.81.900(59)	Alaska Stat. § 11.81.900(59)	

[2] Some of those statutes define the terms within the statutes themselves; others refer to separate statutory definitions that appear separate from the sexual abuse, sexual battery, or sexual assault statutes.

[3] Several states, including California, Connecticut, Delaware, Georgia, Indiana, Kentucky, Maine, Massachusetts, New Mexico, North Carolina, Oregon, South Dakota, Texas, Virginia, and West Virginia include digital or other body part penetration in the codified "object vaginal/anal" statute. See the applicable case law for clarification and application in each of these jurisdictions.

[4] "Sexual act" defined as sexual penetration or sexual contact.

STATE	PENILE VAGINAL	PENILE ANAL	SEX ORGAN ORAL	OBJECT VAGINAL/ANAL	OTHER BODY PART (I.E. DIGITAL) VAGINAL/ANAL	HOWEVER SLIGHT	EMISSION NOT REQUIRED
	Alaska Stat. § 11.41.410 Alaska Stat. § 11.41.420(3) Alaska Stat. § 11.41.425(2) – (4) Alaska Stat. § 11.81.900(59)						
Arizona	Ariz. Rev. Stat. Ann. § 13-1401(3) Ariz. Rev. Stat. Ann. § 13-1406	Ariz. Rev. Stat. Ann. § 13-1401(3) Ariz. Rev. Stat. Ann. § 13-1406	Ariz. Rev. Stat. Ann. § 13-1401(1) Ariz. Rev. Stat. Ann. § 13-1406	Ariz. Rev. Stat. Ann. § 13-1401(3) Ariz. Rev. Stat. Ann. § 13-1406	Ariz. Rev. Stat. Ann. § 13-1401(3) Ariz. Rev. Stat. Ann. § 13-1406	State v. Jackson, 109 Ariz. 559, 514 P.2d 480 (1973)	State v. Haston, 64 Ariz. 72, 166 P.2d 141 (1946)
Arkansas	Ark. Code Ann. § 5-14-101(11) Ark. Code Ann. § 5-14-103 Ark. Code Ann. § 5-14-124 Ark. Code Ann. § 5-14-126 Ark. Code Ann. § 5-14-127 Ark. Code Ann. § 5-14-111(a)(1)	Ark. Code Ann. § 5-14-101(1)(A) Ark. Code Ann. § 5-14-103 Ark. Code Ann. § 5-14-124 Ark. Code Ann. § 5-14-126 Ark. Code Ann. § 5-14-127 Ark. Code Ann. § 5-14-111(a)(2)	Ark. Code Ann. § 5-14-101(1)(A) Ark. Code Ann. § 5-14-103 Ark. Code Ann. § 5-14-124 Ark. Code Ann. § 5-14-126 Ark. Code Ann. § 5-14-127 Ark. Code Ann. § 5-14-111(a)(2)	Ark. Code Ann. § 5-14-101(1)(B) Ark. Code Ann. § 5-14-103 Ark. Code Ann. § 5-14-124 Ark. Code Ann. § 5-14-126 Ark. Code Ann. § 5-14-127 Ark. Code Ann. § 5-14-111(a)(2)	Ark. Code Ann. § 5-14-101(1)(B) Ark. Code Ann. § 5-14-103 Ark. Code Ann. § 5-14-124 Ark. Code Ann. § 5-14-126 Ark. Code Ann. § 5-14-127 Ark. Code Ann. § 5-14-111(a)(2)	Ark. Code Ann. § 5-14-101(1) Ark. Code Ann. § 5-14-101(11)	Hunt v. State, 115 Ark. 239 (1914)
California	Cal. Penal Code § 261 Cal. Penal Code § 262 Cal. Penal Code §	Cal. Penal Code § 262 Cal. Penal Code § 266c Cal. Penal Code §	Cal. Penal Code § 266c Cal. Penal Code §288a Cal. Penal Code §	Cal. Penal Code § 264.1	Cal. Penal Code § 289[5]	Cal. Penal Code § 263 Cal. Penal Code § 286	People v. Haywood, 131 Ca.2d 259, 280 P.2d 180 (1955)

[5] Digital penetration constitutes an offense under this section.

STATE	PENILE VAGINAL	PENILE ANAL	SEX ORGAN ORAL	OBJECT VAGINAL/ANAL	OTHER BODY PART (I.E. DIGITAL) VAGINAL/ANAL	HOWEVER SLIGHT	EMISSION NOT REQUIRED
	266c Cal. Penal Code § 289	286 Cal. Penal Code § 289	289				
Colorado	Colo. Rev. Stat. Ann. § 18-3-401(6) Colo. Rev. Stat. Ann. § 18-3-402	Colo. Rev. Stat. Ann. § 18-3-401(6) Colo. Rev. Stat. Ann. § 18-3-402	Colo. Rev. Stat. Ann. § 18-3-401(6) Colo. Rev. Stat. Ann. § 18-3-402	Colo. Rev. Stat. Ann. § 18-3-401(5)[6] Colo. Rev. Stat. Ann. § 18-3-402	Colo. Rev. Stat. Ann. § 18-3-401(5) Colo. Rev. Stat. Ann. § 18-3-402	Colo. Rev. Stat. Ann. § 18-3-401(5) Colo. Rev. Stat. Ann. § 18-3-401(6)	Colo. Rev. Stat. Ann. § 18-3-401(6)
Connecticut	Conn. Gen. Stat. Ann. § 53a-65(2) Conn. Gen. Stat. Ann. § 53a-70 Conn. Gen. Stat. Ann. § 53a-70b Conn. Gen. Stat. Ann. § 53a-72a(a)(2) Conn. Gen. Stat. Ann. § 53a-71	Conn. Gen. Stat. Ann. § 53a-65(2) Conn. Gen. Stat. Ann. § 53a-65(2) Conn. Gen. Stat. Ann. § 53a-70b Conn. Gen. Stat. Ann. § 53a-72a(a)(2) Conn. Gen. Stat. Ann. § 53a-71	Conn. Gen. Stat. Ann. § 53a-65(2) Conn. Gen. Stat. Ann. § 53a-65(2) Conn. Gen. Stat. Ann. § 53a-70b Conn. Gen. Stat. Ann. § 53a-72a(a)(2) Conn. Gen. Stat. Ann. § 53a-71	Conn. Gen. Stat. Ann. § 53a-65(2)[7] Conn. Gen. Stat. Ann. § 53a-70b Conn. Gen. Stat. Ann. § 53a-71		Conn. Gen. Stat. Ann. § 53a-65(2) Conn. Gen. Stat. Ann. § 53a-70b	Conn. Gen. Stat. Ann. § 53a-65(2) Conn. Gen. Stat. Ann. § 53a-70b
Delaware	Del. Code Ann. Tit. 11, § 761(g)-(i) Del. Code Ann. Tit. 11, § 766 Del. Code Ann. Tit. 11, § 770 Del. Code Ann. Tit. 11, § 771	Del. Code Ann. Tit. 11, § 761(g)-(i) Del. Code Ann. Tit. 11, § 766 Del. Code Ann. Tit. 11, § 770 Del. Code Ann. Tit. 11, § 771	Del. Code Ann. Tit. 11, § 761(g)-(i) Del. Code Ann. Tit. 11, § 761(i)(2) Del. Code Ann. Tit. 11, § 766 Del. Code Ann.	Del. Code Ann. Tit. 11, § 761(g)-(i) Del. Code Ann. Tit. 11, § 770 (a)(3) Del. Code Ann. Tit. 11, § 771(a)(2)	Del. Code Ann. Tit. 11, § 761(d) Del. Code Ann. Tit. 11, § 761(i)(1) Del. Code Ann. Tit. 11, § 770 (a)(3) Del. Code Ann.	Del. Code Ann. Tit. 11, § 761(g)(1)	Del. Code Ann. Tit. 11, § 761(g)(1)-(2)

[6] Defined as "sexual intrusion."

[7] Under the statute, penetration of vagina by defendant's finger constituted object manipulation by an actor. *State v. Grant*, 33 Conn.App. 133, 634 A.2d 1181 (1993).

STATE	PENILE VAGINAL	PENILE ANAL	SEX ORGAN ORAL	OBJECT VAGINAL/ANAL	OTHER BODY PART (I.E. DIGITAL) VAGINAL/ANAL	HOWEVER SLIGHT	EMISSION NOT REQUIRED
	Del. Code Ann. Tit. 11, § 772 Del. Code Ann. Tit. 11, § 773	Del. Code Ann. Tit. 11, § 772 Del. Code Ann. Tit. 11, § 773	Tit. 11, § 770 (a)(1)-(2) Del. Code Ann. Tit. 11, § 771(a)(1)-(2) Del. Code Ann. Tit. 11, § 772 Del. Code Ann. Tit. 11, § 773	Del. Code Ann. Tit. 11, § 772(a)(2)	Tit. 11, § 771(a)(2) Del. Code Ann. Tit. 11, § 772(a)(2)		
District of Columbia	D.C. Code § 22-3001(8)(A) D.C. Code § 22-3002 D.C. Code § 22-3003 D.C. Code § 22-3006	D.C. Code § 22-3001(8)(A) D.C. Code § 22-3002 D.C. Code § 22-3003 D.C. Code § 22-3006	D.C. Code § 22-3001(8)(B) D.C. Code § 22-3002 D.C. Code § 22-3003 D.C. Code § 22-3006	D.C. Code § 22-3001(8)(C) D.C. Code § 22-3002 D.C. Code § 22-3003 D.C. Code § 22-3006	D.C. Code § 22-3001(8)(C) D.C. Code § 22-3002 D.C. Code § 22-3003 D.C. Code § 22-3006	D.C. Code § 22-3001(8)	D.C. Code § 22-3001(8)(D)
Florida	Fla. Stat. Ann. § 794.011(h) Fla. Stat. Ann. § 794.023	Fla. Stat. Ann. § 794.011(h) Fla. Stat. Ann. § 794.023	Fla. Stat. Ann. § 794.011(h) Fla. Stat. Ann. § 794.023	Fla. Stat. Ann. § 794.011(h) Fla. Stat. Ann. § 794.023	Fla. Stat. Ann. § 794.011(h[8] Fla. Stat. Ann. § 794.023	Richards v. State, 738 So.2d 415 (Fla. Dist. Ct. App. 2011)	Williams v. State, 53 Fla. 84, 43 So. 431 (1907)
Georgia	Ga. Code Ann. § 16-6-1; Ga. Code Ann. § 16-6-3 Ga. Code Ann. § 16-6-8(1) Ga. Code Ann. § 16-6-22	Ga. Code Ann. § 16-6-2 Ga. Code Ann. § 16-6-22	Ga. Code Ann. § 16-6-2 Ga. Code Ann. § 16-6-15 Ga. Code Ann. § 16-6-22.1	Ga. Code Ann. § 16-6-22.2	Ga. Code Ann. § 16-6-22.1(b) Ga. Code Ann. § 16-6-22.2	Winkfield v. State, 275 Ga.App. 456, 620 S.E.2d 670 (2005)	Williams v. State, 15 Ga.App. 306, 82 S.E. 938 (1914)
Hawaii	Haw. Rev. Stat. § 707-700	Haw. Rev. Stat. § 707-700	Haw. Rev. Stat. § 707-700	Haw. Rev. Stat. § 707-700	Haw. Rev. Stat. § 707-700	Haw. Rev. Stat. § 707-700	Haw. Rev. Stat. § 707-700

[8] A finger is an "object" within the context of the sexual battery statute. *Holmes v. State*, 842 So.2d 187 (Fla. Dist. Ct. App. 2003); *Kirby v. State*, 625 So.2d 51 (Fla. Dist. Ct. App. 1993).

STATE	PENILE VAGINAL	PENILE ANAL	SEX ORGAN ORAL	OBJECT VAGINAL/ANAL	OTHER BODY PART (I.E. DIGITAL) VAGINAL/ANAL	HOWEVER SLIGHT	EMISSION NOT REQUIRED
	Haw. Rev. Stat. § 707-730 Haw. Rev. Stat. § 707-731 Haw. Rev. Stat. § 707-732(1)(a) Haw. Rev. Stat. § 707-741	Haw. Rev. Stat. § 707-730 Haw. Rev. Stat. § 707-731 Haw. Rev. Stat. § 707-732(1)(a) Haw. Rev. Stat. § 707-741	Haw. Rev. Stat. § 707-730 Haw. Rev. Stat. § 707-731 Haw. Rev. Stat. § 707-732(1)(a) Haw. Rev. Stat. § 707-741	Haw. Rev. Stat. § 707-730 Haw. Rev. Stat. § 707-731 Haw. Rev. Stat. § 707-732(1)(a) Haw. Rev. Stat. § 707-741	Haw. Rev. Stat. § 707-730 Haw. Rev. Stat. § 707-731 Haw. Rev. Stat. § 707-732(1)(a) Haw. Rev. Stat. § 707-741		
Idaho	Idaho Code Ann. § 18-6101	Idaho Code Ann. § 18-6101 Idaho Code Ann. § 18-6108 Idaho Code Ann. § 18-6109	Idaho Code Ann. § 18-6101 Idaho Code Ann. § 18-6108 Idaho Code Ann. § 18-6109	Idaho Code Ann. § 18-6608		Idaho Code Ann. § 18-6101 Idaho Code Ann. § 18-6103 Idaho Code Ann. § 18-6108 Idaho Code Ann. § 18-6608	
Illinois	720 Ill. Comp. Stat. Ann. 5/11-0.1 720 Ill. Comp. Stat. Ann. 5/11-1.20 720 Ill. Comp. Stat. Ann. 5/11-1.30 720 Ill. Comp. Stat. Ann. 5/11-11	720 Ill. Comp. Stat. Ann. 5/11-0.1 720 Ill. Comp. Stat. Ann. 5/11-1.20 720 Ill. Comp. Stat. Ann. 5/11-1.30	720 Ill. Comp. Stat. Ann. 5/11-0.1 720 Ill. Comp. Stat. Ann. 5/11-1.20 720 Ill. Comp. Stat. Ann. 5/11-1.30	720 Ill. Comp. Stat. Ann. 5/11-0.1 720 Ill. Comp. Stat. Ann. 5/11-1.20 720 Ill. Comp. Stat. Ann. 5/11-1.30	720 Ill. Comp. Stat. Ann. 5/11-0.1 720 Ill. Comp. Stat. Ann. 5/11-1.20 720 Ill. Comp. Stat. Ann. 5/11-1.30	720 Ill. Comp. Stat. Ann. 5/11-0.1	720 Ill. Comp. Stat. Ann. 5/11-0.1

STATE	PENILE VAGINAL	PENILE ANAL	SEX ORGAN ORAL	OBJECT VAGINAL/ANAL	OTHER BODY PART (I.E. DIGITAL) VAGINAL/ANAL	HOWEVER SLIGHT	EMISSION NOT REQUIRED
Indiana	Ind. Code Ann. § 35-42-4-1 Ind. Code ann. §35-41-1-26[9]	Ind. Code Ann. § 35-42-4-2 Ind. Code Ann. §35-41-1-9[10]	Ind. Code Ann. § 35-42-4-2 Ind. Code Ann. §35-41-1-9	Ind. Code Ann. § 35-42-4-2 Ind. Code Ann. §35-41-1-9	Ind. Code Ann. §35-41-1-9[11]	Ives v. State, 275 Ind. 535, 418 N.E. 220 (Ind. 1981)	Thomas v. State, 471 N.E.2d 681 (Ind. 1984)
Iowa	Iowa Code Ann. §702.17 Iowa Code Ann. § 709.1 Iowa Code Ann. § 709.2 Iowa Code Ann. § 709.3 Iowa Code Ann. § 709.4	Iowa Code Ann. §702.17 Iowa Code Ann. § 709.1 Iowa Code Ann. § 709.2 Iowa Code Ann. § 709.3 Iowa Code Ann. § 709.4	Iowa Code Ann. §702.17 Iowa Code Ann. § 709.1 Iowa Code Ann. § 709.2 Iowa Code Ann. § 709.3 Iowa Code Ann. § 709.4	Iowa Code Ann. §702.17 Iowa Code Ann. § 709.1 Iowa Code Ann. § 709.2 Iowa Code Ann. § 709.3 Iowa Code Ann. § 709.4	Iowa Code Ann. §702.17 Iowa Code Ann. § 709.1 Iowa Code Ann. § 709.2 Iowa Code Ann. § 709.3 Iowa Code Ann. § 709.4	Iowa Code Ann. §702.17 *constitutes a sex act with "contact between"*	State v. Carnagy, 106 Iowa 483, 76 N.W. 805 (1898)
Kansas	Kan. Crim. Code Ann. § 21-5501(a) Kan. Crim. Code Ann. § 21-5503 Kan. Crim. Code Ann. § 21-5513(a)(1)	Kan. Crim. Code Ann. § 21-5501(b) Kan. Crim. Code Ann. § 21-5504 Kan. Crim. Code Ann. § 21-5513(a)(1)	Kan. Crim. Code Ann. § 21-5501(b) Kan. Crim. Code Ann. § 21-5504 Kan. Crim. Code Ann. § 21-5513(a)(1)	Kan. Crim. Code Ann. § 21-5501(a) Kan. Crim. Code Ann. § 21-5503 Kan. Crim. Code Ann. § 21-5513(a)(1)	Kan. Crim. Code Ann. § 21-5501(a) Kan. Crim. Code Ann. § 21-5503 Kan. Crim. Code Ann. § 21-5513(a)(1)	Kan. Crim. Code Ann. § 21-5501(a) Kan. Crim. Code Ann. § 21-5501(b)	
Kentucky	Ky. Rev. Stat. Ann. § 510.010(8) Ky. Rev. Stat. Ann. § 510.040 Ky. Rev. Stat.	Ky. Rev. Stat. Ann. § 510.010(1), (8) Ky. Rev. Stat. Ann. § 510.070 Ky. Rev. Stat.	Ky. Rev. Stat. Ann. § 510.010(1), (8) Ky. Rev. Stat. Ann. § 510.040 Ky. Rev. Stat.	Ky. Rev. Stat. Ann. § 510.010(1), (8), (9) Ky. Rev. Stat. Ann. § 510.040		Ky. Rev. Stat. Ann. § 510.010(8)	Ky. Rev. Stat. Ann. § 510.010(8)

[9] This statute is effective until July 1, 2012, when it will be repealed and replaced by Ind. Code. Ann. § 35-31.5-2-302. The language of the repealed and replaced statute is identical.

[10] This statute is effective until July 1, 2012, when it will be repealed and replaced by Ind. Code. Ann. § 35-31.5-2-94. The language of the repealed and replaced statute is identical.

[11] Defendant's finger is an "object" under statute defining deviate sexual conduct. *Low v. State*, 580 N.E.2d 737 (Ind. Ct. App. 1991).

STATE	PENILE VAGINAL	PENILE ANAL	SEX ORGAN ORAL	OBJECT VAGINAL/ANAL	OTHER BODY PART (I.E. DIGITAL) VAGINAL/ANAL	HOWEVER SLIGHT	EMISSION NOT REQUIRED
	Ann. § 510.050 Ky. Rev. Stat. Ann. § 510.060 Ky. Rev. Stat. Ann. § 510.140	Ann. § 510.080 Ky. Rev. Stat. Ann. § 510.090 Ky. Rev. Stat. Ann. § 510.140	Ann. § 510.050 Ky. Rev. Stat. Ann. § 510.060 Ky. Rev. Stat. Ann. § 510.070 Ky. Rev. Stat. Ann. § 510.080 Ky. Rev. Stat. Ann. § 510.090 Ky. Rev. Stat. Ann. § 510.140	Ky. Rev. Stat. Ann. § 510.050 Ky. Rev. Stat. Ann. § 510.060 Ky. Rev. Stat. Ann. § 510.070 Ky. Rev. Stat. Ann. § 510.080 Ky. Rev. Stat. Ann. § 510.090 Ky. Rev. Stat. Ann. § 510.140			
Louisiana[12]	La. Rev. Stat. Ann. § 14:41 La. Rev. Stat. Ann. § 14:42.1 La. Rev. Stat. Ann. § 14:43	La. Rev. Stat. Ann. § 14:41 La. Rev. Stat. Ann. § 14:42.1 La. Rev. Stat. Ann. § 14:43	La. Rev. Stat. Ann. § 14:41 La. Rev. Stat. Ann. § 14:42.1 La. Rev. Stat. Ann. § 14:43 La. Rev. Stat. Ann. § 14:43.3			La. Rev. Stat. Ann. § 14:41B	La. Rev. Stat. Ann. § 14:41B
Maine	Me. Rev. Stat. Ann. Tit. 17-A § 251(C)(1) Me. Rev. Stat. Ann. Tit. 17-A § 253 Me. Rev. Stat. Ann. Tit. 17-A §	Me. Rev. Stat. Ann. Tit. 17-A § 251(C)(1) Me. Rev. Stat. Ann. Tit. 17-A § 253 Me. Rev. Stat. Ann. Tit. 17-A §	Me. Rev. Stat. Ann. Tit. 17-A § 251(C)(1) Me. Rev. Stat. Ann. Tit. 17-A § 253 Me. Rev. Stat. Ann. Tit. 17-A §	Me. Rev. Stat. Ann. Tit. 17-A § 251(C)(3) Me. Rev. Stat. Ann. Tit. 17-A § 255-A	State v. Pratt, 309 A.2d 864 (Me. 1973)[13]; State v. Croteau, 158 Me. 360, 184 A.3d 683 (1962)		

[12] La. Rev. Stat. Ann. § 43:1 defines sexual battery as "the intentional touching of the anus or genitals of the victim by the offender using any instrumentality or any part of the body of the offender." *See* "Other Sex Crimes" chart below. This statute was not included in the columns titled "object vaginal/anal" or "other body part (i.e., digital) vaginal/anal" because, pursuant to *State v. Davis*, 514 So.2d 757 (La. Ct. App. 1987), touching – not penetration – is the critical element in the crime of sexual battery.

[13] Penetration, however slight is an essential element of the crime of sodomy.

STATE	PENILE VAGINAL	PENILE ANAL	SEX ORGAN ORAL	OBJECT VAGINAL/ANAL	OTHER BODY PART (I.E. DIGITAL) VAGINAL/ANAL	HOWEVER SLIGHT	EMISSION NOT REQUIRED
	255-A	255-A	255				
Maryland	Md. Code Ann., Crim. Law § 3-301(g)(1), (2) Md. Code Ann., Crim. Law § 3-303(a)(1)[14] Md. Code Ann., Crim. Law § 3-304(a) Md. Code Ann., Crim. Law § 3-309 Md. Code Ann., Crim. Law § 3-310 Md. Code Ann. Crim. Law § 3-311 Md. Code Ann., Crim. Law § 3-318 Md. Code Ann., Crim. Law §3-323(a)	Md. Code Ann., Crim. Law § 3-301(e)(1) Md. Code Ann., Crim. Law § 3-305 Md. Code Ann., Crim. Law § 3-306 Md. Code Ann., Crim. Law § 3-311 Md. Code Ann., Crim. Law § 3-312 Md. Code Ann., Crim. Law § 3-321	Md. Code Ann., Crim. Law § 3-322(e)(1) Md. Code Ann., Crim. Law § 3-305 Md. Code Ann., Crim. Law § 3-306 Md. Code Ann., Crim. Law § 3-311 Md. Code Ann., Crim. Law § 3-312 Md. Code Ann., Crim. Law §3-322[15]	Md. Code Ann., Crim. Law § 3-301(e)(1)(v)(1) Md. Code Ann., Crim. Law § 3-305 Md. Code Ann., Crim. Law § 3-306 Md. Code Ann., Crim. Law § 3-311 Md. Code Ann., Crim. Law § 3-312	Md. Code Ann., Crim. Law § 3-301(e)(1)(v)(1) Md. Code Ann., Crim. Law § 3-305 Md. Code Ann., Crim. Law § 3-306 Md. Code Ann., Crim. Law § 3-311 Md. Code Ann., Crim. Law § 3-312	Md. Code Ann., Crim. Law § 3-301	Md. Code Ann., Crim. Law § 3-301(g)(1)
Massachusetts	Mass. Gen. Laws Ann. Ch. 265, § 22 Mass. Gen. Laws	Mass. Gen. Laws Ann. Ch. 265, § 22	Mass. Gen. Laws Ann. Ch. 265, § 22	Mass. Gen. Laws Ann. Ch. 265, § 22[16]	Mass. Gen. Laws Ann. Ch. 265, § 22	Commonwealth v. McJunkin, 11 Mass.App.Ct.	Commonwwealth v. Gallant, 373 Mass. 577,

[14] Validity called into doubt by *Graham v. Florida* (2011), relating to severity of punishment for juvenile defendants.
[15] Take or place the sexual organ of another in the person's mouth.
[16] In the absence of a definition of "unnatural sexual intercourse" by statute, the court in *Commonwealth v. Gallant*, 373 Mass. 577, 584, 369 N.E.2d 707 (1977) defined "unnatural sexual intercourse" as "intrusions of a part of a person's body or other object into the genital or anal opening of another person's body."

STATE	PENILE VAGINAL	PENILE ANAL	SEX ORGAN ORAL	OBJECT VAGINAL/ANAL	OTHER BODY PART (I.E. DIGITAL) VAGINAL/ANAL	HOWEVER SLIGHT	EMISSION NOT REQUIRED
	Ann. Ch. 272, § 2 Mass. Gen. Laws Ann. Ch. 272, § 3					609, 418 N.E.2d 1259 (1981)	369 N.E.2d 707 (1977)
Michigan	Mich. Comp. Laws Ann. § 750.520a(r) Mich. Comp. Laws Ann. § 750.520b Mich. Comp. Laws Ann. § 750.520d Mich. Comp. Laws. Ann. § 750.520g Mich. Comp. Laws Ann. § 750.520l	Mich. Comp. Laws Ann. § 750.520a(r) Mich. Comp. Laws Ann. § 750.520b Mich. Comp. Laws Ann. § 750.520d Mich. Comp. Laws. Ann. § 750.520g Mich. Comp. Laws Ann. § 750.520l	Mich. Comp. Laws Ann. § 750.520a(r) Mich. Comp. Laws Ann. § 750.520b Mich. Comp. Laws Ann. § 750.520d Mich. Comp. Laws. Ann. § 750.520g Mich. Comp. Laws Ann. § 750.520l	Mich. Comp. Laws Ann. § 750.520a(r) Mich. Comp. Laws Ann. § 750.520b Mich. Comp. Laws Ann. § 750.520d Mich. Comp. Laws. Ann. § 750.520g Mich. Comp. Laws Ann. § 750.520l	Mich. Comp. Laws Ann. § 750.520a(r) Mich. Comp. Laws Ann. § 750.520b Mich. Comp. Laws Ann. § 750.520d Mich. Comp. Laws. Ann. § 750.520g Mich. Comp. Laws Ann. § 750.520l	Mich. Comp. Laws Ann. § 750.520a(r)	Mich. Comp. Laws Ann. § 750.520a(r)
Minnesota	Minn. Stat. Ann. § 609.341(12)(1) Minn. Stat. Ann. § 609.342 Minn. Stat. Ann. § 609.344[17]	Minn. Stat. Ann. § 609.293 Minn. Stat. Ann. § 609.341(12)(1) Minn. Stat. Ann. § 609.342 Minn. Stat. Ann. § 609.344	Minn. Stat. Ann. § 609.293 Minn. Stat. Ann. § 609.341(12)(1) Minn. Stat. Ann. § 609.342 Minn. Stat. Ann. § 609.344	Minn. Stat. Ann. § 609.341(12)(2)(i)-(iii) Minn. Stat. Ann. § 609.342 Minn. Stat. Ann. § 609.344	Minn. Stat. Ann. § 609.341(12)(2)(i)-(iii) Minn. Stat. Ann. § 609.342 Minn. Stat. Ann. § 609.344	Minn. Stat. Ann. § 609.341(12)(2)	Minn. Stat. Ann. § 609.341(12)
Mississippi	Miss. Code Ann. §97-3-65 Miss. Code Ann. §97-3-95 Miss. Code Ann.	Miss. Code Ann. §97-3-65 Miss. Code Ann. §97-3-95 Miss. Code Ann.	Miss. Code Ann. §97-3-95 Miss. Code Ann. §97-3-97 Miss. Code Ann.	Miss. Code Ann. §97-3-65 Miss. Code Ann. §97-3-95 Miss. Code Ann.	Miss. Code Ann. §97-3-95 Miss. Code Ann. §97-3-97 Miss. Code Ann.	Burrows v. State, 961 So.2d 701 (Miss. 2008) (citing Johnson v.	

[17] Unconstitutional as applied to the "clergy sexual conduct statute" in *State v. Bussmann*, 741 N.W.2d 79 (Minn. 2007).

STATE	PENILE VAGINAL	PENILE ANAL	SEX ORGAN ORAL	OBJECT VAGINAL/ANAL	OTHER BODY PART (I.E. DIGITAL) VAGINAL/ANAL	HOWEVER SLIGHT	EMISSION NOT REQUIRED
	§97-3-97 Miss. Code Ann. §97-3-99	§97-3-97 Miss. Code Ann. §97-3-99	§97-3-99 Miss. Code Ann. §97-3-101	§97-3-97 Miss. Code Ann. §97-3-99	§97-3-99	State, 626 So.2d 631 (Miss. 1993))	
Missouri	Mo. Ann. Stat. § 566.010(4) Mo. Ann. Stat. § 566.030 Mo. Ann. Stat. § 566.040 Mo. Ann. Stat. § 566.093.1(3)	Mo. Ann. Stat. § 566.010(1) Mo. Ann. Stat. § 566.060 Mo. Ann. Stat. § 566.070 Mo. Ann. Stat. § 566.093.1(3)	Mo. Ann. Stat. § 566.010(1) Mo. Ann. Stat. § 566.060 Mo. Ann. Stat. § 566.070 Mo. Ann. Stat. § 566.093.1(3)	Mo. Ann. Stat. § 566.010(1) Mo. Ann. Stat. § 566.060 Mo. Ann. Stat. § 566.070 Mo. Ann. Stat. § 566.093.1(3)	Mo. Ann. Stat. § 566.010(1) Mo. Ann. Stat. § 566.060 Mo. Ann. Stat. § 566.070 Mo. Ann. Stat. § 566.093.1(3)	Mo. Ann. Stat. § 566.010	Mo. Ann. Stat. § 566.010
Montana	Mont. Code Ann. § 45-2-101(68)(a) Mont. Code Ann. § 45-5-503 Mont. Code Ann. § 45-5-507	Mont. Code Ann. § 45-2-101(68)(a) Mont. Code Ann. § 45-5-503 Mont. Code Ann. § 45-5-507	Mont. Code Ann. § 45-2-101(68)(a) Mont. Code Ann. § 45-5-503 Mont. Code Ann. § 45-5-507	Mont. Code Ann. § 45-2-101(68)(a) Mont. Code Ann. § 45-5-503 Mont. Code Ann. § 45-5-507	Mont. Code Ann. § 45-2-101(68)(a) Mont. Code Ann. § 45-5-503 Mont. Code Ann. § 45-5-507	Mont. Code Ann. § 45-2-101(68)(b)	State v. Bouldin, 153 Mont. 276, 456 P.2d 830 (1969)
Nebraska	Neb. Rev. Stat. § 28-318(6) Neb. Rev. Stat. § 28-319	Neb. Rev. Stat. § 28-318(6) Neb. Rev. Stat. § 28-319	Neb. Rev. Stat. § 28-318(6) Neb. Rev. Stat. § 28-319	Neb. Rev. Stat. § 28-318(6) Neb. Rev. Stat. § 28-319	Neb. Rev. Stat. § 28-318(6) Neb. Rev. Stat. § 28-319	Neb. Rev. Stat. § 28-318(6)	Neb. Rev. Stat. § 28-318(6)
Nevada	Nev. Rev. Stat. Ann. § 200.364 Nev. Rev. Stat. Ann. § 200.366[18] Nev. Rev. Stat. Ann. § 200.368 Nev. Rev. Stat. Ann. § 200.373	Nev. Rev. Stat. Ann. § 200.364 Nev. Rev. Stat. Ann. § 200.366 Nev. Rev. Stat. Ann. § 200.368 Nev. Rev. Stat. Ann. § 200.373	Nev. Rev. Stat. Ann. § 200.364 Nev. Rev. Stat. Ann. § 200.366 Nev. Rev. Stat. Ann. § 200.368 Nev. Rev. Stat. Ann. § 200.373	Nev. Rev. Stat. Ann. § 200.364 Nev. Rev. Stat. Ann. § 200.366 Nev. Rev. Stat. Ann. § 200.368 Nev. Rev. Stat. Ann. § 200.373	Nev. Rev. Stat. Ann. § 200.364 Nev. Rev. Stat. Ann. § 200.366 Nev. Rev. Stat. Ann. § 200.368 Nev. Rev. Stat. Ann. § 200.373	Nev. Rev. Stat. Ann. § 200.364	

[18] *Ex post facto* and double jeopardy application of the statute held unconstitutional by *American Civil Liberties Union of Nevada v. Cortez Masto*, 719 F.Supp.2d 1258 (Dist. Ct. Nev. 2008).

STATE	PENILE VAGINAL	PENILE ANAL	SEX ORGAN ORAL	OBJECT VAGINAL/ANAL	OTHER BODY PART (I.E. DIGITAL) VAGINAL/ANAL	HOWEVER SLIGHT	EMISSION NOT REQUIRED
New Hampshire	N.H. Rev. Stat. Ann. § 632-A:1(V)(a)(1) N.H. Rev. Stat. Ann. § 632-A:2 N.H. Rev. Stat. Ann. § 632-A:3 (II) N.H. Rev. Stat. Ann. § 632-A:4 (III)	N.H. Rev. Stat. Ann. § 632-A:1(V)(a)(4) N.H. Rev. Stat. Ann. § 632-A:2 N.H. Rev. Stat. Ann. § 632-A:3 (II) N.H. Rev. Stat. Ann. § 632-A:4 (III)	N.H. Rev. Stat. Ann. § 632-A:1(V)(a)(2) N.H. Rev. Stat. Ann. § 632-A:1(V)(a)(3) N.H. Rev. Stat. Ann. § 632-A:2 N.H. Rev. Stat. Ann. § 632-A:3 (II) N.H. Rev. Stat. Ann. § 632-A:4 (III)	N.H. Rev. Stat. Ann. § 632-A:1(V)(a)(5) N.H. Rev. Stat. Ann. § 632-A:2 N.H. Rev. Stat. Ann. § 632-A:3 (II) N.H. Rev. Stat. Ann. § 632-A:4 (III)	N.H. Rev. Stat. Ann. § 632-A:1(V)(a)(5) N.H. Rev. Stat. Ann. § 632-A:2 N.H. Rev. Stat. Ann. § 632-A:3 (II) N.H. Rev. Stat. Ann. § 632-A:4 (III)	N.H. Rev. Stat. Ann. § 632-A:1(V)(a)(5), (6)	N.H. Rev. Stat. Ann. § 632-A:1(V)(b)
New Jersey	N.J. Stat. Ann. § 2C: 14-1(c) N.J. Stat. Ann. § 2C: 14-2	N.J. Stat. Ann. § 2C: 14-1(c) N.J. Stat. Ann. § 2C: 14-2	N.J. Stat. Ann. § 2C: 14-1(c) N.J. Stat. Ann. § 2C: 14-2	N.J. Stat. Ann. § 2C: 14-1(c) N.J. Stat. Ann. § 2C: 14-2	N.J. Stat. Ann. § 2C: 14-1(c) N.J. Stat. Ann. § 2C: 14-2	N.J. Stat. Ann. § 2C: 14-1(c)	State v. Taylor 46 N.J. 316, 217 A.2d 1 (1966)[19]
New Mexico	N.M. Stat. Ann. § 30-9-11(A), (C), (D), (E), (F), (G)	N.M. Stat. Ann. § 30-9-11(A), (C), (D), (E), (F), (G)	N.M. Stat. Ann. § 30-9-11(A), (C), (D), (E), (F), (G)	N.M. Stat. Ann. § 30-9-11(A), (C), (D), (E), (F), (G)	N.M. Stat. Ann. § 30-9-11(A), (C), (D), (E), (F), (G)	N.M. Stat. Ann. § 30-9-11(A)[20]	N.M. Stat. Ann. § 30-9-11(A)
New York	N.Y. Penal Law § 130.00(1) N.Y. Penal Law § 130.16 N.Y. Penal Law § 130.20(1) N.Y. Penal Law § 130.25 N.Y. Penal Law §	N.Y. Penal Law § 130.00(2)(a) N.Y. Penal Law § 130.16 N.Y. Penal Law § 130.20(2) N.Y. Penal Law § 130.40 N.Y. Penal Law §	N.Y. Penal Law § 130.00(2)(b) N.Y. Penal Law § 130.16 N.Y. Penal Law § 130.20(2) N.Y. Penal Law § 130.40 N.Y. Penal Law §	N.Y. Penal Law § 130.65-a(1)(a) N.Y. Penal Law § 130.66 N.Y. Penal Law § 130.70 N.Y. Penal Law § 130.95	N.Y. Penal Law § 130.65-a(1)(b) N.Y. Penal Law § 130.67	N.Y. Penal Law § 130.00(1)	

[19] Emission is not an essential element of sodomy.
[20] Statute says "to any extent" instead of "however slight."

STATE	PENILE VAGINAL	PENILE ANAL	SEX ORGAN ORAL	OBJECT VAGINAL/ANAL	OTHER BODY PART (I.E. DIGITAL) VAGINAL/ANAL	HOWEVER SLIGHT	EMISSION NOT REQUIRED
	130.30 N.Y. Penal Law § 130.35 N.Y. Penal Law § 130.95	130.45 N.Y. Penal Law § 130.50 N.Y. Penal Law § 130.95	130.45 N.Y. Penal Law § 130.50 N.Y. Penal Law § 130.95				
North Carolina	N.C. Gen. Stat. Ann. § 14-27.2 N.C. Gen. Stat. Ann. § 14-27.3	N.C. Gen. Stat. Ann. § 14-27.1(4) N.C. Gen. Stat. Ann. § 14-27.4 N.C. Gen. Stat. Ann. § 14-27.5	N.C. Gen. Stat. Ann. § 14-27.1(4) N.C. Gen. Stat. Ann. § 14-27.4 N.C. Gen. Stat. Ann. § 14-27.5	N.C. Gen. Stat. Ann. § 14-27.1(4) N.C. Gen. Stat. Ann. § 14-27.4 N.C. Gen. Stat. Ann. § 14-27.5	N.C. Gen. Stat. Ann. § 14-27.1(4)[21] N.C. Gen. Stat. Ann. § 14-27.4 N.C. Gen. Stat. Ann. § 14-27.5	N.C. Gen. Stat. Ann. § 14-27.1(4)	N.C. Gen. Stat. Ann. § 14-27.10
North Dakota	N.D. Cent. Code § 12.1-20-02(4) N.D. Cent. Code § 12.1-20-03 N.D. Cent. Code § N.D. Cent. Code § 12.1-20-04	N.D. Cent. Code § 12.1-20-02(4) N.D. Cent. Code § 12.1-20-03 N.D. Cent. Code § 12.1-20-04	N.D. Cent. Code § 12.1-20-02(4) N.D. Cent. Code § 12.1-20-03 N.D. Cent. Code § 12.1-20-04	N.D. Cent. Code § 12.1-20-02(4) N.D. Cent. Code § 12.1-20-03 N.D. Cent. Code § 12.1-20-04	N.D. Cent. Code § 12.1-20-02(4) N.D. Cent. Code § 12.1-20-03 N.D. Cent. Code § 12.1-20-04	N.D. Cent. Code § 12.1-20-02(4)	N.D. Cent. Code § 12.1-20-02(4)
Ohio	Ohio Rev. Code Ann. § 2907.01(A) Ohio Rev. Code Ann. § 2907.02[22] Ohio Rev. Code Ann. § 2907.03	Ohio Rev. Code Ann. § 2907.01(A) Ohio Rev. Code Ann. § 2907.02 Ohio Rev. Code Ann. § 2907.03	Ohio Rev. Code Ann. § 2907.01(A) Ohio Rev. Code Ann. § 2907.02 Ohio Rev. Code Ann. § 2907.03	Ohio Rev. Code Ann. § 2907.12	Ohio Rev. Code Ann. § 2907.12	Ohio Rev. Code Ann. § 2907.01(A)	In re Wilson, WL 129176 (Ohio Ct. App. 1988)[23]

[21] For purposes of the criminal statute defining penetration as a sexual act, "any object" embraces parts of the human body as well as inanimate or foreign objects. *State v. Lucas*, 302 N.C. 342, 275 S.E.2d 433 (1981).

[22] Unconstitutional as applied to a child under the age of 13 who engages in sexual conduct with another person under the age of 13. *In re D.B.*, 129 Ohio St. 3d 104, 950 N.E.2d 528 (2011).

[23] Note that the Ohio Supreme Court refused to interpret statutory changes to the rape statute made in 1877 as enlarging the definition of rape to include a person presumed incapable of emitting semen. *Hiltabiddle v. State*, 35 Ohio St. 52 (1878).

STATE	PENILE VAGINAL	PENILE ANAL	SEX ORGAN ORAL	OBJECT VAGINAL/ANAL	OTHER BODY PART (I.E. DIGITAL) VAGINAL/ANAL	HOWEVER SLIGHT	EMISSION NOT REQUIRED
	Ohio Rev. Code Ann. § 2907.09(B)(2)-(3)	Ohio Rev. Code Ann. § 2907.09(B)(2)-(3)	Ohio Rev. Code Ann. § 2907.09(B)(2)-(3)				
Oklahoma	Okla. Stat. Ann. Tit. 21, § 1111(A) Okla. Stat. Ann. Tit. 21, § 1112 Okla. Stat. Ann. Tit. 21, § 1114	Okla. Stat. Ann. Tit. 21, § 1111(A) Okla. Stat. Ann. Tit. 21, § 1112 Okla. Stat. Ann. Tit. 21, § 1114		Okla. Stat. Ann. Tit. 21, § 1111.1 Okla. Stat. Ann. Tit. 21, § 1112 Okla. Stat. Ann. Tit. 21, § 1114	Okla. Stat. Ann. Tit. 21, § 1111.1 Okla. Stat. Ann. Tit. 21, § 1112 Okla. Stat. Ann. Tit. 21, § 1114	Okla. Stat. Ann. Tit. 21, § 1113	
Oregon	OR. Rev. Stat. Ann. § 163.305(7) OR. Rev. Stat. Ann. § 163.355 OR. Rev. Stat. Ann. § 163.365 OR. Rev. Stat. Ann. § 163.375 OR. Rev. Stat. Ann. § 163.425 OR. Rev. Stat. Ann. § 163.465(1)(a)	OR. Rev. Stat. Ann. § 163.305(1) OR. Rev. Stat. Ann. § 163.385 OR. Rev. Stat. Ann. § 163.395 OR. Rev. Stat. Ann. § 163.405 OR. Rev. Stat. Ann. § 163.425 OR. Rev. Stat. Ann. § 163.465(1)(b)	OR. Rev. Stat. Ann. § 163.305(1) OR. Rev. Stat. Ann. § 163.385 OR. Rev. Stat. Ann. § 163.395 OR. Rev. Stat. Ann. § 163.405 OR. Rev. Stat. Ann. § 163.425 OR. Rev. Stat. Ann. § 163.465(1)(b)	OR. Rev. Stat. Ann. § 163.408 OR. Rev. Stat. Ann. § 163.411 OR. Rev. Stat. Ann. § 163.425	OR. Rev. Stat. Ann. § 163.408[24] OR. Rev. Stat. Ann. § 163.411 OR. Rev. Stat. Ann. § 163.425	OR. Rev. Stat. Ann. § 163.305(7)	OR. Rev. Stat. Ann. § 163.305(7)
Pennsylvania	Pa. Cons. Stat. Ann. 18 § 3101 Pa. Cons. Stat. Ann. 18 § 3121 Pa. Cons. Stat. Ann. 18 § 3124.1	Pa. Cons. Stat. Ann. 18 § 3101 Pa. Cons. Stat. Ann. 18 § 3121 Pa. Cons. Stat. Ann. 18 § 3124.1	Pa. Cons. Stat. Ann. 18 § 3101 Pa. Cons. Stat. Ann. 18 § 3123	Pa. Cons. Stat. Ann. 18 § 3101 Pa. Cons. Stat. Ann. 18 § 3123 Pa. Cons. Stat. Ann. 18 § 3124.1	Pa. Cons. Stat. Ann. 18 § 3125	Pa. Cons. Stat. Ann. 18 § 3101 Pa. Cons. Stat. Ann. 18 § 3125	Pa. Cons. Stat. Ann. 18 § 3101

[24] Oregon defines "unlawful sexual penetration" as "penetration … with any object other than the penis or mouth of the actor," but case law also applies this statute to penetration by defendant's finger. *State v. Matheson*, 220 Or. App. 397, 186 P.3d 309 (2008).

STATE	PENILE VAGINAL	PENILE ANAL	SEX ORGAN ORAL	OBJECT VAGINAL/ANAL	OTHER BODY PART (I.E. DIGITAL) VAGINAL/ANAL	HOWEVER SLIGHT	EMISSION NOT REQUIRED
	Pa. Cons. Stat. Ann. 18 § 3125	Pa. Cons. Stat. Ann. 18 § 3125					
Rhode Island	R.I. Gen. Laws § 11-37-1(8) R.I. Gen. Laws § 11-37-2	R.I. Gen. Laws § 11-37-1(8) R.I. Gen. Laws § 11-37-2	R.I. Gen. Laws § 11-37-1(8) R.I. Gen. Laws § 11-37-2	R.I. Gen. Laws § 11-37-1(8) R.I. Gen. Laws § 11-37-2	R.I. Gen. Laws § 11-37-1(8) R.I. Gen. Laws § 11-37-2	R.I. Gen. Laws § 11-37-1(8)	R.I. Gen. Laws § 11-37-1(8)
South Carolina	S.C. Code Ann. § 16-3-651(h) S.C. Code Ann. § 16-3-652 S.C. Code Ann. § 16-3-653 S.C. Code Ann. § 16-3-654 S.C. Code Ann. § 16-3-656 S.C. Code Ann. § 16-3-658	S.C. Code Ann. § 16-3-651(h) S.C. Code Ann. § 16-3-652 S.C. Code Ann. § 16-3-653 S.C. Code Ann. § 16-3-654 S.C. Code Ann. § 16-3-656 S.C. Code Ann. § 16-3-658	S.C. Code Ann. § 16-3-651(h) S.C. Code Ann. § 16-3-652 S.C. Code Ann. § 16-3-653 S.C. Code Ann. § 16-3-654 S.C. Code Ann. § 16-3-656 S.C. Code Ann. § 16-3-658	S.C. Code Ann. § 16-3-651(h) S.C. Code Ann. § 16-3-652 S.C. Code Ann. § 16-3-653 S.C. Code Ann. § 16-3-654 S.C. Code Ann. § 16-3-656 S.C. Code Ann. § 16-3-658	S.C. Code Ann. § 16-3-651(h) S.C. Code Ann. § 16-3-652 S.C. Code Ann. § 16-3-653 S.C. Code Ann. § 16-3-654 S.C. Code Ann. § 16-3-656 S.C. Code Ann. § 16-3-658	S.C. Code Ann. § 16-3-651(h)	State v. Fleming, 254 S.C. 415, 175 S.E.2d 624 (1970)
South Dakota	S.D. Codified Laws § 22-22-1 S.D. Codified Laws § 22-22-2	S.D. Codified Laws § 22-22-1 S.D. Codified Laws § 22-22-2	S.D. Codified Laws § 22-22-1 S.D. Codified Laws § 22-22-2	S.D. Codified Laws § 22-22-1 S.D. Codified Laws § 22-22-2	S.D. Codified Laws § 22-22-1 S.D. Codified Laws § 22-22-2	S.D. Codified Laws § 22-22-2	
Tennessee	Tenn. Code Ann. § 39-13-501(7) Tenn. Code Ann. § 39-13-502 Tenn. Code Ann. § 39-13-503	Tenn. Code Ann. § 39-13-501(7) Tenn. Code Ann. § 39-13-502 Tenn. Code Ann. § 39-13-503	Tenn. Code Ann. § 39-13-501(7) Tenn. Code Ann. § 39-13-502 Tenn. Code Ann. § 39-13-503	Tenn. Code Ann. § 39-13-501(7) Tenn. Code Ann. § 39-13-502 Tenn. Code Ann. § 39-13-503	Tenn. Code Ann. § 39-13-501(7) Tenn. Code Ann. § 39-13-502 Tenn. Code Ann. § 39-13-503	Tenn. Code Ann. § 39-13-501(7)	Tenn. Code Ann. § 39-13-501(7)
Texas	Tex. Penal Code Ann. § 21.01(3)	Tex. Penal Code Ann. §	Tex. Penal Code Ann. §	Tex. Penal Code Ann. §	Tex. Penal Code Ann. §	Calhoun v. State, 134	

STATE	PENILE VAGINAL	PENILE ANAL	SEX ORGAN ORAL	OBJECT VAGINAL/ANAL	OTHER BODY PART (I.E. DIGITAL) VAGINAL/ANAL	HOWEVER SLIGHT	EMISSION NOT REQUIRED
	Tex. Penal Code Ann. § 22.011(a) Tex. Penal Code Ann. § 22.021(a)(1)	21.01(1)(A) Tex. Penal Code Ann. § 22.011(a) Tex. Penal Code Ann. § 22.021(a)(1)	21.01(1)(A) Tex. Penal Code Ann. § 22.011(a) Tex. Penal Code Ann. § 22.021(a)(1)	21.01(1)(B) Tex. Penal Code Ann. § 22.011 Tex. Penal Code Ann. § 22.021	21.01(1)(B)[25] Tex. Penal Code Ann. § 22.011 Tex. Penal Code Ann. § 22.021	Tex.Crim. 423, 115 S.W.2d 965 (1938);	
Utah	Utah Code Ann. § 76-5-402 Utah Code Ann. § 76-5-406	Utah Code Ann. § 76-5-403 Utah Code Ann. § 76-5-406	Utah Code Ann. § 76-5-403 Utah Code Ann. § 76-5-406	Utah Code Ann. § 76-5-402.2 Utah Code Ann. § 76-5-406	Utah Code Ann. § 76-5-402.2 Utah Code Ann. § 76-5-406	Utah Code Ann. § 76-5-402.2 Utah Code Ann. § 76-5-407	
Vermont	Vt. Stat. Ann. Tit 13, § 3251(1) Vt. Stat. Ann. Tit 13, § 3252 Vt. Stat. Ann. Tit 13, § 3253	Vt. Stat. Ann. Tit 13, § 3251(1) Vt. Stat. Ann. Tit 13, § 3252 Vt. Stat. Ann. Tit 13, § 3253	Vt. Stat. Ann. Tit 13, § 3251(1) Vt. Stat. Ann. Tit 13, § 3252 Vt. Stat. Ann. Tit 13, § 3253	Vt. Stat. Ann. Tit 13, § 3251(1) Vt. Stat. Ann. Tit 13, § 3252 Vt. Stat. Ann. Tit 13, § 3253	Vt. Stat. Ann. Tit 13, § 3251(1) Vt. Stat. Ann. Tit 13, § 3252 Vt. Stat. Ann. Tit 13, § 3253	Vt. Stat. Ann. Tit 13, § 3251(1)	
Virginia	Va. Code § 18.2-61 Va. Code § 18.2-67.4:1 Va. Code § 18.2-67.5	Va. Code § 18.2-67.1 Va. Code § 18.2-67.4:1 Va. Code § 18.2-67.5	Va. Code § 18.2-67.1 Va. Code § 18.2-67.4:1 Va. Code § 18.2-67.5	Va. Code § 18.2-67.2 Va. Code § 18.2-67.5	Va. Code § 18.2-67.2 Va. Code § 18.2-67.5	Elam v. Commonwealth, 229 Va. 113, 326 S.E.2d 685 (1985)	
Washington	Wash. Rev. Code Ann. 9A.44.010(1)(a) Wash. Rev. Code Ann. 9A.44.040 Wash. Rev. Code	Wash. Rev. Code Ann. 9A.44.010(1)(c) Wash. Rev. Code Ann. 9A.44.040 Wash. Rev. Code	Wash. Rev. Code Ann. 9A.44.010(1)(c) Wash. Rev. Code Ann. 9A.44.040 Wash. Rev. Code	Wash. Rev. Code Ann. 9A.44.010(1)(b) Wash. Rev. Code Ann. 9A.44.040 Wash. Rev. Code	[26]Wash. Rev. Code Ann. 9A.44.010(1)(b) Wash. Rev. Code Ann. 9A.44.040 Wash. Rev. Code	Wash. Rev. Code Ann. 9A.44.010(1)(a), (b) Wash. Rev. Code Ann.	

[25] "Object" as defined under deviate sexual intercourse means any object, animate or inanimate, other than the male sex organ, and includes perpetrator's hand. *C.M. v. State*, 680 S.W.2d 53 (1984).

[26] "A finger is an object within the meaning and intent of the statute." *State v. Cain*, 28 Wash.App. 462, 465, 624 P.2d 732 (1981).

STATE	PENILE VAGINAL	PENILE ANAL	SEX ORGAN ORAL	OBJECT VAGINAL/ANAL	OTHER BODY PART (I.E. DIGITAL) VAGINAL/ANAL	HOWEVER SLIGHT	EMISSION NOT REQUIRED
	Ann. 9A.44.050 Wash. Rev. Code Ann. 9A.44.060 Wash. Rev. Code Ann. 9A.44.105 (West 2011)	Ann. 9A.44.050 Wash. Rev. Code Ann. 9A.44.060 Wash. Rev. Code Ann. 9A.44.105 (West 2011)	Ann. 9A.44.050 Wash. Rev. Code Ann. 9A.44.060 Wash. Rev. Code Ann. 9A.44.105 (West 2011)	Ann. 9A.44.050 Wash. Rev. Code Ann. 9A.44.060 Wash. Rev. Code Ann. 9A.44.105 (West 2011)	Ann. 9A.44.050 Wash. Rev. Code Ann. 9A.44.060 Wash. Rev. Code Ann. 9A.44.105 (West 2011)	9A.44.105(2)	
West Virginia	W.Va. Code Ann. § 61-8B-1(7) W.Va. Code Ann. § 61-8B-3 W.Va. Code Ann. § 61-8B-4 W.Va. Code Ann. § 61-8B-5	W.Va. Code Ann. § 61-8B-1(7) W.Va. Code Ann. § 61-8B-3 W.Va. Code Ann. § 61-8B-4 W.Va. Code Ann. § 61-8B-5	W.Va. Code Ann. § 61-8B-1(7) W.Va. Code Ann. § 61-8B-3 W.Va. Code Ann. § 61-8B-4 W.Va. Code Ann. § 61-8B-5	W.Va. Code Ann. § 61-8B-1(8) W.Va. Code Ann. § 61-8B-3 W.Va. Code Ann. § 61-8B-4 W.Va. Code Ann. § 61-8B-5		W.Va. Code Ann. § 61-8B-1(7) W.Va. Code Ann. § 61-8B-1(8)	
Wisconsin	Wis. Stat. Ann. § 940.225 Wis. Stat. Ann. § 939.22(36)	Wis. Stat. Ann. § 940.225	Wis. Stat. Ann. § 940.225	Wis. Stat. Ann. § 940.225	Wis. Stat. Ann. § 940.225	Wis. Stat. Ann. § 940.225(5)(c) Wis. Stat. Ann. § 939.22(36)	Wis. Stat. Ann. § 940.225(5)(c) Wis. Stat. Ann. § 939.22(36)
Wyoming	Wyo. Stat. Ann. § 6-2-301(a)(vii)(B) Wyo. Stat. Ann. § 6-2-302 Wyo. Stat. Ann. § 6-2-303	Wyo. Stat. Ann. § 6-2-301(a)(vii)(B) Wyo. Stat. Ann. § 6-2-302 Wyo. Stat. Ann. § 6-2-303	Wyo. Stat. Ann. § 6-2-301(a)(vii)(B) Wyo. Stat. Ann. § 6-2-302 Wyo. Stat. Ann. § 6-2-303	Wyo. Stat. Ann. § 6-2-301(a)(vii)(A) Wyo. Stat. Ann. § 6-2-302 Wyo. Stat. Ann. § 6-2-303	Wyo. Stat. Ann. § 6-2-301(a)(vii)(A) Wyo. Stat. Ann. § 6-2-302 Wyo. Stat. Ann. § 6-2-303	Wyo. Stat. Ann. § 6-2-301(a)(vii)(A)	Wyo. Stat. Ann. § 6-2-301(a)(vii)(B)
American Samoa	American Samoa Code Ann. § 46.3601(c) American Samoa Code Ann. § 46.3604	American Samoa Code Ann. § 46.3601(a) American Samoa Code Ann. § 46.3611	American Samoa Code Ann. § 46.3601(a) American Samoa Code Ann. § 46.3611		American Samoa Code Ann. § 46.3601(a) American Samoa Code Ann. § 46.3611	American Samoa Code Ann. § 46.3601(c)	American Samoa Code Ann. § 46.3601(c)

STATE	PENILE VAGINAL	PENILE ANAL	SEX ORGAN ORAL	OBJECT VAGINAL/ANAL	OTHER BODY PART (I.E. DIGITAL) VAGINAL/ANAL	HOWEVER SLIGHT	EMISSION NOT REQUIRED
	American Samoa Code Ann. § 46.3610	American Samoa Code Ann. § 46.3612	American Samoa Code Ann. § 46.3612		American Samoa Code Ann. § 46.3612		
Guam	9 Guam Code Ann § 25.10(a)(9) 9 Guam Code Ann § 25.15 9 Guam Code Ann § 25.25	9 Guam Code Ann § 25.10(a)(9) 9 Guam Code Ann § 25.15 9 Guam Code Ann § 25.25	9 Guam Code Ann § 25.10(a)(9) 9 Guam Code Ann § 25.15 9 Guam Code Ann § 25.25	9 Guam Code Ann § 25.10(a)(9) 9 Guam Code Ann § 25.15 9 Guam Code Ann § 25.25	9 Guam Code Ann § 25.10(a)(9) 9 Guam Code Ann § 25.15 9 Guam Code Ann § 25.25	9 Guam Code Ann § 25.10(a)(9)	9 Guam Code Ann § 25.10(a)(9)
Northern Mariana Islands	6 N.M.I. Code § 1301 6 N.M.I. Code § 1311 6 N.M.I. Code § 1317	6 N.M.I. Code § 1301 6 N.M.I. Code § 1311 6 N.M.I. Code § 1317	6 N.M.I. Code § 1301 6 N.M.I. Code § 1311 6 N.M.I. Code § 1317	6 N.M.I. Code § 1301 6 N.M.I. Code § 1311 6 N.M.I. Code § 1317	6 N.M.I. Code § 1301 6 N.M.I. Code § 1311 6 N.M.I. Code § 1317		
Puerto Rico	33 Laws of Puerto Rico Ann. § 4770	33 Laws of Puerto Rico Ann. § 4770	33 Laws of Puerto Rico Ann. § 4770	33 Laws of Puerto Rico Ann. § 4770	33 Laws of Puerto Rico Ann. § 4770	33 Laws of Puerto Rico Ann. § 4771	33 Laws of Puerto Rico Ann. § 4771
Virgin Islands	14 Virgin Islands Code § 1699(d) 14 Virgin Islands Code § 1700 14 Virgin Islands Code § 1700a 14 Virgin Islands Code § 1701	14 Virgin Islands Code § 1699(e) 14 Virgin Islands Code § 1700 14 Virgin Islands Code § 1700a 14 Virgin Islands Code § 1701	14 Virgin Islands Code § 1699(e) 14 Virgin Islands Code § 1700 14 Virgin Islands Code § 1700a 14 Virgin Islands Code § 1701	14 Virgin Islands Code § 1699(d) 14 Virgin Islands Code § 1700 14 Virgin Islands Code § 1700a 14 Virgin Islands Code § 1701	14 Virgin Islands Code § 1699(d) 14 Virgin Islands Code § 1700 14 Virgin Islands Code § 1700a 14 Virgin Islands Code § 1701	14 Virgin Islands Code § 1699(d) 14 Virgin Islands Code § 1704	
Federal	18 U.S.C.A. § 2241 18 U.S.C.A. § 2242 18 U.S.C.A. § 2246(2)(A)	18 U.S.C.A. § 2241 18 U.S.C.A. § 2242 18 U.S.C.A. § 2246(2)(A)	18 U.S.C.A. § 2241 18 U.S.C.A. § 2242 18 U.S.C.A. § 2246(2)(B)	18 U.S.C.A. § 2241 18 U.S.C.A. § 2242 18 U.S.C.A. § 2246(2)(C)	18 U.S.C.A. § 2241 18 U.S.C.A. § 2242 18 U.S.C.A. § 2246(2)(C)	18 U.S.C.A. § 2246(2)(C)	
Military	UCMJ § 920 Art.	UCMJ § 920 Art.	UCMJ § 920 Art.	UCMJ § 920 Art.	UCMJ § 920 Art.	UCMJ § 920 Art.	

STATE	PENILE VAGINAL	PENILE ANAL	SEX ORGAN ORAL	OBJECT VAGINAL/ANAL	OTHER BODY PART (I.E. DIGITAL) VAGINAL/ANAL	HOWEVER SLIGHT	EMISSION NOT REQUIRED
	120	120	120	120	120	120	

FORCE

In this chart, force generally includes an application of or feasible threat of physical force or violence exerted to overcome the resistance of the victim. Some jurisdictions also include coercion in their definition of force, so the chart includes them as well. In very few instances, penetration alone will satisfy the force requirement; see, for example, *State in Interest of M.T.S.*, 129 N.J. 422, 443, 609 A.2d 1266 (1992)("physical force in excess of that inherent in the act of sexual penetration is not required for such penetration to be unlawful"). Thirty (30) states criminalize sexual acts, both penetration and other sexual assault crimes, that are committed "without consent and without force." The jurisdictions that criminalize sexual penetration without consent and without force are Alabama, the District of Columbia, Florida, Maine Mississippi, Missouri, Nebraska, Nevada, New Hampshire, New York, Oregon, Pennsylvania, Tennessee, Utah, Vermont, Washington, and American Samoa, and the Military. The states that criminalize other sexual acts committed without consent and without force include California, Colorado, Georgia, Kansas, Kentucky, Maine, Maryland, Minnesota, Missouri, Nebraska, New Hampshire, New Mexico, New York, North Dakota, Ohio, Oregon, Pennsylvania, South Dakota, Tennessee, Vermont, West Virginia, and Wisconsin, American Samoa, and the Military. For more information on nonconsensual sexual assault accomplished without force, see the "Capacity to Consent" and the "Consent Analysis" charts *infra*.

STATE	ACTUAL	THREATENED FORCE	FORCE AGAINST THIRD PARTY	DEGREE OF INJURY	WITHOUT CONSENT AND WITHOUT FORCE[27]
Alabama	Ala. Code §13A-6-60(8) Ala. Code §13A-6-61 Ala. Code §13A-6-63(a)(1) Ala. Code §13A-6-65.1 (a)(1) Ala. Code §13A-6-66(a)(1)	Ala. Code §13A-6-60(8)	Ala. Code §13A-6-630(8)	Immediate death or serious physical injury	Ala. Code §13A-6-65 (a)(1)[28]

[27] A minority of jurisdictions require "affirmative consent" for sexual intercourse or acts, including the District of Columbia, Illinois, Minnesota, New Jersey, Washington, and Wisconsin. These jurisdictions define "consent" by statute or case law, generally, as a freely given agreement to have sexual intercourse or contact. *See, e.g.,* D.C. Code Ann. §22-3001(4); Minn. Stat. §609.341(4)(a); *M.T.S.*, 129 N.J. 422; Wash. Rev. Code Ann. § 9A.44.010(7); Wis. Stat. Ann. §940.225(4).

[28] Consent is not a defense to Ala. Code §§13A-6-63-64, sodomy in the first and second degrees.

STATE	ACTUAL	THREATENED FORCE	FORCE AGAINST THIRD PARTY	DEGREE OF INJURY	WITHOUT CONSENT AND WITHOUT FORCE
Alaska	Alaska Stat. §11.41.410 Alaska Stat. §11.41.420 Alaska Stat. §11.41.470(8) Alaska Stat. § 11.81.900(16) & (27)	Alaska Stat. §11.41.470(8)	Alaska Stat. §11.41.470(8): "to be inflicted on anyone"	Threat of death, imminent physical injury, or kidnapping	Alaska Stat. §11.41.410 Alaska Stat. §11.41.420 Alaska Stat. §11.41.470(8)
Arizona	Ariz. Rev. Stat. Ann. § 13-1401(5)(a) Ariz. Rev. Stat. Ann. §13-1404 Ariz. Rev. Stat. Ann. §13-1406 Ariz. Rev. Stat. Ann. §13-1423	Ariz. Rev. Stat. Ann. § 13-1401(5)(a) Ariz. Rev. Stat. Ann. §13-1404 Ariz. Rev. Stat. Ann. §13-1406 §13-1423 *threatening exhibition of a deadly weapon or instrument*			Ariz. Rev. Stat. Ann. § 13-1401(5) §13-1404 Ariz. Rev. Stat. Ann. §13-1406
Arkansas	Ark. Code Ann. § 5-14-101(2) Ark. Code Ann. § 5-14-103 Ark. Code Ann. § 5-14-125	Ark. Code Ann. § 5-14-101(2) *defined*		Death or physical injury	Ark. Code Ann. § 5-14-103(b)
California	Cal. Penal Code §261(2) Cal. Penal Code §289 Cal. Penal Code §262 Cal. Penal Code § 264.1 Cal. Penal Code §286(c)(2) Cal. Penal Code §288a(c)(2) Cal. Penal Code §289	Cal. Penal Code §261(2) Cal. Penal Code §289 Cal. Penal Code §262 Cal. Penal Code §266c[29] Cal. Penal Code §286(c)(2) Cal. Penal Code §288a(c)(2)-(3) Cal. Penal Code §289	Cal. Penal Code §261(2) Cal. Penal Code §262 Cal. Penal Code §266c Cal. Penal Code §286(c)(2) Cal. Penal Code §288a(c)(2)-(3) Cal. Penal Code §289		Cal. Penal Code §261.6 *consent defined*

[29] With intent to create fear and which does induce fear. Fear means "the fear of physical injury to the person or to any relative of the person or member of the person's family."

STATE	ACTUAL	THREATENED FORCE	FORCE AGAINST THIRD PARTY	DEGREE OF INJURY	WITHOUT CONSENT AND WITHOUT FORCE
Colorado	Colo. Rev. Stat. Ann. § 18-3-402(4)(a)[30]	Colo. Rev. Stat. Ann. § 18-3-402(4)(b-c)	Colo. Rev. Stat. Ann. § 18-3-402(4)(b-c)	Kidnapping, death, serious bodily injury or extreme pain	Colo. Rev. Stat. Ann. § 18-3-401(1.5) *consent defined*
Connecticut	Conn. Gen. Stat. Ann. § 53a-65 Conn. Gen. Stat. Ann. § 53a-70 Conn. Gen. Stat. Ann. § 53a-70b Conn. Gen. Stat. Ann. § 53a-72a(a)(2)	Conn. Gen. Stat. Ann. § 53a-70 Conn. Gen. Stat. Ann. § 53a-70a Conn. Gen. Stat. Ann. § 53a-72a(a)(2) Conn. Gen. Stat. Ann. § 53a-72b(a)	Conn. Gen. Stat. Ann. § 53a-70 (West 2011) Conn. Gen. Stat. Ann. § 53a-72a(a)(2)	Conn. Gen. Stat. Ann. § 53a-70a[31]	Conn. Gen. Stat. Ann. § 53a-73a(a)(2)
Delaware	Del. Code Ann. Tit. 11, § 761(j) Del. Code Ann. Tit. 11, §769 *use or threat of use of deadly weapon* Del. Code Ann. Tit. 11, §772(a)(2) *use or threatened use of deadly weapon*	Del. Code Ann. Tit. 11, § 761(j) Del. Code Ann. Tit. 11, §769 Del. Code Ann. Tit. 11, §772(a)(2) Del. Code Ann. Tit. 11, §774 Del. Code Ann. Tit. §791 *coercion defined*	Del. Code Ann. Tit. 11, § 761(j)	Del. Code Ann. Tit. 11, §772 *causes serious physical injury* Del. Code Ann. Tit. 11, §773 *physical injury or serious mental or emotional injury*	Del. Code Ann. Tit. 11, § 761(j) Del. Code Ann. Tit. 11, §770 (3)(a) Del. Code Ann. Tit. 11, §771(2)(a) Del. Code Ann. Tit. 11, §772(a)(2) Del. Code Ann. Tit. 11, §773
District of Columbia	D.C. Code § 22-3001 (5) D.C. Code § 22-3002 D.C. Code §22-3004	D.C. Code § 22-3001 (5) D.C. Code § 22-3002 D.C. Code §22-3003 D.C. Code §22-3004 D.C. Code §22-3005	D.C. Code § 22-3002(2) D.C. Code §22-3003 D.C. Code §22-3004 *threat only* D.C. Code §22-3005	D.C. Code §22-3001(8) *serious bodily injury defined* D.C. Code §22-3020	D.C. Code §22-3001(4) *consent defined* D.C. Code §22-3006
Florida	Fla. Stat. Ann. §794.005[32]	Fla. Stat. Ann. §794.011(4)	Fla. Stat. Ann. §794.011(4)	Fla. Stat. Ann. §794.0115(2)(a),	Fla. Stat. Ann. §794.011(1)(A)

[30] Sexual assault is a class 3 felony under the circumstances in Colo. Rev. Stat. Ann. § 18-3-402(4) (2011).

[31] With intent to disfigure the victim seriously and permanently, or to destroy, amputate, or disable permanently a member or organ of the victim's body.

[32] The offense of sexual battery does not require any force or violence beyond the force and violence that is inherent in the accomplishment of "penetration" or "union."

STATE	ACTUAL	THREATENED FORCE	FORCE AGAINST THIRD PARTY	DEGREE OF INJURY	WITHOUT CONSENT AND WITHOUT FORCE
				(3) *serious physical injury*	*consent defined* Fla. Stat. Ann. §794.011(3-5)
Georgia	Ga. Code Ann. §16-6-1(a)(1) Ga. Code Ann. §16-6-2(a)(2)				Ga. Code Ann. §16-6-22.1 Ga. Code Ann. §16-6-22.2
Hawaii	Haw. Rev. Stat. §707-700 Haw. Rev. Stat . §707-730 707-731 Haw. Rev. Stat. § 707-732(1)(a) Haw. Rev. Stat. §707-733	Haw. Rev. Stat. §707-700 Haw. Rev. Stat . §707-730 707-731 Haw. Rev. Stat. § 707-732(1)(a) Haw. Rev. Stat. §707-733	Haw. Rev. Stat. §707-700 Haw. Rev. Stat . §707-730 707-731 Haw. Rev. Stat. § 707-732(1)(a) Haw. Rev. Stat. §707-733	Haw. Rev. Stat. §707-700	Haw. Rev. Stat. §707-700
Idaho	Idaho Code Ann. § 18-6101 (4)[33] Idaho Code Ann. §18-6108		Idaho Code Ann. §18-6101 (9)		
Illinois	720 Ill. Comp. Stat. Ann. 5/11-0.1 720 Ill. Comp. Stat. Ann. 5/11-1.20 720 Ill. Comp. Stat. Ann. 5/11-1.30 *use of firearm* 720 Ill. Comp. Stat. Ann. 5/11-1.50	720 Ill. Comp. Stat. Ann. 5/11-0.1 720 Ill. Comp. Stat. Ann. 5/11-1.20 720 Ill. Comp. Stat. Ann. 5/11-1.30 *use of firearm* 720 Ill. Comp. Stat. Ann. 5/11-1.50 720 Ill. Comp. Stat. Ann. 5/11-1.60	720 Ill. Comp. Stat. Ann. 5/11-0.1 720 Ill. Comp. Stat. Ann. 5/11-1.20 720 Ill. Comp. Stat. Ann. 5/11-1.30 *use of firearm* 720 Ill. Comp. Stat. Ann. 5/11-1.50 720 Ill. Comp. Stat. Ann. 5/11-1.60		
Indiana	Ind. Code Ann. § 35-42-4-1 Ind Code Ann. §35-42-4-2	Ind. Code Ann. § 35-42-4-1 Ind. Code Ann. §35-			

[33] Where the victim resists but the resistance is overcome by force or violence.

STATE	ACTUAL	THREATENED FORCE	FORCE AGAINST THIRD PARTY	DEGREE OF INJURY	WITHOUT CONSENT AND WITHOUT FORCE
	Ind. Code Ann. §35-42-4-8	42-4-8			
Iowa	Iowa Code Ann. § 709.1(1) Iowa Code Ann. §709.3 Iowa Code Ann. §709.4 Iowa Code Ann. §709.5[34]	Iowa Code Ann. §709.3	Iowa Code Ann. §709.3	Iowa Code Ann. §709.2 *serious injury* Iowa Code Ann. §709.3 *substantial risk of death or serious injury to any person*	
Kansas	Kan. Crim. Code Ann. § 21-5503(a)(1)(A) Kan. Crim. Code Ann. §21-5504(b)(3)(A) Kan. Crim. Code Ann. §21-5505	Kan. Crim. Code Ann. § 21-5503(a)(1)(A) Kan. Crim. Code Ann. §21-5504(b)(3)(A) Kan. Crim. Code Ann. §21-5505			
Kentucky	Ky. Rev. Stat. Ann. § 510.010(2)[35] Ky. Rev. Stat. Ann. § 510.040 Ky. Rev. Stat. Ann. § 510.070 Ky. Rev. Stat. Ann. § 510.110	Ky. Rev. Stat. Ann. § 510.010(2) Ky. Rev. Stat. Ann. § 510.040 Ky. Rev. Stat. Ann. § 510.070 Ky. Rev. Stat. Ann. § 510.110	Ky. Rev. Stat. Ann. § 510.010(2) Ky. Rev. Stat. Ann. § 510.040 Ky. Rev. Stat. Ann. § 510.070 Ky. Rev. Stat. Ann. § 510.110	Immediate death, physical injury	Ky. Rev. Stat. Ann. §510.020(2)(c) *lack of consent defined* Ky. Rev. Stat. Ann. § 510.130 (1) Ky. Rev. Stat. Ann. § 510.140

[34] It shall not be necessary to establish physical resistance by a person in order to establish that an act of sexual abuse was committed by force or against the will of the person.
[35] Physical resistance on the part of the victim shall not be necessary to meet this definition.

STATE	ACTUAL	THREATENED FORCE	FORCE AGAINST THIRD PARTY	DEGREE OF INJURY	WITHOUT CONSENT AND WITHOUT FORCE
Louisiana[36]	La. Rev. Stat. Ann. § 14:42A La. Rev. Stat. Ann. § 14:42.1	La. Rev. Stat. Ann. § 14:42A La. Rev. Stat. Ann. § 14:42.1		La. Rev. Stat. Ann. § 14:42A(2) *threats of great and immediate bodily harm* La. Rev. Stat. Ann. § 14:43.2 [37]	
Maine	Me. Rev. Stat. Ann. Tit. 17-A § 251(E)(1)[38] Me. Rev. Stat. Ann. Tit. 17-A § 253(1)(A) Me. Rev. Stat. Ann. Tit. 17-A § 255-A (1)(O)-(P)	Me. Rev. Stat. Ann. Tit. 17-A § 251(E)(1) Me. Rev. Stat. Ann. Tit. 17-A § 255-A(1)(O)-(P)	Me. Rev. Stat. Ann. Tit. 17-A § 251(E)(1) Me. Rev. Stat. Ann. Tit. 17-A § 255-A(1)(O)-(P)	Imminent death or serious bodily injury	Me. Rev. Stat. Ann. Tit. 17-A § 255-A (1)(A)-(B) Me. Rev. Stat. Ann. Tit. 17-A §260(1)(A)-(B)
Maryland	Md. Code Ann., Crim. Law § 3-303(a) Md. Code Ann., Crim. Law § 3-304(a)(1) Md. Code Ann., Crim. Law § 3-305 Md. Code Ann., Crim. Law § 3-306 Md. Code Ann., Crim. Law § 3-309 Md. Code Ann., Crim. Law § 3-310 Crim. Law § 3-311 Md. Code Ann., Crim. Law § 3-312 Md. Code Ann., Crim. Law	Md. Code Ann., Crim. Law § 3-303(a) Md. Code Ann., Crim. Law § 3-304(a)(1) Md. Code Ann., Crim. Law § 3-305 Md. Code Ann., Crim. Law § 3-306 Md. Code Ann., Crim. Law § 3-309 Md. Code Ann., Crim. Law § 3-310 Crim. Law § 3-311 Md. Code Ann., Crim. Law § 3-312 Md. Code Ann., Crim.	Md. Code Ann., Crim. Law §3-322(a)(2) *place person's sexual organ in the mouth of another*	Md. Code Ann., Crim. Law § 3-303(a)(2)(ii) suffocate, strangle, disfigure, or inflict serious physical injury	Md. Code Ann., Crim. Law § 3-307 Md. Code Ann., Crim. Law § 3-308

[36] La. Rev. Stat. Ann. § 43:1 defines sexual battery as "the intentional touching of the anus or genitals of the victim by the offender using any instrumentality or any part of the body of the offender." This statute was not included in the columns titled "object vaginal/anal" or "other body part (i.e., digital) vaginal/anal" because, following *State v. Davis*, 514 So.2d 757 (La. Ct. App. 1987), touching – not penetration – is the critical element in the crime of sexual battery.

[37] The crime will be second degree sexual battery when offender intentionally inflicts serious bodily injury on the victim.

[38] "Compulsion as defined … places no duty upon the victim to resist the actor."

STATE	ACTUAL	THREATENED FORCE	FORCE AGAINST THIRD PARTY	DEGREE OF INJURY	WITHOUT CONSENT AND WITHOUT FORCE
	§ 3-318	Law § 3-318			
Massachusetts	Mass. Gen. Laws Ann. Ch. 265, § 22	Mass. Gen. Laws Ann. Ch. 265, § 22			
Michigan	Mich. Comp. Laws Ann. § 750.520b Mich. Comp. Laws Ann. § 750.520c Mich. Comp. Laws Ann. § 750.520d Mich. Comp. Laws Ann. § 750.520e Mich. Comp. Laws Ann. § 750.520l	Mich. Comp. Laws Ann. § 750.520b Mich. Comp. Laws Ann. § 750.520c Mich. Comp. Laws Ann. § 750.520l	Mich. Comp. Laws Ann. § 750.520b Mich. Comp. Laws Ann. § 750.520c Mich. Comp. Laws Ann. § 750.520l		
Minnesota	Minn. Stat. Ann. §609.341(3), (14) Minn. Stat. Ann. § 609.342(e)(1) Minn. Stat. Ann. § 609.343 Minn. Stat. Ann. § 609.344 Minn. Stat. Ann. § 609.345	Minn. Stat. Ann. §609.341(3), (14) Minn. Stat. Ann. § 609.342(e)(1) Minn. Stat. Ann. § 609.343 Minn. Stat. Ann. § 609.344 Minn. Stat. Ann. § 609.345	Minn. Stat. Ann. §609.341(3) Minn. Stat. Ann. § 609.342(e)(1) Minn. Stat. Ann. § 609.343 Minn. Stat. Ann. § 609.344 Minn. Stat. Ann. § 609.345		Minn. Stat. Ann. §609.341(4) *consent defined* Minn. Stat. Ann. § 609.3451 *nonconsensual sexual contact*
Mississippi	Miss. Code Ann. § 97-3-71				Miss. Code Ann. §97-3-95
Missouri	Mo. Ann. Stat. § 566.030[39] Mo. Ann. Stat. § 566.060 Mo. Ann. Stat. § 566.100	Mo. Ann. Stat. § 566.030 Mo. Ann. Stat. § 566.060 Mo. Ann. Stat. § 566.100		Mo. Ann. Stat. § 566.030(2)(1) Mo. Ann. Stat. § 566.060(2)(1)	Mo. Ann. Stat. §566.040 Mo. Ann. Stat. §566.070 Mo. Ann. Stat. §566.090
Montana	Mont. Code Ann. §45-5-501(a)(1)(a), (2) *defined*	Mont. Code Ann. §45-5-501(a)(1)(a), (2)	Mont. Code Ann. §45-5-501(a)(1)(a), (2)	Mont. Code Ann. §45-5-502 *inflicts*	

[39] "Forcible compulsion" is defined in the comment to the proposed code in Mo. Ann. Stat. §566.030 (West 2011).

STATE	ACTUAL	THREATENED FORCE	FORCE AGAINST THIRD PARTY	DEGREE OF INJURY	WITHOUT CONSENT AND WITHOUT FORCE
	Mont. Code Ann. §45-5-502 Mont. Code Ann. §45-5-503	Mont. Code Ann. §45-5-502 Mont. Code Ann. §45-5-503	Mont. Code Ann. §45-5-502 Mont. Code Ann. §45-5-503	*bodily injury*	
Nebraska	Neb. Rev. Stat. § 28-318(8), (9) Neb. Rev. Stat. § 28-319(1)(a) Neb. Rev. Stat. § 28-320(1)(a)	Neb. Rev. Stat. § 28-318(9) Neb. Rev. Stat. § 28-319(1)(a) Neb. Rev. Stat. § 28-320(1)(a)	Neb. Rev. Stat. § 28-318(9) Neb. Rev. Stat. § 28-319(1)(a) Neb. Rev. Stat. § 28-320(1)(a)	Neb. Rev. Stat. § 28-318(4) Neb. Rev. Stat. § 28-319(1)(a) Neb. Rev. Stat. § 28-320(1)(a)	Neb. Rev. Stat. § 28-318(8) Neb. Rev. Stat. § 28-319(1)(a) Neb. Rev. Stat. § 28-320(1)(a)
Nevada	Nev. Rev. Stat. Ann. § 200.366 Nev. Rev. Stat. Ann. § 200.373[40]	Nev. Rev. Stat. Ann. § 200.373	Nev. Rev. Stat. Ann. § 200.366	Nev. Rev. Stat. Ann. § 200.366 (2)(a)[41]	Nev. Rev. Stat. Ann. § 200.366
New Hampshire	N.H. Rev. Stat. Ann. § 632-A:2 N.H. Rev. Stat. Ann. § 632-A:3	N.H. Rev. Stat. Ann. § 632-A:2 N.H. Rev. Stat. Ann. § 632-A:3	N.H. Rev. Stat. Ann. § 632-A:2 N.H. Rev. Stat. Ann. § 632-A:3	N.H. Rev. Stat. Ann. § 632-A:1(III) N.H. Rev. Stat. Ann. § 632-A:3	N.H. Rev. Stat. Ann. § 632-A:2(I)(m) N.H. Rev. Stat. Ann. § 632-A:3
New Jersey	N.J. Stat. Ann. § 2C: 14-1(j) N.J. Stat. Ann. § 2C: 13-5(1)-(7) *coercion defined* N.J. Stat. Ann. § 2C: 14-2(a)(5), (c)(1) N.J. Stat. Ann. § 2C: 14-3	N.J. Stat. Ann. § 2C: 14-2(5) N.J. Stat. Ann. § 2C: 14-2(a)(5), (c)(1) N.J. Stat. Ann. § 2C: 14-3		N.J. Stat. Ann. § 2C: 14-1(f) *severe personal injury defined* N.J. Stat. Ann. § 2C: 14-2(6)	*Case law only*[42]

[40] Marriage is not a defense to assault if the assault was committed by force or threat of force.

[41] If substantial bodily harm to the victim results from the actions of the defendant committed in connection with or as a part of the sexual assault, it shall be punished as a felony.

[42] New Jersey has not codified a law prohibiting sexual assault without consent and without force in its criminal code; however, state case law does prohibit this conduct in practice. The Supreme Court of New Jersey, in *State in Interest of M.T.S.*, 129 N.J. 422, 609 A.2d 1266 (1992), held that physical force beyond what is needed to accomplish penetration is not required. The court also held that permission to engage in sexual intercourse must be affirmative and freely given.

STATE	ACTUAL	THREATENED FORCE	FORCE AGAINST THIRD PARTY	DEGREE OF INJURY	WITHOUT CONSENT AND WITHOUT FORCE
New Mexico	N.M. Stat. Ann. § 30-9-10 N.M. Stat. Ann. § 30-9-11 N.M. Stat. Ann. § 30-9-12	N.M. Stat. Ann. § 30-9-12	N.M. Stat. Ann. § 30-9-10	N.M. Stat. Ann. § 30-9-11(E)(3)	N.M. Stat. Ann. § 30-9-12(A)
New York	N.Y. Penal Law § 130.00(8)(a) N.Y. Penal Law § 130.05 N.Y. Penal Law § 130.20 N.Y. Penal Law § 130.25 N.Y. Penal Law § 130.35 N.Y. Penal Law § 130.40 N.Y. Penal Law § 130.50 N.Y. Penal Law § 130.52 *forcible touching* N.Y. Penal Law § 130.53 N.Y. Penal Law § 130.55 N.Y. Penal Law § 130.65 N.Y. Penal Law § 130.66 N.Y. Penal Law § 130.67 N.Y. Penal Law § 130.70	N.Y. Penal Law § 130.00(8)(b) N.Y. Penal Law § 130.05 N.Y. Penal Law § 130.20 N.Y. Penal Law § 130.25 N.Y. Penal Law § 130.35 N.Y. Penal Law § 130.40 N.Y. Penal Law § 130.50 N.Y. Penal Law § 130.55 N.Y. Penal Law § 130.65 N.Y. Penal Law § 130.66 N.Y. Penal Law § 130.67 N.Y. Penal Law § 130.70 N.Y. Penal Law §130.70	N.Y. Penal Law § 130.00(8)(b) N.Y. Penal Law § 130.05 N.Y. Penal Law § 130.20 N.Y. Penal Law § 130.25 N.Y. Penal Law § 130.35 N.Y. Penal Law § 130.40 N.Y. Penal Law § 130.50 N.Y. Penal Law § 130.55 N.Y. Penal Law § 130.65 N.Y. Penal Law § 130.66 N.Y. Penal Law § 130.67 N.Y. Penal Law § 130.70	Immediate death or physical injury N.Y. Penal Law § 130.95(A)(1)(a) *predatory sexual assault; causes serious physical injury; use/threatens immediate use of a dangerous weapons*	N.Y. Penal Law § 130.05(2)(c-d) *consent defined* N.Y. Penal Law § 130.20 N.Y. Penal Law § 130.25 N.Y. Penal Law § 130.40 N.Y. Penal Law § 130.55
North Carolina	N.C. Gen. Stat. Ann. § 14-27.2 N.C. Gen. Stat. Ann. § 14-27.3 N.C. Gen. Stat. Ann. § 14-27.4 N.C. Gen. Stat. Ann. § 14-		N.C. Gen. Stat. Ann. § 14-27.2 N.C. Gen. Stat. Ann. § 14-27.3 N.C. Gen. Stat. Ann. § 14-27.4 N.C. Gen. Stat. Ann. §	Serious physical injury	

STATE	ACTUAL	THREATENED FORCE	FORCE AGAINST THIRD PARTY	DEGREE OF INJURY	WITHOUT CONSENT AND WITHOUT FORCE
	27.5 N.C. Gen. Stat. Ann. § 14-27.5A		14-27.5 N.C. Gen. Stat. Ann. § 14-27.5A		
North Dakota	N.D. Cent. Code § 12.1-20-02(1) *coercion defined* N.D. Cent. Code § 12.1-20-03	N.D. Cent. Code § 12.1-20-03 N.D. Cent. Code § 12.1-20-04	N.D. Cent. Code § 12.1-20-03	Imminent death or serious bodily injury	
Ohio	Ohio Rev. Code Ann. §2901.01(A) Ohio Rev. Code Ann. §2907.02(A)(2)[43] [44] Ohio Rev. Code Ann. §2907.03(A)(1) Ohio Rev. Code Ann. §2907.05(A)(1)	Ohio Rev. Code Ann. §2907.02(A)(2) Ohio Rev. Code Ann. §2907.03(A)(1) Ohio Rev. Code Ann. §2907.05(A)(1)			
Oklahoma	Okla. Stat. Ann. Tit. 21, § 1111(A)(3), (B) Okla. Stat. Ann. Tit. 21, §1114(A)(5)	Okla. Stat. Ann. Tit. 21, § 1111(A)(3), (B) Okla. Stat. Ann. Tit. 21, §1114(A)(5)			
Oregon	OR. Rev. Stat. Ann. §163.305(2)(A) OR. Rev. Stat. Ann. §163.375 OR. Rev. Stat. Ann. §163.405 OR. Rev. Stat. Ann. §163.411 OR. Rev. Stat. Ann. §163.427	OR. Rev. Stat. Ann. §163.305(2)(B) OR. Rev. Stat. Ann. §163.375 OR. Rev. Stat. Ann. §163.405 OR. Rev. Stat. Ann. §163.411 OR. Rev. Stat. Ann. §163.427	OR. Rev. Stat. Ann. §163.305(2)(B) OR. Rev. Stat. Ann. §163.375 OR. Rev. Stat. Ann. §163.405 OR. Rev. Stat. Ann. §163.411 OR. Rev. Stat. Ann. §163.427	Immediate or future death	OR. Rev. Stat. Ann. §163.315(2)[45] *consent defined* OR. Rev. Stat. Ann. § 163.415 (1)(a)(A) OR. Rev. Stat. Ann. § 163.425(1)(a)
Pennsylvania	Pa. Cons. Stat. Ann. 18	Pa. Cons. Stat. Ann. 18	Pa. Cons. Stat. Ann.	Term includes	Pa. Cons. Stat. Ann. 18

[43] Unconstitutional as applied to a child under the age of 13 who engages in sexual conduct with another child under 13. *In re D.B.*, 129 Ohio St. 3d 104, 950 N.E.2d 528 (2011).

[44] A victim need not prove physical resistance to the offender in prosecution under this section.

[45] A lack of verbal or physical resistance does not, by itself, constitute consent but may be considered by the trier of fact along with all other relevant evidence.

STATE	ACTUAL	THREATENED FORCE	FORCE AGAINST THIRD PARTY	DEGREE OF INJURY	WITHOUT CONSENT AND WITHOUT FORCE
	§3101 Pa. Cons. Stat. Ann. 18 §3121 Pa. Cons. Stat. Ann. 18 §3123 Pa. Cons. Stat. Ann. 18 § 3125(a)(2) Pa. Cons. Stat. Ann. 18 § 3126(a)(2)	§3101 Pa. Cons. Stat. Ann. 18 §3121 Pa. Cons. Stat. Ann. 18 §3123 Pa. Cons. Stat. Ann. 18 § 3125(a)(3) Pa. Cons. Stat. Ann. 18 § 3126(a)(3)	18 §3101 Pa. Cons. Stat. Ann. 18 §3121 Pa. Cons. Stat. Ann. 18 §3123 Pa. Cons. Stat. Ann. 18 § 3125(a)(2)-(3)	but is not limited to compulsion resulting in another person's death.	§ 3124.1 Pa. Cons. Stat. Ann. 18 § 3125(a)(1) Pa. Cons. Stat. Ann. 18 § 3126(a)(1)
Rhode Island	R.I. Gen. Laws § 11-37-1(2) R.I. Gen. Laws § 11-37-2 R.I. Gen. Laws § 11-37-4	R.I. Gen. Laws § 11-37-1(2) R.I. Gen. Laws § 11-37-2 R.I. Gen. Laws § 11-37-4	R.I. Gen. Laws § 11-37-1(2) R.I. Gen. Laws § 11-37-2 R.I. Gen. Laws § 11-37-4		
South Carolina	S.C. Code Ann. §16-3-651(c) *aggravated force defined* S.C. Code Ann. §16-3-652 S.C. Code Ann. § 16-3-654 S.C. Code Ann. § 16-3-658	S.C. Code Ann. §16-3-651(c) *aggravated coercion defined* S.C. Code Ann. §16-3-653 S.C. Code Ann. § 16-3-658	S.C. Code Ann. §16-3-651(c) .C. Code Ann. §16-3-653 S.C. Code Ann. § 16-3-658	High and aggravated nature to overcome the victim or another person.	
South Dakota	S.D. Codified Laws §22-22-1	S.D. Codified Laws §22-22-1	S.D. Codified Laws §22-22-1 *in the victim's presence*		S.D. Codified Laws § 22-22-7.4
Tennessee	Tenn. Code Ann. § 39-13-502 39-13-503 39-13-504 39-13-505	Tenn. Code Ann. § 39-13-501(1)[46] *coercion defined* Tenn. Code Ann. § 39-13-502 39-13-503 39-13-504 39-13-505			Tenn. Code Ann. § 39-13-503(a)(2) Tenn. Code Ann. § 39-13-505(a)(2)

[46] Regarding coercion of a child less than 15 years of age.

STATE	ACTUAL	THREATENED FORCE	FORCE AGAINST THIRD PARTY	DEGREE OF INJURY	WITHOUT CONSENT AND WITHOUT FORCE
Texas	Tex. Penal Code Ann. §22.011(b)(1) Tex. Penal Code Ann. §22.021(a)(2)(A)(1)	Tex. Penal Code Ann. §22.011(b)(2) Tex. Penal Code Ann. §22.021(a)(2)(A)(ii)	Tex. Penal Code Ann. §22.011(b)(7) Tex. Penal Code Ann. §22.021(a)(2)(A)(ii)	Tex. Penal Code Ann. §22.021(a)(2)(A)(ii) *Serious bodily injury*	
Utah	Utah Code Ann. § 76-5-404 Utah Code Ann. § 76-5-405 Utah Code Ann. § 76-5-406	Utah Code Ann. § 76-5-405	Utah Code Ann. § 76-5-404 Utah Code Ann. § 76-5-405	Utah Code Ann. § 76-5-402 (3)(b) *increased punishment for causing serious bodily injury* Utah Code Ann. § 76-5-404 *substantial emotional or bodily pain to any person* Utah Code Ann. § 76-5-405(b), (c) *causes serious bodily injury*	Utah Code Ann. § 76-5-402 Utah Code Ann. § 76-5-404 Utah Code Ann. § 76-5-404 Utah Code Ann. § 76-5-406 *lack of consent defined*
Vermont	Vt. Stat. Ann. Tit 13, § 3251(7) *deadly force defined* Vt. Stat. Ann. Tit 13, § 3252 Vt. Stat. Ann. Tit 13, § 3253	Vt. Stat. Ann. Tit 13, § 3252		Vt. Stat. Ann. Tit 13, § 3252 *imminent bodily injury* Vt. Stat. Ann. Tit 13, § 3253 *serious bodily injury, deadly force*	Vt. Stat. Ann. Tit 13, § 3251(3) *consent defined* Vt. Stat. Ann. Tit 13, § 3252(a)(1)
Virginia	Va. Code §18.2-61 Va. Code §18.2-67.1 Va. Code §18.2-67.2 Va. Code §18.2-67.3 *aggravated sexual battery*	Va. Code §18.2-61 Va. Code §18.2-67.1 Va. Code §18.2-67.2 Va. Code §18.2-67.2 *aggravated sexual*	Va. Code §18.2-61 Va. Code §18.2-67.1 Va. Code §18.2-67.2 Va. Code §18.2-67.2 *aggravated sexual*		

STATE	ACTUAL	THREATENED FORCE	FORCE AGAINST THIRD PARTY	DEGREE OF INJURY	WITHOUT CONSENT AND WITHOUT FORCE
	Va. Code §18.2-67.4 Va. Code §18.2-67.4:1 Va. Code §18.2-67.5	*battery* Va. Code §18.2-67.4:1 Va. Code §18.2-67.5	*battery* Va. Code §18.2-67.4:1 Va. Code §18.2-67.5		
Washington	Wash. Rev. Code Ann. 9A.44.010(6) Wash. Rev. Code Ann. 9A.44.040 Wash. Rev. Code Ann. 9A.44.050 Wash. Rev. Code Ann. 9A.44.100(1)(a)	Wash. Rev. Code Ann. 9A.44.010(6) Wash. Rev. Code Ann. 9A.44.050 Wash. Rev. Code Ann. 9A.44.100(1)(a)	Wash. Rev. Code Ann. 9A.44.010(6) Wash. Rev. Code Ann. 9A.44.050 Wash. Rev. Code Ann. 9A.44.100(1)(a)	Death or physical injury Wash. Rev. Code Ann. 9A.44.040(1)(c)[47]	Wash. Rev. Code Ann. 9A.44.010(7) *consent defined* Wash. Rev. Code Ann. 9A.44.060(1)(a)
West Virginia	W.Va. Code Ann. §61-8B-1(1)(a) W.Va. Code Ann. §61-8B-2(b)(1) W.Va. Code Ann. §61-8B-4(a)(1) W.Va. Code Ann. §61-8B-7(a)(1)	W.Va. Code Ann. §61-8B-1(1)(b) W.Va. Code Ann. §61-8B-2(b)(1) W.Va. Code Ann. §61-8B-4(a)(1) W.Va. Code Ann. §61-8B-7(a)(1)	W.Va. Code Ann. §61-8B-1(1)(b) W.Va. Code Ann. §61-8B-2(b)(1) W.Va. Code Ann. §61-8B-4(a)(1) W.Va. Code Ann. §61-8B-7(a)(1)	Immediate death or bodily injury	W.Va. Code Ann. §61-8B-2 *lack of consent defined* W.Va. Code Ann. §61-8B-7[48] W.Va. Code Ann. §61-8B-9
Wisconsin	Wis. Stat. Ann. § 940.225(1)[49], (2)[50]	Wis. Stat. Ann. § 940.225 (2)		Wis. Stat. Ann. § 940.225(1) *First degree sexual assault: causes pregnancy or great bodily harm*	Wis. Stat. Ann. § 940.225(3), (4) *consent defined*
Wyoming	Wyo. Stat. Ann. § 6-2-302(a)(i) Wyo. Stat. Ann. § 6-2-304	Wyo. Stat. Ann. § 6-2-302(a)(ii) Wyo. Stat. Ann. § 6-2-303	Wyo. Stat. Ann. § 6-2-303(a)(i) Wyo. Stat. Ann. § 6-2-304	Wyo. Stat. Ann. § 6-2-303 (b) *causes serious bodily injury*	

[47] Inflicts serious physical injury, including but not limited to physical injury which renders the victim unconscious.
[48] W.Va. Code Ann. §61-8B-2 provides that in offenses charged as sexual abuse, lack of consent includes any circumstance in which the victim does not expressly or impliedly acquiesce to the actor's conduct.
[49] Use or threat of use of a dangerous weapon or any article used or fashioned in a manner to lead the victim reasonably to believe it to be a dangerous weapon.
[50] By use of threat or force or violence.

STATE	ACTUAL	THREATENED FORCE	FORCE AGAINST THIRD PARTY	DEGREE OF INJURY	WITHOUT CONSENT AND WITHOUT FORCE
		Wyo. Stat. Ann. § 6-2-304			
American Samoa	American Samoa Code Ann. §46.3111(11) American Samoa Code Ann. § 46.3604 American Samoa Code Ann. § 46.3611 American Samoa Code Ann. § 46.3615	American Samoa Code Ann. §46.3111(11) American Samoa Code Ann. § 46.3604 American Samoa Code Ann. § 46.3611 American Samoa Code Ann. § 46.3615	American Samoa Code Ann. §46.3111(11) American Samoa Code Ann. § 46.3604 American Samoa Code Ann. § 46.3611 American Samoa Code Ann. § 46.3615	American Samoa Code Ann. § 46.3610(b) *serious physical injury or display of a dangerous weapon*	American Samoa Code Ann. §46.3111(4) *consent defined* American Samoa Code Ann. § 46.3612 American Samoa Code Ann. § 46.3615 American Samoa Code Ann. § 46.3616
Guam	9 Guam Code Ann § 25.10(a)(2)(i) 9 Guam Code Ann § 25.15 9 Guam Code Ann § 25.25	9 Guam Code Ann § 25.10(a)(2)(ii)-(iii) 9 Guam Code Ann § 25.15 9 Guam Code Ann § 25.25	9 Guam Code Ann § 25.10(a)(2)(iii) 9 Guam Code Ann § 25.15 9 Guam Code Ann § 25.25		
Northern Mariana Islands	6 N.M.I. Code § 1301 6 N.M.I. Code § 1302 6 N.M.I. Code § 1317	6 N.M.I. Code § 1301 6 N.M.I. Code § 1302 6 N.M.I. Code § 1317	6 N.M.I. Code § 1301 6 N.M.I. Code § 1302 6 N.M.I. Code § 1317	6 N.M.I. Code § 1301 *Sexual assault causes serious bodily injury*	
Puerto Rico	33 Laws of Puerto Rico Ann. § 4770 (c), (h)	33 Laws of Puerto Rico Ann. § 4770 (c), (h)		Serious and immediate bodily harm	
Virgin Islands	14 Virgin Islands Code § 1700 14 Virgin Islands Code § 1701(2)			14 Virgin Islands Code § 1701(2) *immediate and great bodily harm*	
Federal	18 U.S.C.A. § 2241(a)	18 U.S.C.A. § 2241(a) 18 U.S.C.A. § 2242(1)	18 U.S.C.A. § 2242(1)	Death or serious bodily injury	

STATE	ACTUAL	THREATENED FORCE	FORCE AGAINST THIRD PARTY	DEGREE OF INJURY	WITHOUT CONSENT AND WITHOUT FORCE
Military	UCMJ § 920 Art. 120(a); (c)[51]	UCMJ § 920 Art. 120(a)-(d)	UCMJ § 920 Art. 120(a)-(d)	UCMJ § 920 (Art. 120 (a), (c) *death or grievous bodily harm*; (b), (d) *bodily harm*	UCMJ § 920 Art. 120(b) ; (d)

[51] Sexual assault and abusive sexual contact (UMCJ § 920 Art. 120(b) and (d), respectively) prohibit sexual acts that cause bodily harm. Bodily harm is defined as "any offensive touching of another, however slight, including any nonconsensual sexual act or nonconsensual sexual contact." UMCJ § 920 Art. 120(g)(3). For purposes of this resource, this definition of bodily harm has not been included in the actual force requirement. This law has recently been amended and it is important to note that some of the sections and terms may be misleading or overlap one another. Please contact AEquitas for more information.

CAPACITY TO CONSENT

In certain circumstances, the victim's capacity to consent is considered in order to determine whether sexual activity is criminal conduct. This chart includes laws and variables that govern whether individuals have the capacity to consent to sexual penetration and/or contact. The developmental disability column includes statutes that cover when the victim is suffering from a mental disease or defect that renders him or her incapable giving consent to the actor because the victim is incapable of understanding the consequences of his or her conduct. The column on age restriction includes child rape, sexual assault, and molestation crimes. Physical capacity is a broad category, including when the victim is incapable of expressing consent or unwilling to consent. In some cases, the definition of physical capacity will include the victim's ability to control his or her conduct as a result of intoxication. Finally, the column titled unconsciousness includes laws defining lack of capacity as unconsciousness that renders a person physically incapable of communicating an unwillingness to act. For additional sexual assault crimes dependent on capacity to consent, see the below the "Alcohol/Drug and Facilitated Sexual Assault" chart.

STATE	DEVELOPMENTAL DISABILITY	AGE RESTRICTION	PHYSICAL CAPACITY	PHYSICAL DISABILITY	UNCONSCIOUSNESS
Alabama	Ala. Code § 13A-6-60(5) Ala. Code § 13A-6-62(a)(2) Ala. Code § 13A-6-64(a)(2)	Ala. Code § 13A-6-61(a)(3) Ala. Code § 13A-6-62(a)(1) Ala. Code § 13A-6-63(a)(3) Ala. Code § 13A-6-64(a)(1) Ala. Code 1975 § 13A-6-65.1(a)(3) Ala. Code § 13A-6-67(a)(2)	Ala. Code § 13A-6-60(7) Ala. Code § 13A-6-61(a)(2) Ala. Code § 13A-6-63(a)(2) Ala. Code 1975 § 13A-6-65.1(a)(2) Ala. Code § 13A-6-66(a)(2)		Ala. Code § 13A-6-60(7) Ala. Code § 13A-6-61(a)(2) Ala. Code § 13A-6-63(a)(2) Ala. Code 1975 § 13A-6-65.1(a)(2) Ala. Code § 13A-6-66(a)(2)
Alaska	Alaska Stat. § 11.41.470(4) Alaska Stat. § 11.41.410(a)(3)[52]	Alaska Stat. § 11.41.425(a)(3) Alaska Stat. § 11.41.427(a)(2)	Alaska Stat. § 11.41.470(2) Alaska Stat. § 11.41.420(a)(3)(B)		King v. State, 978 P.2d 1278 (Alaska Ct. App. 1999)(evidence that

[52] Crime committed where offender engages in sexual penetration with another person who is mentally incapable and who is in the offender's care.

STATE	DEVELOPMENTAL DISABILITY	AGE RESTRICTION	PHYSICAL CAPACITY	PHYSICAL DISABILITY	UNCONSCIOUSNESS
	Alaska Stat. § 11.41.420(a)(2)(A)&(3)(A) Alaska Stat. § 11.41.425(a)(1)(A)&(1)(C) Alaska Stat. § 11.41.432(a)(1)		Alaska Stat. § 11.41.425(a)(1)(B)		defendant sexually penetrated victim when she was unconscious and unaware what was happening was sufficient to support incapacity).
Arizona	Ariz. Rev. Stat. Ann. § 13-1401(5)(b)	Ariz. Rev. Stat. Ann. § 13-1404 Ariz. Rev. Stat. Ann. § 13-1405(A)-(B) Ariz. Rev. Stat. Ann. § 13-1407(B), (E), (F) Ariz. Rev. Stat. Ann. § 13-1410	Ariz. Rev. Stat. Ann. § 13-1401(5)(b)		
Arkansas	Ark. Code Ann. § 5-14-101(4)(A) Ark. Code Ann. § 5-14-103(a)(2)(B) Ark. Code Ann. § 5-14-125(a)(2)(B)	Ark. Code Ann. § 5-14-101(6) Ark. Code Ann. § 5-14-102(b), (c), (d) Ark. Code Ann. § 5-14-103(a)(3), (4) Ark. Code Ann. § 5-14-124(a) Ark. Code Ann. § 5-14-125(a)(3)(A)&(5) Ark. Code Ann. § 5-14-126(a)(2)(A), (B) Ark. Code Ann. § 5-14-127(a)(1)	Ark. Code Ann. § 5-14-101(5), (7) Ark. Code Ann. § 5-14-103(a)(2)(C) Ark. Code Ann. § 5-14-125(a)(2)(A)		Ark. Code Ann. § 5-14-101(7) Ark. Code Ann. § 5-14-103(a)(2)(A) Ark. Code Ann. § 5-14-125(a)(2)(A)
California	Cal. Penal Code § 261(a)(1)	Cal. Penal Code § 261.5 Cal. Penal Code § 243.4(j)	Cal. Penal Code § 261(a)(3) Cal. Penal Code § 262(a)(2) *intoxication* Cal. Penal Code §	Cal. Penal Code § 261(a)(1) Cal. Penal Code § 243.4(d)	Cal. Penal Code § 243.4(c) Cal. Penal Code § 261(a)(4) Cal. Penal Code § 262(a)(3)

STATE	DEVELOPMENTAL DISABILITY	AGE RESTRICTION	PHYSICAL CAPACITY	PHYSICAL DISABILITY	UNCONSCIOUSNESS
			243.4(b) *medically incapacitated by prescription*		
Colorado	Colo. Rev. Stat. Ann. § 18-3-402(1)(b) Colo. Rev. Stat. Ann. § 18-3-404(1)(b)	Colo. Rev. Stat. Ann. § 18-3-402(1)(d), (e) Colo. Rev. Stat. Ann. § 18-3-404(1.5)	Colo. Rev. Stat. Ann. § 18-3-401(3) Colo. Rev. Stat. Ann. § 18-3-402(1)(h), (4)(d) *intoxication* Colo. Rev. Stat. Ann. § 18-3-404(1)(c), (d) *intoxication*		Colo. Rev. Stat. Ann. § 18-3-401(3) Colo. Rev. Stat. Ann. § 18-3-402(4)(d) Colo. Rev. Stat. Ann. § 18-3-404(1)(c)
Connecticut	Conn. Gen. Stat. Ann. § 53a-65(4) Conn. Gen. Stat. Ann. § 53a-71(a)(2) Conn. Gen. Stat. Ann. § 53a-73a(a)(1)(C)	Conn. Gen. Stat. Ann. § 53a-70 Conn. Gen. Stat. Ann. § 53a-70a(b) Conn. Gen. Stat. Ann. § 53a-71(a)(1), (b) Conn. Gen. Stat. Ann. § 53a-73A(1)	Conn. Gen. Stat. Ann. § 53a-65(5), (6) *intoxication* Conn. Gen. Stat. Ann. § 53a-71(a)(3) Conn. Gen. Stat. Ann. § 53a-73a(a)(1)(D)		Conn. Gen. Stat. Ann. § 53a-65(6) Conn. Gen. Stat. Ann. § 53a-71(a)(3) Conn. Gen. Stat. Ann. § 53a-73a(a)(1)(D)
Delaware	Del. Code Ann. Tit. 11, § 761(a), (j)(3)	Del. Code Ann. Tit. 11, § 761(k) Del. Code Ann. Tit. 11, § 762(a), (d) Del. Code Ann. Tit. 11 § 768 Del. Code Ann. Tit. 11 § 769 Del. Code Ann. Tit. 11 § 770 Del. Code Ann. Tit. 11 § 771 Del. Code Ann. Tit. 11, § 772	Del. Code Ann. Tit. 11, § 761(j)(5) *intoxication*		Del. Code Ann. Tit. 11, § 761(j)(2)
District of Columbia		D.C. Code § 22-3008 D.C. Code § 22-3009 D.C. Code § 22-3009.01	D.C. Code § 22-3002(a)(4) *intoxication* D.C. Code § 22-3003(2)		D.C. Code § 22-3002(a)(3) D.C. Code § 22-

STATE	DEVELOPMENTAL DISABILITY	AGE RESTRICTION	PHYSICAL CAPACITY	PHYSICAL DISABILITY	UNCONSCIOUSNESS
		D.C. Code § 22-3009.02 D.C. Code § 22-3020 *aggravating factors* D.C. Code § 22-3010	D.C. Code § 22-3004(4) *intoxication* D.C. Code § 22-3005(2)		3003(2) D.C. Code § 22-3004(3) D.C. Code § 22-3005(2)
Florida	Fla. Stat. Ann. § 794.011(1)(b), (4)(e) Fla. Stat. Ann. § 794.023	Fla. Stat. Ann. § 794.05 Fla. Stat. Ann. § 794.011(2), (3), (4), (5), (8) Fla. Stat. Ann. § 794.021 Fla. Stat. Ann. § 794.023	Fla. Stat. Ann. § 794.011(1)(c), (e) *intoxication* Fla. Stat. Ann. § 794.011(4)(d) Fla. Stat. Ann. § 794.023	Fla. Stat. Ann. § 794.011(1)(j), (4)(a) Fla. Stat. Ann. § 794.023	Fla. Stat. Ann. § 794.011(1)(e), (4)(f) Fla. Stat. Ann. § 794.023
Georgia		Ga. Code Ann. § 16-6-1(a)(2) Ga. Code Ann. § 16-6-2(a)(2), (d) Ga. Code Ann. § 16-6-3 Ga. Code Ann. § 16-6-5.1(f)(2) Ga. Code Ann. § 16-6-22.1(d)			Brown v. State, 138 Ga. 814, 76 S.E. 379 (1912)
Hawaii	Haw. Rev. Stat. § 707-700 Haw. Rev. Stat. § 707-730(1)(d) Haw. Rev. Stat. § 707-731(1)(b) Haw. Rev. Stat. § 707-732(1)(d)	Haw. Rev. Stat. § 707-730(1)(b), (c) Haw. Rev. Stat. § 707-732(1)(b), (c)	Haw. Rev. Stat. § 707-700 Haw. Rev. Stat. § 707-730(1)(e) Haw. Rev. Stat. § 707-731(1)(b) Haw. Rev. Stat. § 707-732(1)(d)		Haw. Rev. Stat. § 707-700 Haw. Rev. Stat. § 707-730(1)(e) Haw. Rev. Stat. § 707-731(1)(b) Haw. Rev. Stat. § 707-732(1)(d)
Idaho	Idaho Code Ann. § 18-1505B Idaho Code Ann. § 18-6101(3) Idaho Code Ann. § 18-6107 Idaho Code Ann. § 18-	Idaho Code Ann. § 18-6101(1), (2) Idaho Code Ann. § 18-6102 Idaho Code Ann. § 18-6107 Idaho Code Ann. § 18-	Idaho Code Ann. § 18-1505B Idaho Code Ann. § 18-6101(3) Idaho Code Ann. § 18-6107 Idaho Code Ann. § 18-		Idaho Code Ann. § 18-6101(6) Idaho Code Ann. § 18-6107 Idaho Code Ann. § 18-6108(7)

STATE	DEVELOPMENTAL DISABILITY	AGE RESTRICTION	PHYSICAL CAPACITY	PHYSICAL DISABILITY	UNCONSCIOUSNESS
	6108(3)	6108(1), (2)	6108(3), (6) *intoxication* Idaho Code Ann. § 18-6608 *intoxication*		
Illinois	720 Ill. Comp. Stat. Ann. 5/11-1.20(a)(2) 720 Ill. Comp. Stat. Ann. 5/11-130 720 Ill. Comp. Stat. Ann. 5/11-1.60(e)	720 Ill. Comp. Stat. Ann.5/11-1.20(a)(4) 720 Ill. Comp. Stat. Ann. 5/11-1.30(a)(5) 720 Ill. Comp. Stat. Ann. 5/11-50(b), (c) 720 Ill. Comp. Stat. Ann. 5/11-1.60(a)(3), (c), (d), (f) 720 Ill. Comp. Stat. Ann. 5/11-1.70(b)	720 Ill. Comp. Stat. Ann. 5/11-1.20(a)(2)	720 Ill. Comp. Stat. Ann. 5/11-1.30(a)(6) 720 Ill. Comp. Stat. Ann. 5/11-1.60(a)(4)	People v. Fisher, 281 Ill. App.3d 395 (1996)(affirming conviction where victim was unconscious at time of sex act and unable to understand the nature of the act or give knowing consent)
Indiana	Ind. Code Ann. § 35-42-4-1(a)(3) Ind. Code Ann. § 35-42-4-2(a)(3) Ind. Code Ann. § 35-42-4-8(a)(2)	Ind. Code Ann. § 35-42-4-3 Ind. Code Ann. § 35-42-4-9	Ind. Code Ann. § 35-42-4-1(b)(4) *intoxication* Ind. Code Ann. § 35-42-4-8(b)(3)		Glover v. State, 760 N.E.2d 1120 (2002)(the term "unaware" means not aware, lacking in knowledge or acquaintance, or unconscious)
Iowa	Iowa Code Ann. § 709.1(2) Iowa Code Ann. § 709.1A(1) Iowa Code Ann. § 709.4(2)(a), (4)	Iowa Code Ann. § 709.1(3) Iowa Code Ann. § 709.3(2) Iowa Code Ann. § 709.4(2)(b), (c) Iowa Code Ann. § 709.8 Iowa Code Ann. § 709.12	Iowa Code Ann. § 709.1(1) *intoxication*, (2) Iowa Code Ann. § 709.1A(2) Iowa Code Ann. § 709.4(3)	Iowa Code Ann. § 709.4(4) Iowa Code Ann. § 709.1A(3)	Iowa Code Ann. § 709.1(1) Iowa Code Ann. § 709.1A(2) Iowa Code Ann. § 709.4(4)
Kansas	Kan. Crim. Code Ann. § 21-5503(a)(2) Kan. Crim. Code Ann. § 21-5504(b)(3)(C)	Kan. Crim. Code Ann. § 21-5503(a)(3) Kan. Crim. Code Ann. § 21-5504(a), (b)(1), (b)(2)	Kan. Crim. Code Ann. § 21-5503(a)(1)(B), (a)(2) *intoxication* Kan. Crim. Code Ann. §		Kan. Crim. Code Ann. § 21-5503(a)(1)(B) Kan. Crim. Code

STATE	DEVELOPMENTAL DISABILITY	AGE RESTRICTION	PHYSICAL CAPACITY	PHYSICAL DISABILITY	UNCONSCIOUSNESS
	Kan. Crim. Code Ann. § 21-5505(b)(2)	Kan. Crim. Code Ann. § 21-5505(a) Kan. Crim. Code Ann. § 21-5505(a), (b)	21-5504(b)(3)(B), (b)(3)(C) *intoxication* Kan. Crim. Code Ann. § 21-5505(b)(2), (b)(3) *intoxication*		Ann. § 21-5504(b)(3)(B) Kan. Crim. Code Ann. § 21-5505(b)(2)
Kentucky	Ky. Rev. Stat. Ann. § 510.010(3), (4) Ky. Rev. Stat. Ann. § 510.020(3)(b), (3)(C) Ky. Rev. Stat. Ann. § 510.060(1)(a) Ky. Rev. Stat. Ann. § 510.090(1)(a) Ky. Rev. Stat. Ann. § 510.120(1)(a)	Ky. Rev. Stat. Ann. § 510.020(3)(a) Ky. Rev. Stat. Ann. § 510.040(1)(b)(2) Ky. Rev. Stat. Ann. § 510.050(1)(a) Ky. Rev. Stat. Ann. § 510.060(1)(b), (c) Ky. Rev. Stat. Ann. § 510.070(1)(b)(2) Ky. Rev. Stat. Ann. § 510.080(1)(a) Ky. Rev. Stat. Ann. § 510.090(1)(b), (c) Ky. Rev. Stat. Ann. § 510.110(1)(b)(2) Ky. Rev. Stat. Ann. § 510.110(1)(c) Ky. Rev. Stat. Ann. § 510.120(1)(b) Ky. Rev. Stat. Ann. § 510.120(2) Ky. Rev. Stat. Ann. § 510.130(2)	Ky. Rev. Stat. Ann. § 510.010(5) *intoxication*, (6) Ky. Rev. Stat. Ann. § 510.020(3)(c) Ky. Rev. Stat. Ann. § 510.050(1)(b) Ky. Rev. Stat. Ann. § 510.080(1)(b) Ky. Rev. Stat. Ann. § 510.110(1)(b)(3)		Ky. Rev. Stat. Ann. § 510.010(6) Ky. Rev. Stat. Ann. § 510.020(3)(d) Ky. Rev. Stat. Ann. § 510.040(1)(b)(1) Ky. Rev. Stat. Ann. § 510.070(1)(b)(1) Ky. Rev. Stat. Ann. § 510.110(1)(b)(1)
Louisiana	La. Rev. Stat. Ann. § 14:42(a)(6), (c)(2)[53]	La. Rev. Stat. Ann. § 14:42(a)(4)	La. Rev. Stat. Ann. § 14:42.1(A)(2)	La. Rev. Stat. Ann. § 14:42(A)(6),	La. Rev. Stat. Ann. § 14:42.1(A)(2)

[53] Held unconstitutional by *Kennedy v. Indiana*, 128 S.Ct. 2641 (2008) as applied in death penalty cases.

STATE	DEVELOPMENTAL DISABILITY	AGE RESTRICTION	PHYSICAL CAPACITY	PHYSICAL DISABILITY	UNCONSCIOUSNESS
	La. Rev. Stat. Ann. § 14:43(A)(2)	La. Rev. Stat. Ann. § 14:43.1(B), (C)(2) La. Rev. Stat. Ann. § 14:43.2(2) La. Rev. Stat. Ann. § 14:43.3(B), (C)(2)	La. Rev. Stat. Ann. § 14:43(A)(1) La. Rev. Stat. Ann. § 14:43.3 (A)(2)(a)(i)	(c)(1) La. Rev. Stat. Ann. § 14:43.3 (A)(2)(a)(i)	La. Rev. Stat. Ann. § 14:43(A)(1)
Maine	Me. Rev. Stat. Ann. Tit. 17-A, § 253(2)(C) Me. Rev. Stat. Ann. Tit. 17-A, § 255-A(1)(G), (H) Me. Rev. Stat. Ann. Tit. 17-A, § 260(1)(D), (I)	Me. Rev. Stat. Ann. Tit. 17-A, § 253(2)(H) Me. Rev. Stat. Ann. Tit. 17-A, § 255-A(1)(E), (F), (F-1) Me. Rev. Stat. Ann. Tit. 17-A, § 255-A(1)(K), (L), (M), (N), (S), (T) Me. Rev. Stat. Ann. Tit. 17-A, § 260(1)(C), (F), (G), (J)	Me. Rev. Stat. Ann. Tit. 17-A, § 253(2)(A) Me. Rev. Stat. Ann. Tit. 17-A, § 255-A(1)(C), (D) Me. Rev. Stat. Ann. Tit. 17-A, § 260(1)(B)		Me. Rev. Stat. Ann. Tit. 17-A, § 253(2)(D) Me. Rev. Stat. Ann. Tit. 17-A, § 255-A(1)(C), (D) Me. Rev. Stat. Ann. Tit. 17-A, § 260(1)(B)
Maryland	Md. Code Ann., Crim. Law § 3-301(b) Md. Code Ann., Crim. Law § 3-304(a)(2) Md. Code Ann., Crim. Law § 3-306(a)(2)	Md. Code Ann., Crim. Law § 3-303(b), (c) Md. Code Ann., Crim. Law § 3-304(a)(3) Md. Code Ann., Crim. Law § 3-304(b) Md. Code Ann., Crim. Law § 3-305(b), (c) Md. Code Ann., Crim. Law § 3-306(a)(3), (b) Md. Code Ann., Crim. Law § 3-307(a)(3), (4), (5) Md. Code Ann., Crim. Law § 3-308(a)(1)(i), (b)(2)-(3)	Md. Code Ann., Crim. Law § 3-301(c) Md. Code Ann., Crim. Law § 3-301(d) Md. Code Ann., Crim. Law § 3-304(a)(2) Md. Code Ann., Crim. Law § 3-306(a)(2)		Md. Code Ann., Crim. Law § 3-301(d) Md. Code Ann., Crim. Law § 3-304(a)(2) Md. Code Ann., Crim. Law § 3-306(a)(2)
Massachusetts	Mass. Gen. Laws. Ann. Ch. 265, § 13H	Mass. Gen. Laws. Ann. Ch. 265, § 13H	Mass. Gen. Laws. Ann. Ch. 272, § 3	Mass. Gen. Laws. Ann. Ch. 265, § 13H	Mass. Gen. Laws. Ann. Ch. 272, § 3
Michigan	Mich. Comp. Laws Ann. § 750.520A(1)(b),	Mich. Comp. Laws Ann. § 750.520B(1)(a), (b)	Mich. Comp. Laws Ann. § 750.520A(1)(j)	Mich. Comp. Laws Ann. §	Mich. Comp. Laws Ann. §

STATE	DEVELOPMENTAL DISABILITY	AGE RESTRICTION	PHYSICAL CAPACITY	PHYSICAL DISABILITY	UNCONSCIOUSNESS
	(b)(iv)(A)-(B), (g), (h), (i), (k) Mich. Comp. Laws Ann. § 750.520B(1)(g) Mich. Comp. Laws Ann. § 750.520C(1)(d)(i) Mich. Comp. Laws Ann. § 750.520C(1)(g), (h) Mich. Comp. Laws Ann. § 750.520D(1)(c) Mich. Comp. Laws Ann. § 750.520E(1)(c)	Mich. Comp. Laws Ann. § 750.520B(2)(b), (c) Mich. Comp. Laws Ann. § 750.520C(1)(a), (b) Mich. Comp. Laws Ann. § 750.520D(1)(a) Mich. Comp. Laws Ann. § 750.520D(1)(e), (f) Mich. Comp. Laws Ann. § 750.520E(1)(a) Mich. Comp. Laws Ann. § 750.520E(1)(f)	Mich. Comp. Laws Ann. § 750.520B(1)(g) Mich. Comp. Laws Ann. § 750.520C(1)(d)(i) Mich. Comp. Laws Ann. § 750.520C(1)(g), (h) Mich. Comp. Laws Ann. § 750.520D(1)(c) Mich. Comp. Laws Ann. § 750.520E(1)(c)	750.520A(1)(n)	750.520A(1)(m) Mich. Comp. Laws Ann. § 750.520B(1)(g) Mich. Comp. Laws Ann. § 750.520C(1)(d)(i) Mich. Comp. Laws Ann. § 750.520C(1)(g), (h) Mich. Comp. Laws Ann. § 750.520D(1)(c) Mich. Comp. Laws Ann. § 750.520E(1)(c)
Minnesota	Minn. Stat. Ann. § 609.341(6)	Minn. Stat. Ann. § 609.341(11)(c) Minn. Stat. Ann. § 609.342(1) Minn. Stat. Ann. § 609.343(1) Minn. Stat. Ann. § 609.344(1) Minn. Stat. Ann. § 609.345(1) Minn. Stat. Ann. § 609.3451(1)	Minn. Stat. Ann. § 609.341(7), (9)		Minn. Stat. Ann. § 609.341(9)
Mississippi	Miss. Code Ann. § 97-3-95(1)(b) Miss. Code Ann. § 97-3-97(b)	Miss. Code Ann. § 97-3-95(1)(c), (d)	Miss. Code Ann. § 97-3-95(1)(b) Miss. Code Ann. § 97-3-97(c)		Miss. Code Ann. § 97-3-95(1)(b) Miss. Code Ann. § 97-3-97(d)
Missouri		Mo. Ann. Stat. § 566.020(2), (3) Mo. Ann. Stat. § 566.030(2)(2), (3)	Mo. Ann. Stat. § 566.020(1) Mo. Ann. Stat. § 566.030(1)		Mo. Ann. Stat. § 566.020(1) Mo. Ann. Stat. § 566.030(1)

STATE	DEVELOPMENTAL DISABILITY	AGE RESTRICTION	PHYSICAL CAPACITY	PHYSICAL DISABILITY	UNCONSCIOUSNESS
		Mo. Ann. Stat. § 566.032(1) Mo. Ann. Stat. § 566.034 Mo. Ann. Stat. § 566.062 Mo. Ann. Stat. § 566.064 Mo. Ann. Stat. § 566.060(2)(3)	Mo. Ann. Stat. § 566.060(1)		Mo. Ann. Stat. § 566.060(1)
Montana	Mont. Code Ann. §45-5-501(1)(1)(ii)(A)	Mont. Code Ann. §45-5-501(1)(1)(ii)(D) Mont. Code Ann. §45-5-502(3), (5)(ii) Mont. Code Ann. §45-5-503(3)(a), (4)(a)	Mont. Code Ann. §45-5-501(1)(1)(ii)(A)		Mont. Code Ann. §45-5-501(1)(1)(ii)(B)
Nebraska		Neb. Rev. Stat. § 28-319(1)(c)	Neb. Rev. Stat. § 28-319(1)(b) Neb. Rev. Stat. § 28-320(1)(b)		Neb. Rev. Stat. § 28-319(1)(b) Neb. Rev. Stat. § 28-320(1)(b)
Nevada		Nev. Rev. Stat. Ann. § 200.364(3)(a)-(b), (5)(a)-(b) Neb. Rev. Stat. § 28-366(3)-(4)	Neb. Rev. Stat. § 28-366(1)		Neb. Rev. Stat. § 28-366(1)
New Hampshire		N.H. Rev. Stat. Ann. § 632-A:2(1)(j), (k), (l), (n)(II), (n)(III), (n)(IV) N.H. Rev. Stat. Ann. § 632-A:3(II), (III) N.H. Rev. Stat. Ann. § 632-A:4(I)	N.H. Rev. Stat. Ann. § 632-A:2(1)(b)		N.H. Rev. Stat. Ann. § 632-A:2(1)(b)
New Jersey	N.J. Stat. Ann. § 2c:14-1(h)	N.J. Stat. Ann. § 2c:14-2(a)(1)-(2), (b), (c)(3), (c)(4)	N.J. Stat. Ann. § 2c:14-1(i)		N.J. Stat. Ann. § 2c:14-1(g)
New Mexico	N.M. Stat. Ann. § 30-9-10(a)(4)	N.M. Stat. Ann. § 30-9-11(D)(1), (E)(1)	N.M. Stat. Ann. § 30-9-10(a)(4)		N.M. Stat. Ann. § 30-9-10(a)(4)
New York	N.Y. Penal Law §	N.Y. Penal Law §	N.Y. Penal Law §		N.Y. Penal Law §

STATE	DEVELOPMENTAL DISABILITY	AGE RESTRICTION	PHYSICAL CAPACITY	PHYSICAL DISABILITY	UNCONSCIOUSNESS
	130.00(5) N.Y. Penal Law § 130.05(3)(b) N.Y. Penal Law § 130.10(1) N.Y. Penal Law § 130.30(2) N.Y. Penal Law § 130.45(2)	130.05(3)(a) N.Y. Penal Law § 130.10(4) N.Y. Penal Law § 130.25(2) N.Y. Penal Law § 130.30(1) N.Y. Penal Law § 130.35(3)-(4) N.Y. Penal Law § 130.40(2) N.Y. Penal Law § 130.45(1) N.Y. Penal Law § 130.50(3)-(4) N.Y. Penal Law § 130.60(2) N.Y. Penal Law § 130.65(3) N.Y. Penal Law § 130.65A(1)(a) N.Y. Penal Law § 130.66(1)(c) N.Y. Penal Law § 130.67(1)(c) N.Y. Penal Law § 130.70(1)(c)	130.00(6) N.Y. Penal Law § 130.05(3)(c) N.Y. Penal Law § 130.10(1) N.Y. Penal Law § 130.30(2) N.Y. Penal Law § 130.45(2)		130.00(7) N.Y. Penal Law § 130.05(3)(d) N.Y. Penal Law § 130.10(1) N.Y. Penal Law § 130.35(2) N.Y. Penal Law § 130.50(2) N.Y. Penal Law § 130.65(2) N.Y. Penal Law § 130.66(1)(b) N.Y. Penal Law § 130.67(1)(b) N.Y. Penal Law § 130.70(1)(b)
North Carolina	N.C. Gen. Stat. Ann. § 14-27.1(1) N.C. Gen. Stat. Ann. § 14-27.3(a)(2) N.C. Gen. Stat. Ann. § 14-27.5(a)(2) N.C. Gen. Stat. Ann. § 14-27.5A(a)(2)	N.C. Gen. Stat. Ann. § 14-27.2(a)(1) N.C. Gen. Stat. Ann. § 14-27.4(a)(1)	N.C. Gen. Stat. Ann. § 14-27.1(2) N.C. Gen. Stat. Ann. § 14-27.5(a)(2) N.C. Gen. Stat. Ann. § 14-27.5A(a)(2)		N.C. Gen. Stat. Ann. § 14-27.1(3) N.C. Gen. Stat. Ann. § 14-27.5(a)(2) N.C. Gen. Stat. Ann. § 14-27.5A(a)(2)
North Dakota	N.D. Cent. Code § 12.1-	N.D. Cent. Code § 12.1-20-	N.D. Cent. Code § 12.1-		N.D. Cent. Code §

STATE	DEVELOPMENTAL DISABILITY	AGE RESTRICTION	PHYSICAL CAPACITY	PHYSICAL DISABILITY	UNCONSCIOUSNESS
	20-07(1)(b)	03(1)(d), (2)(a) N.D. Cent. Code § 12.1-20-07(1)(e), (f)	20-03(1)(b) N.D. Cent. Code § 12.1-20-07(1)(c)		12.1-20-03(1)(c)
Ohio	Ohio Rev. Code Ann. § 2907.02(A)(1)(c) Ohio Rev. Code Ann. § 2907.05(A)(5)	Ohio Rev. Code Ann. § 2907.02(A)(1)(b) Ohio Rev. Code Ann. § 2907.03(a)(8), (9), (12), (13) Ohio Rev. Code Ann. § 2907.05(A)(4) Ohio Rev. Code Ann. § 2907.05(B) Ohio Rev. Code Ann. § 2907.06(A)(4)	Ohio Rev. Code Ann. § 2907.02(A)(1)(a) Ohio Rev. Code Ann. § 2907.03(a)(2) Ohio Rev. Code Ann. § 2907.05(A)(2), (3) Ohio Rev. Code Ann. § 2907.05(A)(5)	Ohio Rev. Code Ann. § 2907.02(A)(1)(c) Ohio Rev. Code Ann. § 2907.05(A)(5)	Ohio Rev. Code Ann. § 2907.03(A)(3)
Oklahoma	Okla. Stat. Ann. Tit. 21, § 1111(A)(2) Okla. Stat. Ann. Tit. 21, § 1114(A)(2)	Okla. Stat. Ann. Tit. 21, § 1111(A)(1), (8) Okla. Stat. Ann. Tit. 21, § 1112 Okla. Stat. Ann. Tit. 21, § 1113 Okla. Stat. Ann. Tit. 21, § 1114(A)(1), (7)	Okla. Stat. Ann. Tit. 21, § 1111(A)(4)		Okla. Stat. Ann. Tit. 21, § 1111(A)(5)
Oregon	Or. Rev. Stat. Ann. § 163.305(3) Or. Rev. Stat. Ann. § 163.315(1)(b) Or. Rev. Stat. Ann. § 163.375(1)(d) Or. Rev. Stat. Ann. § 163.405(1)(d) Or. Rev. Stat. Ann. § 163.411(1)(c) Or. Rev. Stat. Ann. § 163.427(1)(a)(C)	Or. Rev. Stat. Ann. § 163.315(1)(a) Or. Rev. Stat. Ann. § 163.325 Or. Rev. Stat. Ann. § 163.355 Or. Rev. Stat. Ann. § 163.365 Or. Rev. Stat. Ann. § 163.375(1)(b), (c) Or. Rev. Stat. Ann. § 163.385 Or. Rev. Stat. Ann. § 163.395	Or. Rev. Stat. Ann. § 163.305(4) Or. Rev. Stat. Ann. § 163.315(1)(c) Or. Rev. Stat. Ann. § 163.375(1)(d) Or. Rev. Stat. Ann. § 163.405(1)(d) Or. Rev. Stat. Ann. § 163.411(1)(c) Or. Rev. Stat. Ann. § 163.427(1)(a)(A)		Or. Rev. Stat. Ann. § 163.305(5) Or. Rev. Stat. Ann. § 163.315(1)(d) Or. Rev. Stat. Ann. § 163.375(1)(d) Or. Rev. Stat. Ann. § 163.405(1)(d) Or. Rev. Stat. Ann. § 163.411(1)(c) Or. Rev. Stat. Ann. § 163.427(1)(a)(A)

STATE	DEVELOPMENTAL DISABILITY	AGE RESTRICTION	PHYSICAL CAPACITY	PHYSICAL DISABILITY	UNCONSCIOUSNESS
		Or. Rev. Stat. Ann. § 163.405(1)(b), (c) Or. Rev. Stat. Ann. § 163.408 Or. Rev. Stat. Ann. § 163.411(1)(b) Or. Rev. Stat. Ann. § 163.415(1)(a)(B) Or. Rev. Stat. Ann. § 163.427(1)(a)(A) Or. Rev. Stat. Ann. § 163.445			
Pennsylvania	Pa. Cons. Stat. Ann. 18 § 3107(a)(5) Pa. Cons. Stat. Ann. 18 § 3123(a)(5) Pa. Cons. Stat. Ann. 18 § 3125(a)(6) Pa. Cons. Stat. Ann. 18 § 3126(a)(6)	Pa. Cons. Stat. Ann. 18 § 3107(c), (d) Pa. Cons. Stat. Ann. 18 § 3122.1 Pa. Cons. Stat. Ann. 18 § 3123(a)(7), (b), (c) Pa. Cons. Stat. Ann. 18 § 3125(a)(7), (8), (b) Pa. Cons. Stat. Ann. 18 § 3126(a)(7), (8)	Pa. Cons. Stat. Ann. 18 § 3107(a)(4) Pa. Cons. Stat. Ann. 18 § 3123(a)(4) Pa. Cons. Stat. Ann. 18 § 3125(a)(5) Pa. Cons. Stat. Ann. 18 § 3126(a)(5)		Pa. Cons. Stat. Ann. 18 § 3107(a)(3) Pa. Cons. Stat. Ann. 18 § 3123(a)(3) Pa. Cons. Stat. Ann. 18 § 3125(a)(4) Pa. Cons. Stat. Ann. 18 § 3126(a)(4)
Rhode Island	R.I. Gen. Laws § 11-37-1(4) R.I. Gen. Laws § 11-37-2(1) R.I. Gen. Laws § 11-37-4(1)	R.I. Gen. Laws § 11-37-6	R.I. Gen. Laws § 11-37-1(5)		R.I. Gen. Laws § 11-37-1(6)
South Carolina	S.C. Code Ann. § 16-3-651(e) S.C. Code Ann. § 16-3-654(1)(b)	S.C. Code Ann. § 16-3-615(D)	S.C. Code Ann. § 16-3-651(f) S.C. Code Ann. § 16-3-652(1)(c) S.C. Code Ann. § 16-3-654(1)(b)		S.C. Code Ann. § 16-3-651(g) S.C. Code Ann. § 16-3-654(1)(b)
South Dakota	S.D. Codified Laws § 22-22-1(3)	S.D. Codified Laws § 22-22-1(1), (5)	S.D. Codified Laws § 22-22-1(3), (4)		S.D. Codified Laws § 22-22-1(3)

STATE	DEVELOPMENTAL DISABILITY	AGE RESTRICTION	PHYSICAL CAPACITY	PHYSICAL DISABILITY	UNCONSCIOUSNESS
		S.D. Codified Laws § 22-22-7 S.D. Codified Laws § 22-22-7.2 S.D. Codified Laws § 22-22-7.3 S.D. Codified Laws § 22-22-7.4			
Tennessee	Tenn. Code Ann. § 39-13-501(3) Tenn. Code Ann. § 39-13-502(a)(3)(B) Tenn. Code Ann. § 39-13-503(a)(3) Tenn. Code Ann. § 39-13-504(a)(3)(B) Tenn. Code Ann. § 39-13-505(a)(3)		Tenn. Code Ann. § 39-13-501(4) Tenn. Code Ann. § 39-13-502(a)(3)(B) Tenn. Code Ann. § 39-13-503(a)(3) Tenn. Code Ann. § 39-13-504(a)(3)(B) Tenn. Code Ann. § 39-13-505(a)(3)		Tenn. Code Ann. § 39-13-501(5) Tenn. Code Ann. § 39-13-502(a)(3)(B) Tenn. Code Ann. § 39-13-503(a)(3) Tenn. Code Ann. § 39-13-504(a)(3)(B) Tenn. Code Ann. § 39-13-505(a)(3)
Texas	Tex. Penal Code Ann. § 22.011(b)(4)	Tex. Penal Code Ann. § 22.011(a)(2) Tex. Penal Code Ann. § 22.021(2)(B)	Tex. Penal Code Ann. § 22.011(b)(3), (6)		Tex. Penal Code Ann. § 22.011(b)(3), (5)
Utah	Utah Code Ann. § 76-5-406(6)	Utah Code Ann. § 76-5-406(9), (10), (11)			State v. Cude, 784 P.2d 1197 (Utah 1989)
Vermont		Vt. Stat. Ann. Tit. 13, § 3252(c), (d), (e) Vt. Stat. Ann. Tit. 13, § 3253(a)(8)	Vt. Stat. Ann. Tit. 13, § 3252(b)		
Virginia	Va. Code Ann. § 18.2-67.3(2)	Va. Code Ann. § 18.2-61 Va. Code Ann. § 18.2-67.1(1) Va. Code Ann. § 18.2-67.2(1) Va. Code Ann. § 18.2-			Molina v. Commonwealth, 47 Va. App. 338, 624 S.E.2d 83 (2006)

STATE	DEVELOPMENTAL DISABILITY	AGE RESTRICTION	PHYSICAL CAPACITY	PHYSICAL DISABILITY	UNCONSCIOUSNESS
		67.3(1), (3), (4)			
Washington	Wash. Rev. Code Ann. § 9A.44.010(4) Wash. Rev. Code Ann. § 9A.44.050(1)(c), (e) Wash. Rev. Code Ann. § 9A.44.100(1)(b), (e)	Wash. Rev. Code Ann. § 9A.44.100(1)(f)	Wash. Rev. Code Ann. § 9A.44.010(4) Wash. Rev. Code Ann. § 9A.44.050(1)(b) Wash. Rev. Code Ann. § 9A.44.100(1)(b)	Wash. Rev. Code Ann. § 9A.44.100(1)(f)	Wash. Rev. Code Ann. § 9A.44.010(5) Wash. Rev. Code Ann. § 9A.44.050(1)(b) Wash. Rev. Code Ann. § 9A.44.100(1)(b)
West Virginia	W. Va. Code Ann. § 61-8B-1(3) W. Va. Code Ann. § 61-8B-2(c)(2) W. Va. Code Ann. § 61-8B-5(a)(1) W. Va. Code Ann. § 61-8B-8(a)	W. Va. Code Ann. § 61-8B-1(1)(c) W. Va. Code Ann. § 61-8B-2(c)(1) W. Va. Code Ann. § 61-8B-3(a)(2) W. Va. Code Ann. § 61-8B-5(a)(2) W. Va. Code Ann. § 61-8B-7(a)(3) W. Va. Code Ann. § 61-8B-9	W. Va. Code Ann. § 61-8B-1(4) W. Va. Code Ann. § 61-8B-2(c)(3) W. Va. Code Ann. § 61-8B-5(a)(1) W. Va. Code Ann. § 61-8B-8(a)		W. Va. Code Ann. § 61-8B-1(5) W. Va. Code Ann. § 61-8B-2(c)(4) W. Va. Code Ann. § 61-8B-4(a)(2) W. Va. Code Ann. § 61-8B-7(a)(2)
Wisconsin	Wis. Stat. Ann. § 940.225(2)(c) Wis. Stat. Ann. § 940.225(4)(b)		Wis. Stat. Ann. § 940.225(2)(cm)		Wis. Stat. Ann. § 940.225(2)(d) Wis. Stat. Ann. § 940.225(4)(c)
Wyoming	Wyo. Stat. Ann. § 6-2-302(a)(iv)		Wyo. Stat. Ann. § 6-2-302(a)(iv) Wyo. Stat. Ann. § 6-2-303(a)(iii)		Wyo. Stat. Ann. § 6-2-302(a)(iii)
American Samoa		American Samoa Code Ann. § 46.3603(b) American Samoa Code Ann. § 46.3604(a)(2) American Samoa Code Ann. § 46.3610(a)			

STATE	DEVELOPMENTAL DISABILITY	AGE RESTRICTION	PHYSICAL CAPACITY	PHYSICAL DISABILITY	UNCONSCIOUSNESS
		American Samoa Code Ann. § 46.3611(a)(2) American Samoa Code Ann. § 46.3612(a) American Samoa Code Ann. § 46.3615(a)(2)			
Guam	9 Guam Code Ann. § 25.10(a)(4) 9 Guam Code Ann. § 25.15(a)(4) 9 Guam Code Ann. § 25.20(a)(4), (7) 9 Guam Code Ann. § 25.30(a)(2)	9 Guam Code Ann. § 25.15(a)(1), (2) 9 Guam Code Ann. § 25.20(a)(1), (2) 9 Guam Code Ann. § 25.25(a)(1)	9 Guam Code Ann. § 25.10(a)(5) 9 Guam Code Ann. § 25.15(a)(4) 9 Guam Code Ann. § 25.20(a)(4), (7) 9 Guam Code Ann. § 25.30(a)(2)		9 Guam Code Ann. § 25.10(a)(6) 9 Guam Code Ann. § 25.15(a)(4) 9 Guam Code Ann. § 25.20(a)(4), (7) 9 Guam Code Ann. § 25.30(a)(2)
Northern Mariana Islands	6 N.M.I. Code § 1302 6 N.M.I. Code § 1303 6 N.M.I. Code § 1317 (4)		6 N.M.I. Code § 1302 6 N.M.I. Code § 1303 6 N.M.I. Code § 1317 (2)		6 N.M.I. Code § 1302 6 N.M.I. Code § 1303 6 N.M.I. Code § 1317 (2)
Puerto Rico	33 Laws of Puerto Rico Ann. § 4061(b) 33 Laws of Puerto Rico Ann. § 4065(c)	33 Laws of Puerto Rico Ann. § 4061(a) 33 Laws of Puerto Rico Ann. § 4065(a)	33 Laws of Puerto Rico Ann. § 4061(b) 33 Laws of Puerto Rico Ann. § 4065(c)		33 Laws of Puerto Rico Ann. § 4061(b) 33 Laws of Puerto Rico Ann. § 4065(c)
Virgin Islands	14 Virgin Islands Code § 1701(1)	14 Virgin Islands Code § 1700(a)(1), (2) 14 Virgin Islands Code § 1700a(a) 14 Virgin Islands Code § 1702(a) 14 Virgin Islands Code § 1703 14 Virgin Islands Code § 1708(2), (3)	14 Virgin Islands Code § 1701(4) 14 Virgin Islands Code § 1708(5)		14 Virgin Islands Code § 1701(5) 14 Virgin Islands Code § 1708(6)
Federal		18 U.S.C.A. § 2241 (c) 18 U.S.C.A. § 2243 18 U.S.C.A. § 2246 (2)(D)	18 U.S.C.A. § 2241 (b)(2) 18 U.S.C.A. § 2242		U.S. v. Sagg, 125 F.3d 1294 (9th Cir. 1997)

STATE	DEVELOPMENTAL DISABILITY	AGE RESTRICTION	PHYSICAL CAPACITY	PHYSICAL DISABILITY	UNCONSCIOUSNESS
			(2)(B)		
Military	UCMJ § 920 Art. 120(b)(3)(B), (d)	UCMJ § 920 Art. 120b	UCMJ § 920 Art. 120(b)(3)(B), (d)	UCMJ § 920 Art. 120(b)(3)(B), (d)	UCMJ § 920 Art. 120(b)(2), (d)

VICTIM PERPETRATOR RELATIONSHIP

This chart includes statutes where an individual's capacity to consent to sexual activity is governed by the relationship between the victim and the perpetrator. The laws in this category frequently use the term "position of authority," as defined by the respective code, to define which relationships are covered. These definitions often include blood and parentage by adoption, as well as members of the same household, educators, health care professionals, correctional and other law enforcement officers, and psychotherapists. There are a limited number of jurisdictions that expressly prohibit sexual relations in employment relationships or include this relationship in their sexual assault laws, including Arizona, Delaware, Georgia, Illinois, Iowa, Mississippi, New Jersey, North Carolina, as well as the District of Columbia and the Virgin Islands.

STATE	BLOOD AND PARENTAGE BY ADOPTION	EMPLOYMENT	CORRECTIONAL[54]	CERTIFIED[55]
Alabama	Ala. Code § 13A-13-3			Ala. Code §13A-6-81 *school employee* Ala. Code §13A-6-82 *school employee*
Alaska	Alaska Stat. §11.41.450		Alaska Stat. §11.41.425 (a)(2) Alaska Stat. §11.41.427	Alaska Stat. §11.41.410 (a)(3)(B), (a)(4)(A-B) Alaska Stat. §11.41.420 (a)(2)(B), (a)(4)(A)
Arizona	Ariz. Rev. Stat. Ann. § 13-1405(B)	Ariz. Rev. Stat. Ann. §13-1409	Ariz. Rev. Stat. Ann. §13-1409 Ariz. Rev. Stat. Ann. 613-1419	Ariz. Rev. Stat. Ann. § 13-1405(B)-(C) *educator* Ariz. Rev. Stat. Ann. §13-1418 *health professional*
Arkansas	Ark. Code Ann. §5-14-103 (a)(4)		Ark. Code Ann. §5-14-124 (a)(1) Ark. Code Ann. §5-14-125 (a)(4)(A)(i)	Ark. Code Ann. §5-14-124 (a)(2-3) *educator* Ark. Code Ann. §5-14-125 (a)(4)(A)(ii)-(iii)

[54] The category titled "Correctional" relationships includes juvenile detention and other state or federal incarceration or rehabilitation programs as well as law enforcement.

[55] Certified position of authority includes, but is not limited to, educators in public and private schools; caretakers in state and federal treatment facilities; doctors, nurses, and other medical professionals; and psychotherapists.

STATE	BLOOD AND PARENTAGE BY ADOPTION	EMPLOYMENT	CORRECTIONAL	CERTIFIED
			Ark. Code Ann. §5-14-126 (a)(1)(A-B) Ark. Code Ann. §5-14-127 (a)(2)	*position of authority* Ark. Code Ann. §5-14-125 (a)(6) *educator* Ark. Code Ann. §5-14-126 (a)(1)(C) *mandated reporter or member of clergy*
California	Cal. Penal Code §285		Cal. Penal Code § 261(a)(7)	
Colorado	Colo. Rev. Stat. Ann. §18-3-405.3		Colo. Rev. Stat. Ann. §18-3-402 (1)(f) Colo. Rev. Stat. Ann.§18-3-404 (1)(f)	Colo. Rev. Stat. Ann. §18-3-402 (1)(g) *medical* Colo. Rev. Stat. Ann. §18-3-404 (1)(g) *medical* Colo. Rev. Stat. Ann. §18-3-405.5 *psychotherapist*
Connecticut	Conn. Gen. Stat. Ann. §53A-71 (a)(4) Conn. Gen. Stat. Ann. §53A-73A (a)(1)(E) Conn. Gen. Stat. Ann. §53a-191		Conn. Gen. Stat. Ann. §53A-71 (a)(5) Conn. Gen. Stat. Ann. §53A-73A (a)(1)(F)	Conn. Gen. Stat. Ann. §53A-71 (a)(6-10) *health care and educator* Conn. Gen. Stat. Ann. §53A-73A (a)(4-8) *health care and educator*
Delaware	Del. Code Ann. tit. 11, § 761(e); Del. Code Ann. tit. 11, § 766	Del. Code Ann. tit. 11, § 761(e)	Del. Code Ann. tit. 11, § 761(e)	Del. Code Ann. tit. 11, § 761(e) *educator, child care, health care professional, and clergy*
District of Columbia	D.C. Code §23-3001(10); D.C. Code § 22-1901	D.C. Code §23-3001(10)	D.C. Code §23-3001(10) D.C. Code §23-3013 D.C. Code §23-3014	D.C. Code §23-3001(10) *clergy, educator, and youth leader* D.C. Code §23-3009.03 *educator* *Health Care:* D.C. Code §23-3013 D.C. Code §23-3014 D.C. Code §23-3015 D.C. Code §23-3016

STATE	BLOOD AND PARENTAGE BY ADOPTION	EMPLOYMENT	CORRECTIONAL	CERTIFIED
Florida	Fla. Sta.t. Ann. §826.04		Fla. Stat. Ann. §794.011 (4)(g)	
Georgia	Ga. Code Ann. §16-6-22	Ga. Code Ann. §16-6-5.1 (d)	Ga. Code Ann. §16-6-5.1 (b)(2-3)	Ga. Code Ann. §16-6-5.1 (b)(1) *educator* Ga. Code Ann. §16-6-5.1 (b)(4) *health professional* Ga. Code Ann. §16-6-5.1 (c) *psychotherapist*
Hawaii	Haw. Rev. Stat. §707-741		Haw. Rev. Stat. §707-731 (1)(c) Haw. Rev. Stat. §707-732 (1)(e)	
Idaho	Idaho Code Ann. §18-6602		Idaho Code Ann. §18-6110	
Illinois	720 Ill. Comp. Stat. Ann. 5/11-1.20(a)(3) 720 Ill. Comp. Stat. Ann. 5/11-11	720 Ill. Comp. Stat. Ann. 5/11-1.20(a)(4)	720 Ill. Comp. Stat. Ann. 5-11/9.2	720 Ill. Comp. Stat. Ann. 5-11/9.2 *treatment facility*
Indiana	Ind. Code Ann. § 35-46-1-3			
Iowa	Iowa Code Ann. § 709.4(2)(c)(2)	Iowa Code Ann. § 709.4(2)(c)(3)	Iowa Code Ann. §709.16	Iowa Code Ann. §709.15 *counselor, therapist, or school employee*
Kansas	Kan. Crim. Code Ann. §21-5604		Kan. Crim. Code Ann. §21-5512	Kan. Crim. Code Ann. §21-5512 *educator*
Kentucky	Ky. Rev. Stat. Ann. §510.060 (1)(d)		Ky. Rev. Stat. Ann. §510.060 (1)(e) Ky. Rev. Stat. Ann. §510.090 (1)(e) Ky. Rev. Stat. Ann. §510.120 (1)(c)	Ky. Rev. Stat. Ann. §510.060 (1)(d) *educator, recreational supervisor; residential treatment service provider* Ky. Rev. Stat. Ann. §510.090 (1)(e);

STATE	BLOOD AND PARENTAGE BY ADOPTION	EMPLOYMENT	CORRECTIONAL	CERTIFIED
				educator Ky. Rev. Stat. Ann. §510.110 (1)(d) *educator, recreational supervisor; residential treatment service provider*
Louisiana	La. Rev. Stat. Ann. §78			
Maine	Me. Rev. Stat. Ann. Tit. 17-A, §253 (2)(H) Me. Rev. Stat. Ann. Tit. 17-A, §255-A (1)(M-N) Me. Rev. Stat. Ann. Tit. 17-A, §260 (1)(G)		Me. Rev. Stat. Ann. Tit. 17-A, §253 (2)(E) Me. Rev. Stat. Ann. Tit. 17-A, §255-A (1)(I-J) Me. Rev. Stat. Ann. Tit. 17-A; §260 (1)(E)	Me. Rev. Stat. Ann. Tit. 17-A, §253 (2)(F-G), (I-J) *educator, private/public health care professional; psychiatrist* Me. Rev. Stat. Ann. Tit. 17-A, §255-A (1)(K-L), (S-V) *educator, private/public health care professional; psychiatrist* Me. Rev. Stat. Ann. Tit. 17-A, §260 (1)(F), (J-K) *educator, private/public health care professional; psychiatrist*
Maryland	Md. Code Ann., Crim. Law § 3-323			Md. Code Ann., Crim. Law §3-308 (c)(1-2) *educator*
Massachusetts	Mass. Gen. Laws. Ann. Ch. 272, § 17			
Michigan	Mich. Comp. Laws Ann. § 750.520b (1)(b)(i-ii) Mich. Comp. Laws Ann. § 750.520c (1)(b)(i-ii) Mich. Comp. Laws Ann. § 750.520c (1)(h)(i-ii) Mich. Comp. Laws Ann. § 750.520d (1)(d)		Mich. Comp. Laws Ann. § 750.520b (1)(b)(iii) Mich. Comp. Laws Ann. § 750.520c (1)(iii)	Mich. Comp. Laws Ann. § 750.520b (1)(b)(iv-v) *educator* Mich. Comp. Laws Ann. § 750.520c (1)(b)(iv-v) *educator* Mich. Comp. Laws Ann. § 750.520d (e-f) *educator*

STATE	BLOOD AND PARENTAGE BY ADOPTION	EMPLOYMENT	CORRECTIONAL	CERTIFIED
	Mich. Comp. Laws Ann. § 750.520e (1)(d)			Mich. Comp. Laws Ann. § 750.520e (1)(b)(iv) *health care professional* Mich. Comp. Laws Ann. § 750.520e (1)(e-g) *health care professional; educator*
Minnesota	Minn. Stat. Ann. § 609.342(b), (g-h) Minn. Stat. Ann. § 609.343(b), (g), (h) Minn. Stat. Ann. § 609.344(e-g) Minn. Stat. Ann. § 609.345(f-g)		Minn. Stat. Ann. § 609.345(m) Minn. Stat. Ann. § 609.344(m)	Minn. Stat. Ann. § 609.344(h-l) *psychotherapist* Minn. Stat. Ann. § 609.344(n-o) *service provider* Minn. Stat. Ann. § 609.345(h-l) *psychotherapist* Minn. Stat. Ann. § 609.345(n-o) *service provider*
Mississippi	Miss. Code Ann. § 97-3-95(2)	Miss. Code Ann. § 97-3-95(2) *position of authority*	Miss. Code Ann. § 97-3-95(2) *position of authority*	Miss. Code Ann. § 97-3-95(2) *educator, health care professional*
Missouri	Mo. Ann. Stat. § 568.020		Mo. Ann. Stat. § 566.145	Mo. Ann. Stat. § 566.086 *educator*
Montana	Mont. Code Ann. § 45-5-507		Mont. Code Ann. § 45-5-501(1)(ii)(F) Mont. Code Ann. § 45-5-502(5)	Mont. Code Ann. § 45-5-501(1)(ii)(F-G) *health care professional1*
Nebraska	Neb. Rev. Stat. § 28-367 Neb. Rev. Stat. § 28-703		Neb. Rev. Stat. § 28-322 Neb. Rev. Stat. § 28-322.01 Neb. Rev. Stat. § 28-322.02 Neb. Rev. Stat. § 28-322.03	

STATE	BLOOD AND PARENTAGE BY ADOPTION	EMPLOYMENT	CORRECTIONAL	CERTIFIED
			Neb. Rev. Stat. § 28-322.04	
Nevada	Nev. Rev. Stat. Ann. § 200.366(5) Nev. Rev. Stat. Ann. § 201.180			Nev. Rev. Stat. Ann. § 200.364 *educator*
New Hampshire	N.H. Rev. Stat. Ann. § 632-a:2(I)(j) N.H. Rev. Stat. Ann. § 632-a:2(IV)		N.H. Rev. Stat. Ann. § 632-a:2(I)(n) N.H. Rev. Stat. Ann. § 632-a:3(IV) N.H. Rev. Stat. Ann. § 632-a:4 (III)	N.H. Rev. Stat. Ann. § 632-a:2(I)(g) *health care professional*
New Jersey	N.J. Stat. Ann. § 2c:14-2(a)(2)(a), (c) N.J. Stat. Ann. § 2c:14-2(a)(2)(c), (3)	N.J. Stat. Ann. § 2c:14-2(a)(2)(b)	N.J. Stat. Ann. § 2c:14-2(c)(2)	
New Mexico	N.M. Stat. Ann. § 30-10-3		N.M. Stat. Ann. § 30-9-11(E)(2)	N.M. Stat. Ann. § 30-9-11(G)(2) *educator*
New York	N.Y. Penal Law § 255.25 N.Y. Penal Law § 255.26 N.Y. Penal Law § 255.27		N.Y. Penal Law § 130.05(3)(e-g)	N.Y. Penal Law § 130.05(h) *health care provider*
North Carolina	N.C. Gen. Stat. Ann. §14-27.7(a)	N.C. Gen. Stat. Ann. §14-27.7(a)	N.C. Gen. Stat. Ann. §14-27.7(a)	N.C. Gen. Stat. Ann. §14-27.7(b) *educator*
North Dakota	N.D. Cent. Code § 12.1-20-07(1)(e)		N.D. Cent. Code § 12.1-20-07(1)(d)	N.D. Cent. Code § 12.1-20-07(1)(d) *institutional service provider*
Ohio	Ohio Rev. Code Ann. § 2907.03(A)(5)		Ohio Rev. Code Ann. § 2907.03(A)(6), (11), (13)	Ohio Rev. Code Ann. § 2907.03(A)(6) *health care professional* Ohio Rev. Code Ann. § 2907.03(A)(7-8)

STATE	BLOOD AND PARENTAGE BY ADOPTION	EMPLOYMENT	CORRECTIONAL	CERTIFIED
				educator Ohio Rev. Code Ann. § 2907.03(A)(9) *recreational advisor* Ohio Rev. Code Ann. § 2907.03(A)(10) *mental health professional* Ohio Rev. Code Ann. § 2907.03(A)(12) *clergy* Ohio Rev. Code Ann. § 2907.06(A)(5) *mental health professional*
Oklahoma	Okla. Stat. Ann. tit. 21, § 885		Okla. Stat. Ann. tit. 21, § 1111(A)(7) Okla. Stat. Ann. tit. 21, § 1111.1	Okla. Stat. Ann. tit. 21, § 1111(A)(8) *educator* Okla. Stat. Ann. tit. 21, § 1111.1 *educator*
Oregon	OR. Rev. Stat. Ann. §163.375(1)(c) OR. Rev. Stat. Ann. §163.405(1)(c)			OR. Rev. Stat. Ann. §163.425(1)(b)(B-C) *coach*
Pennsylvania	Pa. Cons. Stat. Ann. 18 § 4302		Pa. Cons. Stat. Ann. 18 § 3124.2(a)	Pa. Cons. Stat. Ann. 18 § 3124.2(a.2-a.3)
Rhode Island	*No statutes found.*			
South Carolina	S.C. Code Ann. § 16-15-20			S.C. Code Ann. § 16-3-653 (2012) *educator*
South Dakota	S.D. Codified Laws § 22-22A-2 S.D. Codified Laws § 22-22A-3 *child* S.D. Codified Laws § 22-22A-3.1 *foster child*		S.D. Codified Laws § 22-22-7.6	S.D. Codified Laws § 22-22-27 *psychotherapist* S.D. Codified Laws § 22-22-28 *psychotherapist* S.D. Codified Laws § 22-22-29 *psychotherapist*
Tennessee	Tenn. Code Ann. § 39-13-509 Tenn. Code Ann. § 39-			Tenn. Code Ann. § 39-13-509 *position of trust by virtue of legal,*

STATE	BLOOD AND PARENTAGE BY ADOPTION	EMPLOYMENT	CORRECTIONAL	CERTIFIED
	13-527 Tenn. Code Ann. § 39-15-302			*professional, or occupational status* Tenn. Code Ann. § 39-13-527 *position of trust by virtue of legal, professional, or occupational status*
Texas	Tex. Penal Code § 25.02		Tex. Penal Code Ann. § 22.011(b)(8)	Tex. Penal Code Ann. § 22.011(b)(9-11), (c)(3-5) *mental health service provider; health care provider; clergy; residential care provider* Tex. Penal Code Ann. § 21.12 *educator*
Utah	Utah Code Ann. § 76-5-406(10) Utah Code Ann. § 76-5-404.1(h) Utah Code Ann. § 76-7-102		Utah Code Ann. § 76-5-412	Utah Code Ann. § 76-5-406(12) *clergy; health professional; counselor* Utah Code Ann. § 76-5-404.1(h) *educator, recreational supervisor, clergy*
Vermont	Vt. Stat. Ann. tit 13, § 3252(d-e)		Vt. Stat. Ann. tit 13, § 3257	Vt. Stat. Ann. tit 13, § 3258 *educator, health care provider, recreational supervisor*
Virginia	Va. Code Ann. § 18.2-67.3(A)(3)		Va. Code Ann. § 18.2-67.4(A)(ii-iii)	
Washington	Wash. Rev. Code Ann. § 9a.44.050(1)(f)(i) Wash. Rev. Code Ann. § 9a.44.100(1)(f)(i)			Wash. Rev. Code Ann. § 9a.44.010 *definitions* Wash. Rev. Code Ann. § 9a.44.050(1)(c-e) *health care provider, transporter, educator, recreational supervisor*

STATE	BLOOD AND PARENTAGE BY ADOPTION	EMPLOYMENT	CORRECTIONAL	CERTIFIED
				Wash. Rev. Code Ann. § 9a.44.100(1)(c-e) *health care provider, transporter, educator, recreational supervisor*
West Virginia	W. Va. Code Ann. § 61-8-12 W. Va. Code Ann. § 61-8B-11a W. Va. Code Ann. § 61-8D-5		W. Va. Code Ann. § 61-8B-10	
Wisconsin	Wis. Stat. Ann. § 944.06 Wis. Stat. Ann. § 948.07 *incest with a child*		Wis. Stat. Ann. § 940.225(2)(h-i)	Wis. Stat. Ann. § 940.225(2)(g), j *residential service provider, including medical* Wis. Stat. Ann. § 948.095 *educator, recreational supervisor*
Wyoming	Wyo. Stat. Ann. § 6-4-402		Wyo. Stat. Ann. § 6-2-303(a)(vii)	
American Samoa	American Samoa Code Ann. § 46.3802			
Guam	9 Guam Code Ann. § 25.15(a)(2) 9 Guam Code Ann. § 25.20(a)(2)			
Northern Mariana Islands	6 N.M.I. Code § 1311		6 N.M.I. Code § 1303 (a)(2), (3) 6 N.M.I. Code § 1304	6 N.M.I. Code § 1301 (a)(3), (4) 6 N.M.I. Code § 1302 (a)(2), (4)
Puerto Rico	33 Laws of Puerto Rico Ann. § 4770(i)		33 Laws of Puerto Rico Ann. § 4770(i) *custody or guardianship*	33 Laws of Puerto Rico Ann. § 4770(i) *educator, medical care provider,*

STATE	BLOOD AND PARENTAGE BY ADOPTION	EMPLOYMENT	CORRECTIONAL	CERTIFIED
				psychotherapist, counselor, clergy
Virgin Islands	14 Virgin Islands Code § 1700(a)(2) *residing in the same household*	14 Virgin Islands Code § 1700a(a) 14 Virgin Islands Code §1708(3)	14 Virgin Islands Code § 1700a(a) 14 Virgin Islands Code §1708(3)	14 Virgin Islands Code § 1700a(a) *educator, recreational supervisor, clergy, health care professional, psychologist, guardian ad litem* 14 Virgin Islands Code §1708(3)
Federal	18 U.S.C.A. § 2243		18 U.S.C.A. § 2243	
Military				

OTHER SEX CRIMES

This chart includes other sex crimes, distinguished from penetration crimes. Specifically, the indecent contact crimes involve touching or fondling, direct and indirect, of sexual or other intimate parts of a person. Some of these indecent contact crimes include forced contact with a third party, so a separate category was provided for those states. Sexual exposure crimes are included and may require that the exposure be in a public place, as indicated by a "*". Please reference other summary charts for more specific application requirements.[56] Both indecent contact and exposure crimes may also include a sexual arousal requirement meaning that prosecution must prove that the perpetrator's sexual conduct was done for the purpose of his or her own sexual arousal or gratification.

STATE	INDECENT CONTACT [57]	FORCED INDECENT CONTACT WITH 3D PARTY	EXPOSURE	SEXUAL AROUSAL REQUIREMENT[58]	FORCE WATCHING OR ENGAGING IN SEXUAL ACT (INDICATE WHICH)
Alabama	Ala. Code § 13A-6-60(3) Ala. Code § 13A-6-66 Ala. Code § 13A-6-67		Ala. Code §13A-6-68*	Ala. Code §13A-6-60(3) Ala. Code §13A-6-68(a)	
Alaska	Alaska Stat. § 11.41.470(6) Alaska Stat. § 11.41.420 Alaska Stat. § 11.41.425(a)(1) Alaska Stat. § 11.41.427		Alaska Stat. § 11.41.458 Alaska Stat. § 11.41.460	Alaska Stat. §11.41.458(a)(1)[59]	
Arizona	Ariz. Rev. Stat. Ann. § 13-1401(2)		Ariz. Rev. Stat. Ann. § 13-1402(A)		

[56] Look specifically to additional laws on the victim-perpetrator relationship in Georgia, Idaho, Massachusetts, Nevada, New York, Oklahoma, South Dakota, and Tennessee. These states may also have additional child molestation and other vulnerable victim laws not included in this chart.
[57] *See* New Mexico law, which is the only state to require skin-to-skin contact to satisfy this element.
[58] This column includes a sexual arousal requirement as it applies to all identified sexual offenses, unless otherwise indicated.
[59] This Alaska statute does not specify sexual arousal, but states the offender "knowingly masturbates" while committing offense.

STATE	INDECENT CONTACT	FORCED INDECENT CONTACT WITH 3D PARTY	EXPOSURE	SEXUAL AROUSAL REQUIREMENT	FORCE WATCHING OR ENGAGING IN SEXUAL ACT (INDICATE WHICH)
	Ariz. Rev. Stat. Ann. § 13-1404				
Arkansas	Ark. Code Ann. § 5-14-101(10) Ark. Code Ann. § 5-14-125 Ark. Code Ann. § 5-14-111(a)(3) Ark. Code Ann. § 5-14-127(a)(1)(B) Ark. Code Ann. § 5-14-127(a)(2)		Ark. Code Ann. § 5-14-112*		
California	Cal. Penal Code § 243.4 Cal. Penal Code § 288		Cal Penal Code § 314*	Cal. Penal Code § 243.4 Cal. Penal Code § 288	
Colorado	Colo. Rev. Stat. Ann. § 18-3-401(4) Colo. Rev. Stat. Ann. § 18-3-404[60] Colo. Rev. Stat. Ann. § 18-3-405 Colo. Rev. Stat. Ann. § 18-3-405.3		Colo. Rev. Stat. Ann. § 18-7-301* Colo. Rev. Stat. Ann. § 18-7-302	Colo. Rev. Stat. Ann. § 18-3-401(4) Colo. Rev. Stat. Ann. § 18-3-401(5) Colo Rev. Stat. Ann § 18-7-301(1)(c) Colo. Rev. Stat. Ann. § 18-7-302(1)(b)	
Connecticut	Conn. Gen. Stat. Ann. § 53a-65(3) Conn. Gen. Stat. Ann. § 53a-72a Conn. Gen. Stat. Ann. § 53a-73a		Conn. Gen. Stat. Ann. § 53a-186*	Conn. Gen. Stat. Ann. § 53a-65(3) Conn. Gen. Stat. Ann § 53a-186	
Delaware	Del. Code Ann. Tit. 11, § 761(f)(1)-(2) Del. Code Ann. Tit. 11,		Del. Code Ann. Tit. 11, § 764 Del. Code Ann. Tit.		

[60] Text of section effective until July 1, 2012.

STATE	INDECENT CONTACT	FORCED INDECENT CONTACT WITH 3D PARTY	EXPOSURE	SEXUAL AROUSAL REQUIREMENT	FORCE WATCHING OR ENGAGING IN SEXUAL ACT (INDICATE WHICH)
	§ 767-69		11, § 765		
District of Columbia	D.C. Code § 22-3001(9) D.C. Code § 22-3004 D.C. Code § 22-3005 D.C. Code § 22-3006		D.C. Code § 22-1312	D.C. Code § 22-3001(9)	
Florida	Fla. Stat. Ann. § 800.02		Fla. Stat. Ann. § 800.03* Fla. Stat. Ann. § 800.09		
Georgia	Ga. Code Ann. § 16-6-4 Ga. Code Ann. § 16-6-5.1(4) Ga. Code Ann. § 16-6-8(a)(4) Ga. Code Ann. § 16-6-22.1		Ga. Code Ann. § 16-6-8(a)(2)* Ga. Code Ann. § 16-6-8(a)(3)*	Ga. Code Ann. § 16-6-5.1(4)	
Hawaii	Haw. Rev. Stat. § 707-700 Haw. Rev. Stat. § 707-732 Haw. Rev. Stat. § 707-733	Haw. Rev. Stat. § 707-732			
Idaho	Idaho Code Ann. § 18-6110[61]		Idaho Code Ann. § 18-4116*		
Illinois	720 Ill. Comp. Stat. Ann. 5/11-0.1 720 Ill. Comp. Stat. Ann. 5/11-1.50 720 Ill. Comp. Stat. Ann. 5/11-1.60		720 Ill. Comp. Stat. Ann. 5/11-30*	720 Ill. Comp. Stat. Ann. 5/11-30(a)(2) 720 Ill. Comp. Stat. Ann. 5/11-50 720 Ill. Comp. Stat. Ann. 5/11-1.60	

[61] " 'Sexual contact' means sexual intercourse, genital-genital contact, manual-anal contact, manual-genital contact, oral-genital contact, anal-genital contact, or oral-anal contact between persons of the same or opposite sex."

STATE	INDECENT CONTACT	FORCED INDECENT CONTACT WITH 3D PARTY	EXPOSURE	SEXUAL AROUSAL REQUIREMENT	FORCE WATCHING OR ENGAGING IN SEXUAL ACT (INDICATE WHICH)
	720 Ill. Comp. Stat. Ann. 5/11-9.2			720 Ill. Comp. Stat. Ann. 5/11-9.1(a)(2), (a-5) 720 Ill. Comp. Stat. Ann. 5/11-9.2	
Indiana	Ind. Code Ann. § 35-42-4-5 Ind. Code Ann. § 35-42-4-8		Ind. Code Ann. § 35-45-4-1*	Ind. Code Ann. § 35-42-4-8 Ind. Code Ann. § 35-45-4-1(a)(3)	
Iowa	Iowa Code Ann. § 709.8 Iowa Code Ann. § 709.12		Iowa Code Ann. § 709.9	Iowa Code Ann. § 709.9(1)	
Kansas	Kan. Crim. Code Ann. § 21-5505		Kan. Crim. Code Ann. § 21-5513(a)(2)*		
Kentucky	Ky. Rev. Stat. Ann. § 510.010(7) Ky. Rev. Stat. Ann. § 510.110 Ky. Rev. Stat. Ann. § 510.120 Ky. Rev. Stat. Ann. § 510.130		Ky. Rev. Stat. Ann. § 510.148 Ky. Rev. Stat. Ann. § 510.150		
Louisiana	La. Rev. Stat. Ann. § 14:43.1 La. Rev. Stat. Ann. § 14:43.2 La. Rev. Stat. Ann. § 14:43.3		La. Rev. Stat. Ann. § 14:106*	La. Rev. Stat. Ann. § 14:106(1)	
Maine	Me. Rev. Stat. Ann. Tit. 17-A § 260 Me. Rev. Stat. Ann. Tit. 17-A § 251(D) Me. Rev. Stat. Ann. Tit.		Me. Rev. Stat. Ann. Tit. 17-A § 854*	Me. Rev. Stat. Ann. Tit. 17-A § 251	

STATE	INDECENT CONTACT	FORCED INDECENT CONTACT WITH 3D PARTY	EXPOSURE	SEXUAL AROUSAL REQUIREMENT	FORCE WATCHING OR ENGAGING IN SEXUAL ACT (INDICATE WHICH)
	17-A § 251(G) Me. Rev. Stat. Ann. Tit. 17-A § 255-A				
Maryland	Md. Code Ann., Crim. Law § 3-301(f)(1) Md. Code Ann., Crim. Law § 3-301(f)(2) Md. Code Ann., Crim. Law § 3-307 Md. Code Ann., Crim. Law § 3-308			Md. Code Ann., Crim. Law § 3-301(f)(1) Md. Code Ann., Crim. Law § 3-301(e)(1)(v)(2)	
Massachusetts	Mass. Gen. Laws Ch. 265, §13H *indecent assault generally*		Mass. Gen. Laws Ch. 272, §16	Mass. Gen. Laws Ch. 272, §31 *as related to lascivious behavior and exposure*	
Michigan	Mich. Comp. Laws Ann. § 750.520a(q) Mich. Comp. Laws Ann. § 750.520c Mich. Comp. Laws Ann. § 750.520e			Mich. Comp. Laws Ann. § 750.520a(q)	
Minnesota	Minn. Stat. Ann. § 609.341(11) Minn. Stat. Ann. § 609.343 Minn. Stat. Ann. § 609.345		Minn. Stat. Ann. § 617.23	Minn. Stat. Ann. § 609.3453	
Mississippi			Miss. Code. Ann. § 97-29-31*		
Missouri	Mo. Ann. Stat. § 566.010(3) Mo. Ann. Stat. § 566.086		Mo. Ann. Stat. § 566.093(1)	Mo. Ann. Stat. § 566.010(1)	Mo. Ann. Stat. § 566.093(3) *Watching*

STATE	INDECENT CONTACT	FORCED INDECENT CONTACT WITH 3D PARTY	EXPOSURE	SEXUAL AROUSAL REQUIREMENT	FORCE WATCHING OR ENGAGING IN SEXUAL ACT (INDICATE WHICH)
	Mo. Ann. Stat. § 566.090 Mo. Ann. Stat. § 566.093(2) Mo. Ann. Stat. § 566.100				
Montana	Mont. Code Ann. § 45-2-101(67) Mont. Code Ann. § 45-5-502		Mont. Code Ann. § 45-5-504	Mont. Code Ann. § 45-2-101(67)(b) Mont. Code Ann. § 45-5-504(1)(b)	
Nebraska	Neb. Rev. Stat. § 28-318(5) Neb. Rev. Stat. § 28-320 Neb. Rev. Stat. § 28-322.04 Neb. Rev. Stat. § 28-806(1)		Neb. Rev. Stat. § 28-806*	Neb. Rev. Stat. § 28-318(5)	
Nevada		Nev. Rev. Stat. Ann. § 200.366	Nev. Rev. Stat. Ann. §201.220		
New Hampshire	N.H. Rev. Stat. Ann. § 632-A:1(IV) N.H. Rev. Stat. Ann. § 632-A:3 (I, III-IV) N.H. Rev. Stat. Ann. § 632-A:4 (II)			N.H. Rev. Stat. Ann. § 632-A:3 (IV)(c)	
New Jersey	N.J. Stat. Ann. § 2C: 14-1(d) N.J. Stat. Ann. § 2C: 14-3		N.J. Stat. Ann. § 2C: 14-1(d) N.J. Stat. Ann. § 2C: 14-4	N.J. Stat. Ann. § 2C: 14-4 *with exposure*	

STATE	INDECENT CONTACT	FORCED INDECENT CONTACT WITH 3D PARTY	EXPOSURE	SEXUAL AROUSAL REQUIREMENT	FORCE WATCHING OR ENGAGING IN SEXUAL ACT (INDICATE WHICH)
New Mexico	N.M. Stat. Ann. § 30-9-12[62] N.M. Stat. Ann. § 30-9-13		N.M. Stat. Ann. § 30-9-14* N.M. Stat. Ann. § 30-9-14.1* N.M. Stat. Ann. § 30-9-14.2* N.M. Stat. Ann. § 30-9-14.3*		
New York	N.Y. Penal Law § 130.00(3) N.Y. Penal Law § 130.52 N.Y. Penal Law § 130.53 N.Y. Penal Law § 130.55 N.Y. Penal Law § 130.60 N.Y. Penal Law § 130.65		N.Y. Penal Law § 245.00* N.Y. Penal Law § 245.01* N.Y. Penal Law § 245.02	N.Y. Penal Law § 130.00(3) N.Y. Penal Law § 130.52 N.Y. Penal Law § 130.91	
North Carolina	N.C. Gen. Stat. Ann. § 14-27.1(4) N.C. Gen. Stat. Ann. § 14-27.5A		N.C. Gen. Stat. Ann. § 14-190.9*	N.C. Gen. Stat. Ann. § 14-27.5A	
North Dakota	N.D. Cent. Code § 12.1-20-02(5) N.D. Cent. Code § 12.1-20-04 N.D. Cent. Code § 12.1-20-06.1 N.D. Cent. Code § 12.1-20-07		N.D. Cent. Code § 12.1-20-12.1*	N.D. Cent. Code § 12.1-20-02(5) N.D. Cent. Code § 12.1-20-12.1 N.D. Cent. Code § 12.1-20-12.2	

[62] Skin-to-skin contact requirement.

STATE	INDECENT CONTACT	FORCED INDECENT CONTACT WITH 3D PARTY	EXPOSURE	SEXUAL AROUSAL REQUIREMENT	FORCE WATCHING OR ENGAGING IN SEXUAL ACT (INDICATE WHICH)
Ohio	Ohio Rev. Code Ann. § 2907.01(B) Ohio Rev. Code Ann. § 2907.05 Ohio Rev. Code Ann. § 2907.06		Ohio Rev. Code Ann. § 2907.09*	Ohio Rev. Code Ann. § 2907.01(B)	
Oklahoma	Okla. Stat. Ann. Tit. 21 §1123[63]		Okla. Stat. Ann. Tit. 21 § 1021* Okla. Stat. Ann. Tit. 21 §1024.1(3)(f)	Okla. Stat. Ann. Tit. 21 §1024.1	
Oregon	OR. Rev. Stat. Ann. § 163.305(6) OR. Rev. Stat. Ann. § 163.415 OR. Rev. Stat. Ann. § 163.427	OR. Rev. Stat. Ann. § 163.427(1)(b)	OR. Rev. Stat. Ann. § 163.465* OR. Rev. Stat. Ann. § 163.466* OR. Rev. Stat. Ann. § 163.467	OR. Rev. Stat. Ann. § 163.305(6) OR. Rev. Stat. Ann. § 163.415(1)(b) OR. Rev. Stat. Ann. § 163.427(1)(b) OR. Rev. Stat. Ann. § 163.465(1)(c) OR. Rev. Stat. Ann. § 163.467	
Pennsylvania	Pa. Cons. Stat. Ann. 18 § 3101 Pa. Cons. Stat. Ann. 18 § 3126		Pa. Cons. Stat. Ann. 18 § 3127*	Pa. Cons. Stat. Ann. 18 § 3126	
Rhode Island	R.I. Gen. Laws § 11-37-1(7) R.I. Gen. Laws § 11-37-4		R.I. Gen. Laws § 11-45-2	R.I. Gen. Laws § 11-37-1(7)	
South Carolina	S.C. Code Ann. §16-3-600(C)		S.C. Code §16-15-365		
South Dakota	S.D. Codified Laws §		S.D. Codified Laws §	S.D. Codified Laws § 22-	

[63] Applies to children under the age of 16.

STATE	INDECENT CONTACT	FORCED INDECENT CONTACT WITH 3D PARTY	EXPOSURE	SEXUAL AROUSAL REQUIREMENT	FORCE WATCHING OR ENGAGING IN SEXUAL ACT (INDICATE WHICH)
	22-22-7.1 S.D. Codified Laws § 22-22-7.2 *incapable of consent* S.D. Codified Laws § 22-22-7.4 *without consent*		22-24-1.1* S.D. Codified Laws § 22-24.1.2*	22-7.1 S.D. Codified Laws § 22-24.1.2	
Tennessee	Tenn. Code Ann. § 39-13-501(6) Tenn. Code Ann. § 39-13-504 Tenn. Code Ann. § 39-13-505		Tenn. Code Ann. § 39-13-511*	Tenn. Code Ann. § 39-13-501(6) Tenn. Code Ann. § 39-13-511(b)(1)(A)(ii)(b) Tenn. Code Ann. § 39-13-511(b)(1)(B)(i)	
Texas	Tex. Penal Code Ann. § 21.01(2) Tex. Penal Code Ann. § 22.011 Tex. Penal Code Ann. § 22.021(a)(1)(A)(iii), Tex. Penal Code Ann. § 22.021(a)(1)(B)(iii)-(v)	Tex. Penal Code Ann. § 22.011(a)(1), (2)(C)-(E) Tex. Penal Code Ann. § 22.021(a)(1)(A)(iii) Tex. Penal Code Ann. § 22.021(a)(1)(B)(iii)-(v)	Tex. Penal Code Ann. § 21.08 Tex. Penal Code Ann. § 42.01(a)(10)*	Tex. Penal Code Ann. § 21.01(2) Tex. Penal Code Ann. § 21.08(a)	
Utah	Utah Code Ann. § 76-5-401.1 *minor* Utah Code Ann. § 76-5-401.2 *16 or 17 year old* Utah Code Ann. § 76-5-404 Utah Code Ann. § 76-5-404.1		Utah Code Ann. § 76-9-702(1)(b)*	Utah Code Ann. § 76-5-401.1 Utah Code Ann. § 76-5-402.2 Utah Code Ann. § 76-5-404 Utah Code Ann. § 76-9-702(1)(b)	

STATE	INDECENT CONTACT	FORCED INDECENT CONTACT WITH 3D PARTY	EXPOSURE	SEXUAL AROUSAL REQUIREMENT	FORCE WATCHING OR ENGAGING IN SEXUAL ACT (INDICATE WHICH)
Vermont	Vt. Stat. Ann. tit. 13, §3251 Vt. Stat. Ann. tit. 13, §3252 Vt. Stat. Ann. tit. 13, §3253	Vt. Stat. Ann. tit. 13, §3253			
Virginia	Va. Code § 18.2-67.10(6) Va. Code § 18.2-67.3 Va. Code § 18.2-67.4	Va. Code § 18.2-67.10(6)	Va. Code § 18.2-387* *public and where others are present*	Va. Code § 18.2-67.10(6)	Va. Code § 18.2-67.10(6) *touching*
Washington	Wash. Rev. Code Ann. 9A.44.010(1)(c)(2) 9A.44.100 Wash. Rev. Code Ann. 9A.44.105 *human remains*			Wash. Rev. Code Ann. 9A.44.010(1)(c)(2) Wash. Rev. Code Ann. 9A.44.105(2)(b)	
West Virginia	W.Va. Code Ann. § 61-8B-1(6) W.Va. Code Ann. § 61-8B-7 W.Va. Code Ann. § 61-8B-8 W.Va. Code Ann. § 61-8B-9		W.Va. Code Ann. § 61-8-9	W.Va. Code Ann. § 61-8B-1(6) W.Va. Code Ann. § 61-8-9	
Wisconsin	Wis. Stat. Ann. § 940.225	Wis. Stat. Ann. § 940.225(5)(b)(1)(a) Wis. Stat. Ann. § 940.225(5)(b)(1)(b)	Wis. Stat. Ann. § 944.20(1)*	Wis. Stat. Ann. § 944.20(1) Wis. Stat. Ann. § 940.225(5)(b)	
Wyoming	Wyo. Stat. Ann. § 6-2-301(a)(vi) Wyo. Stat. Ann. § 6-2-313		Wyo. Stat. Ann. § 6-4-201(a)*	Wyo. Stat. Ann. § 6-2-301(a)(vi) Wyo. Stat. Ann. § 6-4-201(a)(ii)	

STATE	INDECENT CONTACT	FORCED INDECENT CONTACT WITH 3D PARTY	EXPOSURE	SEXUAL AROUSAL REQUIREMENT	FORCE WATCHING OR ENGAGING IN SEXUAL ACT (INDICATE WHICH)
	Wyo. Stat. Ann. Wyo. Stat. Ann. § 6-4-201(a)(i)				
American Samoa	American Samoa Code Ann. § 46.3601(b) American Samoa Code Ann. § 46.3615 American Samoa Code Ann. § 46.3616		American Samoa Code Ann. § 46.3617	American Samoa Code Ann. § 46.3601(b)	
Guam	9 Guam Code Ann § 25.10(8) 9 Guam Code Ann § 25.30		9 Guam Code Ann § 28.65	9 Guam Code Ann § 25.10(8)	
Northern Mariana Islands	6 N.M.I. Code § 1302	6 N.M.I. Code § 1303	6 N.M.I. Code § 1315 6 N.M.I. Code § 1316	6 N.M.I. Code § 1302 6 N.M.I. Code § 1317	
Puerto Rico	33 Laws of Puerto Rico Ann. § 4771		33 Laws of Puerto Rico Ann. § 4775		
Virgin Islands	14 Virgin Islands Code § 1699(c) 14 Virgin Islands Code § 1708 14 Virgin Islands Code § 1709		14 Virgin Islands Code § 1022*	14 Virgin Islands Code § 1699(c)	
Federal	18 U.S.C.A. § 2244 18 U.S.C.A. § 2246(D)			18 U.S.C.A. § 2246(2)(C) –(D)	
Military	UCMJ § 920 Art. 120(c), (d), *defined at* (g)(2)	UCMJ § 920 Art. 120(c), (d), *defined at* (g)(2)	UCMJ § 920c Art. 120c(c)	UCMJ § 920 Art. 120(c), (d), *defined at* (g)(2)	UCMJ § 920 Art. 120(c), (d), *defined at* (g)(2)[64]

[64] Forced engagement in sexual contact: "causing another person to touch … with an intent to abuse, humiliate, or degrade any person; or … to arouse or gratify the sexual desire of any person."

CONSENT ANALYSIS

Several states criminalize sexual penetration and sexual contact that is committed without the consent of the victim and without force by the offender. The chart below distinguishes the states that criminalize such conduct during penetration crimes with those that criminalize conduct during and non-penetration (i.e. contact) crimes. The column to the right includes the specific language the states use to describe conduct committed without consent but without force. It is important to note that some states define "without consent" as an assault committed as a result of force, violence or forcible compulsion.[65]

STATE	PENETRATION CRIME	NON-PENETRATION CRIME	WITHOUT CONSENT/WITHOUT FORCE	LANGUAGE/RELEVANT DEFINITIONS
Alabama	Ala. Code § 13A-6-65. Sexual Misconduct	----------	•	A male engages in sexual intercourse with a female without her consent
Alaska	----------	----------	----------	----------
Arizona	----------	----------	----------	----------
Arkansas	----------	----------		----------
California	----------	Cal. Penal Code § 243.4. Sexual Battery	•	Against the will of the person touched
Colorado	----------	Colo. Rev. Stat. Ann. § 18-3-404. Unlawful Sexual Contact	•	Victim does not consent
Connecticut	----------	----------	----------	----------
Delaware	----------	----------	----------	Without consent means that the defendant compelled the victim to submit by an act of coercion, or by force[66]
District of Columbia	D.C. Code § 22-3006. Misdemeanor Sexual Abuse	----------	•	Without that other person's permission

[65] This chart does not address the element of fraud; however, the issue is discussed further in the accompanying summary article on rape and sexual assault laws. Contact AEquitas for more information.

[66] Del. Code Ann. tit. 11, § 761(j)((2011).

STATE	PENETRATION CRIME	NON-PENETRATION CRIME	WITHOUT CONSENT/WITHOUT FORCE	LANGUAGE
Florida	Fla. Stat. Ann.§ 794.011(5). Sexual Battery; Fla. Stat. Ann. § 794.005. Legislative Intent as to Basic Charge of Sexual Battery	----------	●	Without consent, where consent is defined as intelligent, knowing, and voluntary consent not including coerced submission
Georgia	----------	Ga. Code Ann. §16-6-22.1. Sexual Battery; Ga. Code Ann.§ 16-6-22.2. Aggravated Sexual Battery	●	Without the consent of that person
Hawaii	----------	----------	----------	----------
Idaho	----------	----------	----------	----------
Illinois	----------	----------	----------	----------
Indiana	----------	----------	----------	----------
Iowa	----------	----------	----------	----------
Kansas		Kan. Crim. Code Ann. § 21-3517. Sexual Battery; Kan. Crim. Code Ann. § 21-5505. Aggravated Sexual Battery	●	Person who does not consent thereto
Kentucky	----------	Ky. Rev. Stat. Ann. § 510.130. Sexual Abuse in the Third Degree; Ky. Rev. Stat. Ann. § 510.140. Sexual Misconduct	●[67]	Without the latter's consent

[67] *See* the definition of "lack of consent" in Ky. Rev. Stat. Ann. § 510.020, providing that lack of consent results from: (a) forcible compulsion; (b) incapacity to consent; and (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 to the actor's conduct.

STATE	PENETRATION CRIME	NON-PENETRATION CRIME	WITHOUT CONSENT/WITHOUT FORCE	LANGUAGE
Louisiana[68]	----------	----------	----------	Sexual intercourse is deemed to be without lawful consent where the victim is prevented from resisting the act by force or threats of physical violence[69]
Maine	Me. Rev. Stat. Ann. Tit. 17-A § 255-A (1)(B). Unlawful sexual contact	Me. Rev. Stat. Ann. Tit. 17-A, §260. Unlawful sexual touching	•	One person has not expressly or impliedly acquiesced to the touching
Maryland	----------	Md. Code Ann., Crim. Law § 3-307. Sexual offense 3rd degree; Md. Code § 3-308. Sexual Offense 4th degree	•	A person may not engage in sexual contact with another without the consent of the other; a person may also not engaging in vaginal intercourse with another by force or the threat of force, without the consent of the other
Massachusetts	----------	----------	----------	----------
Michigan	----------	----------	----------	----------
Minnesota	----------	Minn. Stat. Ann. § 609.3451. Criminal Sexual Conduct in the Fifth Degree	•	Person engages in nonconsensual contact
Mississippi	Sexual Battery. § 97-3-95	----------	•	Engages in sexual penetration without his or her consent
Missouri	Mo. Ann. Stat. § 566.040. Sexual Assault; Mo. Ann. Stat. § 566.070. Deviate Sexual Assault	Mo. Ann. Stat. §566.090. Sexual Misconduct	•	Has sexual intercourse with another person known that he does so without that person's consent; such person personally subjects another

[68] La. Rev. Stat. Ann. § 43:1 defines sexual battery as "the intentional touching of the anus or genitals of the victim by the offender using any instrumentality or any part of the body of the offender." This statute was not included in the columns titled "object vaginal/anal" or "other body part (i.e., digital) vaginal/anal" because, following *State v. Davis*, 514 So.2d 757 (La. Ct. App. 1987), touching – not penetration – is the critical element in the crime of sexual battery.

[69] La. Rev. Stat. Ann. § 14:42.1 (2011).

STATE	PENETRATION CRIME	NON-PENETRATION CRIME	WITHOUT CONSENT/WITHOUT FORCE	LANGUAGE
				person to sexual contact without that person's consent
Montana	----------	----------	----------	Without consent means that the victim is compelled to submit by force against the victim or another[70]
Nebraska	Neb. Rev. Stat. § 28-319. Sexual Assault in the First Degree	Neb. Rev. Stat. § 28-320. Sexual Assault in the Second Degree	•	Any person who subjects another person to sexual penetration without the consent of that victim[71]
Nevada	Nev. Rev. Stat. Ann. § 200.366. Sexual Assault	----------	•	A person who subjects another person to sexual penetration … against the will of the victim
New Hampshire	N.H. Rev. Stat. Ann. § 632-A:2(m). Aggravated Felonious Sexual Assault	N.H. Rev. Stat. Ann. § 632-a:3. Felonious Sexual Assault; N.H. Rev. Stat. Ann. § 632-a:4. Sexual Assault (if under 13)	•	Victim indicates by speech or conduct that consent is not freely given … when at the time of the sexual assault, the victim indicates by speech or conduct that there is not freely given consent to performance of the sexual act
New Jersey	----------	----------	----------	----------
New Mexico	----------	N.M. Stat. Ann. § 30-9-12. Criminal Sexual Contact	•	Intentional touching … without the consent to the unclothed intimate parts of the victim
New York	N.Y. Penal Law § 130.25. Rape in the Third Degree	N.Y. Penal Law § 130.52. Forcible touching; N.Y. Penal Law § 130.52. Persistent Sexual Abuse; N.Y. Penal Law § 130.55. Sexual Abuse in the Third Degree	•	Lack of consent results from: (c) Where the offense charged is sexual abuse or forcible touching, 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; or (d) where the offense charged is rape in the third degree the victim clearly expressed

[70] Mont. Code Ann. § 45-5-501(1)(a) (2011).

[71] The definition of without consent includes submission due to the use of force or threat of force or coercion, or where the victim expresses a lack of consent through words or conduct, or the consent was given as a result of the actor's deception. Neb. Rev. Stat. § 28-318(8) (2011).

STATE	PENETRATION CRIME	NON-PENETRATION CRIME	WITHOUT CONSENT/WITHOUT FORCE	LANGUAGE
				that he or she did not consent to engage in such act, and a reasonable person in the actor's situation would have understood such person's words and acts as an expression of lack of consent to such act under all the circumstances
North Carolina	----------	----------	----------	----------
North Dakota	----------	N.D. Cent. Code § 12.1-20-07. Sexual Assault	•	That person knows or has reasonable cause to believe that the contact is offensive to the other person.
Ohio	----------	Ohio Rev. Code Ann. § 2907.06. Sexual Imposition	•	The offender knows that the sexual contact is offensive to the other person, or one of the other persons, or is reckless in that regard.
Oklahoma	----------	----------	----------	----------
Oregon	OR. Rev. Stat. Ann. § 163.425. Sexual Abuse in the Second Degree (object penetration)	OR. Rev. Stat. Ann. § 163.415. Sexual Abuse in the Third Degree	•	The victim does not consent to the sexual contact
Pennsylvania	Pa. Const. Stat. Ann. 18 § 3124.1. Sexual Assault; Pa. Cons. Stat. Ann. 18 § 3125. Aggravated Indecent Assault	Pa. Cons. Stat. Ann. 18 § 3126. Indecent Assault	----------	Without the complainant's consent
Rhode Island	----------	----------	----------	----------
South Carolina	----------	----------	----------	----------
South Dakota	S.D. Codified Laws § 22-22-7.4. Sexual Contact without Consent	----------	•	No person may engage in sexual contact with another person who, although capable of consenting, has not consented to such contact.
Tennessee	Tenn. Code Ann. § 39-13-503. Rape	Tenn. Code Ann. §39-13-505. Sexual Battery	----------	Penetration/sexual contact accomplished without the consent of the victim

STATE	PENETRATION CRIME	NON-PENETRATION CRIME	WITHOUT CONSENT/WITHOUT FORCE	LANGUAGE
Texas	----------	----------	•	A sexual assault without consent occurs where there actor compels the other person to submit or participate by the use of physical force or violence[72]
Utah	Utah Code Ann. § 76-5-402. Rape; Utah Code Ann. § 76-5-402.2. Object Rape; Utah Code Ann. § 76-5-403. Forcible Sodomy	----------	----------	Without the victim's consent; lack of consent means that the victim expresses lack of consent through words or conduct
Vermont	Vt. Stat. Ann. tit. 13, § 3252. Sexual Assault	Vt. Stat. Ann. tit. 13, § 3252. Sexual Assault	----------	Without the consent of the other person
Virginia	----------	----------	----------	----------
Washington	Wash. Rev. Code Ann. § 9a.44.060. Rape in the Third Degree	----------	----------	Victim did not consent and such lack of consent was clearly expressed by words of conduct
West Virginia	----------	W.Va. Code Ann. § 61-8b-9. Sexual Abuse in the Third Degree	•	Lack of consent results from forcible compulsion, incapacity to consent, and any circumstances in which the victim does not expressly or impliedly acquiesce in the actor's conduct, if the offense charged is sexual abuse[73]
Wisconsin	----------	Wis. Stat. Ann. § 940.225. Sexual Assault in the Third Degree; Wis. Stat. Ann. § 940.225. Sexual Assault in the Fourth Degree	----------	"Consent", as used in this section, means words or overt actions by a person who is competent to give informed consent indicating a freely given agreement to have sexual intercourse or sexual contact
Wyoming	----------	----------	----------	----------
American Samoa	American Samoa Code Ann. § 46.3611. Sodomy;	American Samoa Code Ann. § 46.3615. Sexual	---------- ----	Deviate sexual intercourse/sexual contact without that person's

[72] Tex. Penal Code § 22.011(b) (2011).
[73] W.Va. Code Ann. § 61-8B-2(b) (2011).

STATE	PENETRATION CRIME	NON-PENETRATION CRIME	WITHOUT CONSENT/WITHOUT FORCE	LANGUAGE
	America Samoa Code Ann. § 46.3612. Deviate Sexual Intercourse	Abuse in the First Degree; American Samoa Code Ann. § 46.3616. Sexual Abuse in the Second Degree		consent
Guam	----------	----------	----------	----------
Northern Mariana Islands	----------	----------	----------	----------
Puerto Rico	----------	----------	----------	----------
Virgin Islands	----------	----------	----------	----------
Federal	----------	----------	----------	----------
Military	UCMJ § 920 Art. 120(b) *causing "bodily harm" defined at* UCMJ § 920 Art. 120(g)(3)	UCMJ § 920 Art. 120(d) *causing "bodily harm" defined at* UCMJ § 920 Art. 120(g)(3)	•	Consent requires a freely given agreement. "An expression of lack of consent through words or conduct means there is no consent. Lack of verbal or physical resistance or submission resulting from the use of force, threat of force, or placing another person in fear does not constitute consent." Consent is not determined by current or previous relationship or manner of dress.

ALCOHOL/DRUG FACILITATED SEXUAL ASSAULT

This chart is a summary of the laws on alcohol and drug facilitated rape and sexual assault (AFSA/DFSA) in the United States, U.S. Territories, U.S. Military, and federal jurisdictions. The majority of states include laws prohibiting sexual intercourse or contact when the victim is voluntarily[74] or involuntarily intoxicated.[75] This chart also includes provisions for a physically helpless or incapacitated victim, and lists those states that prohibit sexual activity when the perpetrator knows or should have known that the victim was incapable of consenting as defined by the statute.[76]

STATE	STATUTES WITH SPECIFIC INTOXICATION PROVISIONS (COVERS VOLUNTARY INTOXICATION)	STATUTES WITH SPECIFIC INTOXICATION PROVISIONS (EXCLUDES VOLUNTARY INTOXICATION)	SUBSTANTIALLY IMPAIRED (NO INTOXICATION REQUIREMENT)	PHYSICALLY HELPLESS/ INCAPACITATED
Alabama		Ala. Code §13A-6-61; Ala. Code §13A-6-63; Ala. Code 1975 §13A-6-65.1; Ala. Code §13A-6-66		Ala. Code §13A-6-60(7); Ala. Code §13A-6-61(a)(2); Ala. Code §13A-6-63(a)(2); Ala. Code §13A-6-66(a)(2)
Alaska			Alaska Stat. § 11.41.420; Alaska Stat. § 11.41.425	
Arizona	Ariz. Rev. Stat. Ann. §13-1401(5)(b); Ariz. Rev. Stat. Ann. §14-1404; Ariz. Rev. Stat. Ann. §13-1406			
Arkansas		Ark. Code Ann. §5-14-101(5); Ark. Code Ann. §5-14-103; Ark. Code Ann. §5-14-125		Ark. Code Ann. §5-14-101 (6); Ark. Code Ann. §5-14-103; Ark. Code Ann. §5-14-125;

[74] A minority of jurisdictions specifically address a victim's capacity to consent when the victim is voluntarily intoxicated, but those that do include Arizona, California, Idaho, Kansas, Louisiana, Montana, South Carolina, Washington, Wisconsin, and the Virgin Islands.

[75] For additional information on prosecuting cases involving voluntarily or involuntarily intoxicated persons, see Teresa Scalzo, *Prosecuting Alcohol-Facilitated Sexual Assault*, NAT'L DISTRICT ATTORNEY'S ASS'N (2007), *available at* http://www.vaw.umn.edu/documents/prosecutingalcoholsa/prosecutingalcoholsa.pdf (last visited May 1, 2012).

[76] Note that there are limitations to the use of the physically helpless or incapacitated statutes. Contact AEquitas for additional resources and consultation.

STATE	STATUTES WITH SPECIFIC INTOXICATION PROVISIONS (COVERS VOLUNTARY INTOXICATION)	STATUTES WITH SPECIFIC INTOXICATION PROVISIONS (EXCLUDES VOLUNTARY INTOXICATION)	SUBSTANTIALLY IMPAIRED (NO INTOXICATION REQUIREMENT)	PHYSICALLY HELPLESS/ INCAPACITATED
California	Cal. Penal Code §243.4; Cal. Penal Code §261(a)(3); Cal. Penal Code § 286; Cal. Penal Code § 288a; Cal. Penal Code § 289		Cal. Penal Code §261(a)(4)	
Colorado		Colo. Rev. Stat. Ann. § 18-3-402(4)(d); Colo. Rev. Stat. Ann. § 18-3-404 (1)(d)	Colo. Rev. Stat. Ann. § 18-3-402(1)(b); Colo. Rev. Stat. Ann. § 18-3-404(1)(b)	Colo. Rev. Stat. Ann. §18-3-401(3); Colo. Rev. Stat. Ann. §18-3-402 (1)(h); Colo. Rev. Stat. Ann. §18-3-404(1)(c)
Connecticut		Conn. Gen. Stat. Ann. §53a-65(5); Conn. Gen. Stat. Ann. §53a-70; Conn. Gen. Stat. Ann. §53a-71; Conn. Gen. Stat. Ann. §53a-73a		Conn. Gen. Stat. Ann. §53a-65 (6); Conn. Gen. Stat. Ann. §53a-73a
Delaware		Del. Code. Ann. Tit. 11, §761(j)5); Del. Code. Ann. Tit. 11, §773; Del. Code. Ann. Tit. 11, §772; Del. Code. Ann. Tit. 11, §770; Del. Code. Ann. Tit. 11, §767	Del. Code. Ann. Tit. 11, §761(j)(2); Del. Code. Ann. Tit. 11, §773; Del. Code. Ann. Tit. 11, §772; Del. Code. Ann. Tit. 11, §770; Del. Code. Ann. Tit. 11, §767	
District of Columbia		D.C. Code §22-3002(4); D.C. Code §22-3004	D.C. Code §22-3003(2)(A)	
Florida		Fla. Stat. Ann. §794.011(1)(c)		Fla. Stat. Ann. §794.011(1)(e), (j)
Georgia[77]	*No statutes on alcohol/drug facilitated sexual assault.*			
Hawaii		Haw. Rev. Stat. §707-700; Haw. Rev. Stat. §707-730; Haw. Rev. Stat. Ann. §707-731; Haw. Rev.	Haw. Rev. Stat. §707-700; Haw. Rev. Stat. §707-730; Haw. Rev. Stat. Ann. §707-731; Haw. Rev.	Haw. Rev. Stat. §707-700; Haw. Rev. Stat. §707-730(1)(e); Haw. Rev. Stat. § 707-731(1)(b);

[77] Georgia does not address alcohol and/or drug facilitated sexual assault directly in its rape and sexual assault statutes; however, there is long-standing case law holding that "sexual intercourse with a woman whose will is temporarily lost from intoxication, or unconsciousness arising from using drugs or other cause, or sleep, is rape." *Paul v. State*, 144 Ga.App. 106, 240 S.E.2d 600, 602 (1977)(affirming conviction for rape committed by defendant while victim was drunk).

STATE	STATUTES WITH SPECIFIC INTOXICATION PROVISIONS (COVERS VOLUNTARY INTOXICATION)	STATUTES WITH SPECIFIC INTOXICATION PROVISIONS (EXCLUDES VOLUNTARY INTOXICATION)	SUBSTANTIALLY IMPAIRED (NO INTOXICATION REQUIREMENT)	PHYSICALLY HELPLESS/ INCAPACITATED
		Stat. Ann. §707-732	Stat. Ann. §707-732	Haw. Rev. Stat. §707-732(1)(d)
Idaho	Idaho Code Ann. §18-6101(5)		Idaho Code Ann. §18-6101(6)(b)	Idaho Code Ann. §18-6101(6)(a)
Illinois[78]		720 Ill. Comp. Stat. Ann. 5/11-1.30; 720 Ill. Comp. Stat. Ann. 5/11-1.60(a)(7)	720 Ill. Comp. Stat. Ann. 5/11-1.20; 720 Ill. Comp. Stat. Ann. 5/11-1.50	
Indiana[79]		Ind. Code § 35-42-4-1(b)(4); Ind. Code § 35-42-4-8; Ind. Code § 35-42-9	Ind. Code § 35-42-4-1(a)(2); Ind. Code § 35-42-4-2(a)(2)	
Iowa		Iowa Code Ann. § 709.1(2); Iowa Code Ann. § 709.1A; Iowa Code § 709.2; Iowa Code Ann. § 709.4	Iowa Code Ann. § 709.1(2)	Iowa Code Ann. §709.4(4)
Kansas	Kan. Crim. Code Ann. §21-5503(a)(2); Kan. Crim. Code Ann. §21-5504; Kan. Crim. Code Ann. §21-5505			Kan. Crim. Code Ann. §21-5503(a)(1)(B); Kan. Crim. Code Ann. §21-5504; Kan. Crim. Code Ann. §21-5505
Kentucky		Ky. Rev. Stat. Ann. § 510.010(5); Ky. Rev. Stat. Ann. § 510.030; Ky. Rev. Stat. Ann. § 510.040; Ky. Rev. Stat. Ann. § 510.050; Ky. Rev. Stat. Ann. § 510.070; Ky. Rev. Stat. Ann. § 510.080		Ky. Rev. Stat. Ann. § 510.010(6); Ky. Rev. Stat. Ann. § 510.030; Ky. Rev. Stat. Ann. § 510.040; Ky. Rev. Stat. Ann. § 510.050; Ky. Rev. Stat. Ann. § 510.070; Ky. Rev. Stat. Ann. § 510.080
Louisiana	La. Rev. Stat. Ann. §14:43(a)(1)		La. Rev. Stat. Ann. §14:43(a)(2)	
Maine[80]		Me. Rev. Stat. Ann. tit. 17-A, §253(2)(A)		Me. Rev. Stat. Ann. tit. 17-A, §253(2)(D): Me. Rev. Stat. Ann.

[78] *People v. Fisher*, 281 Ill. App. 3d 395, 403-03, 667 N.E.2d 142, 146-47 (2d Dist. 1996)(holding that 15 year old girl, who had imbibed alcohol of her own volition, and subsequently passed out, was incapable of giving consent. The court declined to speculate if a less obvious impairment would render someone incapable of consent. Intoxication, involuntary or voluntary, is covered by "ability to give knowing consent" in such circumstances).

[79] *Gale v. State*, 882 N.E. 2d 808 (Ind. Ct. App. 2008)(holding intoxication, voluntary or otherwise, could rise to the level of being "unaware that [sexual] conduct is occurring" as necessitated by Indiana sex crime statutes.

[80] Me. Rev. Stat. Ann. tit. 17-A §253(3) specifically provides that the victim's voluntary intoxication is a defense to gross sexual assault.

STATE	STATUTES WITH SPECIFIC INTOXICATION PROVISIONS (COVERS VOLUNTARY INTOXICATION)	STATUTES WITH SPECIFIC INTOXICATION PROVISIONS (EXCLUDES VOLUNTARY INTOXICATION)	SUBSTANTIALLY IMPAIRED (NO INTOXICATION REQUIREMENT)	PHYSICALLY HELPLESS/ INCAPACITATED
				tit. 17-A, §255-A(1)(C-D) *Physically incapable*
Maryland		Md. Code Ann., Crim. Law. §3-301(c); Md. Code Ann., Crim. Law §3-304; Md. Code Ann., Crim. law §3-306; Md. Code Ann., Crim. Law §3-307		Md. Code Ann., Crim. Law. §3-301; Md. Code Ann., Crim. Law §3-304; Md. Code Ann., Crim. Law §3-306; Md. Code Ann., Crim. Law §3-307
Massachusetts		Mass. Gen. Laws Ann. ch. 272, §3		
Michigan		Mich. Comp. Laws Ann. §750.520a(j); Mich. Comp. Laws Ann. §750.520b, Mich. Comp. Laws Ann. §750.520c; Mich. Comp. Laws Ann. §750.520d; Mich. Comp. Laws Ann. §750.520e		Mich. Comp. Laws Ann. §750.520a(m); Mich. Comp. Laws Ann. §750.520b(d)(1); Mich. Comp. Laws Ann. §750.520c(d)(1); Mich. Comp. Laws Ann. §750.520e(c)
Minnesota		Minn. Stat. Ann. §609.341(7); Minn. Stat. Ann. §609.342; Minn. Stat. Ann. §609.343; Minn. Stat. Ann. §609.344; Minn. Stat. Ann. §609.345		Minn. Stat. Ann. §609.341(9); Minn. Stat. Ann. §609.342(e)(ii); Minn. Stat. Ann. §609.343(e)(ii); Minn. Stat. Ann. §609.344(d); Minn. Stat. Ann. §609.345(d)
Mississippi		Miss. Code Ann. § 97-3-96(4)(a); Miss. Code Ann. §97-3-97(c); Miss. Code Ann. §97-3-95(1)(b)		Miss. Code Ann. §97-3-97(d)
Missouri		Mo. Ann. Stat. §566.030(1); Mo. Ann. Stat. §566.060		Mo. Ann. Stat. §566.030(1); Mo. Ann. Stat. §566.060
Montana	Mont. Code Ann. §45-2-101(41), (58); Mont. Code Ann. § 45-501(1)(ii)(A); Mont. Code Ann. §45-5-502; Mont. Code Ann. §45-5-503			Mont. Code Ann. §45-2-101(58); Mont. Code Ann. §45-5-501(1)(ii)(B); Mont. Code Ann. §45-5-502; Mont. Code Ann. §45-5-503

STATE	STATUTES WITH SPECIFIC INTOXICATION PROVISIONS (COVERS VOLUNTARY INTOXICATION)	STATUTES WITH SPECIFIC INTOXICATION PROVISIONS (EXCLUDES VOLUNTARY INTOXICATION)	SUBSTANTIALLY IMPAIRED (NO INTOXICATION REQUIREMENT)	PHYSICALLY HELPLESS/ INCAPACITATED
Nebraska[81]			Neb. Rev. Stat. § 28-319(1)(b); Neb. Rev. Stat. § 28-320(1)(b); Neb. Rev. Stat. § 28-367	
Nevada			Nev. Rev. Stat. Ann. § 200.366(1)	
New Hampshire		N.H. Rev. Stat. Ann. §632-a:2(1)(f)[82]		N.H. Rev. Stat. Ann. §632-a:2(1)(b)
New Jersey		N.J. Stat. Ann. §2c:14-1(i); N.J. Stat. Ann. §2c:14-2(a)(7); N.J. Stat. Ann. §2c:14-3(a)		N.J. Stat. Ann. §2c:14-1(g); N.J. Stat. Ann. §2c:14-2(a)(7); N.J. Stat. Ann. §2c:14-3
New Mexico			N.M. Stat. Ann. § 30-9-10(4)[83]; N.M. Stat. Ann. §30-9-11; N.M. Stat. Ann. §30-9-12	N.M. Stat. Ann. §30-9-10(4); N.M. Stat. Ann. §30-9-11; N.M. Stat. Ann. §30-9-12
New York		N.Y. Penal Law §130.00(6); N.Y. Penal Law §130.05(3); N.Y. Penal Law §130.20; N.Y. Penal Law §130.30; N.Y. Penal Law §130.45; N.Y. Penal Law §130.60; N.Y. Penal Law §130.65-a; N.Y. Penal Law §130.66; N.Y. Penal Law §130.90		N.Y. Penal Law §130.00(7); N.Y. Penal Law §130.05(3); N.Y. Penal Law § 130.25; N.Y. Penal Law §130.35; N.Y. Penal Law § 130.40; N.Y. Penal Law §130.50; N.Y. Penal Law §130.60; N.Y. Penal Law §130.65; N.Y. Penal Law §130.66; N.Y. Penal Law §130.67; N.Y. Penal Law §130.70
North Carolina			N.C. Gen. Stat. Ann. §14-27.1(2); N.C. Gen. Stat. Ann. §14-27.3; N.C. Gen. Stat. Ann. §14-27.5; N.C. Gen. Stat. Ann. §14-27.5a	N.C. Gen. Stat. Ann. §14-27.1(3); N.C. Gen. Stat. Ann. §14-27.3; N.C. Gen. Stat. Ann. §14-27.5; N.C. Gen. Stat. Ann. §14-27.5a

[81] *State v. Sanders*, 269 Neb. 895, 697 N.W.2d 657 (2005)(holding that intoxication could render a person mentally or physically incapable of resisting, as defined in Neb. Rev. Stat. § 28-319; *Reavis v. Slominski*, 250 Neb. 711, 551 N.W.2d 528 (1996) (holding that lack of consent is not an element when the victim is incapable of resisting (i.e. intoxication/sleeping) or appraising nature of the conduct).

[82] "Consent is not a defense when given by someone who, by reason of … intoxication or use of drugs … is unable to exercise reasonable judgment." N.H. Rev. Stat Ann. § 626:6(III).

[83] *State v. Sosa*, 147 N.M. 351 (2009)(supporting the contention that intoxication can rise to this level).

STATE	STATUTES WITH SPECIFIC INTOXICATION PROVISIONS (COVERS VOLUNTARY INTOXICATION)	STATUTES WITH SPECIFIC INTOXICATION PROVISIONS (EXCLUDES VOLUNTARY INTOXICATION)	SUBSTANTIALLY IMPAIRED (NO INTOXICATION REQUIREMENT)	PHYSICALLY HELPLESS/ INCAPACITATED
North Dakota		N.D. Cent. Code § 12.1-20-03(1)(b); N.D. Cent. Code §12.1-20-07(1)(c)	N.D. Cent. Code § 12.1-20-03(1)(c)	
Ohio		Ohio Rev. Code Ann. §2907.02(A)(1)(a); Ohio Rev. Code Ann. §2907.05(A)(2-3); Ohio Rev. Code Ann. § 2907.12(A)(1)(a)	Ohio Rev. Code Ann. §2907.02(A)(1)(c); Ohio Rev. Code Ann. § 2907.03(A)(2), (3); Ohio Rev. Code Ann. §2907.05(A)(5); Ohio Rev. Code Ann. § 2907.06(A)(2-3); Ohio Rev. Code Ann. § 2907.12(A)(1)(c)	Ohio Rev. Code Ann. §2907.03(A)(2)
Oklahoma		Okla. Stat. Ann. tit. 21, § 1111(A)(4); Okla. Stat. Ann. tit. 21, § 1114(A)(3)	Okla. Stat. Ann. tit. 21, § 1114(A)(4)	Okla. Stat. Ann. tit. 21, § 1111(A)(5); Okla. Stat. Ann. tit. 21, § 1114(A)(4)
Oregon			Or. Rev. Stat. Ann. § 163.305(4); Or. Rev. Stat. Ann. § 163.305(1)(c); Or. Rev. Stat. Ann. § 163.375(1)(d); Or. Rev. Stat. ann. §163.405; Or. Rev. Stat. Ann. §153.411; Or. Rev. Stat .Ann. § 163.427	Or. Rev. Stat. Ann. §163.305(5); Or. rev. Stat. Ann. §163.315(1)(d); Or. Rev. Stat. Ann. §163.375; Or. Rev. Stat. Ann. §163.405; Or. Rev. Stat .Ann. § 163.427; Or. Rev. Stat. Ann. §153.411
Pennsylvania		Pa. Cons. Stat. Ann. 18 §3121(a)(4); Pa. Cons. Stat. Ann. 18 §3123; Pa. Cons. Stat. Ann. 18 §3124.1; Pa. Cons. Stat. Ann. 18 §3125; Pa. Cons. Stat. Ann. 18 §3126	Pa. Cons. Stat. Ann. 18 §3121(a)(3); Pa. Cons. Stat. Ann. 18 §3123; Pa. Cons. Stat. Ann. 18 §3124.1; Pa. Cons. Stat. Ann. 18 §3125; Pa. Cons. Stat. Ann. 18 §3126	
Rhode Island		R.I. Gen. Laws §11-37-1(5); R.I. Gen. Laws §11-37-2; R.I. Gen. Laws §11-37-4		R.I. Gen. Laws §11-37-1(6); R.I. Gen. Laws §11-37-2(1); R.I. Gen. Laws §11-37-4(1)
South Carolina	S.C. Code Ann. §16-3-651(f); S.C. Code Ann. §16-3-654			S.C. Code Ann. §16-3-651(g); S.C. Code Ann. §16-3-652(1)(c); S.C. Code Ann. §16-3-654(1)(b)

STATE	STATUTES WITH SPECIFIC INTOXICATION PROVISIONS (COVERS VOLUNTARY INTOXICATION)	STATUTES WITH SPECIFIC INTOXICATION PROVISIONS (EXCLUDES VOLUNTARY INTOXICATION)	SUBSTANTIALLY IMPAIRED (NO INTOXICATION REQUIREMENT)	PHYSICALLY HELPLESS/ INCAPACITATED
South Dakota		S.D. Codified Laws §22-22-1(4)		S.D. Codified Laws §22-22-1(3); S.D. Codified Laws § 22-22-7.2
Tennessee		Tenn. Code Ann §39-13-501(4); Tenn. Code Ann §39-13-502; Tenn. Code Ann §39-13-503; Tenn. Code Ann §39-13-504; Tenn. Code Ann §39-13-505		Tenn. Code Ann §39-13-501(5); Tenn. Code Ann §39-13-502(a)(3)(B); Tenn. Code Ann §39-13-503(a)(3); Tenn. Code Ann §39-13-504(a)(3)(B); Tenn. Code Ann §39-13-505(a)(3)
Texas		Tex. Penal Code Ann. §22.011(b)(6); Tex. Penal Code Ann. §22.021	Tex. Penal Code Ann. § 22.011(b)(5), (6); Tex. Penal Code § 22.021	Tex. Penal Code Ann. §22.011(b)(3); Tex. Penal Code Ann. §22.021
Utah		Utah Code Ann. §76-5-406(8); Utah Code Ann. §76-5-402; Utah Code Ann. §76-5-402.2; Utah Code Ann. §76-5-403; Utah Code Ann. §76-5-404	Utah Code Ann. § 76-5-406(5); Utah Code Ann. §76-5-402; Utah Code Ann. §76-5-402.2; Utah Code Ann. §76-5-403; Utah Code Ann. §76-5-404	Utah Code Ann. § 76-5-406(5); Utah Code Ann. §76-5-402; Utah Code Ann. §76-5-402.2; Utah Code Ann. §76-5-403; Utah Code Ann. §76-5-404
Vermont		Vt. Stat. Ann. tit. 13, 3252(b)		
Virginia		Va. Code Ann. § 18.2-61; Va. Code Ann. § 18.2-67.10(3) [84]	Va. Code Ann. § 18.2-61; Va. Code Ann. § 18.2-67.10(3)	Va. Code Ann. §18.2-61(A); Va. Code Ann. §18.2-67.1(A)(2); Va. Code Ann. §18.2-67.3(A)(2)
Washington	Wash. Rev. Code Ann. §9a.44.010(4); Wash. Rev. Code Ann. §9a.44.050; Wash. Rev. Code Ann. §9a.44.100			Wash. Rev. Code Ann. §9a.44.010(5); Wash. Rev. Code Ann. §9a.44.050; Wash. Rev. Code Ann. §9a.44.100
West Virginia		W.Va. Code Ann. §61-8b-1(4); W.Va. Code Ann. §61-8b-2(c)(3); W.Va. Code Ann. §61-8b-4; W.Va. Code Ann. §61-8b-5; W.Va. Code Ann. §61-8b-7;		W.Va. Code Ann. §61-8b-1(5); W.Va. Code Ann. §61-8b-2(c)(4); W.Va. Code Ann. §61-8b-4(a)(2); W.Va. Code Ann. §61-8b-7(a)(2)

[84] Holding that the "term 'mental incapacity' may extend to a transitory circumstance such as intoxication if the nature an degree of the intoxication has gone beyond the stage of merely reduced inhibition and has reached a point where the victim does not understand 'the nature or consequences of the sexual act.'" *Molina v. Commonwealth,* 636 S.E.2d 470, 474.

STATE	STATUTES WITH SPECIFIC INTOXICATION PROVISIONS (COVERS VOLUNTARY INTOXICATION)	STATUTES WITH SPECIFIC INTOXICATION PROVISIONS (EXCLUDES VOLUNTARY INTOXICATION)	SUBSTANTIALLY IMPAIRED (NO INTOXICATION REQUIREMENT)	PHYSICALLY HELPLESS/ INCAPACITATED
		W.Va. Code Ann. §61-8b-8		
Wisconsin	Wis. Stat. Ann. §940.225(2)(cm)			Wis. Stat. Ann. § 940.225(2)(d); (4)(c)[85]
Wyoming		Wyo. Stat. Ann. §6-2-303(a)(iii)	Wyo. Stat. Ann. §6-2-304	Wyo. Stat. Ann. §6-2-301(a)(iii); Wyo. Stat. Ann. §6-2-302(a)(iii)
American Samoa	*No statutes on alcohol/drug facilitated sexual assault.*			
Guam		9 Guam Code Ann. §25.10(a)(5); 9 Guam Code Ann. §25.15; 9 Guam Code Ann. §25.20; Guam Code Ann. §25.25; 9 Guam Code Ann. §25.30		9 Guam Code Ann. §25.10(a)(6); 9 Guam Code Ann. §25.15(a)(4)(i); 9 Guam Code Ann. §25.20(a)(4)(i); 9 Guam Code Ann. §25.25(a)(3); 9 Guam Code Ann. §25.30(a)(2)
Northern Mariana Islands				6 N.M.I. Code § 1302 6 N.M.I. Code § 1303 6 N.M.I. Code § 1317
Puerto Rico		33 Laws of Puerto Rico Ann. §4061(c); 33 Laws of Puerto Rico Ann. §4065; 33 Laws of Puerto Rico Ann. § 4770(d)	33 Laws of Puerto Rico Ann. § 4061(d)	33 Laws of Puerto Rico Ann. § 4770(e)
Virgin Islands	14 Virgin Islands Code §1701(4); 14 Virgin Islands Code §1708(5)			14 Virgin Islands Code §1701(1), (5); 14 Virgin Islands Code §1708(6)
Federal		18 U.S.C.A. § 2241(b)(2); 18 U.S.C.A. § 2242(2)(A); 18 U.S.C.A. § 2244		18 U.S.C.A. § 2241(b)(1); 18 U.S.C.A. § 2242(2)(B)
Military	UCMJ § 920 Art. 120(b)(3)(a); (d)	UCMJ § 920 Art. 120(a)(5)(a); (c)		UCMJ § 920 Art. 120(b)(2); (3)(b)

[85] A person who is unconscious or for any other reason is unable to community unwillingness to act is presumed incapable of consent.

MARITAL RAPE

The concept of spousal or marital rape[86] was not legally or otherwise recognized until well into the 1970s, when studies finding as many as 10 to 14 percent of married women were raped by their husbands brought the issue of spousal rape into the national consciousness. Rape used to be legally defined as the forcing of sexual intercourse on a person *other than the wife* of the accused. Over time, state legislatures expanded the definition of rape, providing for varying degrees of the crime and its penalties. By July 1993, the rape or sexual assault of one's spouse had become a crime, *to some degree*, in all 50 states. This means that each state in the country has some provision within its law allowing for the prosecution of a husband for the rape or sexual assault of or lewd conduct against his wife.[87] As a result, there may still be significant hurdles to face when prosecuting cases involving spouses and it is important to check the statutes and case law in each jurisdiction.

NOTE ON "SILENT STATUTES"

The below chart references laws that have been removed by "silent statute," which means the state's rape law was modified to remove language that exempted spouses from prosecution for the criminal offense of rape (Florida, Illinois, Indiana, Kentucky, Massachusetts, Nebraska, New Mexico, New York, North Dakota, Oregon, Pennsylvania, Texas, Vermont, and Wisconsin). Other jurisdictions have explicitly stated that a marital relationship does not protect an individual from prosecution (the District of Columbia, Michigan, Minnesota, New Hampshire, New Jersey, Utah, Virginia, and Wisconsin). Jurisdictions differs in terms of which type of spousal conduct is and is not criminal, and you must look at each jurisdiction's laws to find the particular statute under which marital rape can be prosecuted.

MARITAL RAPE EXEMPTION			
STATE	**STATUTE**	**MARITAL EXEMPTION STILL EXISTS FOR SOME OFFENSES**	**SILENT STATUTE[88]**
** Indicates that the marital rape exemption was removed by silent statute*			
Alabama	Ala. Code §13A-6-60		•[89]

[86] *See generally* David Cheal, Family: Critical Concepts of Sociology, Routledge, 2003; David Finkelhor & Kersti Yllo, License to Rape: Sexual Abuse of Wives, Holt, Rinehart and Winston, 1985.

[87] Lalenya Weintraub Siegel, *The Marital Rape Exemption: Evolution to Extinction*, 43 Clev. St. L. Rev. 351, 367-69.

[88] Be cautious where statutes are silent on the marital rape exemption. Even in jurisdictions where a married offender can be charged with the rape of his or her spouse, it is important to check case law to determine how and to what extent marriage may or may not be asserted as a defense to sexual assault crimes.

STATE	STATUTE	MARITAL EXEMPTION STILL EXISTS FOR SOME OFFENSE	SILENT STATUTE
Alaska	Alaska Stat. §11.41.432	•	
Arizona	Ariz. Rev. Stat. Ann. §13-1407	•[90]	
Arkansas	----------		•
California	Cal. Penal Code §262; Cal. Penal Code §261.6		
Colorado	Colo. Rev. Stat. Ann. §18-3-409		
Connecticut	Conn. Gen. Stat. Ann. §53a-70b		
Delaware	----------		•
District of Columbia	D.C. Code §22-3019		
Florida	----------		•*
Georgia	Ga. Code Ann. §16-6-1		
Hawaii	----------		•
Idaho	Idaho Code Ann. §18-6107	•[91]	
Illinois	----------		•*
Indiana	----------		•*
Iowa	Iowa Code Ann. §709.4		
Kansas	----------		•
Kentucky	----------		•*
Louisiana	----------		•
Maine	----------		•
Maryland	Md. Code Ann., Crim. Law §3-318	•	
Massachusetts	----------		•*
Michigan	Mich. Comp. Laws Ann.		

[89] Alabama repealed its marital exemption statute after it was held unconstitutional by Merton v. State, 500 So.2d 1301 (Ala. Crim. App. 1986). The statute is now silent, and the case law prohibits marital status from being a defense to rape.

[90] It is a defense to a prosecution pursuant to § 13-1404 or 13-1405 that the offender was the spouse of the victim at the time of commission of the act. It is not a defense to a prosecution pursuant to § 13-1406 that the defendant was the spouse of the victim at the time of commission of the act.

[91] Idaho prohibits conviction of rape for any act(s) with that person's spouse, except under circumstances stated in § 18-6101 (4) and (5), where the victim was prevented from resisting or was unconscious at the time of the act.

STATE	STATUTE	MARITAL EXEMPTION STILL EXISTS FOR SOME OFFENSE	SILENT STATUTE
	§750.520l		
Minnesota	Minn. Stat. Ann. §609.349	•	
Mississippi	Miss. Code Ann. §97-3-99	•[92]	
Missouri	Mo. Ann. Stat. §566.023		•[93]
Montana	----------		•
Nebraska	----------		•*
Nevada	Nev. Rev. Stat. Ann. §200.373		
New Hampshire	N.H. Rev. Stat. Ann. §632-a:5		
New Jersey	N.J. Stat. Ann. §2c:14-5		
New Mexico	----------		•*
New York	----------		•*
North Carolina	N.C. Gen. Stat. §14-27.8		
North Dakota	----------		•*
Ohio	Ohio Rev. Code Ann. §2907.02		
Oklahoma	Okla. Stat. Ann. tit. 21, §1111(B)		
Oregon	----------		•*
Pennsylvania	----------		•*
Rhode Island	----------		•
South Carolina	S.C. Code Ann. §16-3-658	•[94]	
South Dakota	----------		•
Tennessee	----------		•
Texas	----------		•*
Utah	Utah Code Ann. §76-5-402		
Vermont	----------		•*

[92] Qualifying that a person is not guilty of sexual battery if the alleged victim is the person's legal spouse except where the charge is forcible sexual penetration.

[93] Silent as to marital rape, but marriage is an affirmative defense to the statutory sexual assault crimes pursuant to §§566.032; 566.034; 566.062; 566.064; 566.068; and 566.090.

[94] Specifying a spouse may only be found guilty where the victim and perpetrator are living apart and the offending spouse's conduct constitutes criminal sexual conduct in the first second degree.

STATE	STATUTE	MARITAL EXEMPTION STILL EXISTS FOR SOME OFFENSE	SILENT STATUTE
Virginia	Va. Code Ann. §18.2-61		
Washington	Wash. Rev. Code Ann. §9a.44.060	•[95]	
West Virginia	----------		•*
Wisconsin	Wis. Stat. Ann. §940.225		
Wyoming	----------		
American Samoa	----------		
Guam	----------		
Northern Mariana Islands	6 N.M.I. Code § 1301(a)(3) 6 N.M.I. Code § 1302(a)(2) or (a)(3) 6 N.M.I. Code § 1303(a)(1) 6 N.M.I. Code § 1305(a)(2) 6 N.M.I. Code § 1310	•[96]	
Puerto Rico	----------		
Virgin Islands	14 Virgin Islands Code § 1700; 14 Virgin Islands Code § 1700a; 14 Virgin Islands Code § 1702; 14 Virgin Islands Code § 1703; 14 Virgin Islands Code § 1708; 14 Virgin Islands Code § 1709	•[97]	
Federal	----------		
Military			

[95] Washington state law implies a marital exemption in its "rape in the third degree" and "indecent liberties" statutes, but the statutes for "rape in the first degree" and "rape in the and second degree" are silent as to the marital relationship between the offender and victim.
[96] It is a defense to certain offenses that the offender was the legal spouse of the victim.
[97] "Whoever perpetrates an act of sexual intercourse or sodomy with a person not the perpetrator's spouse …."

SAME SEX PERPETRATOR

Six states have specific criminal provisions for crimes committed against someone of the opposite sex, or that the victim be female. All of these jurisdictions, however, criminalize by other statute or case law crimes where the perpetrator is the same sex as the victim.

STATE	STATUTE	LANGUAGE
Alabama	ALA. CODE §13A-6-61. RAPE IN THE FIRST DEGREE; ALA. CODE §13A-6-62. RAPE IN THE SECOND DEGREE	"Engages in sexual intercourse with a member of the opposite sex"
Georgia	GA. CODE ANN. §16-6-1. RAPE	"(a) A person commits the offense of rape when *he* has carnal knowledge of: (1) a *female* forcibly and against *her* will" (emphasis added)
Idaho[*]	IDAHO CODE ANN. §18-6101. RAPE DEFINED	"Rape is defined as the penetration, however slight, of the oral, anal or vaginal opening with the perpetrator's penis accomplished with a female"
Indiana	IND. CODE ANN. §35-42-4-1. RAPE	"A person who knowingly or intentionally has sexual intercourse with a member of the opposite sex when …"
North Carolina	N.C. GEN. STAT. ANN. §14-27.2 FIRST DEGREE RAPE; N.C. GEN. STAT. ANN. § 14-27.3. SECOND DEGREE RAPE	"A person is guilty of rape in the first degree if the person engages in vaginal intercourse…"
Puerto Rico	33 LAWS OF PUERTO RICO ANN. §4061. RAPE	"Every person who has carnal intercourse with a *female* who is not *his* wife, in any of the following circumstances shall by punished by imprisonment" (emphasis added)

[*] Idaho also has a separate male rape law, *see* IDAHO CODE ANN. §18-6108 (2012).

STATUTORY SEXUAL ASSAULT: SPECIFIED PERPETRATOR - VICTIM AGE DIFFERENCE[98]

STATE	STATUTE	CRIME(S)
Alabama	Ala. Code. § 13A-6-61	**Rape 1st Degree:** Sexual intercourse with someone of the opposite sex less than 12 years old where the actor is 16 years or older
	Ala. Code. § 13A-6-62	**Rape 2nd Degree:** Sexual intercourse with someone of the opposite sex less than 12 years old where the actor is 16 and at least 2 older
	Ala. Code. § 13A-6-67	**Sexual Abuse 2nd Degree:** Sexual abuse where the actor is 19 or older and subjects another to sexual contact who is between the ages of 12 and 16
Alaska	Alaska Stat. § 11.41.434	**Sexual Abuse of a Minor 1st:** Sexual penetration of person less than 13 where actor is at least 16
	Alaska Stat. § 11.41.436	**Sexual Abuse of a Minor 2nd:** Sexual penetration of person 13, 14 or 15 years old where actor is at least 17 and 4 years older; sexual contact with person less than 13 where actor is at least 16
	Alaska Stat. § 11.41.438	**Sexual Abuse of a Minor 3rd:** Sexual contact with person 13, 14 or 15 years old where actor is at least 17 and 4 years older
	Alaska Stat. § 11.41.440	**Sexual Abuse of a Minor 4th:** Sexual contact with person less than 13 where actor is less than 16 years old and at least 3 years older
Arizona	Ariz. Rev. Stat. Ann. § 13-1407	**Sexual Assault:** Actor commits sexual assault and its at least 18 and the other person is 12 or under, increased punishment.
	Ariz. Rev. Stat. Ann. § 13-1405	**Sexual Conduct with a Minor:** Oral sexual contact with someone at least 15 years old but less than 15 if the actor is at least 19 and at least 2 years older
Arkansas	Ark. Code Ann. § 5-14-103	**Rape:** Sexual intercourse or deviate sexual intercourse with person under 14 if actor is more than 3 years older.
	Ark. Code Ann. § 5-14-125	**Sexual Assault 2nd:** Sexual contact with someone less than 14 years where actor is at least 18; sexual contact with someone between the ages of 12 and 14 where the actor is less than 18 and more than 4 years older.
	Ark. Code Ann. § 5-14-126	**Sexual Assault 3rd:** Sexual intercourse, deviate sexual activity, or sexual contact with person less than 14 where actor is 18 years and more than 3 years older
	Ark. Code Ann. § 5-	**Sexual Assault 4th:** Sexual intercourse, deviate sexual activity, or sexual contact with

[98] This chart is linked within the document from state to chart under the button "Statutory Rape."Some jurisdictions do not have statutes which specify the age difference between the perpetrator and victim. Most of these states rely on a minimum age of consent; refer to the age restriction laws in "Capacity to Consent," *supra*.

STATE	STATUTE	CRIME(S)
	14-127	person less than 16 where actor is at least 20 years old
California[99]	Cal. Penal Code § 288 Cal. Penal Code § 289	**Lewd or Lascivious Acts upon a Child:** Committing acts with person under age of 14; committing act with a person between the ages of 14 and 16 where the actor is at least 10 years older **Forcible Acts of Sexual Penetration**: Engaging in sexual penetration with person less than 14 where actor is more than 10 years older
Colorado	Colo. Rev. Stat. Ann. § 18-3-402 Colo. Rev. Stat. Ann. § 18-3-405	**Sexual Assault:** Sexual intrusion or sexual penetration with person less than 15 where actor is at least 4 years older; sexual intrusion or penetration with person between the ages of 15 and 17 where actor is at least 10 years older **Sexual Assault on a Child:** Sexual contact with person less than 15 where actor is at least 4 years older
Connecticut	Conn. Gen. Stat. Ann. § 53a-70 Conn. Gen. Stat. Ann. § 53a-71 Conn. Gen. Stat. Ann. § 53a-72a	**Sexual Assault 1st:** Sexual intercourse with person less than 13 where actor is more than 2 years older **Sexual Assault 2nd:** Sexual intercourse with person between the ages of 13 and 16 where actor is more than 3 years older **Sexual Assault 3rd:** Sexual contact with person between the ages of 13 and 15 where actor is more than 3 years older; sexual contact with person under 13 where the actor is more than 2 years older
Delaware	Del. Code Ann. tit. 11, § 773 Del. Code Ann. tit. 11, § 772 Del. Code Ann. tit. 11, § 771 Del. Code Ann. tit. 11, § 770	**Rape 1st:** Sexual intercourse with person less than 12 where actor is 18 or older **Rape 2nd:** Sexual penetration with person less than 12 where actor is 18 or older **Rape 3rd:** Sexual intercourse with person less than 16 where actor is at least 10 years older; sexual intercourse with person less than 14 where actor is 19 or older **Rape 4th:** Sexual intercourse or penetration with person less than 16 years old; sexual intercourse with person less than 18 where actor is at 30 or older
District of Columbia	D.C. Code § 22-3008 D.C. Code § 22-3009	**Child Sexual Abuse 1st:** Sexual act with person less than 16 where actor is at least 4 years older **Child Sexual Abuse 2nd:** Sexual contact with person less than 16 years where actor is at least 4 years older
Florida	Fla. Stat. Ann. § 794.05 Fla. Stat. Ann. § 800.04	**Unlawful Sexual Activity with a Minor:** Sexual activity with person between the ages of 16 and 18 where actor is at least 24 years old **Lewd or Lascivious Battery:** Sexual activity with person between the ages of 12 and 16 **Lewd or Lascivious Molestation:** Lewd or lascivious molestation[100] with person less than

[99] Offers civil penalties

STATE	STATUTE	CRIME(S)
		16 where actor is at least 18; lewd or lascivious molestation with person less than 12 where actor is less than 18
Georgia	Ga Code Ann. § 16-6-3	**Statutory Rape:** Sexual intercourse with person under the age of 16 years; increased punishment where actor is at least 21 years old; where the victim is between the ages of 14 and 16 and the actor is younger than 18, the crime is a misdemeanor
Hawaii	Haw. Rev. Stat. § 707-730 Haw. Rev. Stat. § 707-732	**Sexual Assault 1st:** Sexual penetration with person between the ages of 14 and 16 where actor is at least 5 years older **Sexual Assault 3rd:** Sexual contact with person between the ages of 14 and 16 where actor is at least 5 years older
Idaho	Idaho Code Ann. § 18-6101 Idaho Code Ann. § 18-6108 Idaho Code Ann. § 18-1508a Idaho Code Ann. § 18-1506	**Rape:** Penetration of female less than 16 where actor is 18 or older; Female is between the ages of 16 and 17 and actor is 3 years older **Male Rape:** Penetration of male less than 16 where male actor is 18 or older; Female is between the ages of 16 and 17 and actor is 3 years older **Sexual Battery of Minor Child Sixteen or Seventeen Years of Age:** Committing lewd or lascivious acts, soliciting a minor to participate in a sexual act, or sexual contact of person between the ages of 16 and 18 where actor is 5 years older **Sexual Abuse Child under Sixteen Years of Age:** Soliciting a minor to participate in a sexual actor or engaging in sexual contact with person less than 16 where actor is at least 18
Illinois	720 Ill. Comp. Stat. Ann. 5/11-50 720 Ill. Comp. Stat. Ann. 5/11-1.60 720 Ill. Comp. Stat. Ann. 5/11-1.30 720 Ill. Comp. Stat. Ann. 5/12-1.40	**Criminal Sexual Abuse:** Sexual penetration or sexual contact with person between the ages of 9 and 17 where actor is less than 17; sexual penetration or sexual contact with person between the ages of 13 and 17 where actor is less than 5 years older **Aggravated Criminal Sexual Abuse:** Sexual conduct with person less than 13 where actor is at least 17 years old; sexual conduct with person less than 9 where actor is less than 17; sexual penetration or sexual conduct with person between the ages of 13 and 17 where actor is at least 5 years older **Aggravated Criminal Sexual Assault:** Sexual penetration with person less than 9 where actor is less than 17 **Predatory Criminal Sexual Assault of a Child:** Sexual penetration with person less than 13 where actor is at least 17
Indiana	Ind. Code § 35-42-4-9	**Sexual Misconduct with a Minor:** Sexual intercourse or deviate sexual conduct with person between the ages of 14 and 16 where actor is at least 18; heightened penalty where actor is at least 21
Iowa	Iowa Code Ann. §	**Sexual Abuse 3rd:** Committing a sex act with person between the ages of 12 and 14;

[100] Includes intentionally touching, in a lewd or lascivious manner the breasts, genitals, genital area, or buttocks, or the clothing covering them

STATE	STATUTE	CRIME(S)
	709.4 Iowa Code Ann. § 709.12 Iowa Code Ann. § 709.8	committing a sex act with person between the ages of 14 and 16 where actor is at least 4 years older **Indecent Contact with a Child:** Indecent contact with person less than 14 where actor is at least 18; indecent contact with person less than 14 where actor is under the age of 18 and at least 5 years older **Lascivious Acts with a Child:** Performing lascivious acts with person less than 14 where actor is at least 18
Kansas	Kan. Crim. Code Ann. § 21-5506(b) Kan. Crim. Code Ann. § 21-5506(a) Kan. Crim. Code Ann. § 21-5507	**Aggravated Indecent Liberties with a Child:** Sexual intercourse with person between the ages of 14 and 16; engaging in (or soliciting) lewd fondling or touching with person less than 14 **Indecent Liberties with a Child:** Engaging in or soliciting a person to engage in lewd fondling or touching with person between the ages of 14 and 16 **Unlawful Voluntary Sexual Relations:** Sexual intercourse, sodomy, or lewd fondling or touching with person, of the opposite sex, less than 16 where actor is less than 19 and less than 4 years older
Kentucky	Ky. Rev. Stat. Ann. § 510.050 Ky. Rev. Stat. Ann. § 510.060 Ky. Rev. Stat. Ann. § 510.110 Ky. Rev. Stat. Ann. § 510.120 Ky. Rev. Stat. Ann. § 510.130 Ky. Rev. Stat. Ann. § 510.140	**Rape 2nd:** Sexual intercourse with person less than 14 where actor is at least 18 **Rape 3rd:** Sexual intercourse with person less than 16 where actor is at least 21 **Sexual Abuse 1st:** Sexual Contact with person less than 16 where actor is at least 21 **Sexual Abuse 2nd:** Sexual contact with person less than 14; sexual contact with person less than 16 where the actor is between the ages of 18 and 21, except where the person is at least 14 and less than 5 years younger than the actor **Sexual Abuse 3rd:** Sexual contact with person under 16, except when the person is at least 14 and the actor is less than 18 **Sexual Misconduct:** Sexual intercourse or deviate sexual intercourse with person less than 16
Louisiana	La. Rev. Stat. Ann. § 14:43.3 La. Rev. Stat. Ann. § 14:43.1 La. Rev. Stat. Ann. § 14:80 La. Rev. Stat. Ann. § 14:81	**Oral Sexual Battery:** Oral sexual battery against person less than 15 where actor is 3 years older; increased punishment where person is under 13 and actor is at least 17 **Sexual Battery:** Sexual battery against person less than 15 where actor is 3 years older; increased punishment where person is under 13 and actor is at least 17 **Felony Carnal Knowledge of a Juvenile:** Sexual intercourse with person between the ages of 13 and 17 where actor is at least 17 and 4 years old **Indecent Behavior with Juveniles:** Committing lewd or lascivious acts upon person less than 17 where actor is 2 years older

STATE	STATUTE	CRIME(S)
	La. Rev. Stat. Ann. § 14:80.1	**Misdemeanor Carnal Knowledge of a Juvenile:** Sexual intercourse with person between ages of 13 and 17 where actor is at least 17 and between 2 and 4 years older.
Maine	Me. Rev. Stat. Ann. tit. 17-A § 255-a Me. Rev. Stat. Ann. tit. 17-A § 260 Me. Rev. Stat. Ann. tit. 17-A § 254	**Unlawful Sexual Contact:** Sexual contact with person less than 14 where actor is at least 3 years older **Unlawful Sexual Touching:** Sexual touching of person less than 14 where actor is at least 5 years older **Sexual Abuse of Minors:** Sexual act with person between the ages of 14 and 16 where actor is at least 5 years older; sexual contact with person between the ages of 14 and 16 where actor is at least 10 years older
Maryland	Md. Code Ann., Crim. Law § 3-304 Md. Code Ann., Crim. Law § 3-306 Md. Code Ann., Crim. Law § 3-307 Md. Code Ann., Crim. Law § 3-308	**Rape 2nd:** Vaginal intercourse with person less than 14 where actor is at least 4 years older **Sexual Offense 2nd:** Sexual act with person less than 14 where actor is at least 4 years older **Sexual Offense 3rd:** Sexual contact with person less than 14 where actor is at least 4 years older; sexual contact with person between the ages of 14 and 16 where actor is at least 21 **Sexual Offense 4th:** Vaginal intercourse or sexual act with person between the ages of 14 and 16 where actor is at least 4 years older
Massachusetts	Mass. Gen. Laws Ann. ch. 265, § 23	**Rape and Abuse of Child:** Unlawful sexual intercourse or unnatural sexual intercourse with person less than 16
Michigan	Mich. Comp. Laws Ann. § 750.520d Mich. Comp. Laws Ann. § 750.520e	**Criminal Sexual Conduct 3rd:** Sexual penetration with person between the ages of 13 and 17 **Criminal Sexual Conduct 4th:** Sexual penetration with person between ages of 13 and 16 where actor is at least 5 years older
Minnesota	Minn. Stat. Ann. § 609.342 Minn. Stat. Ann. § 609.343 Minn. Stat. Ann. § 609.344 Minn. Stat. Ann. § 609.345	**Criminal Sexual Conduct 1st:** Sexual penetration with person less than 13 where actor is more than 3 years older **Criminal Sexual Conduct 2nd:** Sexual contact with person less than 13 where actor is more than 3 years older **Criminal Sexual Conduct 3rd:** Sexual penetration with person less than 13 where actor is not more than 3 years older; sexual penetration with person between the ages of 13 and 16 where actor is more than 2 years older **Criminal Sexual Conduct 4th:** Sexual contact with person less than 13 where actor is not more than 3 years older; sexual contact with person between the ages of 13 and 16 where actor is more than 4 years older
Mississippi	Miss. Code Ann. § 97-3-65	**Statutory Rape:** Sexual intercourse with person between the ages of 14 and 16 where actor is at least 17; sexual intercourse with person less than 14 where actor is more than 2 years

STATE	STATUTE	CRIME(S)
	Miss. Code Ann. § 97-3-95	older **Sexual Battery:** sexual penetration with person between 14 and 16 were actor is at least 17 and more than 3 years older; sexual penetration with person less than 14 where actor is more than 2 years older
Missouri	Mo. Ann. Stat. § 566.034 Mo. Ann. Stat. § 566.064	**Statutory Rape 2nd:** Sexual intercourse with person less than 17 where actor is at least 21 **Statutory Sodomy 2nd:** Deviate sexual intercourse with person less than 17 where actor is at least 21
Montana	Mont. Code Ann. § 45-5-502 Mont. Code Ann. § 45-5-503	**Sexual Assault:** Sexual contact with person less than 14 where actor is 3 or more years older **Sexual Intercourse Without Consent:** Increased penalty for sexual intercourse with person less than 16; where person is less than 12 and actor is 18 or older
Nebraska	Neb. Rev. Stat. § 28-319 Neb. Rev. Stat. § 28-319.01 Neb. Rev. Stat. § 28-320.01	**Sexual Assault 1st:** Sexual penetration with person less than 16 where actor is at least 19 **Sexual Assault of a Child 1st:** Sexual penetration of a person under 12 where the actor is at least 19; sexual penetration of a person between the ages of 12 and 16 years when the actor is at least 25 **Sexual Assault of a Child 2nd or 3rd:** Sexual contact with person less than 15 where actor is at least 19
Nevada	Nev. Rev. Stat. Ann. § 200.364, 200.368	**Statutory Sexual Seduction:** Sexual intercourse, anal intercourse, cunnilingus or fellatio with person less than 16 where actor is at least 18
New Hampshire	N.H. Rev. Stat. Ann. § 632-a:3 N.H. Rev. Stat. Ann. § 634-a:4	**Felonious Sexual Assault:** Sexual penetration with person between the ages of 13 and 16, where the age difference between the actor is at least 4 years or more; sexual contact with person less than 13 **Sexual Assault**: Sexual contact with a person between the ages of 13 and 16 where the actor is at least 5 years old; sexual penetration with a person between the ages of 13 and 16 where the actor is less than 4 years older.
New Jersey	N.J. Stat. Ann. § 2c:14-2 N.J. Stat. Ann. § 2c:14-3	**Sexual Assault:** Sexual contact with person less than 13 where actor is at least 4 years older; sexual penetration with person between the ages of 13 and 16 where actor is at least 4 years older **Criminal Sexual Contact:** Sexual contact with person between the ages of 13 and 16 where actor is at least 4 years older
New Mexico	N.M. Stat. Ann. § 30-9-11 N.M. Stat. Ann. § 30-	**Criminal Sexual Penetration 4th:** Sexual penetration with person between the ages of 13 and 16 where actor is at least 18 and 4 years older **Criminal Sexual Contact of a Minor:** Sexual contact with person less than 13

STATE	STATUTE	CRIME(S)
	9-13	
New York	N.Y. Penal Law § 130.35 N.Y. Penal Law § 130.30 N.Y. Penal Law § 130.25 N.Y. Penal Law § 130.50 N.Y. Penal Law § 130.45 N.Y. Penal Law § 130.40 N.Y. Penal Law § 130.65 N.Y. Penal Law § 130.55	**Rape 1st:** Sexual intercourse with person less than 13 where actor is at least 18 **Rape 2nd:** Sexual intercourse with person less than 15 where actor is at least 18 and 4 years older **Rape 3rd:** Sexual intercourse with person less than 17 with actor at least 21 **Criminal Sexual Act 1st:** Oral or anal sexual conduct with person less than 13 where actor is at least 18 **Criminal Sexual Act 2nd:** Oral or anal sexual conduct with person less than 15 where actor is at least 18 and 4 years older **Criminal Sexual Act 3rd:** Oral or anal sexual conduct with person less than 17 where the actor is at least 21 **Sexual Abuse 2nd:** Sexual contact with person less than 13 where the actor is at least 21 **Sexual Abuse 3rd:** Sexual contact with person between the ages of 14 and 17 where actor is at least 5 years older
North Carolina	N.C. Gen. Stat. Ann. § 14-27.2 N.C. Gen. Stat. Ann. § 14-27.2A N.C. Gen. Stat. Ann. § 14-27.4 N.C. Gen. Stat. Ann. § 14-27.4A N.C. Gen. Stat. Ann. § 14-27.7A	**Rape 1st:** Vaginal Intercourse with person less than 13 where actor is at least 12 and 4 years older **Rape of a Child:** Vaginal intercourse with a person under the age of 13 where the actor is at least 18 **Sexual Offense 1st:** Sexual act with person less than 13 where actor is at least 12 and 4 years older **Sexual Offense with a Child**: Sexual act with a child less than 13 where the actor is at least 18 **Statutory Rape or Sexual Offense:** Vaginal intercourse or a sexual act with person between the ages of 13 and 16 where actor is at least 4 years older; increased penalty where actor is at least 6 years older
North Dakota[101]	N.D. Cent. Code § 12.1-20-07 N.D. Cent. Code § 12.1-20-05	**Sexual Assault:** sexual contact with person between the ages of 15 and 18 where actor is at least 18 **Corruption or Solicitation of Minors:** Engaging, soliciting another to engage or causing another to engage in a sexual act with person between the ages of 15 and 18 where actor is at least 18; soliciting with intent to engage in sexual act person less than 15 where actor is

[101] For crimes against minors, 15 years of age or older, the actor is guilty of an offense only where he/she is at least 3 years older than the victim. N.D. Cent. Code § 12.1-20-01(3).

STATE	STATUTE	CRIME(S)
		at least 18
Ohio	Ohio Rev. Code § 2907.04 Ohio Rev. Code § 2907.06	**Unlawful Sexual Conduct with a Minor:** Sexual conduct with person actor knows to be between the ages of 13 and 16 (or reckless disregard) where actor is at least 18; increased penalty where actor is 10 years older **Sexual Imposition**: Sexual contact with a person between the ages of 13 and 16 where that actor is at least 18 and 4 years older
Oklahoma	Okla. Stat. Ann. tit. 21, § 1114 Okla. Stat. Ann. tit. 21, § 1116 Okla. Stat. Ann. tit. 21, § 1123	**Rape 1st:** Rape committed upon person less than 14 where actor is at least 18. **Rape 2nd:** Rape committed upon person less than 14 where actor is less than 18; rape committed upon person between the ages of 14 and 16 where actor is at least 18; rape by instrumentation committed upon person between the ages of 14 and 16 where actor is at least 18 **Lewd or Indecent Proposals or Acts to Child Under Sixteen:** In any indecent manner or manner relating to sexual matters or sexual interest (looking upon, touching, mauling, or feeling the body or private parts) of person less than 16 where actor is 3 years older
Oregon	OR. Rev. Stat. Ann. § 163.412 OR. Rev. Stat. Ann. § 163.375 OR. Rev. Stat. Ann. § 163.365 OR. Rev. Stat. Ann. § 163.427 OR. Rev. Stat. Ann. § 163.415 OR. Rev. Stat. Ann. § 163.445	**Unlawful Sexual Penetration 2nd:** Unlawful sexual penetration with person less than 14 where actor is at least 3 years older **Rape 1st:** Sexual intercourse with person less than 12 **Rape 2nd:** Sexual intercourse with person less than 14 where actor is 3 years older **Sexual Abuse 1st:** Sexual contact with person less than 14 where actor is 3 years older **Sexual Abuse 3rd:** Sexual contact with person less than 18 where actor is at 3 years older **Sexual Misconduct:** Sexual intercourse or deviate sexual intercourse with unmarried person between the ages of 15 and 18 where actor is 3 years older
Pennsylvania	Pa. Cons. Stat. Ann. 18 § 3122.1 Pa. Cons. Stat. Ann. 18 § 3123 Pa. Cons. Stat. Ann. 18 § 3125 Pa. Cons. Stat. Ann. 18 § 3126	**Statutory Sexual Assault:** Sexual intercourse with person between the ages of 13 and 16 where actor is at least 4 years older; increased penalty where actor is at 11 years older **Involuntary Deviate Sexual Intercourse:** Deviate sexual intercourse with person between the ages of 13 and 16 where actor is 4 years older **Aggravated Indecent Assault:** Aggravated indecent assault with person between the ages of 13 and 16 where actor is 4 years older **Indecent Assault**: Indecent assault with person between the ages of 13 and 16 where actor is 4 years older
Rhode Island	R.I. Gen. Laws § 11-37-6	**3rd Degree Sexual Assault:** Sexual penetration with person between the ages of 14 and 16 where actor is over 18

STATE	STATUTE	CRIME(S)
South Carolina	S.C. Code Ann. § 16-3-655[102] S.C. Code Ann. § 16-15-140	**Criminal Sexual Conduct with Minors 2nd:** Sexual battery with person between the ages of 11 and 14; sexual battery with person between the ages of 14 and 16 where the actor is older than the person **Committing or attempting lewd act upon Child under 16:** Willfully and lewdly committing or attempting to commit a lewd or lascivious act upon or with person less than 16 years where actor is over 14
South Dakota	S.D. Codified Laws § 22-22-1 S.D. Codified Laws § 22-22-7 S.D. Codified Laws § 22-22-7 S.D. Codified Laws § 22-22-7.3	**Rape:** Sexual penetration of person between the ages of 13 and 16 where actor is 3 years older **Sexual Contact (Misdemeanor):** Sexual contact with person between the ages of 13 and 16 where actor is less than 5 years older **Sexual Contact (Felony):** Sexual contact with person less than 16 by actor at least 16 **Sexual contact with a child under 16 years of age:** Sexual contact with a person less than 16 where the actor is less than 16 years of age
Tennessee	Tenn. Code Ann. § 39-13-506	**Statutory Rape:** mitigated if sexual penetration of person between the ages of 15 and 18 where actor is 4 to 5 years older; sexual penetration of person between the ages of 13 and 18 where actor is between 4 to 10 years older; sexual penetration of person between the ages of 15 and 18 where actor is 5 to 10 years older; aggravated if sexual penetration of person between the ages of 13 and 18 where actor is at least 10 years older
Texas	*No statute(s) found*	
Utah	Utah Code Ann. § 76-5-401 Utah Code Ann. § 76-5-401.2 Utah Code Ann. § 76-5-401.1 Utah Code Ann. § 76-5-406	**Unlawful Sexual Activity with a Minor:** Unlawful sexual activity against a person between the ages of 14 and 16 under circumstances not amounting to rape, object rape, forcible sodomy, or aggravated sexual assault; mitigating factor if the actor is less than 4 years older **Unlawful Sexual Conduct with a 16 or 17 year old:** Unlawful sexual conduct against a person between the ages of 16 and 18 under circumstances not amounting to rape, object rape, forcible sodomy, or aggravated sexual assault where actor is at least 10 years older **Sexual Abuse of a Minor:** Sexual abuse of a person between the ages of 14 and 16 under circumstances not amounting to rape, object rape, forcible sodomy, aggravated sexual assault or unlawful sexual activity where the actor is at least 7 years older **Sexual Offenses Against the Victim without Consent:** Enumerated offense committed against a person is less than 14; enumerated offense committed against a person between the ages of 14 and 18 where actor is more than 3 years older and entices or coerces person
Vermont	Vt. Stat. Ann. tit 13, §	**Aggravated Sexual Assault:** Sexual assault upon person less than 10 where actor is at least

[102] A person may not be convicted of criminal sexual conduct with minors in the second degree if the actor is 18 years of age and engages in consensual sexual conduct with another person who is at least 14 years of age. S.D. Code Ann. § 16-3-655(B)(2).

STATE	STATUTE	CRIME(S)
	3253 Vt. Stat. Ann. tit 13, § 2602	18 **Lewd or Lascivious Conduct with a Child:** willfully and lewdly committing any lewd or lascivious act with person less than 16; this section does not apply where actor is less than 19 and person is at least 15
Virginia	Va. Code Ann. § 18.2-63	**Carnal Knowledge of Child Between the 13 and 15 Years of Age:** Carnal knowledge of a person between the ages of 13 and 15 (felony); carnal knowledge of a person between the ages of 13 and 15 where the actor is 3 years older (felony) and where the actor is less than 3 years older (misdemeanor)
Washington	Wash. Rev. Code Ann. § 9a.44.040 Wash. Rev. Code Ann. § 9a.44.050 Wash. Rev. Code Ann. § 9a.44.060 Wash. Rev. Code Ann. § 9a.44.073 Wash. Rev. Code Ann. § 9a.44.076 Wash. Rev. Code Ann. § 9a.44.079	**Rape of a Child 1st:** Sexual intercourse with person less than 12 where actor is at least 2 years older **Rape of a Child 2nd:** Sexual intercourse with person between the ages of 12 and 14 where actor is at least 3 years older **Rape of a Child 3rd:** Sexual intercourse with person between the ages of 14 and 16 where actor is at least 4 years older **Child Molestation 1st:** Sexual contact with person less than 12 where actor is at least 3 years older **Child Molestation 2nd:** Sexual contact with person between the ages of 12 and 14 where actor is at least 3 years older **Child Molestation 3rd:** Sexual contact with person between the ages of 14 and 16 where actor is at least 4 years older
West Virginia	W.Va. Code Ann. § 61-8b-3 W.Va. Code Ann. § 61-8b-4 W.Va. Code Ann. § 61-8b-7 W.Va. Code Ann. § 61-8b-9	**Sexual Assault 1st:** Sexual intercourse or sexual intrusion with person less than 12 where actor is at least 14 **Sexual Assault 3rd:** Sexual intercourse or sexual intrusion with person less than 16 where actor is at least 16 or 4 years older **Sexual Abuse 1st:** Sexual contact with person less than 12 where actor is at least 14 **Sexual Abuse 3rd:** Sexual contact with person less than 16 where actor is at least 16 and at least 4 years older
Wisconsin	*No Statute(s) Found*	
Wyoming	Wyo. Stat. Ann. § 6-2-314 Wyo. Stat. Ann. § 6-2-315 Wyo. Stat. Ann. § 6-2-316 Wyo. Stat. Ann. § 6-2-	**Sexual Abuse of Minor 1st:** Sexual intrusion of person less than 13 where actor is at least 16 **Sexual Abuse of Minor 2nd:** Sexual intrusion of person between the ages of 13 and 15 where actor is at least 17 years old and at least 4 years older **Sexual Abuse of Minor 3rd:** Sexual contact with person between the ages of 13 and 15 where actor is at least 17 years old and at least 4 years older

STATE	STATUTE	CRIME(S)
	317	**Sexual Abuse of Minor 4th:** Sexual contact with person less than 13 where actor is less than 16 years old and at least 3 years older
American Samoa	*No Statute(s) Found*	
Guam	9 Guam Code Ann. § 25.25	**Criminal Sexual Conduct 3rd:** Sexual penetration of person between the ages of 14 and 16
Northern Mariana Islands	*No Statute(s) Found*	
Puerto Rico	*No Statute(s) Found*	
Virgin Islands	14 Virgin Islands Code § 1702 14 Virgin Islands Code § 1703 14 Virgin Islands Code § 1709	**Rape 2nd:** Sexual intercourse with person between the ages of 13 and 16 where the actor is between the ages of 16 and 18 **Rape 3rd:** Sexual intercourse with person less between the ages of 16 and 18 where the actor is over 18 years old and 5 years older **Unlawful Sexual Contact 2nd**: Sexual contact with person between the ages 13 and 16 where actor is over 18 years old
Federal	18 U.S.C.A. § 2241(c) 18 U.S.C.A. § 2243 18 U.S.C.A. § 2244	**Aggravated Sexual Abuse:** Sexual act with a person between the ages of 12 and 16 where the actor is at least 4 years older **Sexual Abuse of a Minor:** Sexual act with person between the ages of 12 and 16 where actor is at least 4 years older **Abusive Sexual Contact:** Sexual contact with person less than 12
Military	UCMJ § 920b Art. 120b	**Rape and Sexual Assault of a Child:** Sexual assault of child who has attained the age of 12 years; child is defined as any person who has not attained age of 16 **Sexual Abuse of a Child:** Lewd act upon a child

CONSTRUCTIVE FORCE STATUTES

ALABAMA. ALA. CODE. §13A-6-60 (8)

"(8) Forcible compulsion. Physical force that overcomes earnest resistance or a threat, express or implied, that places a person in fear of immediate death or serious physical injury to himself or another person."

ARKANSAS. ARK. CODE ANN. §6-14-101 (2)

"(2) "Forcible compulsion" means physical force or a threat, express or implied, of death or physical injury to or kidnapping of any person"

CALIFORNIA. CAL. PENAL CODE §261 (B)

"(b) As used in this section, "duress" means a direct or implied threat of force, violence, danger, or retribution sufficient to coerce a reasonable person of ordinary susceptibilities to perform an act which otherwise would not have been performed, or acquiesce in an act to which one otherwise would not have submitted. The total circumstances, including the age of the victim, and his or her relationship to the defendant, are factors to consider in appraising the existence of duress."

HAWAII. HAW. REV. STAT. §707-700

"Compulsion" means absence of consent, or a threat, express or implied, that places a person in fear of public humiliation, property damage, or financial loss."

KENTUCKY. KY. REV. STAT. ANN. §510.010 (2)

"(2) "Forcible compulsion" means physical force or threat of physical force, express or implied, which places a person in fear of immediate death, physical injury to self or another person, fear of the immediate kidnap of self or another person, or fear of any offense under this chapter. Physical resistance on the part of the victim shall not be necessary to meet this definition;"

NEW YORK. N.Y. PENAL LAW §130.00 (8)(B)

"b. a threat, express or implied, which places a person in fear of immediate death or physical injury to himself, herself or another person, or in fear that he, she or another person will immediately be kidnapped."

OREGON. OR. REV. STAT. ANN. §163.305 (2)(B)

"(b) A threat, express or implied, that places a person in fear of immediate or future death or physical injury to self or another person, or in fear that the person or another person will immediately or in the future be kidnapped."

PENNSYLVANIA. PA. CONS. STAT. ANN. 18 §3101

"Forcible compulsion." Compulsion by use of physical, intellectual, moral, emotional or psychological force, either express or implied. The term includes, but is not limited to, compulsion resulting in another person's death, whether the death occurred before, during or after sexual intercourse.

*Statute truncated due to size.

WASHINGTON. WASH. REV. CODE ANN. §9A.44.010

"(6) "Forcible compulsion" means physical force which overcomes resistance, or a threat, express or implied, that places a person in fear of death or physical injury to herself or himself or another person, or in fear that she or he or another person will be kidnapped."

WEST VIRGINIA. W.V. CODE ANN. §61-8B-1 (1)(B)

(1) "Forcible compulsion" means: … (b) Threat or intimidation, expressed or implied, placing a person in fear of immediate death or bodily injury to himself or herself or another person or in fear that he or she or another person will be kidnapped;"

ALABAMA

CHARTS	PENETRATION	FORCE	CAPACITY TO CONSENT	VICTIM PERPETRATOR RELATIONSHIP	OTHER SEX CRIMES
CONSENT ANALYSIS	ALCOHOL/DRUG FACILITATED SEXUAL ASSAULT	MARITAL RAPE	SAME SEX PERPETRATOR	STATUTORY RAPE	CONSTRUCTIVE FORCE

ALA. CODE § 13A-6-60 (2010). DEFINITIONS

The following definitions apply in this article:

(1) Sexual intercourse. Such term has its ordinary meaning and occurs upon any penetration, however slight; emission is not required.

(2) Deviate sexual intercourse. Any act of sexual gratification between persons not married to each other involving the sex organs of one person and the mouth or anus of another.

(3) Sexual contact. Any touching of the sexual or other intimate parts of a person not married to the actor, done for the purpose of gratifying the sexual desire of either party.

(4) Female. Any female person.

(5) Mentally defective. Such term means that a person suffers from a mental disease or defect which renders him incapable of appraising the nature of his conduct.

(6) Mentally incapacitated. Such term means that a person is rendered temporarily incapable of appraising or controlling his conduct owing to the influence of a narcotic or intoxicating substance administered to him without his consent, or to any other incapacitating act committed upon him without his consent.

(7) Physically helpless. Such term means that a person is unconscious or for any other reason is physically unable to communicate unwillingness to an act.

(8) Forcible compulsion. Physical force that overcomes earnest resistance or a threat, express or implied, that places a person in fear of immediate death or serious physical injury to himself or another person.

ALA. CODE § 13A-6-61 (2010). RAPE IN THE FIRST DEGREE

(a) A person commits the crime of rape in the first degree if:

(1) He or she engages in sexual intercourse with a member of the opposite sex by forcible compulsion; or

(2) He or she engages in sexual intercourse with a member of the opposite sex who is incapable of consent by reason of being physically helpless or mentally incapacitated; or

(3) He or she, being 16 years or older, engages in sexual intercourse with a member of the opposite sex who is less than 12 years old.

(b) Rape in the first degree is a Class A felony.

*Statute truncated due to size.

ALA. CODE § 13A-6-62 (2010). RAPE IN THE SECOND DEGREE

(a) A person commits the crime of rape in the second degree if:

(1) Being 16 years old or older, he or she engages in sexual intercourse with a member of the opposite sex less than 16 and more than 12 years old; provided, however, the actor is at least two years older than the member of the opposite sex.

(2) He or she engages in sexual intercourse with a member of the opposite sex who is incapable of consent by reason of being mentally defective.

(b) Rape in the second degree is a Class B felony.

ALA. CODE § 13A-6-63 (2010). SODOMY; FIRST DEGREE

(a) A person commits the crime of sodomy in the first degree if:

(1) He engages in deviate sexual intercourse with another person by forcible compulsion; or

(2) He engages in deviate sexual intercourse with a person who is incapable of consent by reason of being physically helpless or mentally incapacitated; or

(3) He, being 16 years old or older, engages in deviate sexual intercourse with a person who is less than 12 years old.

(b) Sodomy in the first degree is a Class A felony.

ALA. CODE § 13A-6-64 (2010). SODOMY; SECOND DEGREE

(a) A person commits the crime of sodomy in the second degree if:

(1) He, being 16 years old or older, engages in deviate sexual intercourse with another person less than 16 and more than 12 years old.

(2) He engages in deviate sexual intercourse with a person who is incapable of consent by reason of being mentally defective.

(b) Sodomy in the second degree is a Class B felony.

ALA. CODE § 13A-6-65 (2010). SEXUAL MISCONDUCT

(a) A person commits the crime of sexual misconduct if:

(1) Being a male, he engages in sexual intercourse with a female without her consent, under circumstances other than those covered by Sections 13A-6-61 and 13A-6-62; or with her consent where consent was obtained by the use of any fraud or artifice; or

(2) Being a female, she engages in sexual intercourse with a male without his consent; or

(3) He or she engages in deviate sexual intercourse with another person under circumstances other than those covered by Sections 13A-6-63 and 13A-6-64. Consent is no defense to a prosecution under this subdivision.

(b) Sexual misconduct is a Class A misdemeanor.

ALA. CODE § 13A-6-65.1 (2010). SEXUAL TORTURE

(a) A person commits the crime of sexual torture:

(1) By penetrating the vagina or anus or mouth of another person with an inanimate object by forcible compulsion with the intent to sexually torture or to sexually abuse.

(2) By penetrating the vagina or anus or mouth of a person who is incapable of consent by reason of physical helplessness or mental incapacity with an inanimate object, with the intent to sexually torture or to sexually abuse.

(3) By penetrating the vagina or anus or mouth of a person who is less than 12 years old with an inanimate object, by a person who is 16 years old or older with the intent to sexually torture or to sexually abuse.

(b) The crime of sexual torture is a Class A felony.

ALA. CODE § 13A-6-66 (2010). SEXUAL ABUSE; FIRST DEGREE

(a) A person commits the crime of sexual abuse in the first degree if:

(1) He subjects another person to sexual contact by forcible compulsion; or

(2) He subjects another person to sexual contact who is incapable of consent by reason of being physically helpless or mentally incapacitated.

(b) Sexual abuse in the first degree is a Class C felony.

ALA. CODE § 13A-6-67 (2010). SEXUAL ABUSE; SECOND DEGREE

(a) A person commits the crime of sexual abuse in the second degree if:

(1) He subjects another person to sexual contact who is incapable of consent by reason of some factor other than being less than 16 years old; or

(2) He, being 19 years old or older, subjects another person to sexual contact who is less than 16 years old, but more than 12 years old.

(b) Sexual abuse in second degree is a Class A misdemeanor, except that if a person commits a second or subsequent offense of sexual abuse in the second degree within one year of another sexual offense, the offense is a Class C felony.

*Statute truncated due to size.

ALA. CODE § 13A-6-68 (2010). INDECENT EXPOSURE

(a) A person commits the crime of indecent exposure if, with intent to arouse or gratify sexual desire of himself or of any person other than his spouse, he exposes his genitals under circumstances in which he knows his conduct is likely to cause affront or alarm in any public place or on the private premises of another or so near thereto as to be seen from such private premises.

(b) Indecent exposure is a Class A misdemeanor except a third or subsequent conviction shall be a Class C felony.

ALA. CODE § 13A-6-81 (2010). SCHOOL EMPLOYEE ENGAGING IN SEX ACT OR DEVIANT SEXUAL INTERCOURSE WITH A STUDENT UNDER THE AGE OF 19 YEARS

(a) A person commits the crime of a school employee engaging in a sex act or deviant sexual intercourse with a student under the age of 19 years if he or she is a school employee and engages in a sex act or deviant sexual intercourse with a student, regardless of whether the student is male or female. Consent is not a defense to a charge under this section.

(b) As used in this section, sex act means sexual intercourse with any penetration, however slight; emission is not required.

(c) As used in this section, deviant sexual intercourse means any act of sexual gratification between persons not married to each other involving the sex organs of one person and the mouth or anus of another.

(d) The crime of a school employee engaging in a sex act or deviant sexual intercourse with a student is a Class B felony.

ALA. CODE § 13A-6-82 (2010). SCHOOL EMPLOYEE ENGAGING IN SEX ACT OR DEVIANT SEXUAL CONTACT WITH A STUDENT UNDER THE AGE OF 19 YEARS

(a) A person commits the crime of a school employee having sexual contact with a student under the age of 19 years if he or she is a school employee and engaging in sexual contact with a student, regardless of whether the student is male or female. Consent is not a defense to a charge under this section.

(b) As used in this section, sexual contact means any touching of the sexual or other intimate parts of a student, done for the purpose of gratifying the sexual desire of either party. The term includes soliciting or harassing a student to perform a sex act.

(c) The crime of a school employee having sexual contact with a student is a Class A misdemeanor.

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ALASKA

CHARTS	PENETRATION	FORCE	CAPACITY TO CONSENT	VICTIM PERPETRATOR RELATIONSHIP	OTHER SEX CRIMES
CONSENT ANALYSIS	ALCOHOL/DRUG FACILITATED SEXUAL ASSAULT	MARITAL RAPE	SAME SEX PERPETRATOR	STATUTORY RAPE	CONSTRUCTIVE FORCE

ALASKA STAT. § 11.41.410 (2010). SEXUAL ASSAULT IN THE FIRST DEGREE

(a) An offender commits the crime of sexual assault in the first degree if

(1) the offender engages in sexual penetration with another person without consent of that person;

(2) the offender attempts to engage in sexual penetration with another person without consent of that person and causes serious physical injury to that person;

(3) the offender engages in sexual penetration with another person

(A) who the offender knows is mentally incapable; and

(B) who is in the offender's care

(i) by authority of law; or

(ii) in a facility or program that is required by law to be licensed by the state; or

(4) the offender engages in sexual penetration with a person who the offender knows is unaware that a sexual act is being committed and

(A) the offender is a health care worker; and

(B) the offense takes place during the course of professional treatment of the victim.

(b) Sexual assault in the first degree is an unclassified felony and is punishable as provided in AS 12.55.

ALASKA STAT. § 11.41.420 (2009). SEXUAL ASSAULT IN THE SECOND DEGREE

(a) An offender commits the crime of sexual assault in the second degree if

(1) the offender engages in sexual contact with another person without consent of that person;

(2) the offender engages in sexual contact with a person

(A) who the offender knows is mentally incapable; and

(B) who is in the offender's care

(i) by authority of law; or

(ii) in a facility or program that is required by law to be licensed by the state;

(3) the offender engages in sexual penetration with a person who the offender knows is

(A) mentally incapable;

(B) incapacitated; or

(C) unaware that a sexual act is being committed; or

(4) the offender engages in sexual contact with a person who the offender knows is unaware that a sexual act is being committed and

(A) the offender is a health care worker; and

(B) the offense takes place during the course of professional treatment of the victim.

(b) Sexual assault in the second degree is a class B felony.

ALASKA STAT. § 11.41.425 (2010). SEXUAL ASSAULT IN THE THIRD DEGREE

(a) An offender commits the crime of sexual assault in the third degree if the offender

(1) engages in sexual contact with a person who the offender knows is

(A) mentally incapable;

(B) incapacitated; or

(C) unaware that a sexual act is being committed;

(2) while employed in a state correctional facility or other placement designated by the commissioner of corrections for the custody and care of prisoners, engages in sexual penetration with a person who the offender knows is committed to the custody of the Department of Corrections to serve a term of imprisonment or period of temporary commitment; or

(3) engages in sexual penetration with a person 18 or 19 years of age who the offender knows is committed to the custody of the Department of Health and Social Services under AS 47.10 or AS 47.12 and the offender is the legal guardian of the person.

(b) Sexual assault in the third degree is a class C felony.

ALASKA STAT. § 11.41.427 (2010). SEXUAL ASSAULT IN THE FOURTH DEGREE

(a) An offender commits the crime of sexual assault in the fourth degree if

(1) while employed in a state correctional facility or other placement designated by the commissioner of corrections for the custody and care of prisoners, the offender engages in sexual contact with a person who the offender knows is committed to the custody of the Department of Corrections to serve a term of imprisonment or period of temporary commitment; or

(2) the offender engages in sexual contact with a person 18 or 19 years of age who the offender knows is committed to the custody of the Department of Health and Social Services under AS 47.10 or AS 47.12 and the offender is the legal guardian of the person.

(b) Sexual assault in the fourth degree is a class A misdemeanor.

ALASKA STAT. § 11.41.432 (2010). DEFENSES

(a) It is a defense to a crime charged under AS 11.41.410(a)(3), 11.41.420(a)(2), 11.41.420(a)(3), or 11.41.425 that the offender is

(1) mentally incapable; or

(2) married to the person and neither party has filed with the court for a separation, divorce, or dissolution of the marriage.

(b) Except as provided in (a) of this section, in a prosecution under AS 11.41.410 or 11.41.420, it is not a defense that the victim was, at the time of the alleged offense, the legal spouse of the defendant.

ALASKA STAT. § 11.41.450 (2010) INCEST

(a) A person commits the crime of incest if, being 18 years of age or older, that person engages in sexual penetration with another who is related, either legitimately or illegitimately, as

(1) an ancestor or descendant of the whole or half blood;

(2) a brother or sister of the whole or half blood; or

(3) an uncle, aunt, nephew, or niece by blood.

(b) Incest is a class C felony.

ALASKA STAT. § 11.41.458 (2010). INDECENT EXPOSURE IN THE FIRST DEGREE

(a) An offender commits the crime of indecent exposure in the first degree if the offender violates AS 11.41.460(a), the offense occurs within the observation of a person under 16 years of age, and

(1) while committing the act constituting the offense, the offender knowingly masturbates; or

(2) the offender has been previously convicted under

(A) this section;

(B) AS 11.41.460(a); or

(C) a law or ordinance of this or another jurisdiction with elements similar to a crime listed under (A) or (B) of this paragraph.

(b) Indecent exposure in the first degree is a class C felony.

*Statute truncated due to size.

ALASKA STAT. § 11.41.460 (2010). INDECENT EXPOSURE IN THE SECOND DEGREE

(a) An offender commits the crime of indecent exposure in the second degree if the offender knowingly exposes the offender's genitals in the presence of another person with reckless disregard for the offensive, insulting, or frightening effect the act may have.

(b) Indecent exposure in the second degree before a person under 16 years of age is a class A misdemeanor. Indecent exposure in the second degree before a person 16 years of age or older is a class B misdemeanor.

ALASKA STAT. § 11.41.470 (2010). DEFINITIONS

For purposes of AS 11.41.410 - 11.41.470, unless the context requires otherwise,
(1) "health care worker" includes a person who is or purports to be an anesthesiologist, acupuncturist, chiropractor, dentist, health aide, hypnotist, massage therapist, mental health counselor, midwife, nurse, nurse practitioner, osteopath, naturopath, physical therapist, physical therapy assistant, physician, physician assistant, psychiatrist, psychologist, psychological associate, radiologist, religious healing practitioner, surgeon, x-ray technician, or a substantially similar position;

(2) "incapacitated" means temporarily incapable of appraising the nature of one's own conduct or physically unable to express unwillingness to act;

(3) "legal guardian" means a person who is under a duty to exercise general supervision over a minor or other person committed to the custody of the Department of Health and Social Services under AS 47.10 or AS 47.12 as a result of a court order, statute, or regulation, and includes Department of Health and Social Services employees, foster parents, and staff members and other employees of group homes or youth facilities where the minor or other person is placed as a result of a court order or the action of the Department of Health and Social Services, and police officers, probation officers, and social workers when those persons are exercising custodial control over a minor or other person;

(4) "mentally incapable" means suffering from a mental disease or defect that renders the person incapable of understanding the nature or consequences of the person's conduct, including the potential for harm to that person;

(5) "position of authority" means an employer, youth leader, scout leader, coach, teacher, counselor, school administrator, religious leader, doctor, nurse, psychologist, guardian ad litem, babysitter, or a substantially similar position, and a police officer or probation officer other than when the officer is exercising custodial control over a minor;

(6) "sexual act" means sexual penetration or sexual contact;

(7) "victim" means the person alleged to have been subjected to sexual assault in any degree or sexual abuse of a minor in any degree;

(8) "without consent" means that a person

(A) with or without resisting, is coerced by the use of force against a person or property, or by the express or implied threat of death, imminent physical injury, or kidnapping to be inflicted on anyone; or

(B) is incapacitated as a result of an act of the defendant.

*Statute truncated due to size.

ALASKA STAT. ANN. § 11.81.900 (2011). DEFINITIONS*

(16) "deadly force" means force that the person uses with the intent of causing, or uses under circumstances that the person knows create a substantial risk of causing, death or serious physical injury; "deadly force" includes intentionally discharging or pointing a firearm in the direction of another person or in the direction in which another person is believed to be and intentionally placing another person in fear of imminent serious physical injury by means of a dangerous instrument;

(27) "force" means any bodily impact, restraint, or confinement or the threat of imminent bodily impact, restraint, or confinement, "force" includes deadly and nondeadly force;

(58) "sexual contact" means

(A) the defendant's

(i) knowingly touching, directly or through clothing, the victim's genitals, anus, or female breast; or

(ii) knowingly causing the victim to touch, directly or through clothing, the defendant's or victim's genitals, anus, or female breast;

(B) but "sexual contact" does not include acts

(i) that may reasonably be construed to be normal caretaker responsibilities for a child, interactions with a child, or affection for a child;

(ii) performed for the purpose of administering a recognized and lawful form of treatment that is reasonably adapted to promoting the physical or mental health of the person being treated; or

(iii) that are a necessary part of a search of a person committed to the custody of the Department of Corrections or the Department of Health and Social Services;

(59) "sexual penetration"

(A) means genital intercourse, cunnilingus, fellatio, anal intercourse, or an intrusion, however slight, of an object or any part of a person's body into the genital or anal opening of another person's body; each party to any of the acts described in this subparagraph is considered to be engaged in sexual penetration;

(B) does not include acts

(i) performed for the purpose of administering a recognized and lawful form of treatment that is reasonably adapted to promoting the physical health of the person being treated; or
(ii) that are a necessary part of a search of a person committed to the custody of the Department of Corrections or the Department of Health and Social Services;

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*Statute truncated due to size.

ARIZONA

CHARTS	PENETRATION	FORCE	CAPACITY TO CONSENT	VICTIM PERPETRATOR RELATIONSHIP	OTHER SEX CRIMES
CONSENT ANALYSIS	ALCOHOL/DRUG FACILITATED SEXUAL ASSAULT	MARITAL RAPE	SAME SEX PERPETRATOR	STATUTORY RAPE	CONSTRUCTIVE FORCE

ARIZ. REV. STAT. ANN. § 13-1401 (2012). DEFINITIONS

In this chapter, unless the context otherwise requires:

1. "Oral sexual contact" means oral contact with the penis, vulva or anus.

2. "Sexual contact" means any direct or indirect touching, fondling or manipulating of any part of the genitals, anus or female breast by any part of the body or by any object or causing a person to engage in such contact.

3. "Sexual intercourse" means penetration into the penis, vulva or anus by any part of the body or by any object or masturbatory contact with the penis or vulva.

4. "Spouse" means a person who is legally married and cohabiting.

5. "Without consent" includes any of the following:

(a) The victim is coerced by the immediate use or threatened use of force against a person or property.

(b) The victim is incapable of consent by reason of mental disorder, mental defect, drugs, alcohol, sleep or any other similar impairment of cognition and such condition is known or should have reasonably been known to the defendant. For purposes of this subdivision, "mental defect" means the victim is unable to comprehend the distinctively sexual nature of the conduct or is incapable of understanding or exercising the right to refuse to engage in the conduct with another.

(c) The victim is intentionally deceived as to the nature of the act.

(d) The victim is intentionally deceived to erroneously believe that the person is the victim's spouse.

ARIZ. REV. STAT ANN. § 13-1402 (2012). INDECENT EXPOSURE; EXCEPTION; CLASSIFICATION

A. A person commits indecent exposure if he or she exposes his or her genitals or anus or she exposes the areola or nipple of her breast or breasts and another person is present, and the defendant is reckless about whether the other person, as a reasonable person, would be offended or alarmed by the act.

B. Indecent exposure does not include an act of breast-feeding by a mother.

C. Indecent exposure to a person who is fifteen or more years of age is a class 1 misdemeanor. Indecent exposure to a person who is under fifteen years of age is a class 6 felony.

D. A person who is convicted of a felony violation of this section and who has two or more historical prior felony convictions for a violation of this section or § 13-1403 involving indecent exposure or public sexual indecency to a minor who is under fifteen years of age shall be sentenced to a term of imprisonment as follows:

Mitigated: 6 years

Minimum: 8 years

Presumptive: 10 years

Maximum: 12 years

Aggravated: 15 years

E. The presumptive term imposed pursuant to subsection D of this section may be mitigated or aggravated pursuant to § 13-701, subsections D and E.

ARIZ. REV. STAT. ANN. § 13-1404 (2012). SEXUAL ABUSE; CLASSIFICATION

A. A person commits sexual abuse by intentionally or knowingly engaging in sexual contact with any person who is fifteen or more years of age without consent of that person or with any person who is under fifteen years of age if the sexual contact involves only the female breast.

B. Sexual abuse is a class 5 felony unless the victim is under fifteen years of age in which case sexual abuse is a class 3 felony punishable pursuant to § 13-705.

ARIZ. REV. STAT. ANN. § 13-1405 (2012). SEXUAL CONDUCT WITH A MINOR; CLASSIFICATION; DEFINITION

A. A person commits sexual conduct with a minor by intentionally or knowingly engaging in sexual intercourse or oral sexual contact with any person who is under eighteen years of age.

B. Sexual conduct with a minor who is under fifteen years of age is a class 2 felony and is punishable pursuant to § 13-705. Sexual conduct with a minor who is at least fifteen years of age is a class 6 felony. Sexual conduct with a minor who is at least fifteen years of age is a class 2 felony if the person is the minor's parent, stepparent, adoptive parent, legal guardian, foster parent or the minor's teacher or clergyman or priest and the convicted person is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by § 31-233, subsection A or B until the sentence imposed has been served or commuted.

C. For the purposes of this section, "teacher" means a certificated teacher as defined in § 15-501 or any other person who provides instruction to pupils in any school district, charter school or accommodation school, the Arizona state schools for the deaf and the blind or a private school in this state.

ARIZ. REV. STAT. ANN. § 13-1406 (2012). SEXUAL ASSAULT; CLASSIFICATION; INCREASED PUNISHMENT

A. A person commits sexual assault by intentionally or knowingly engaging in sexual intercourse or oral sexual contact with any person without consent of such person.

B. Sexual assault is a class 2 felony, and the person convicted shall be sentenced pursuant to this section and the person is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by § 31-233, subsection A or B until the sentence imposed by the court has been served or commuted. If the victim is under fifteen years of age, sexual assault is punishable pursuant to § 13-705.

*Statute truncated due to size.

The presumptive term may be aggravated or mitigated within the range under this section pursuant to § 13-701, subsections C, D and E. If the sexual assault involved the intentional or knowing administration of flunitrazepam, gamma hydroxy butyrate or ketamine hydrochloride without the victim's knowledge, the presumptive, minimum and maximum sentence for the offense shall be increased by three years. The additional sentence imposed pursuant to this subsection is in addition to any enhanced sentence that may be applicable.

C. The sentence imposed on a person for a sexual assault shall be consecutive to any other sexual assault sentence imposed on the person at any time.

D. Notwithstanding § 13-703, § 13-704, § 13-705, § 13-706, subsection A and § 13-708, subsection D, if the sexual assault involved the intentional or knowing infliction of serious physical injury, the person may be sentenced to life imprisonment and is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by § 31-233, subsection A or B until at least twenty-five years have been served or the sentence is commuted. If the person was at least eighteen years of age and the victim was twelve years of age or younger, the person shall be sentenced pursuant to § 13-705.

ARIZ. REV. STAT. ANN. § 13-1407 (2012). DEFENSES

A. It is a defense to a prosecution pursuant to §§ 13-1404 and 13-1405 involving a minor if the act was done in furtherance of lawful medical practice.

B. It is a defense to a prosecution pursuant to §§ 13-1404 and 13-1405 in which the victim's lack of consent is based on incapacity to consent because the victim was fifteen, sixteen or seventeen years of age if at the time the defendant engaged in the conduct constituting the offense the defendant did not know and could not reasonably have known the age of the victim.

C. It is a defense to a prosecution pursuant to § 13-1402, 13-1404, 13-1405 or 13-1406 if the act was done by a duly licensed physician or registered nurse or a person acting under the physician's or nurse's direction, or any other person who renders emergency care at the scene of an emergency occurrence, the act consisted of administering a recognized and lawful form of treatment that was reasonably adapted to promoting the physical or mental health of the patient and the treatment was administered in an emergency when the duly licensed physician or registered nurse or a person acting under the physician's or nurse's direction, or any other person rendering emergency care at the scene of an emergency occurrence, reasonably believed that no one competent to consent could be consulted and that a reasonable person, wishing to safeguard the welfare of the patient, would consent.

D. It is a defense to a prosecution pursuant to § 13-1404 or 13-1405 that the person was the spouse of the other person at the time of commission of the act. It is not a defense to a prosecution pursuant to § 13-1406that the defendant was the spouse of the victim at the time of commission of the act.

E. It is a defense to a prosecution pursuant to § 13-1404 or 13-1410 that the defendant was not motivated by a sexual interest. It is a defense to a prosecution pursuant to § 13-1404 involving a victim under fifteen years of age that the defendant was not motivated by a sexual interest.

F. It is a defense to a prosecution pursuant to §§ 13-1405 and 13-3560 if the victim is fifteen, sixteen or seventeen years of age, the defendant is under nineteen years of age or attending high school and is no more than twenty-four months older than the victim and the conduct is consensual.

*Statute truncated due to size.

ARIZ. REV. STAT. ANN. § 13-1409 (2012). UNLAWFUL SEXUAL CONDUCT; ADULT PROBATION DEPARTMENT EMPLOYEES; JUVENILE COURT EMPLOYEES; CLASSIFICATION; DEFINITIONS

A. An adult probation department employee or juvenile court employee commits unlawful sexual conduct if the employee knowingly coerces the victim to engage in sexual contact, oral sexual contact or sexual intercourse by either:

1. Threatening to negatively influence the victim's supervision or release status.

2. Offering to positively influence the victim's supervision or release status.

B. Unlawful sexual conduct with a victim who is under fifteen years of age is a class 2 felony. Unlawful sexual conduct with a victim who is at least fifteen years of age and under eighteen years of age is a class 3 felony. All other unlawful sexual conduct is a class 5 felony.

C. For the purposes of this section:

1. "Adult probation department employee or juvenile court employee" means an employee of an adult probation department or the juvenile court who either:

(a) Through the course of employment, directly provides treatment, care, control or supervision to a victim.

(b) Provides presentence or predisposition reports directly to a court regarding the victim.

2. "Victim" means a person who is either of the following:

(a) Subject to conditions of release or supervision by a court.

(b) A minor who has been referred to the juvenile court.

ARIZ. REV. STAT. ANN. § 13-1418 (2012). SEXUAL MISCONDUCT; BEHAVIOURAL HEALTH PROFESSIONALS; CLASSIFICATION

A. A behavioral health professional licensed pursuant to title 32, chapter 331 or a psychiatrist or psychologist licensed pursuant to title 32, chapter 13, 17 or 19.12 commits sexual misconduct by intentionally or knowingly engaging in sexual intercourse with a client who is currently under the care or supervision of the licensed behavioral health professional, psychiatrist or psychologist.

B. Sexual misconduct by a licensed behavioral health professional, psychiatrist or psychologist is a class 6 felony.

C. This section does not apply to any act of sexual conduct that occurs between a licensed behavioral health professional, psychiatrist or psychologist and a client after the client has completed a course of treatment or if the client is not under the care of the licensed behavioral health professional, psychiatrist or psychologist.

ARIZ. REV. STAT. ANN. § 13-1419 (2012). UNLAWFUL SEXUAL CONDUCT; CORRECTIONAL FACILITIES; CLASSIFICATION; DETENTION

A. A person commits unlawful sexual conduct by intentionally or knowingly engaging in any act of a sexual nature with an offender who is in the custody of the state department of corrections, the department of juvenile

corrections, a private prison facility, a juvenile detention facility or a city or county jail or with an offender who is under the supervision of either department or a city or county. For the purposes of this subsection, "person" means a person who:

1. Is employed by the state department of corrections or the department of juvenile corrections.

2. Is employed by a private prison facility, a juvenile detention facility or a city or county jail.

3. Contracts to provide services with the state department of corrections, the department of juvenile corrections, a private prison facility, a juvenile detention facility or a city or county jail.

4. Is an official visitor, volunteer or agency representative of the state department of corrections, the department of juvenile corrections, a private prison facility, a juvenile detention facility or a city or county jail.

B. This section does not apply to a person who is employed by the state department of corrections, a private prison facility or a city or county jail or who contracts to provide services with the state department of corrections, a private prison facility or a city or county jail or an offender who is on release status if the person was lawfully married to the prisoner or offender on release status before the prisoner or offender was sentenced to the state department of corrections or was incarcerated in a city or county jail.

C. Unlawful sexual conduct with an offender who is under fifteen years of age is a class 2 felony. Unlawful sexual conduct with an offender who is between fifteen and seventeen years of age is a class 3 felony. All other unlawful sexual conduct is a class 5 felony.

D. For the purposes of this section, "any act of a sexual nature":

1. Includes the following:

(a) Any completed, attempted, threatened or requested touching of the genitalia, anus, groin, breast, inner thigh, pubic area or buttocks with the intent to arouse or gratify sexual
desire.

(b) Any act of exposing the genitalia, anus, groin, breast, inner thigh, pubic area or buttocks with the intent to arouse or gratify sexual desire.

(c) Any act of photographing, videotaping, filming, digitally recording or otherwise viewing, with or without a device, a prisoner or offender with the intent to arouse or gratify sexual desire, either:

(i) While the prisoner or offender is in a state of undress or partial dress.

(ii) While the prisoner or offender is urinating or defecating.

2. Does not include an act done pursuant to a bona fide medical exam or lawful internal search.

ARIZ. REV. STAT. ANN. § 13-1423 (2012). VIOLENT SEXUAL ASSAULT; NATURAL LIFE SENTENCE

A. A person is guilty of violent sexual assault if in the course of committing an offense under § 13-1404, 13-1405, 13-1406 or 13-1410 the offense involved the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument or involved the intentional or knowing infliction of serious physical injury and the person has a historical prior felony conviction for a sexual offense under this chapter or any offense committed outside this state that if committed in this state would constitute a sexual offense under this chapter.

*Statute truncated due to size.

B. Notwithstanding § 13-703, § 13-704, § 13-705, § 13-706, subsection A and § 13-708, subsection D, a person who is guilty of a violent sexual assault shall be sentenced to life imprisonment and the court shall order that the person not be released on any basis for the remainder of the person's natural life.

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ARKANSAS

CHARTS	PENETRATION	FORCE	CAPACITY TO CONSENT	VICTIM PERPETRATOR RELATIONSHIP	OTHER SEX CRIMES
CONSENT ANALYSIS	ALCOHOL/DRUG FACILITATED SEXUAL ASSAULT	MARITAL RAPE	SAME SEX PERPETRATOR	STATUTORY RAPE	CONSTRUCTIVE FORCE

ARK. CODE ANN. § 5-14-101 (WEST 2010). DEFINITIONS

As used in this chapter:

(1) "Deviate sexual activity" means any act of sexual gratification involving:

(A) The penetration, however slight, of the anus or mouth of a person by the penis of another person; or

(B) The penetration, however slight, of the labia majora or anus of a person by any body member or foreign instrument manipulated by another person;

(2) "Forcible compulsion" means physical force or a threat, express or implied, of death or physical injury to or kidnapping of any person;

(3) "Guardian" means a parent, stepparent, legal guardian, legal custodian, foster parent, or any person who by virtue of a living arrangement is placed in an apparent position of power or authority over a minor;

(4)(A) "Mentally defective" means that a person suffers from a mental disease or defect that renders the person:

(i) Incapable of understanding the nature and consequences of a sexual act; or

(ii) Unaware a sexual act is occurring.

(B) A determination that a person is mentally defective shall not be based solely on the person's intelligence quotient;

(5) "Mentally incapacitated" means that a person is temporarily incapable of appreciating or controlling the person's conduct as a result of the influence of a controlled or intoxicating substance:

(A) Administered to the person without the person's consent; or

(B) That renders the person unaware a sexual act is occurring;

(6) "Physically helpless" means that a person is:

(A) Unconscious;

(B) Physically unable to communicate a lack of consent; or

(C) Rendered unaware a sexual act is occurring;

(7) "Public place" means a publicly or privately owned place to which the public or a substantial number of people have access;

(8) "Public view" means observable or likely to be observed by a person in a public place;

(9) "Sexual contact" means any act of sexual gratification involving the touching, directly or through clothing, of the sex organs, buttocks, or anus of a person or the breast of a female; and

(10) "Sexual intercourse" means penetration, however slight, of the labia majora by a penis.

(11) "Minor" means a person who is less than eighteen (18) years of age.

ARK. CODE ANN. § 5-14-102 (WEST 2010). CRIMINALITY OF CONDUCT

(a) The definition of an offense that excludes conduct with a spouse shall not be construed to preclude accomplice liability of a spouse.

(b) When the criminality of conduct depends on a child's being below fourteen (14) years of age and the actor is twenty (20) years of age or older, it is no defense that the actor:

(1) Did not know the age of the child; or

(2) Reasonably believed the child to be fourteen (14) years of age or older.

(c)(1) When criminality of conduct depends on a child's being below fourteen (14) years of age and the actor is under twenty (20) years of age, it is an affirmative defense that the actor reasonably believed the child to be of the critical age or above.

(2) However, the actor may be guilty of the lesser offense defined by the age that the actor reasonably believed the child to be.

(d)(1) When criminality of conduct depends on a child's being below a critical age older than fourteen (14) years, it is an affirmative defense that the actor reasonably believed the child to be of the critical age or above.

(2) However, the actor may be guilty of the lesser offense defined by the age that the actor reasonably believed the child to be.

(e) When criminality of conduct depends on a victim's being incapable of consent because he or she is mentally defective or mentally incapacitated, it is an affirmative defense that the actor reasonably believed that the victim was capable of consent.

ARK. CODE ANN. § 5-14-103 (WEST 2010). RAPE

(a) A person commits rape if he or she engages in sexual intercourse or deviate sexual activity with another person:

(1) By forcible compulsion;

(2) Who is incapable of consent because he or she is:

(A) Physically helpless;

(B) Mentally defective; or

(C) Mentally incapacitated;

(3)(A) Who is less than fourteen (14) years of age.

(B) It is an affirmative defense to a prosecution under subdivision (a)(3)(A) of this section that the actor was not more than three (3) years older than the victim; or

(4)(A) Who is a minor and the actor is the victim's:

(i) Guardian;

(ii) Uncle, aunt, grandparent, step-grandparent, or grandparent by adoption;

(iii) Brother or sister of the whole or half blood or by adoption; or

(iv) Nephew, niece, or first cousin.

(B) It is an affirmative defense to a prosecution under subdivision (a)(4)(A) of this section that the actor was not more than three (3) years older than the victim.

(b) It is no defense to a prosecution under subdivisions (a)(3) or (4) of this section that the victim consented to the conduct.

(c)(1) Rape is a Class Y felony.

(2) Any person who pleads guilty or nolo contendere to or is found guilty of rape involving a victim who is less than fourteen (14) years of age shall be sentenced to a minimum term of imprisonment of twenty-five (25) years.

(d)(1) A court may issue a permanent no contact order when:

(A) A defendant pleads guilty or nolo contendere; or

(B) All of the defendant's appeals have been exhausted and the defendant remains convicted.

(2) If a judicial officer has reason to believe that mental disease or defect of the defendant will or has become an issue in the case, the judicial officer shall enter such orders as are consistent with § 5-2-305.

ARK. CODE ANN. § 5-14-111 (WEST 2010). PUBLIC SEXUAL INDECENCY

(a) A person commits public sexual indecency if he or she engages in any of the following acts in a public place or public view:

(1) An act of sexual intercourse;

(2) An act of deviate sexual activity; or

(3) An act of sexual contact.

(b) Public sexual indecency is a Class A misdemeanor.

ARK. CODE ANN. § 5-14-112 (WEST 2010). INDECENT EXPOSURE

(a) A person commits indecent exposure if, with the purpose to arouse or gratify a sexual desire of himself or herself or of any other person, the person exposes his or her sex organs:

(1) In a public place or in public view; or

(2) Under circumstances in which the person knows the conduct is likely to cause affront or alarm.

(b)(1) Except as provided in subdivisions (b)(2) and (b)(3) of this section, indecent exposure is a Class A misdemeanor.
(2) For a fourth or fifth conviction within ten (10) years of a previous conviction, indecent exposure is a Class D felony.

(3) For a sixth conviction and each successive conviction within ten (10) years of a previous conviction, indecent exposure is a Class C felony.

(c) A woman is not in violation of this section for breastfeeding a child in a public place or any place where other individuals are present.

ARK. CODE ANN. § 5-14-124 (WEST 2010). SEXUAL ASSAULT IN THE FIRST DEGREE

(a) A person commits sexual assault in the first degree if the person engages in sexual intercourse or deviate sexual activity with another person who is less than eighteen (18) years of age and is not the actor's spouse and the actor is:

(1) Employed with the Department of Correction, the Department of Community Correction, the Department of Health and Human Services, or any city or county jail or a juvenile detention facility, and the victim is in the custody of the Department of Correction, the Department of Community Correction, the Department of Health and Human Services, any city or county jail or juvenile detention facility, or their contractors or agents;

(2) A mandated reporter under § 12-18-402(b) and is in a position of trust or authority over the victim and uses the position of trust or authority to engage in sexual intercourse or deviate sexual activity; or

(3) An employee in the victim's school or school district, a temporary caretaker, or a person in a position of trust or authority over the victim.

(b) It is no defense to a prosecution under this section that the victim consented to the conduct.

(c) It is an affirmative defense to a prosecution under subdivision (a)(3) of this section that the actor was not more than three (3) years older than the victim.

(d) Sexual assault in the first degree is a Class A felony.

*Statute truncated due to size.

ARK. CODE ANN. § 5-14-125 (WEST 2010). SEXUAL ASSAULT IN THE SECOND DEGREE

(a) A person commits sexual assault in the second degree if the person:

(1) Engages in sexual contact with another person by forcible compulsion;

(2) Engages in sexual contact with another person who is incapable of consent because he or she is:

(A) Physically helpless;

(B) Mentally defective; or

(C) Mentally incapacitated;

(3) Being eighteen (18) years of age or older, engages in sexual contact with another person who is:

(A) Less than fourteen (14) years of age; and

(B) Not the person's spouse;

(4) (A) Engages in sexual contact with a minor and the actor is:

(i) Employed with the Department of Correction, Department of Community Correction, any city or county jail, or any juvenile detention facility, and the minor is in custody at a facility operated by the agency or contractor employing the actor;

(ii) A mandated reporter under § 12-18-402(b) and is in a position of trust or authority over the minor; or

(iii) The minor's guardian, an employee in the minor's school or school district, a temporary caretaker, or a person in a position of trust or authority over the minor.

(B) For purposes of subdivision (a)(4)(A) of this section, consent of the minor is not a defense to a prosecution;

(5) (A) Being a minor, engages in sexual contact with another person who is:

(i) Less than fourteen (14) years of age; and

(ii) Not the person's spouse.

(B) It is an affirmative defense to a prosecution under this subdivision (a)(5) that the actor was not more than:

(i) Three (3) years older than the victim if the victim is less than twelve (12) years of age; or

(ii) Four (4) years older than the victim if the victim is twelve (12) years of age or older; or

(6) Is a teacher in a public school in a grade kindergarten through twelve (K-12) and engages in sexual contact with another person who is:

(A) A student enrolled in the public school; and

(B) Less than twenty-one (21) years of age.

(b) (1) Sexual assault in the second degree is a Class B felony.

(2) Sexual assault in the second degree is a Class D felony if committed by a minor with another person who is:

(A) Less than fourteen (14) years of age; and

(B) Not the person's spouse.

ARK. CODE ANN. § 5-14-126 (WEST 2010). SEXUAL ASSAULT IN THE THIRD DEGREE

(a) A person commits sexual assault in the third degree if the person:

(1) Engages in sexual intercourse or deviate sexual activity with another person who is not the actor's spouse, and the actor is:

(A) Employed with the Department of Correction, Department of Community Correction, Department of Health and Human Services, or any city or county jail, and the victim is in the custody of the Department of Correction, Department of Community Correction, Department of Health and Human Services, or any city or county jail; or

(B) Employed or contracted with or otherwise providing services, supplies, or supervision to an agency maintaining custody of inmates, detainees, or juveniles, and the victim is in the custody of the Department of Correction, Department of Community Correction, Department of Human Services, or any city or county jail; or

(C) A mandated reporter under § 12-18-402(b) or a member of the clergy and is in a position of trust or authority over the victim and uses the position of trust or authority to engage in sexual intercourse or deviate sexual activity; or

(2) (A) Being a minor, engages in sexual intercourse or deviate sexual activity with another person who is:

(i) Less than fourteen (14) years of age; and

(ii) Not the person's spouse

(B) It is an affirmative defense under this subdivision (a)(2) that the actor was not more than three (3) years older than the victim.

(b) It is no defense to a prosecution under this section that the victim consented to the conduct.

(c) Sexual assault in the third degree is a Class C felony.

ARK. CODE ANN. § 5-14-127 (WEST 2010). SEXUAL ASSAULT IN THE FOURTH DEGREE

(a) A person commits sexual assault in the fourth degree if the person:

(1) Being twenty (20) years of age or older:

(A) Engages in sexual intercourse or deviate sexual activity with another person who is:

(i) Less than sixteen (16) years of age; and

(ii) Not the person's spouse; or

(B) Engages in sexual contact with another person who is:

(i) Less than sixteen (16) years of age; and

(ii) Not the person's spouse; or

(2) Engages in sexual contact with another person who is not the actor's spouse, and the actor is employed with the Department of Correction, Department of Community Correction, Department of Human Services, or any city or county jail, and the victim is in the custody of the Department of Correction, Department of Community Correction, Department of Human Services, or a city or county jail.

(b)(1) Sexual assault in the fourth degree under subdivisions (a)(1)(A) and (a)(2) of this section is a Class D felony.

(2) Sexual assault in the fourth degree under subdivision (a)(1)(B) of this section is a Class A misdemeanor if the person engages only in sexual contact with another person as described in subdivision (a)(1)(B) of this section.

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CALIFORNIA

CHARTS	PENETRATION	FORCE	CAPACITY TO CONSENT	VICTIM PERPETRATOR RELATIONSHIP	OTHER SEX CRIMES
CONSENT ANALYSIS	ALCOHOL/DRUG FACILITATED SEXUAL ASSAULT	MARITAL RAPE	SAME SEX PERPETRATOR	STATUTORY RAPE	CONSTRUCTIVE FORCE

CAL. PENAL CODE § 261 (WEST 2011). RAPE DEFINED

(a) Rape is an act of sexual intercourse accomplished with a person not the spouse of the perpetrator, under any of the following circumstances:

(1) Where a person is incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act. Notwithstanding the existence of a conservatorship pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving consent.

(2) Where it is accomplished against a person's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the person or another.

(3) Where a person is prevented from resisting by any intoxicating or anesthetic substance, or any controlled substance, and this condition was known, or reasonably should have been known by the accused.

(4) Where a person is at the time unconscious of the nature of the act, and this is known to the accused. As used in this paragraph, “unconscious of the nature of the act” means incapable of resisting because the victim meets one of the following conditions:

(A) Was unconscious or asleep.

(B) Was not aware, knowing, perceiving, or cognizant that the act occurred.

(C) Was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator's fraud in fact.

(D) Was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator's fraudulent representation that the sexual penetration served a professional purpose when it served no professional purpose.

(5) Where a person submits under the belief that the person committing the act is the victim's spouse, and this belief is induced by any artifice, pretense, or concealment practiced by the accused, with intent to induce the belief.

(6) Where the act is accomplished against the victim's will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat. As used in this paragraph, "threatening to retaliate" means a threat to kidnap or falsely imprison, or to inflict extreme pain, serious bodily injury, or death.

(7) Where the act is accomplished against the victim's will by threatening to use the authority of a public official to incarcerate, arrest, or deport the victim or another, and the victim has a reasonable belief that the perpetrator is a public official. As used in this paragraph, "public official" means a person employed by a governmental agency who has the authority, as part of that position, to incarcerate, arrest, or deport another. The perpetrator does not actually have to be a public official.

(b) As used in this section, "duress" means a direct or implied threat of force, violence, danger, or retribution sufficient to coerce a reasonable person of ordinary susceptibilities to perform an act which otherwise would not have been performed, or acquiesce in an act to which one otherwise would not have submitted. The total circumstances, including the age of the victim, and his or her relationship to the defendant, are factors to consider in appraising the existence of duress.

(c) As used in this section, "menace" means any threat, declaration, or act which shows an intention to inflict an injury upon another.

CAL. PENAL CODE § 262 (WEST 2011). RAPE OF A SPOUSE; ELEMENTS; CONDITIONS OF PROBATION; FINES, PAYMENTS, OR RESTITUTION

(a) Rape of a person who is the spouse of the perpetrator is an act of sexual intercourse accomplished under any of the following circumstances:

(1) Where it is accomplished against a person's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the person or another.

(2) Where a person is prevented from resisting by any intoxicating or anesthetic substance, or any controlled substance, and this condition was known, or reasonably should have been known, by the accused.

(3) Where a person is at the time unconscious of the nature of the act, and this is known to the accused. As used in this paragraph, "unconscious of the nature of the act" means incapable of resisting because the victim meets one of the following conditions:

(A) Was unconscious or asleep.

(B) Was not aware, knowing, perceiving, or cognizant that the act occurred.

(C) Was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator's fraud in fact.

(4) Where the act is accomplished against the victim's will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat. As used in this paragraph, "threatening to retaliate" means a threat to kidnap or falsely imprison, or to inflict extreme pain, serious bodily injury, or death.

(5) Where the act is accomplished against the victim's will by threatening to use the authority of a public official to incarcerate, arrest, or deport the victim or another, and the victim has a reasonable belief that the perpetrator is a public official. As used in this paragraph, "public official" means a person employed by a governmental agency who has the authority, as part of that position, to incarcerate, arrest, or deport another. The perpetrator does not actually have to be a public official.

(b) As used in this section, "duress" means a direct or implied threat of force, violence, danger, or retribution sufficient to coerce a reasonable person of ordinary susceptibilities to perform an act which otherwise would not have been performed, or acquiesce in an act to which one otherwise would not have submitted. The total circumstances, including the age of the victim, and his or her relationship to the defendant, are factors to consider in apprising the existence of duress.

(c) As used in this section, "menace" means any threat, declaration, or act that shows an intention to inflict an injury upon another.

(d) If probation is granted upon conviction of a violation of this section, the conditions of probation may include, in lieu of a fine, one or both of the following requirements:

(1) That the defendant make payments to a battered women's shelter, up to a maximum of one thousand dollars ($1,000).

(2) That the defendant reimburse the victim for reasonable costs of counseling and other reasonable expenses that the court finds are the direct result of the defendant's offense.

For any order to pay a fine, make payments to a battered women's shelter, or pay restitution as a condition of probation under this subdivision, the court shall make a determination of the defendant's ability to pay. In no event shall any order to make payments to a battered women's shelter be made if it would impair the ability of the defendant to pay direct restitution to the victim or court-ordered child support. Where the injury to a married person is caused in whole or in part by the criminal acts of his or her spouse in violation of this section, the community property may not be used to discharge the liability of the offending spouse for restitution to the injured spouse, required by Section 1203.04, as operative on or before August 2, 1995, or Section 1202.4, or to a shelter for costs with regard to the injured spouse and dependents, required by this section, until all separate property of the offending spouse is exhausted.

CAL. PENAL CODE § 263 (WEST 2011). RAPE; ESSENTIALS; SUFFICIENCY OF PENETRATION

The essential guilt of rape consists in the outrage to the person and feelings of the victim of the rape. Any sexual penetration, however slight, is sufficient to complete the crime.

CAL. PENAL CODE § 264.1 (WEST 2011). RAPE OR PENETRATION OF GENITAL OR ANAL OPENINGS BY FOREIGN OBJECT, ETC.; ACTING IN CONCERT BY FORCE OR VIOLENCE; PUNISHMENT

*Statute truncated due to size.

The provisions of Section 264 notwithstanding, in any case in which the defendant, voluntarily acting in concert with another person, by force or violence and against the will of the victim, committed an act described in Section 261, 262, or 289, either personally or by aiding and abetting the other person, that fact shall be charged in the indictment or information and if found to be true by the jury, upon a jury trial, or if found to be true by the court, upon a court trial, or if admitted by the defendant, the defendant shall suffer confinement in the state prison for five, seven, or nine years.

CAL. PENAL CODE § 261.6 (WEST 2011). CONSENT; CURRENT OR PREVIOUS DATING OR MARITAL RELATIONSHIP; ADMISSIBILITY OF EVIDENCE OR BURDEN OF PROOF

In prosecutions under Section 261, 262, 286, 288a, or289, in which consent is at issue, "consent" shall be defined to mean positive cooperation in act or attitude pursuant to an exercise of free will. The person must act freely and voluntarily and have knowledge of the nature of the act or transaction involved.

A current or previous dating or marital relationship shall not be sufficient to constitute consent where consent is at issue in a prosecution under Section 261, 262, 286, 288a, or 289.

Nothing in this section shall affect the admissibility of evidence or the burden of proof on the issue of consent.

CAL. PENAL CODE § 261.7 (WEST 2011). EVIDENCE THAT VICTIM REQUESTED THAT DEFENDANT USE CONDOM OR OTHER BIRTH CONTROL DEVICE; CONSENT

In prosecutions under Section 261, 262, 286, 288a, or 289, in which consent is at issue, evidence that the victim suggested, requested, or otherwise communicated to the defendant that the defendant use a condom or other birth control device, without additional evidence of consent, is not sufficient to constitute consent.

CAL. PENAL CODE § 243.4 (WEST 2011). SEXUAL BATTERY

(a) Any person who touches an intimate part of another person while that person is unlawfully restrained by the accused or an accomplice, and if the touching is against the will of the person touched and is for the purpose of sexual arousal, sexual gratification, or sexual abuse, is guilty of sexual battery. A violation of this subdivision is punishable by imprisonment in a county jail for not more than one year, and by a fine not exceeding two thousand dollars ($2,000); or by imprisonment in the state prison for two, three, or four years, and by a fine not exceeding ten thousand dollars ($10,000).

(b) Any person who touches an intimate part of another person who is institutionalized for medical treatment and who is seriously disabled or medically incapacitated, if the touching is against the will of the person touched, and if the touching is for the purpose of sexual arousal, sexual gratification, or sexual abuse, is guilty of sexual battery. A violation of this subdivision is punishable by imprisonment in a county jail for not more than one year, and by a fine not exceeding two thousand dollars ($2,000); or by imprisonment in the state prison for two, three, or four years, and by a fine not exceeding ten thousand dollars ($10,000).

(c) Any person who touches an intimate part of another person for the purpose of sexual arousal, sexual gratification, or sexual abuse, and the victim is at the time unconscious of the nature of the act because the perpetrator fraudulently represented that the touching served a professional purpose, is guilty of sexual battery. A violation of this subdivision is punishable by imprisonment in a county jail for not more than one year, and by a fine not exceeding two thousand dollars ($2,000); or by imprisonment in the state prison for two, three, or four years, and by a fine not exceeding ten thousand dollars ($10,000).

*Statute truncated due to size.

(d) Any person who, for the purpose of sexual arousal, sexual gratification, or sexual abuse, causes another, against that person's will while that person is unlawfully restrained either by the accused or an accomplice, or is institutionalized for medical treatment and is seriously disabled or medically incapacitated, to masturbate or touch an intimate part of either of those persons or a third person, is guilty of sexual battery. A violation of this subdivision is punishable by imprisonment in a county jail for not more than one year, and by a fine not exceeding two thousand dollars ($2,000); or by imprisonment in the state prison for two, three, or four years, and by a fine not exceeding ten thousand dollars ($10,000).

(e)(1) Any person who touches an intimate part of another person, if the touching is against the will of the person touched, and is for the specific purpose of sexual arousal, sexual gratification, or sexual abuse, is guilty of misdemeanor sexual battery, punishable by a fine not exceeding two thousand dollars ($2,000), or by imprisonment in a county jail not exceeding six months, or by both that fine and imprisonment. However, if the defendant was an employer and the victim was an employee of the defendant, the misdemeanor sexual battery shall be punishable by a fine not exceeding three thousand dollars ($3,000), by imprisonment in a county jail not exceeding six months, or by both that fine and imprisonment. Notwithstanding any other provision of law, any amount of a fine above two thousand dollars ($2,000) which is collected from a defendant for a violation of this subdivision shall be transmitted to the State Treasury and, upon appropriation by the Legislature, distributed to the Department of Fair Employment and Housing for the purpose of enforcement of the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2 of the Government Code), including, but not limited to, laws that proscribe sexual harassment in places of employment. However, in no event shall an amount over two thousand dollars ($2,000) be transmitted to the State Treasury until all fines, including any restitution fines that may have been imposed upon the defendant, have been paid in full.

(2) As used in this subdivision, “touches” means physical contact with another person, whether accomplished directly, through the clothing of the person committing the offense, or through the clothing of the victim.

(f) As used in subdivisions (a), (b), (c), and (d), “touches” means physical contact with the skin of another person whether accomplished directly or through the clothing of the person committing the offense.

(g) As used in this section, the following terms have the following meanings:

(1) “Intimate part” means the sexual organ, anus, groin, or buttocks of any person, and the breast of a female.

(2) “Sexual battery” does not include the crimes defined in Section 261 or 289.

(3) “Seriously disabled” means a person with severe physical or sensory disabilities.

(4) “Medically incapacitated” means a person who is incapacitated as a result of prescribed sedatives, anesthesia, or other medication.

(5) “Institutionalized” means a person who is located voluntarily or involuntarily in a hospital, medical treatment facility, nursing home, acute care facility, or mental hospital.

(6) “Minor” means a person under 18 years of age.

(h) This section shall not be construed to limit or prevent prosecution under any other law which also proscribes a course of conduct that also is proscribed by this section.

(i) In the case of a felony conviction for a violation of this section, the fact that the defendant was an employer and the victim was an employee of the defendant shall be a factor in aggravation in sentencing.

*Statute truncated due to size.

(j) A person who commits a violation of subdivision (a), (b), (c), or (d) against a minor when the person has a prior felony conviction for a violation of this section shall be guilty of a felony, punishable by imprisonment in the state prison for two, three, or four years and a fine not exceeding ten thousand dollars ($10,000).

CAL. PENAL CODE § 266C (WEST 2011). UNLAWFUL SEXUAL INTERCOURSE, SEXUAL PENETRATION, ORAL COPULATION, OR SODOMY; CONSENT PROCURED BY FALSE OR FRAUDULENT REPRESENTATION WITH INTENT TO CREATE FEAR; PUNISHMENT

Every person who induces any other person to engage in sexual intercourse, sexual penetration, oral copulation, or sodomy when his or her consent is procured by false or fraudulent representation or pretense that is made with the intent to create fear, and which does induce fear, and that would cause a reasonable person in like circumstances to act contrary to the person's free will, and does cause the victim to so act, is punishable by imprisonment in a county jail for not more than one year or in the state prison for two, three, or four years.

As used in this section, “fear” means the fear of physical injury or death to the person or to any relative of the person or member of the person's family.

CAL. PENAL CODE § 285 (WEST 2011). INCEST

Persons being within the degrees of consanguinity within which marriages are declared by law to be incestuous and void, who intermarry with each other, or who being 14 years of age or older, commit fornication or adultery with each other, are punishable by imprisonment in the state prison.

CAL. PENAL CODE § 286 (WEST 2011). SODOMY; PUNISHMENT

(a) Sodomy is sexual conduct consisting of contact between the penis of one person and the anus of another person. Any sexual penetration, however slight, is sufficient to complete the crime of sodomy.

(b)(1) Except as provided in Section 288, any person who participates in an act of sodomy with another person who is under 18 years of age shall be punished by imprisonment in the state prison, or in a county jail for not more than one year.

(2) Except as provided in Section 288, any person over the age of 21 years who participates in an act of sodomy with another person who is under 16 years of age shall be guilty of a felony.

(c)(1) Any person who participates in an act of sodomy with another person who is under 14 years of age and more than 10 years younger than he or she shall be punished by imprisonment in the state prison for three, six, or eight years.

(2)(A) Any person who commits an act of sodomy when the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person shall be punished by imprisonment in the state prison for three, six, or eight years.

(B) Any person who commits an act of sodomy with another person who is under 14 years of age when the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person shall be punished by imprisonment in the state prison for 9, 11, or 13 years.

(C) Any person who commits an act of sodomy with another person who is a minor 14 years of age or older when the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person shall be punished by imprisonment in the state prison for 7, 9, or 11 years.

(D) This paragraph does not preclude prosecution under Section 269, Section 288.7, or any other provision of law.

(3) Any person who commits an act of sodomy where the act is accomplished against the victim's will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat, shall be punished by imprisonment in the state prison for three, six, or eight years.

(d)(1) Any person who, while voluntarily acting in concert with another person, either personally or aiding and abetting that other person, commits an act of sodomy when the act is accomplished against the victim's will by means of force or fear of immediate and unlawful bodily injury on the victim or another person or where the act is accomplished against the victim's will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat, shall be punished by imprisonment in the state prison for five, seven, or nine years.

(2) Any person who, while voluntarily acting in concert with another person, either personally or aiding and abetting that other person, commits an act of sodomy upon a victim who is under 14 years of age, when the act is accomplished against the victim's will by means of force or fear of immediate and unlawful bodily injury on the victim or another person, shall be punished by imprisonment in the state prison for 10, 12, or 14 years.

(3) Any person who, while voluntarily acting in concert with another person, either personally or aiding and abetting that other person, commits an act of sodomy upon a victim who is a minor 14 years of age or older, when the act is accomplished against the victim's will by means of force or fear of immediate and unlawful bodily injury on the victim or another person, shall be punished by imprisonment in the state prison for 7, 9, or 11 years.

(4) This subdivision does not preclude prosecution under Section 269, Section 288.7, or any other provision of law.

(e) Any person who participates in an act of sodomy with any person of any age while confined in any state prison, as defined in Section 4504, or in any local detention facility, as defined in Section 6031.4, shall be punished by imprisonment in the state prison, or in a county jail for not more than one year.

(f) Any person who commits an act of sodomy, and the victim is at the time unconscious of the nature of the act and this is known to the person committing the act, shall be punished by imprisonment in the state prison for three, six, or eight years. As used in this subdivision, “unconscious of the nature of the act” means incapable of resisting because the victim meets one of the following conditions:

(1) Was unconscious or asleep.

(2) Was not aware, knowing, perceiving, or cognizant that the act occurred.

(3) Was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator's fraud in fact.

(4) Was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator's fraudulent representation that the sexual penetration served a professional purpose when it served no professional purpose.

(g) Except as provided in subdivision (h), a person who commits an act of sodomy, and the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is

*Statute truncated due to size.

known or reasonably should be known to the person committing the act, shall be punished by imprisonment in the state prison for three, six, or eight years. Notwithstanding the existence of a conservatorship pursuant to the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving consent.

(h) Any person who commits an act of sodomy, and the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act, and both the defendant and the victim are at the time confined in a state hospital for the care and treatment of the mentally disordered or in any other public or private facility for the care and treatment of the mentally disordered approved by a county mental health director, shall be punished by imprisonment in the state prison, or in a county jail for not more than one year. Notwithstanding the existence of a conservatorship pursuant to the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving legal consent.

(i) Any person who commits an act of sodomy, where the victim is prevented from resisting by an intoxicating or anesthetic substance, or any controlled substance, and this condition was known, or reasonably should have been known by the accused, shall be punished by imprisonment in the state prison for three, six, or eight years.

(j) Any person who commits an act of sodomy, where the victim submits under the belief that the person committing the act is the victim's spouse, and this belief is induced by any artifice, pretense, or concealment practiced by the accused, with intent to induce the belief, shall be punished by imprisonment in the state prison for three, six, or eight years.

(k) Any person who commits an act of sodomy, where the act is accomplished against the victim's will by threatening to use the authority of a public official to incarcerate, arrest, or deport the victim or another, and the victim has a reasonable belief that the perpetrator is a public official, shall be punished by imprisonment in the state prison for three, six, or eight years.
As used in this subdivision, “public official” means a person employed by a governmental agency who has the authority, as part of that position, to incarcerate, arrest, or deport another. The perpetrator does not actually have to be a public official.

(*l*) As used in subdivisions (c) and (d), “threatening to retaliate” means a threat to kidnap or falsely imprison, or inflict extreme pain, serious bodily injury, or death.

(m) In addition to any punishment imposed under this section, the judge may assess a fine not to exceed seventy dollars ($70) against any person who violates this section, with the proceeds of this fine to be used in accordance with Section 1463.23. The court, however, shall take into consideration the defendant's ability to pay, and no defendant shall be denied probation because of his or her inability to pay the fine permitted under this subdivision.

CAL. PENAL CODE § 288 (WEST 2011). LEWD OR LASCIVIOUS ACTS; PENALTIES; PSYCHOLOGICAL HARM TO VICTIM*

(a) Except as provided in subdivision (i), any person who willfully and lewdly commits any lewd or lascivious act, including any of the acts constituting other crimes provided for in Part 1, upon or with the body, or any part or member thereof, of a child who is under the age of 14 years, with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of that person or the child, is guilty of a felony and shall be punished by imprisonment in the state prison for three, six, or eight years.

*Statute truncated due to size.

(b)(1) Any person who commits an act described in subdivision (a) by use of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person, is guilty of a felony and shall be punished by imprisonment in the state prison for 5, 8, or 10 years.

(2) Any person who is a caretaker and commits an act described in subdivision (a) upon a dependent person by use of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person, with the intent described in subdivision (a), is guilty of a felony and shall be punished by imprisonment in the state prison for 5, 8, or 10 years.

(c)(1) Any person who commits an act described in subdivision (a) with the intent described in that subdivision, and the victim is a child of 14 or 15 years, and that person is at least 10 years older than the child, is guilty of a public offense and shall be punished by imprisonment in the state prison for one, two, or three years, or by imprisonment in a county jail for not more than one year. In determining whether the person is at least 10 years older than the child, the difference in age shall be measured from the birth date of the person to the birth date of the child.

(2) Any person who is a caretaker and commits an act described in subdivision (a) upon a dependent person, with the intent described in subdivision (a), is guilty of a public offense and shall be punished by imprisonment in the state prison for one, two, or three years, or by imprisonment in a county jail for not more than one year.

(d) In any arrest or prosecution under this section or Section 288.5, the peace officer, district attorney, and the court shall consider the needs of the child victim or dependent person and shall do whatever is necessary, within existing budgetary resources, and constitutionally permissible to prevent psychological harm to the child victim or to prevent psychological harm to the dependent person victim resulting from participation in the court process.

(e) Upon the conviction of any person for a violation of subdivision (a) or (b), the court may, in addition to any other penalty or fine imposed, order the defendant to pay an additional fine not to exceed ten thousand dollars ($10,000). In setting the amount of the fine, the court shall consider any relevant factors, including, but not limited to, the seriousness and gravity of the offense, the circumstances of its commission, whether the defendant derived any economic gain as a result of the crime, and the extent to which the victim suffered economic losses as a result of the crime. Every fine imposed and collected under this section shall be deposited in the Victim-Witness Assistance Fund to be available for appropriation to fund child sexual exploitation and child sexual abuse victim counseling centers and prevention programs pursuant to Section 13837.
If the court orders a fine imposed pursuant to this subdivision, the actual administrative cost of collecting that fine, not to exceed 2 percent of the total amount paid, may be paid into the general fund of the county treasury for the use and benefit of the county.

CAL. PENAL CODE § 288A (WEST 2011). ORAL COPULATION; PUNISHMENT

(a) Oral copulation is the act of copulating the mouth of one person with the sexual organ or anus of another person.

(b)(1) Except as provided in Section 288, any person who participates in an act of oral copulation with another person who is under 18 years of age shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year.

(2) Except as provided in Section 288, any person over the age of 21 years who participates in an act of oral copulation with another person who is under 16 years of age is guilty of a felony.

(c)(1) Any person who participates in an act of oral copulation with another person who is under 14 years of age and more than 10 years younger than he or she shall be punished by imprisonment in the state prison for three, six, or eight years.

(2)(A) Any person who commits an act of oral copulation when the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person shall be punished by imprisonment in the state prison for three, six, or eight years.

(B) Any person who commits an act of oral copulation upon a person who is under 14 years of age, when the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person, shall be punished by imprisonment in the state prison for 8, 10, or 12 years.

(C) Any person who commits an act of oral copulation upon a minor who is 14 years of age or older, when the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person, shall be punished by imprisonment in the state prison for 6, 8, or 10 years.

(D) This paragraph does not preclude prosecution under Section 269, Section 288.7, or any other provision of law.

(3) Any person who commits an act of oral copulation where the act is accomplished against the victim's will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat, shall be punished by imprisonment in the state prison for three, six, or eight years.

(d)(1) Any person who, while voluntarily acting in concert with another person, either personally or by aiding and abetting that other person, commits an act of oral copulation (1) when the act is accomplished against the victim's will by means of force or fear of immediate and unlawful bodily injury on the victim or another person, or (2) where the act is accomplished against the victim's will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat, or (3) where the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act, shall be punished by imprisonment in the state prison for five, seven, or nine years. Notwithstanding the appointment of a conservator with respect to the victim pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime described under paragraph (3), that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving legal consent.

(2) Any person who, while voluntarily acting in concert with another person, either personally or aiding and abetting that other person, commits an act of oral copulation upon a victim who is under 14 years of age, when the act is accomplished against the victim's will by means of force or fear of immediate and unlawful bodily injury on the victim or another person, shall be punished by imprisonment in the state prison for 10, 12, or 14 years.

(3) Any person who, while voluntarily acting in concert with another person, either personally or aiding and abetting that other person, commits an act of oral copulation upon a victim who is a minor 14 years of age or older, when the act is accomplished against the victim's will by means of force or fear of immediate and unlawful bodily injury on the victim or another person, shall be punished by imprisonment in the state prison for 8, 10, or 12 years.

(4) This paragraph does not preclude prosecution under Section 269, Section 288.7, or any other provision of law.

(e) Any person who participates in an act of oral copulation while confined in any state prison, as defined in Section 4504 or in any local detention facility as defined in Section 6031.4, shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year.

(f) Any person who commits an act of oral copulation, and the victim is at the time unconscious of the nature of the act and this is known to the person committing the act, shall be punished by imprisonment in the state prison for a

period of three, six, or eight years. As used in this subdivision, “unconscious of the nature of the act” means incapable of resisting because the victim meets one of the following conditions:

(1) Was unconscious or asleep.

(2) Was not aware, knowing, perceiving, or cognizant that the act occurred.

(3) Was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator's fraud in fact.

(4) Was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator's fraudulent representation that the oral copulation served a professional purpose when it served no professional purpose.

(g) Except as provided in subdivision (h), any person who commits an act of oral copulation, and the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act, shall be punished by imprisonment in the state prison, for three, six, or eight years. Notwithstanding the existence of a conservatorship pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving consent.

(h) Any person who commits an act of oral copulation, and the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act, and both the defendant and the victim are at the time confined in a state hospital for the care and treatment of the mentally disordered or in any other public or private facility for the care and treatment of the mentally disordered approved by a county mental health director, shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year. Notwithstanding the existence of a conservatorship pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving legal consent.

(i) Any person who commits an act of oral copulation, where the victim is prevented from resisting by any intoxicating or anesthetic substance, or any controlled substance, and this condition was known, or reasonably should have been known by the accused, shall be punished by imprisonment in the state prison for a period of three, six, or eight years.

(j) Any person who commits an act of oral copulation, where the victim submits under the belief that the person committing the act is the victim's spouse, and this belief is induced by any artifice, pretense, or concealment practiced by the accused, with intent to induce the belief, shall be punished by imprisonment in the state prison for a period of three, six, or eight years.

(k) Any person who commits an act of oral copulation, where the act is accomplished against the victim's will by threatening to use the authority of a public official to incarcerate, arrest, or deport the victim or another, and the victim has a reasonable belief that the perpetrator is a public official, shall be punished by imprisonment in the state prison for a period of three, six, or eight years.
As used in this subdivision, “public official” means a person employed by a governmental agency who has the authority, as part of that position, to incarcerate, arrest, or deport another. The perpetrator does not actually have to be a public official.

(*l*) As used in subdivisions (c) and (d), “threatening to retaliate” means a threat to kidnap or falsely imprison, or to inflict extreme pain, serious bodily injury, or death.

(m) In addition to any punishment imposed under this section, the judge may assess a fine not to exceed seventy dollars ($70) against any person who violates this section, with the proceeds of this fine to be used in accordance with Section 1463.23. The court shall, however, take into consideration the defendant's ability to pay, and no defendant shall be denied probation because of his or her inability to pay the fine permitted under this subdivision.

CAL. PENAL CODE § 289 (WEST 2011). FORCIBLE ACTS OF SEXUAL PENETRATION; PUNISHMENT

(a)(1)(A) Any person who commits an act of sexual penetration when the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person shall be punished by imprisonment in the state prison for three, six, or eight years.

(B) Any person who commits an act of sexual penetration upon a child who is under 14 years of age, when the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person, shall be punished by imprisonment in the state prison for 8, 10, or 12 years.

(C) Any person who commits an act of sexual penetration upon a minor who is 14 years of age or older, when the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person, shall be punished by imprisonment in the state prison for 6, 8, or 10 years.

(D) This paragraph does not preclude prosecution under Section 269, Section 288.7, or any other provision of law.

(2) Any person who commits an act of sexual penetration when the act is accomplished against the victim's will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat, shall be punished by imprisonment in the state prison for three, six, or eight years.
(b) Except as provided in subdivision (c), any person who commits an act of sexual penetration, and the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act or causing the act to be committed, shall be punished by imprisonment in the state prison for three, six, or eight years. Notwithstanding the appointment of a conservator with respect to the victim pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving legal consent.

(c) Any person who commits an act of sexual penetration, and the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act or causing the act to be committed and both the defendant and the victim are at the time confined in a state hospital for the care and treatment of the mentally disordered or in any other public or private facility for the care and treatment of the mentally disordered approved by a county mental health director, shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year. Notwithstanding the existence of a conservatorship pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving legal consent.

(d) Any person who commits an act of sexual penetration, and the victim is at the time unconscious of the nature of the act and this is known to the person committing the act or causing the act to be committed, shall be punished by imprisonment in the state prison for three, six, or eight years. As used in this subdivision, “unconscious of the nature of the act” means incapable of resisting because the victim meets one of the following conditions:

(1) Was unconscious or asleep.

(2) Was not aware, knowing, perceiving, or cognizant that the act occurred.

(3) Was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator's fraud in fact.

(4) Was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator's fraudulent representation that the sexual penetration served a professional purpose when it served no professional purpose.

(e) Any person who commits an act of sexual penetration when the victim is prevented from resisting by any intoxicating or anesthetic substance, or any controlled substance, and this condition was known, or reasonably should have been known by the accused, shall be punished by imprisonment in the state prison for a period of three, six, or eight years.

(f) Any person who commits an act of sexual penetration when the victim submits under the belief that the person committing the act or causing the act to be committed is the victim's spouse, and this belief is induced by any artifice, pretense, or concealment practiced by the accused, with intent to induce the belief, shall be punished by imprisonment in the state prison for a period of three, six, or eight years.

(g) Any person who commits an act of sexual penetration when the act is accomplished against the victim's will by threatening to use the authority of a public official to incarcerate, arrest, or deport the victim or another, and the victim has a reasonable belief that the perpetrator is a public official, shall be punished by imprisonment in the state prison for a period of three, six, or eight years.
As used in this subdivision, “public official” means a person employed by a governmental agency who has the authority, as part of that position, to incarcerate, arrest, or deport another. The perpetrator does not actually have to be a public official.

(h) Except as provided in Section 288, any person who participates in an act of sexual penetration with another person who is under 18 years of age shall be punished by imprisonment in the state prison or in the county jail for a period of not more than one year.

(i) Except as provided in Section 288, any person over the age of 21 years who participates in an act of sexual penetration with another person who is under 16 years of age shall be guilty of a felony.

(j) Any person who participates in an act of sexual penetration with another person who is under 14 years of age and who is more than 10 years younger than he or she shall be punished by imprisonment in the state prison for three, six, or eight years.

(k) As used in this section:

(1) “Sexual penetration” is the act of causing the penetration, however slight, of the genital or anal opening of any person or causing another person to so penetrate the defendant's or another person's genital or anal opening for the purpose of sexual arousal, gratification, or abuse by any foreign object, substance, instrument, or device, or by any unknown object.

(2) “Foreign object, substance, instrument, or device” shall include any part of the body, except a sexual organ.

(3) “Unknown object” shall include any foreign object, substance, instrument, or device, or any part of the body, including a penis, when it is not known whether penetration was by a penis or by a foreign object, substance, instrument, or device, or by any other part of the body.

(*l*) As used in subdivision (a), "threatening to retaliate" means a threat to kidnap or falsely imprison, or inflict extreme pain, serious bodily injury or death.

(m) As used in this section, "victim" includes any person who the defendant causes to penetrate the genital or anal opening of the defendant or another person or whose genital or anal opening is caused to be penetrated by the defendant or another person and who otherwise qualifies as a victim under the requirements of this section.

CAL. PENAL CODE § 314 (WEST 2012). LEWD OR OBSCENE CONDUCT; INDECENT EXPOSURE; OBSCENE EXHIBITIONS; PUNISHMENT

Every person who willfully and lewdly, either:
1. Exposes his person, or the private parts thereof, in any public place, or in any place where there are present other persons to be offended or annoyed thereby; or,
2. Procures, counsels, or assists any person so to expose himself or take part in any model artist exhibition, or to make any other exhibition of himself to public view, or the view of any number of persons, such as is offensive to decency, or is adapted to excite to vicious or lewd thoughts or acts, is guilty of a misdemeanor.
Every person who violates subdivision 1 of this section after having entered, without consent, an inhabited dwelling house, or trailer coach as defined in Section 635 of the Vehicle Code, or the inhabited portion of any other building, is punishable by imprisonment in the state prison, or in the county jail not exceeding one year.
Upon the second and each subsequent conviction under subdivision 1 of this section, or upon a first conviction under subdivision 1 of this section after a previous conviction under Section 288, every person so convicted is guilty of a felony, and is punishable by imprisonment in state prison.

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COLORADO

CHARTS	PENETRATION	FORCE	CAPACITY TO CONSENT	VICTIM PERPETRATOR RELATIONSHIP	OTHER SEX CRIMES
CONSENT ANALYSIS	ALCOHOL/DRUG FACILITATED SEXUAL ASSAULT	MARITAL RAPE	SAME SEX PERPETRATOR	STATUTORY RAPE	CONSTRUCTIVE FORCE

COLO. REV. STAT. ANN. § 18-3-401 (WEST 2011). DEFINITIONS

As used in this part 4, unless the context otherwise requires:

(1) "Actor" means the person accused of a sexual offense pursuant to this part 4.

(1.5) "Consent" means cooperation in act or attitude pursuant to an exercise of free will and with knowledge of the nature of the act. A current or previous relationship shall not be sufficient to constitute consent under the provisions of this part 4. Submission under the influence of fear shall not constitute consent. Nothing in this definition shall be construed to affect the admissibility of evidence or the burden of proof in regard to the issue of consent under this part 4.

(1.7) "Diagnostic test" means a human immunodeficiency virus (HIV) screening test followed by a supplemental HIV test for confirmation in those instances when the HIV screening test is repeatedly reactive.

(2) “Intimate parts” means the external genitalia or the perineum or the anus or the buttocks or the pubes or the breast of any person.

(2.5) “Pattern of sexual abuse” means the commission of two or more incidents of sexual contact involving a child when such offenses are committed by an actor upon the same victim.

(3) “Physically helpless” means unconscious, asleep, or otherwise unable to indicate willingness to act.

(3.5) One in a “position of trust” includes, but is not limited to, any person who is a parent or acting in the place of a parent and charged with any of a parent's rights, duties, or responsibilities concerning a child, including a guardian or someone otherwise responsible for the general supervision of a child's welfare, or a person who is charged with any duty or responsibility for the health, education, welfare, or supervision of a child, including foster care, child care, family care, or institutional care, either independently or through another, no matter how brief, at the time of an unlawful act.

(4) “Sexual contact” means the knowing touching of the victim's intimate parts by the actor, or of the actor's intimate parts by the victim, or the knowing touching of the clothing covering the immediate area of the victim's or actor's intimate parts if that sexual contact is for the purposes of sexual arousal, gratification, or abuse.

(5) “Sexual intrusion” means any intrusion, however slight, by any object or any part of a person's body, except the mouth, tongue, or penis, into the genital or anal opening of another person's body if that sexual intrusion can reasonably be construed as being for the purposes of sexual arousal, gratification, or abuse.

(6) “Sexual penetration” means sexual intercourse, cunnilingus, fellatio, analingus, or anal intercourse. Emission need not be proved as an element of any sexual penetration. Any penetration, however slight, is sufficient to complete the crime.

(7) “Victim” means the person alleging to have been subjected to a criminal sexual assault.

COLO. REV. STAT. ANN. § 18-3-402 (WEST 2011). SEXUAL ASSAULT

(1) Any actor who knowingly inflicts sexual intrusion or sexual penetration on a victim commits sexual assault if:

(a) The actor causes submission of the victim by means of sufficient consequence reasonably calculated to cause submission against the victim's will; or

(b) The actor knows that the victim is incapable of appraising the nature of the victim's conduct; or

(c) The actor knows that the victim submits erroneously, believing the actor to be the victim's spouse; or

(d) At the time of the commission of the act, the victim is less than fifteen years of age and the actor is at least four years older than the victim and is not the spouse of the victim; or

(e) At the time of the commission of the act, the victim is at least fifteen years of age but less than seventeen years of age and the actor is at least ten years older than the victim and is not the spouse of the victim; or

(f) The victim is in custody of law or detained in a hospital or other institution and the actor has supervisory or disciplinary authority over the victim and uses this position of authority to coerce the victim to submit, unless the act is incident to a lawful search; or

(g) The actor, while purporting to offer a medical service, engages in treatment or examination of a victim for other than a bona fide medical purpose or in a manner substantially inconsistent with reasonable medical practices; or

(h) The victim is physically helpless and the actor knows the victim is physically helpless and the victim has not consented.

(2) Sexual assault is a class 4 felony, except as provided in subsections (3), (3.5), (4), and (5) of this section.

(3) If committed under the circumstances of paragraph (e) of subsection (1) of this section, sexual assault is a class 1 misdemeanor and is an extraordinary risk crime that is subject to the modified sentencing range specified in section 18-1.3-501(3).

(3.5) Sexual assault is a class 3 felony if committed under the circumstances described in paragraph (h) of subsection (1) of this section.

(4) Sexual assault is a class 3 felony if it is attended by any one or more of the following circumstances:

(a) The actor causes submission of the victim through the actual application of physical force or physical violence; or

(b) The actor causes submission of the victim by threat of imminent death, serious bodily injury, extreme pain, or kidnapping, to be inflicted on anyone, and the victim believes that the actor has the present ability to execute these threats; or

(c) The actor causes submission of the victim by threatening to retaliate in the future against the victim, or any other person, and the victim reasonably believes that the actor will execute this threat. As used in this paragraph (c), "to retaliate" includes threats of kidnapping, death, serious bodily injury, or extreme pain; or

(d) The actor has substantially impaired the victim's power to appraise or control the victim's conduct by employing, without the victim's consent, any drug, intoxicant, or other means for the purpose of causing submission.

(e) Deleted by Laws 2002, Ch. 322, § 2, eff. July 1, 2002.

(5)(a) Sexual assault is a class 2 felony if any one or more of the following circumstances exist:

(I) In the commission of the sexual assault, the actor is physically aided or abetted by one or more other persons; or

(II) The victim suffers serious bodily injury; or

(III) The actor is armed with a deadly weapon or an article used or fashioned in a manner to cause a person to reasonably believe that the article is a deadly weapon or represents verbally or otherwise that the actor is armed with a deadly weapon and uses the deadly weapon, article, or representation to cause submission of the victim.

(b)(I) If a defendant is convicted of sexual assault pursuant to this subsection (5), the court shall sentence the defendant in accordance with section 18-1.3-401(8)(e). A person convicted solely of sexual assault pursuant to this subsection (5) shall not be sentenced under the crime of violence provisions of section 18-1.3-406(2). Any sentence for a conviction under this subsection (5) shall be consecutive to any sentence for a conviction for a crime of violence under section 18-1.3-406.

(II) The provisions of this paragraph (b) shall apply to offenses committed prior to November 1, 1998.

*Statute truncated due to size.

(6) Any person convicted of felony sexual assault committed on or after November 1, 1998, under any of the circumstances described in this section shall be sentenced in accordance with the provisions of part 10 of article 1.3 of this title.

COLO. REV. STAT. ANN. § 18-3-404 (WEST 2011). UNLAWFUL SEXUAL CONTACT

(1) Any actor who knowingly subjects a victim to any sexual contact commits unlawful sexual contact if:

(a) The actor knows that the victim does not consent; or

(b) The actor knows that the victim is incapable of appraising the nature of the victim's conduct; or

(c) The victim is physically helpless and the actor knows that the victim is physically helpless and the victim has not consented; or

(d) The actor has substantially impaired the victim's power to appraise or control the victim's conduct by employing, without the victim's consent, any drug, intoxicant, or other means for the purpose of causing submission; or

(e) Repealed by Laws 1990, H.B.90-1133, § 25, eff. July 1, 1990.

(f) The victim is in custody of law or detained in a hospital or other institution and the actor has supervisory or disciplinary authority over the victim and uses this position of authority, unless incident to a lawful search, to coerce the victim to submit; or

(g) The actor engages in treatment or examination of a victim for other than bona fide medical purposes or in a manner substantially inconsistent with reasonable medical practices.

(1.5) Any person who knowingly, with or without sexual contact, induces or coerces a child by any of the means set forth in section 18-3-402 to expose intimate parts or to engage in any sexual contact, intrusion, or penetration with another person, for the purpose of the actor's own sexual gratification, commits unlawful sexual contact. For the purposes of this subsection (1.5), the term “child” means any person under the age of eighteen years.

(1.7) (a) Any person who knowingly observes or takes a photograph of another person's intimate parts without that person's consent, in a situation where the person observed has a reasonable expectation of privacy, for the purpose of the observer's own sexual gratification, commits unlawful sexual contact. For purposes of this subsection (1.7), “photograph” includes any photograph, motion picture, videotape, print, negative, slide, or other mechanically, electronically, or chemically reproduced visual material.

(b) This subsection (1.7) is repealed, effective July 1, 2012.

(2)(a) Unlawful sexual contact is a class 1 misdemeanor and is an extraordinary risk crime that is subject to the modified sentencing range specified in section 18-1.3-501(3).

(b) Notwithstanding the provisions of paragraph (a) of this subsection (2), unlawful sexual contact is a class 4 felony if the actor compels the victim to submit by use of such force, intimidation, or threat as specified in section 18-3-402(4)(a), (4)(b), or (4)(c) or if the actor engages in the conduct described in paragraph (g) of subsection (1) of this section or subsection (1.5) of this section.

(3) If a defendant is convicted of the class 4 felony of unlawful sexual contact pursuant to paragraph (b) of subsection (2) of this section, the court shall sentence the defendant in accordance with the provisions of section

18-1.3-406; except that this subsection (3) shall not apply if the actor engages in the conduct described in paragraph (g) of subsection (1) of this section.

COLO. REV. STAT. ANN. § 18-3-405.3 (WEST 2011). SEXUAL ASSAULT ON A CHILD IN A POSITION OF TRUST

(1) Any actor who knowingly subjects another not his or her spouse to any sexual contact commits sexual assault on a child by one in a position of trust if the victim is a child less than eighteen years of age and the actor committing the offense is one in a position of trust with respect to the victim.

(2) Sexual assault on a child by one in a position of trust is a class 3 felony if:

(a) The victim is less than fifteen years of age; or

(b) The actor commits the offense as a part of a pattern of sexual abuse as described in subsection (1) of this section. No specific date or time need be alleged for the pattern of sexual abuse; except that the acts constituting the pattern of sexual abuse whether charged in the information or indictment or committed prior to or at any time after the offense charged in the information or indictment, shall be subject to the provisions of section 16-5-401(1)(a), C.R.S., concerning sex offenses against children. The offense charged in the information or indictment shall constitute one of the incidents of sexual contact involving a child necessary to form a pattern of sexual abuse as defined in section 18-3-401(2.5).

(3) Sexual assault on a child by one in a position of trust is a class 4 felony if the victim is fifteen years of age or older but less than eighteen years of age and the offense is not committed as part of a pattern of sexual abuse, as described in paragraph (b) of subsection
(2) of this section.

(4) If a defendant is convicted of the class 3 felony of sexual assault on a child pursuant to paragraph (b) of subsection (2) of this section, the court shall sentence the defendant in accordance with the provisions of section 18-1.3-406.

COLO. REV. STAT. ANN. § 18-3-409 (WEST 2011). MARITAL DEFENSE

Any marital relationship, whether established statutorily, putatively, or by common law, between an actor and a victim shall not be a defense to any offense under this part 4 unless such defense is specifically set forth in the applicable statutory section by having the elements of the offense specifically exclude a spouse.

COLO. REV. STAT. ANN. § 18-7-301 (WEST 2011). PUBLIC INDECENCY

(1) Any person who performs any of the following in a public place or where the conduct may reasonably be expected to be viewed by members of the public commits public indecency:

(a) An act of sexual intercourse; or

(b) Deleted by Laws 2010, Ch. 359, § 1, eff. Aug. 11, 2010.

(c) A lewd exposure of an intimate part as defined by section 18-3-401(2) of the body, not including the genitals, done with intent to arouse or to satisfy the sexual desire of any person; or

(d) A lewd fondling or caress of the body of another person; or

(e) A knowing exposure of the person's genitals to the view of a person under circumstances in which such conduct is likely to cause affront or alarm to the other person.

(2)(a) Except as otherwise provided in paragraph (b) of this subsection (2), public indecency is a class 1 petty offense.
(b) Public indecency as described in paragraph (e) of subsection (1) of this section is a class 1 misdemeanor if the violation is committed subsequent to a conviction for a violation of paragraph (e) of subsection (1) of this section or for a violation of a comparable offense in any other state or in the United States, or for a violation of a comparable municipal ordinance.

(3) Deleted by Laws 2010, Ch. 359, § 1, eff. Aug. 11, 2010.

COLO. REV. STAT. ANN. § 18-7-302 (WEST 2011). INDECENT EXPOSURE

(1) A person commits indecent exposure:

(a) If he or she knowingly exposes his or her genitals to the view of any person under circumstances in which such conduct is likely to cause affront or alarm to the other person with the intent to arouse or to satisfy the sexual desire of any person;

(b) If he or she knowingly performs an act of masturbation in a manner which exposes the act to the view of any person under circumstances in which such conduct is likely to cause affront or alarm to the other person.

(2)(a) Deleted by Laws 2003, Ch. 199, § 31, eff. July 1, 2003.

(b) Indecent exposure is a class 1 misdemeanor.

(3) Deleted by Laws 2002, Ch. 322, § 21, eff. July 1, 2002.

(4) Indecent exposure is a class 6 felony if the violation is committed subsequent to two prior convictions of a violation of this section or of a violation of a comparable offense in any other state or in the United States, or of a violation of a comparable municipal ordinance.
(5) For purposes of this section, “masturbation” means the real or simulated touching, rubbing, or otherwise stimulating of a person's own genitals or pubic area for the purpose of sexual gratification or arousal of the person, regardless of whether the genitals or pubic area is exposed or covered.

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*Statute truncated due to size.

CONNECTICUT

CONN. GEN. STAT. ANN. § 53A-65 (WEST 2011). DEFINITIONS

As used in this part, except section 53a-70b, the following terms have the following meanings:

(1) "Actor" means a person accused of sexual assault.

(2) "Sexual intercourse" means vaginal intercourse, anal intercourse, fellatio or cunnilingus between persons regardless of sex. Its meaning is limited to persons not married to each other. Penetration, however slight, is sufficient to complete vaginal intercourse, anal intercourse or fellatio and does not require emission of semen. Penetration may be committed by an object manipulated by the actor into the genital or anal opening of the victim's body.

(3) "Sexual contact" means any contact with the intimate parts of a person not married to the actor for the purpose of sexual gratification of the actor or for the purpose of degrading or humiliating such person or any contact of the intimate parts of the actor with a person not married to the actor for the purpose of sexual gratification of the actor or for the purpose of degrading or humiliating such person.

(4) "Mentally defective" means that a person suffers from a mental disease or defect which renders such person incapable of appraising the nature of such person's conduct.

(5) "Mentally incapacitated" means that a person is rendered temporarily incapable of appraising or controlling such person's conduct owing to the influence of a drug or intoxicating substance administered to such person without such person's consent, or owing to any other act committed upon such person without such person's consent.

(6) "Physically helpless" means that a person is unconscious or for any other reason is physically unable to communicate unwillingness to an act.

(7) "Use of force" means: (A) Use of a dangerous instrument; or (B) use of actual physical force or violence or superior physical strength against the victim.

(8) "Intimate parts" means the genital area or any substance emitted therefrom, groin, anus or any substance emitted therefrom, inner thighs, buttocks or breasts.

(9) "Psychotherapist" means a physician, psychologist, nurse, substance abuse counselor, social worker, clergyman, marital and family therapist, mental health service provider, hypnotist or other person, whether or not licensed or certified by the state, who performs or purports to perform psychotherapy.

(10) "Psychotherapy" means the professional treatment, assessment or counseling of a mental or emotional illness, symptom or condition.

(11) "Emotionally dependent" means that the nature of the patient's or former patient's emotional condition and the nature of the treatment provided by the psychotherapist are such that the psychotherapist knows or has reason to know that the patient or former patient is unable to withhold consent to sexual contact by or sexual intercourse with the psychotherapist.

*Statute truncated due to size.

(12) "Therapeutic deception" means a representation by a psychotherapist that sexual contact by or sexual intercourse with the psychotherapist is consistent with or part of the patient's treatment.

(13) "School employee" means: (A) A teacher, substitute teacher, school administrator, school superintendent, guidance counselor, psychologist, social worker, nurse, physician, school paraprofessional or coach employed by a local or regional board of education or a private elementary, middle or high school or working in a public or private elementary, middle or high school; or (B) any other person who, in the performance of his or her duties, has regular contact with students and who provides services to or on behalf of students enrolled in (i) a public elementary, middle or high school, pursuant to a contract with the local or regional board of education, or (ii) a private elementary, middle or high school, pursuant to a contract with the supervisory agent of such private school.

CONN. GEN. STAT. ANN. § 53A-67 (WEST 2011). AFFIRMATIVE DEFENSES

(a) In any prosecution for an offense under this part based on the victim's being mentally defective, mentally incapacitated or physically helpless, it shall be an affirmative defense that the actor, at the time such actor engaged in the conduct constituting the offense, did not know of such condition of the victim.

(b) In any prosecution for an offense under this part, except an offense under section 53a-70, 53a-70a, 53a-70b, 53a-71, 53a-72a or 53a-72b, it shall be an affirmative defense that the defendant and the alleged victim were, at the time of the alleged offense, living together by mutual consent in a relationship of cohabitation, regardless of the legal status of their relationship.

CONN. GEN. STAT. ANN. § 53A-70 (WEST 2011). SEXUAL ASSAULT IN THE FIRST DEGREE: CLASS B OR A FELONY

(a) A person is guilty of sexual assault in the first degree when such person (1) compels another person to engage in sexual intercourse by the use of force against such other person or a third person, or by the threat of use of force against such other person or against a third person which reasonably causes such person to fear physical injury to such person or a third person, or (2) engages in sexual intercourse with another person and such other person is under thirteen years of age and the actor is more than two years older than such person, or (3) commits sexual assault in the second degree as provided in section 53a-71 and in the commission of such offense is aided by two or more other persons actually present, or (4) engages in sexual intercourse with another person and such other person is mentally incapacitated to the extent that such other person is unable to consent to such sexual intercourse.

(b) (1) Except as provided in subdivision (2) of this subsection, sexual assault in the first degree is a class B felony for which two years of the sentence imposed may not be suspended or reduced by the court or, if the victim of the offense is under ten years of age, for which ten years of the sentence imposed may not be suspended or reduced by the court.

(2) Sexual assault in the first degree is a class A felony if the offense is a violation of subdivision (1) of subsection (a) of this section and the victim of the offense is under sixteen years of age or the offense is a violation of subdivision (2) of subsection (a) of this section. Any person found guilty under said subdivision (1) or (2) shall be sentenced to a term of imprisonment of which ten years of the sentence imposed may not be suspended or reduced by the court if the victim is under ten years of age or of which five years of the sentence imposed may not be suspended or reduced by the court if the victim is under sixteen years of age.

(3) Any person found guilty under this section shall be sentenced to a term of imprisonment and a period of special parole pursuant to subsection (b) of section 53a-28 which together constitute a sentence of at least ten years.

*Statute truncated due to size.

CONN. GEN. STAT. ANN. § 53A-70A (WEST 2011). AGGRAVATED SEXUAL ASSAULT IN THE FIRST DEGREE: CLASS B OR A FELONY

(a) A person is guilty of aggravated sexual assault in the first degree when such person commits sexual assault in the first degree as provided in section 53a-70, and in the commission of such offense (1) such person uses or is armed with and threatens the use of or displays or represents by such person's words or conduct that such person possesses a deadly weapon, (2) with intent to disfigure the victim seriously and permanently, or to destroy, amputate or disable permanently a member or organ of the victim's body, such person causes such injury to such victim, (3) under circumstances evincing an extreme indifference to human life such person recklessly engages in conduct which creates a risk of death to the victim, and thereby causes serious physical injury to such victim, or (4) such person is aided by two or more other persons actually present. No person shall be convicted of sexual assault in the first degree and aggravated sexual assault in the first degree upon the same transaction but such person may be charged and prosecuted for both such offenses upon the same information.

(b) Aggravated sexual assault in the first degree is a class B felony or, if the victim of the offense is under sixteen years of age, a class A felony. Any person found guilty under this section shall be sentenced to a term of imprisonment of which five years of the sentence imposed may not be suspended or reduced by the court, except that, if such person committed sexual assault in the first degree by violating subdivision (1) of subsection (a) of section 53a-70, and the victim of the offense is under sixteen years of age, twenty years of the sentence imposed may not be suspended or reduced by the court. Any person found guilty under this section shall be sentenced to a period of special parole pursuant to subsection (b) of section 53a-28 of at least five years.

CONN. GEN. STAT. ANN. § 53A-70B (WEST 2011). SEXUAL ASSAULT IN SPOUSAL OR COHABITING RELATIONSHIP: CLASS B FELONY

(a) For the purposes of this section:

(1) "Sexual intercourse" means vaginal intercourse, anal intercourse, fellatio or cunnilingus between persons regardless of sex. Penetration, however slight, is sufficient to complete vaginal intercourse, anal intercourse or fellatio and does not require emission of semen. Penetration may be committed by an object manipulated by the actor into the genital or anal opening of the victim's body; and

(2) "Use of force" means: (A) Use of a dangerous instrument; or (B) use of actual physical force or violence or superior physical strength against the victim.

(b) No spouse or cohabitor shall compel the other spouse or cohabitor to engage in sexual intercourse by the use of force against such other spouse or cohabitor, or by the threat of the use of force against such other spouse or cohabitor which reasonably causes such other spouse or cohabitor to fear physical injury.

(c) Any person who violates any provision of this section shall be guilty of a class B felony.

CONN. GEN. STAT. ANN. § 53A-71 (WEST 2011). SEXUAL ASSAULT IN THE SECOND DEGREE: CLASS C OR B FELONY

(a) A person is guilty of sexual assault in the second degree when such person engages in sexual intercourse with another person and: (1) Such other person is thirteen years of age or older but under sixteen years of age and the actor is more than three years older than such other person; or (2) such other person is mentally defective to the extent that such other person is unable to consent to such sexual intercourse; or (3) such other person is physically helpless; or (4) such other person is less than eighteen years old and the actor is such person's guardian or

otherwise responsible for the general supervision of such person's welfare; or (5) such other person is in custody of law or detained in a hospital or other institution and the actor has supervisory or disciplinary authority over such other person; or (6) the actor is a psychotherapist and such other person is (A) a patient of the actor and the sexual intercourse occurs during the psychotherapy session, (B) a patient or former patient of the actor and such patient or former patient is emotionally dependent upon the actor, or (C) a patient or former patient of the actor and the sexual intercourse occurs by means of therapeutic deception; or (7) the actor accomplishes the sexual intercourse by means of false representation that the sexual intercourse is for a bona fide medical purpose by a health care professional; or (8) the actor is a school employee and such other person is a student enrolled in a school in which the actor works or a school under the jurisdiction of the local or regional board of education which employs the actor; or (9) the actor is a coach in an athletic activity or a person who provides intensive, ongoing instruction and such other person is a recipient of coaching or instruction from the actor and (A) is a secondary school student and receives such coaching or instruction in a secondary school setting, or (B) is under eighteen years of age; or (10) the actor is twenty years of age or older and stands in a position of power, authority or supervision over such other person by virtue of the actor's professional, legal, occupational or volunteer status and such other person's participation in a program or activity, and such other person is under eighteen years of age.

(b) Sexual assault in the second degree is a class C felony or, if the victim of the offense is under sixteen years of age, a class B felony, and any person found guilty under this section shall be sentenced to a term of imprisonment of which nine months of the sentence imposed may not be suspended or reduced by the court.

CONN. GEN. STAT. ANN. § 53A-72A (WEST 2011). SEXUAL ASSAULT IN THE THIRD DEGREE: CLASS D OR C FELONY

Held Unconstitutional by: State v. John M., 894 A.2d 376, 377+, 94 Conn.App. 667, 667+ (Conn.App. Apr 11, 2006) (NO. 25313).

CONN. GEN. STAT. ANN. § 53A-72B (WEST 2011). SEXUAL ASSAULT IN THE THIRD DEGREE WITH A FIREARM: CLASS C OR B FELONY

(a) A person is guilty of sexual assault in the third degree with a firearm when such person commits sexual assault in the third degree as provided in section 53a-72a, and in the commission of such offense, such person uses or is armed with and threatens the use of or displays or represents by such person's words or conduct that such person possesses a pistol, revolver, machine gun, rifle, shotgun or other firearm. No person shall be convicted of sexual assault in the third degree and sexual assault in the third degree with a firearm upon the same transaction but such person may be charged and prosecuted for both such offenses upon the same information.

(b) Sexual assault in the third degree with a firearm is a class C felony or, if the victim of the offense is under sixteen years of age, a class B felony, and any person found guilty under this section shall be sentenced to a term of imprisonment of which two years of the sentence imposed may not be suspended or reduced by the court and a period of special parole pursuant to subsection (b) of section 53a-28 which together constitute a sentence of ten years.

CONN. GEN. STAT. ANN. § 53A-73A (WEST 2011). SEXUAL ASSAULT IN THE FOURTH DEGREE: CLASS A MISDEMEANOR OR CLASS D FELONY

(a) A person is guilty of sexual assault in the fourth degree when: (1) Such person intentionally subjects another person to sexual contact who is (A) under thirteen years of age and the actor is more than two years older than such other person, or (B) thirteen years of age or older but under fifteen years of age and the actor is more than

*Statute truncated due to size.

three years older than such other person, or (C) mentally defective or mentally incapacitated to the extent that such other person is unable to consent to such sexual contact, or (D) physically helpless, or (E) less than eighteen years old and the actor is such other person's guardian or otherwise responsible for the general supervision of such other person's welfare, or (F) in custody of law or detained in a hospital or other institution and the actor has supervisory or disciplinary authority over such other person; or (2) such person subjects another person to sexual contact without such other person's consent; or (3) such person engages in sexual contact with an animal or dead body; or (4) such person is a psychotherapist and subjects another person to sexual contact who is (A) a patient of the actor and the sexual contact occurs during the psychotherapy session, or (B) a patient or former patient of the actor and such patient or former patient is emotionally dependent upon the actor, or (C) a patient or former patient of the actor and the sexual contact occurs by means of therapeutic deception; or (5) such person subjects another person to sexual contact and accomplishes the sexual contact by means of false representation that the sexual contact is for a bona fide medical purpose by a health care professional; or (6) such person is a school employee and subjects another person to sexual contact who is a student enrolled in a school in which the actor works or a school under the jurisdiction of the local or regional board of education which employs the actor; or (7) such person is a coach in an athletic activity or a person who provides intensive, ongoing instruction and subjects another person to sexual contact who is a recipient of coaching or instruction from the actor and (A) is a secondary school student and receives such coaching or instruction in a secondary school setting, or (B) is under eighteen years of age; or (8) such person subjects another person to sexual contact and (A) the actor is twenty years of age or older and stands in a position of power, authority or supervision over such other person by virtue of the actor's professional, legal, occupational or volunteer status and such other person's participation in a program or activity, and (B) such other person is under eighteen years of age.

(b) Sexual assault in the fourth degree is a class A misdemeanor or, if the victim of the offense is under sixteen years of age, a class D felony.

CONN. GEN. STAT. ANN. § 53A-186 (WEST 2011). PUBLIC INDECENCY; CLASS B MISDEMEANOR

(a) A person is guilty of public indecency when he performs any of the following acts in a public place:

(1) An act of sexual intercourse as defined in subdivision (2) of section 53a-65; or

(2) a lewd exposure of the body with intent to arouse or to satisfy the sexual desire of the person; or

(3) a lewd fondling or caress of the body of another person. For the purposes of this section, “public place” means any place where the conduct may reasonably be expected to be viewed by others.

(b) Public indecency is a class B misdemeanor.

CONN. GEN. STAT. ANN. § 53A-191 (WEST 2011). INCEST: CLASS D FELONY

(a) A person is guilty of incest when he marries a person whom he knows to be related to him within any of the degrees of kindred specified in section 46b-21.

(b) Incest is a class D felony.

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*Statute truncated due to size.

DELAWARE

CHARTS	PENETRATION	FORCE	CAPACITY TO CONSENT	VICTIM PERPETRATOR RELATIONSHIP	OTHER SEX CRIMES
CONSENT ANALYSIS	ALCOHOL/DRUG FACILITATED SEXUAL ASSAULT	MARITAL RAPE	SAME SEX PERPETRATOR	STATUTORY RAPE	CONSTRUCTIVE FORCE

DEL. CODE ANN. TIT. 11, § 761 (2011). DEFINITIONS GENERALLY APPLICABLE TO SEXUAL OFFENSES

(a) "Cognitive disability" means a developmental disability that substantially impairs an individual's cognitive abilities including, but not limited to, delirium, dementia and other organic brain disorders for which there is an identifiable pathologic condition, as well as nonorganic brain disorders commonly called functional disorders. "Cognitive disability" also includes conditions of mental retardation, severe cerebral palsy, and any other condition found to be closely related to mental retardation because such condition results in the impairment of general intellectual functioning or adaptive behavior similar to that of persons who have been diagnosed with mental retardation, or such condition requires treatment and services similar to those required for persons who have been diagnosed with mental retardation.

(b) "Cunnilingus" means any oral contact with the female genitalia.

(c) "Fellatio" means any oral contact with the male genitalia.

(d) "Object" means any item, device, instrument, substance or any part of the body. It does not mean a medical instrument used by a licensed medical doctor or nurse for the purpose of diagnosis or treatment.

(e) "Position of trust, authority or supervision over a child" includes, but is not limited to:

(1) Familial or custodial authority or supervision; or

(2) A teacher, coach, counselor, advisor, mentor or any other person providing instruction or educational services to a child or children, whether such person is compensated or acting as a volunteer; or

(3) A babysitter, child care provider, or child care aide, whether such person is compensated or acting as a volunteer; or

(4) A health professional, meaning any person who is licensed or who holds himself or herself out to be licensed or who otherwise provides professional physical or mental health services, diagnosis, treatment or counseling which shall include, but not be limited to, doctors of medicine and osteopathy, dentists, nurses, physical therapists, chiropractors, psychologists, social workers, medical technicians, mental health counselors, substance abuse counselors, marriage and family counselors or therapists and hypnotherapists, whether such person is compensated or acting as a volunteer; or

(5) Clergy, including but not limited to any minister, pastor, rabbi, lay religious leader, pastoral counselor or any other person have regular direct contact with children through affiliation with a church or religious institution, whether such person is compensated or acting as a volunteer; or

(6) Any law-enforcement officer, as that term is defined in § 222 of this title, and including any person acting as an officer or counselor at a correctional or counseling institution, facility or organization, whether such person is compensated or acting as volunteer; or

(7) Any other person who because of that person's familial relationship, profession, employment, vocation, avocation or volunteer service has regular direct contact with a child or children and in the course thereof assumes responsibility, whether temporarily or permanently, for the care or supervision of a child or children.

(f) “Sexual contact” means:

(1) Any intentional touching by the defendant of the anus, breast, buttocks or genitalia of another person; or

(2) Any intentional touching of another person with the defendant's anus, breast, buttocks or genitalia; or

(3) Intentionally causing or allowing another person to touch the defendant's anus, breast, buttocks or genitalia

which touching, under the circumstances as viewed by a reasonable person, is intended to be sexual in nature. Sexual contact shall also include touching when covered by clothing.

(g) “Sexual intercourse” means:

(1) Any act of physical union of the genitalia or anus of 1 person with the mouth, anus or genitalia of another person. It occurs upon any penetration, however slight. Ejaculation is not required. This offense encompasses the crimes commonly known as rape and sodomy; or

(2) Any act of cunnilingus or fellatio regardless of whether penetration occurs. Ejaculation is not required.

(h) “Sexual offense” means any offense defined by §§ 763-780 and §§ 1108-1112A, 1352(2) and 1353(2) of this title.

(i) “Sexual penetration” means:

(1) The unlawful placement of an object, as defined in subsection (c) of this section, inside the anus or vagina of another person; or

(2) The unlawful placement of the genitalia or any sexual device inside the mouth of another person.

(j) “Without consent” means:

(1) The defendant compelled the victim to submit by any act of coercion as defined in §§ 791 and 792 of this title, or by force, by gesture, or by threat of death, physical injury, pain or kidnapping to be inflicted upon the victim or a third party, or by any other means which would compel a reasonable person under the circumstances to submit. It is not required that the victim resist such force or threat to the utmost, or to resist if resistance would be futile or foolhardy, but the victim need resist only to the extent that it is reasonably necessary to make the victim's refusal to consent known to the defendant; or

(2) The defendant knew that the victim was unconscious, asleep or otherwise unaware that a sexual act was being performed; or

(3) The defendant knew that the victim suffered from a cognitive disability, mental illness or mental defect which rendered the victim incapable of appraising the nature of the sexual conduct or incapable of consenting; or

(4) Where the defendant is a health professional, as defined herein, or a minister, priest, rabbi or other member of a religious organization engaged in pastoral counseling, the commission of acts of sexual contact, sexual penetration or sexual intercourse by such person shall be deemed to be without consent of the victim where such acts are committed under the guise of providing professional diagnosis, counseling or treatment and where at the times of such acts the victim reasonably believed the acts were for medically or professionally appropriate diagnosis, counseling or treatment, such that resistance by the victim could not reasonably have been manifested. For purposes of this paragraph, “health professional” includes all individuals who are licensed or who hold themselves out to be licensed or who otherwise provide professional physical or mental health services, diagnosis,

treatment or counseling and shall include, but not be limited to, doctors of medicine and osteopathy, dentists, nurses, physical therapists, chiropractors, psychologists, social workers, medical technicians, mental health counselors, substance abuse counselors, marriage and family counselors or therapists and hypnotherapists; or

(5) The defendant had substantially impaired the victim's power to appraise or control the victim's own conduct by administering or employing without the other person's knowledge or against the other person's will, drugs, intoxicants or other means for the purpose of preventing resistance.

(k) A child who has not yet reached that child's sixteenth birthday is deemed unable to consent to a sexual act with a person more than 4 years older than said child. Children who have not yet reached their twelfth birthday are deemed unable to consent to a sexual act under any circumstances.

DEL. CODE ANN. TIT. 11, § 762 (2011). PROVISIONS GENERALLY APPLICABLE TO SEXUAL OFFENSES

(a) Mistake as to age.--Whenever in the definition of a sexual offense, the criminality of conduct or the degree of the offense depends on whether the person has reached that person's sixteenth birthday, it is no defense that the actor did not know the person's age, or that the actor reasonably believed that the person had reached that person's sixteenth birthday.

(b) Gender.--Unless a contrary meaning is clearly required, the male pronoun shall be deemed to refer to both male and female.

(c) Separate acts of sexual contact, penetration and sexual intercourse. --Nothing in this title precludes a defendant from being charged with separate offenses when multiple acts of sexual contact, penetration or intercourse are committed against the same victim.

(d) Teenage defendant.--As to sexual offenses in which the victim's age is an element of the offense because the victim has not yet reached that victim's sixteenth birthday, where the person committing the sexual act is no more than 4 years older than the victim, it is an affirmative defense that the victim consented to the act "knowingly" as defined in § 231 of this title. Sexual conduct pursuant to this section will not be a crime. This affirmative defense will not apply if the victim had not yet reached that victim's twelfth birthday at the time of the act.

DEL. CODE. ANN. TIT. 11 § 764 (2011). INDECENT EXPOSURE IN THE SECOND DEGREE; UNCLASSIFIED MISDEMEANOR

(a) A male is guilty of indecent exposure in the second degree if he exposes his genitals or buttocks under circumstances in which he knows his conduct is likely to cause affront or alarm to another person.

(b) A female is guilty of indecent exposure in the second degree if she exposes her genitals, breast or buttocks under circumstances in which she knows her conduct is likely to cause affront or alarm to another person. Indecent exposure in the second degree is an unclassified misdemeanor.

DEL. CODE ANN. TIT. 11 § 765(2011). INDECENT EXPOSURE IN THE FIRST DEGREE; CLASS A MISDEMEANOR

(a) A male is guilty of indecent exposure in the first degree if he exposes his genitals or buttocks to a person who is less than 16 years of age under circumstances in which he knows his conduct is likely to cause affront or alarm.

*Statute truncated due to size.

(b) A female is guilty of indecent exposure in the first degree if she exposes her genitals, breast or buttocks to a person who is less than 16 years of age under circumstances in which she knows her conduct is likely to cause affront or alarm.

Indecent exposure in the first degree is a class A misdemeanor.

DEL. CODE ANN. TIT. 11, § 767 (2011). UNLAWFUL SEXUAL CONTACT IN THE THIRD DEGREE; CLASS A MISDEMEANOR

A person is guilty of unlawful sexual contact in the third degree when the person has sexual contact with another person or causes the victim to have sexual contact with the person or a third person and the person knows that the contact is either offensive to the victim or occurs without the victim's consent.

Unlawful sexual contact in the third degree is a class A misdemeanor.

DEL. CODE ANN. TIT. 11, § 768 (2011). UNLAWFUL SEXUAL CONTACT IN THE SECOND DEGREE; CLASS F FELONY

A person is guilty of unlawful sexual contact in the second degree when the person intentionally has sexual contact with another person who is less than 18 years of age or causes the victim to have sexual contact with the person or a third person.

Unlawful sexual contact in the second degree is a class F felony.

DEL. CODE ANN. TIT. 11, § 769 (2011). UNLAWFUL SEXUAL CONTACT IN THE FIRST DEGREE; CLASS D FELONY

(a) A person is guilty of unlawful sexual contact in the first degree when:

(1) In the course of committing unlawful sexual contact in the third degree or in the course of committing unlawful sexual contact in the second degree, or during the immediate flight from the crime, or during an attempt to prevent the reporting of the crime, the person causes physical injury to the victim or the person displays what appears to be a deadly weapon or dangerous instrument; or represents by word or conduct that the person is in possession or control of a deadly weapon or dangerous instrument.

(2) Repealed.

(3) The person intentionally has sexual contact with another person who is less than 13 years of age or causes the victim to have sexual contact with the person or a third person.

(b) Unlawful sexual contact in the first degree is a class D felony.

DEL. CODE ANN. TIT. 11, § 770 (2011). RAPE IN THE FOURTH DEGREE; CLASS C FELONY

(a) A person is guilty of rape in the fourth degree when the person:

(1) Intentionally engages in sexual intercourse with another person, and the victim has not yet reached his or her sixteenth birthday; or

(2) Intentionally engages in sexual intercourse with another person, and the victim has not yet reached his or her eighteenth birthday, and the person is 30 years of age or older, except that such intercourse shall not be unlawful if the victim and person are married at the time of such intercourse; or

(3) Intentionally engages in sexual penetration with another person under any of the following circumstances:

a. The sexual penetration occurs without the victim's consent; or

b. The victim has not reached his or her sixteenth birthday; or

(b) Paragraphs (a)(3) of this section does not apply to a licensed medical doctor or nurse who places 1 or more fingers or an object inside a vagina or anus for the purpose of diagnosis or treatment or to a law enforcement officer who is engaged in the lawful performance of his or her duties.

Rape in the fourth degree is a class C felony.

DEL. CODE ANN. TIT. 11, § 771 (2011). RAPE IN THE THIRD DEGREE; CLASS B FELONY

(a) A person is guilty of rape in the third degree when the person:

(1) Intentionally engages in sexual intercourse with another person, and the victim has not reached that victim's sixteenth birthday and the person is at least 10 years older than the victim, or the victim has not yet reached that victim's fourteenth birthday and the person has reached that person's nineteenth birthday and is not otherwise subject to prosecution pursuant to § 772 or § 773 of this title; or

(2) Intentionally engages in sexual penetration with another person under any of the following circumstances:

a. The sexual penetration occurs without the victim's consent and during the commission of the crime, or during the immediate flight from the crime, or during an attempt to prevent the reporting of the crime, the person causes physical injury or serious mental or emotional injury to the victim; or

b. The victim has not reached that victim's sixteenth birthday and during the commission of the crime, or during the immediate flight from the crime, or during an attempt to prevent the reporting of the crime, the person causes physical injury or serious mental or emotional injury to the victim.

(b) Paragraph (a)(2) of this section does not apply to a licensed medical doctor or nurse who places 1 or more fingers or an object inside a vagina or anus for the purpose of diagnosis or treatment, or to a law-enforcement officer who is engaged in the lawful performance of his or her duties.

(c) Notwithstanding any law to the contrary, in any case in which a violation of subsection (a) of this section has resulted in the birth of a child who is in the custody and care of the victim or the victim's legal guardian or guardians, the court shall order that the defendant, as a condition of any probation imposed pursuant to a conviction under this section, timely pay any child support ordered by the Family Court for such child.

(d) Nothing in this section shall preclude a separate charge, conviction and sentence for any other crime set forth in this title, or in the Delaware Code.

Rape in the third degree is a class B felony.

*Statute truncated due to size.

DEL. CODE ANN. TIT. 11, § 772 (2011). RAPE IN THE SECOND DEGREE; CLASS B FELONY

(a) A person is guilty of rape in the second degree when the person:

(1) Intentionally engages in sexual intercourse with another person, and the intercourse occurs without the victim's consent; or

(2) Intentionally engages in sexual penetration with another person under any of the following circumstances:

a. The sexual penetration occurs without the victim's consent and during the commission of the crime, or during the immediate flight following the commission of the crime, or during an attempt to prevent the reporting of the crime, the person causes serious physical injury to the victim; or

b. The sexual penetration occurs without the victim's consent, and was facilitated by or occurred during the course of the commission or attempted commission of:

1. Any felony; or

2. Any of the following misdemeanors: reckless endangering in the second degree; assault in the third degree; terroristic threatening; unlawfully administering drugs; unlawful imprisonment in the second degree; coercion or criminal trespass in the first, second or third degree; or

c. The victim has not yet reached that victim's sixteenth birthday and during the commission of the crime, or during the immediate flight from the crime, or during an attempt to prevent the reporting of the crime, the person causes serious physical injury to the victim; or

d. The sexual penetration occurs without the victim's consent and during the commission of the crime, or during the immediate flight from the crime, or during an attempt to prevent the reporting of the crime, the person displays what appears to be a deadly weapon or represents by word or conduct that the person is in possession or control of a deadly weapon or dangerous instrument; or

e. The victim has not yet reached that victim's sixteenth birthday and during the commission of the crime, or during the immediate flight from the crime, or during an attempt to prevent the reporting of the crime, the person displays what appears to be a deadly weapon or represents by word or conduct that the person is in possession or control of a deadly weapon or dangerous instrument; or

f. The sexual penetration occurs without the victim's consent, and a principal-accomplice relationship within the meaning set forth in § 271 of this title existed between the defendant and another person or persons with respect to the commission of the crime; or

g. The victim has not yet reached that victim's twelfth birthday, and the defendant has reached that defendant's eighteenth birthday; or

h. The victim has not yet reached that victim's sixteenth birthday and the defendant stands in a position of trust, authority or supervision over the child, or is an invitee or designee of a person who stands in a position of trust, authority or supervision over the child.

(b) Nothing in this section shall preclude a separate charge, conviction and sentence for any other crime set forth in this title, or in the Delaware Code.

(c) Notwithstanding any provision of this title to the contrary, the minimum sentence for a person convicted of rape in the second degree in violation of this section shall be 10 years at Level V.

*Statute truncated due to size.

Rape in the second degree is a class B felony.

DEL. CODE ANN. TIT. 11, § 773 (2011). RAPE IN THE FIRST DEGREE; CLASS A FELONY

(a) A person is guilty of rape in the first degree when the person intentionally engages in sexual intercourse with another person and any of the following circumstances exist:

(1) The sexual intercourse occurs without the victim's consent and during the commission of the crime, or during the immediate flight following the commission of the crime, or during an attempt to prevent the reporting of the crime, the person causes physical injury or serious mental or emotional injury to the victim; or

(2) The sexual intercourse occurs without the victim's consent and it was facilitated by or occurred during the course of the commission or attempted commission of:

a. Any felony; or

b. Any of the following misdemeanors: reckless endangering in the second degree; assault in the third degree; terroristic threatening; unlawfully administering drugs; unlawful imprisonment in the second degree; coercion; or criminal trespass in the first, second or third degree; or

(3) In the course of the commission of rape in the second, third or fourth degree, or while in the immediate flight therefrom, the defendant displayed what appeared to be a deadly weapon or represents by word or conduct that the person is in possession or control of a deadly weapon or dangerous instrument; or

(4) The sexual intercourse occurs without the victim's consent, and a principal-accomplice relationship within the meaning set forth in § 271 of this title existed between the defendant and another person or persons with respect to the commission of the crime; or

(5) The victim has not yet reached that victim's twelfth birthday, and the defendant has reached that defendant's eighteenth birthday; or

(b) Nothing contained in this section shall preclude a separate charge, conviction and sentence for any other crime set forth in this title, or in the Delaware Code.

(c) Notwithstanding any law to the contrary, a person convicted of rape in the first degree shall be sentenced to life imprisonment without benefit of probation, parole or any other reduction if:

(1) The victim had not yet reached that victim's sixteenth birthday at the time of the offense and the person inflicts serious physical injury on the victim; or

(2) The person intentionally causes serious and prolonged disfigurement to the victim permanently, or intentionally destroys, amputates or permanently disables a member or organ of the victim's body; or

(3) The person is convicted of rape against 3 or more separate victims; or

(4) The person has previously been convicted of unlawful sexual intercourse in the first degree, rape in the second degree or rape in the first degree, or any equivalent offense under the laws of this State, any other state or the United States.

Rape in the first degree is a class A felony.

*Statute truncated due to size.

DEL. CODE ANN. TIT. 11, § 774 (2011). SEXUAL EXTORTION; CLASS E FELONY

A person is guilty of sexual extortion when the person intentionally compels or induces another person to engage in any sexual act involving contact, penetration or intercourse with the person or another or others by means of instilling in the victim a fear that, if such sexual act is not performed, the defendant or another will:

(1) Cause physical injury to anyone;

(2) Cause damage to property;

(3) Engage in other conduct constituting a crime;

(4) Accuse anyone of a crime or cause criminal charges to be instituted against anyone;

(5) Expose a secret or publicize an asserted fact, whether true or false, intending to subject anyone to hatred, contempt or ridicule;

(6) Falsely testify or provide information or withhold testimony or information with respect to another's legal claim or defense; or

(7) Perform any other act which is calculated to harm another person materially with respect to the other person's health, safety, business, calling, career, financial condition, reputation or personal relationships.
Sexual extortion is a class E felony.

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DISTRICT OF COLUMBIA

CHARTS	PENETRATION	FORCE	CAPACITY TO CONSENT	VICTIM PERPETRATOR RELATIONSHIP	OTHER SEX CRIMES
CONSENT ANALYSIS	ALCOHOL/DRUG FACILITATED SEXUAL ASSAULT	MARITAL RAPE	SAME SEX PERPETRATOR	STATUTORY RAPE	CONSTRUCTIVE FORCE

D.C. CODE § 22-1312 (2011). LEWD, INDECENT, OR OBSCENE ACTS

It is unlawful for a person, in public, to make an obscene or indecent exposure of his or her genitalia or anus, to engage in masturbation, or to engage in a sexual act as defined in § 22-3001(8). It is unlawful for a person to make an obscene or indecent sexual proposal to a minor. A person who violates any provision of this section shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than $500, imprisoned for not more than 90 days, or both.

D.C. CODE § 22-3001 (2011). DEFINITIONS

For the purposes of this chapter:

(1) “Actor” means a person accused of any offense proscribed under this chapter.

(2) “Bodily injury” means injury involving loss or impairment of the function of a bodily member, organ, or mental faculty, or physical disfigurement, disease, sickness, or injury involving significant pain.

(3) “Child” means a person who has not yet attained the age of 16 years.

(4) “Consent” means words or overt actions indicating a freely given agreement to the sexual act or contact in question. Lack of verbal or physical resistance or submission by the victim, resulting from the use of force, threats, or coercion by the defendant shall not constitute consent.

(4A) “Domestic partner” shall have the same meaning as provided in § 32-701(3).

(4B) “Domestic partnership” shall have the same meaning as provided in § 32-701(4).

(5) “Force” means the use or threatened use of a weapon; the use of such physical strength or violence as is sufficient to overcome, restrain, or injure a person; or the use of a threat of harm sufficient to coerce or compel submission by the victim.

(5A) “Minor” means a person who has not yet attained the age of 18 years.

(6) “Official custody” means:

(A) Detention following arrest for an offense; following surrender in lieu of arrest for an offense; following a charge or conviction of an offense, or an allegation or finding of juvenile delinquency; following commitment as a material witness; following or pending civil commitment proceedings, or pending extradition, deportation, or exclusion;

(B) Custody for purposes incident to any detention described in subparagraph (A) of this paragraph, including transportation, medical diagnosis or treatment, court appearance, work, and recreation; or

(C) Probation or parole.

(7) “Serious bodily injury” means bodily injury that involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

(8) “Sexual act” means:

(A) The penetration, however slight, of the anus or vulva of another by a penis;

(B) Contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus; or

(C) The penetration, however slight, of the anus or vulva by a hand or finger or by any object, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.

(D) The emission of semen is not required for the purposes of subparagraphs (A)-(C) of this paragraph.

(9) “Sexual contact” means the touching with any clothed or unclothed body part or any object, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.

(10) “Significant relationship” includes:

(A) A parent, sibling, aunt, uncle, or grandparent, whether related by blood, marriage, domestic partnership, or adoption;

(B) A legal or de facto guardian or any person, more than 4 years older than the victim, who resides intermittently

or permanently in the same dwelling as the victim;

(C) The person or the spouse, domestic partner, or paramour of the person who is charged with any duty or responsibility for the health, welfare, or supervision of the victim at the time of the act; and

(D) Any employee or volunteer of a school, church, synagogue, mosque, or other religious institution, or an educational, social, recreational, athletic, musical, charitable, or youth facility, organization, or program, including a teacher, coach, counselor, clergy, youth leader, chorus director, bus driver, administrator, or support staff, or any other person in a position of trust with or authority over a child or a minor.

(11) "Victim" means a person who is alleged to have been subject to any offense set forth in subchapter II of this chapter.

D.C. CODE § 22-3002 (2011). FIRST DEGREE SEXUAL ABUSE

(a) A person shall be imprisoned for any term of years or for life, and in addition, may be fined in an amount not to exceed $250,000, if that person engages in or causes another person to engage in or submit to a sexual act in the following manner:

(1) By using force against that other person;

(2) By threatening or placing that other person in reasonable fear that any person will be subjected to death, bodily injury, or kidnapping;

(3) After rendering that other person unconscious; or

(4) After administering to that other person by force or threat of force, or without the knowledge or permission of that other person, a drug, intoxicant, or other similar substance that substantially impairs the ability of that other person to appraise or control his or her conduct.

(b) The court may impose a prison sentence in excess of 30 years only in accordance with § 22-3020 or § 24-403.01(b-2). For purposes of imprisonment following revocation of release authorized by § 24-403.01(b)(7), the offense defined by this section is a Class A felony.

D.C. CODE § 22-3003 (2011). SECOND DEGREE SEXUAL ABUSE

A person shall be imprisoned for not more than 20 years and may be fined in an amount not to exceed $200,000, if that person engages in or causes another person to engage in or submit to a sexual act in the following manner:

(1) By threatening or placing that other person in reasonable fear (other than by threatening or placing that other person in reasonable fear that any person will be subjected to death, bodily injury, or kidnapping); or

(2) Where the person knows or has reason to know that the other person is:

(A) Incapable of appraising the nature of the conduct;

(B) Incapable of declining participation in that sexual act; or

(C) Incapable of communicating unwillingness to engage in that sexual act.

*Statute truncated due to size.

D.C. CODE § 22-3004 (2011). THIRD DEGREE SEXUAL ABUSE

A person shall be imprisoned for not more than 10 years and may be fined in an amount not to exceed $100,000, if that person engages in or causes sexual contact with or by another person in the following manner:

(1) By using force against that other person;

(2) By threatening or placing that other person in reasonable fear that any person will be subjected to death, bodily injury, or kidnapping;

(3) After rendering that person unconscious; or

(4) After administering to that person by force or threat of force, or without the knowledge or permission of that other person, a drug, intoxicant, or similar substance that substantially impairs the ability of that other person to appraise or control his or her conduct.

D.C. CODE § 22-3005 (2011). FOURTH DEGREE SEXUAL ABUSE

A person shall be imprisoned for not more than 5 years and, in addition, may be fined in an amount not to exceed $50,000, if that person engages in or causes sexual contact with or by another person in the following manner:

(1) By threatening or placing that other person in reasonable fear (other than by threatening or placing that other person in reasonable fear that any person will be subjected to death, bodily injury, or kidnapping); or

(2) Where the person knows or has reason to know that the other person is:

(A) Incapable of appraising the nature of the conduct;

(B) Incapable of declining participation in that sexual contact; or

(C) Incapable of communicating unwillingness to engage in that sexual contact.

D.C. CODE § 22-3006 (2011). MISDEMEANOR SEXUAL ABUSE

Whoever engages in a sexual act or sexual contact with another person and who should have knowledge or reason to know that the act was committed without that other person's permission, shall be imprisoned for not more than 180 days and, in addition, may be fined in an amount not to exceed $1,000.

D.C. CODE § 22-3007 (2011). DEFENSE TO SEXUAL ABUSE

Consent by the victim is a defense to a prosecution under §§ 22-3002 to 22-3006, prosecuted alone or in conjunction with charges under § 22-3018 or§§ 22-401 and 22-403.

D.C. CODE § 22-3013 (2011). FIRST DEGREE SEXUAL ABUSE OF A WARD

Any staff member, employee, contract employee, consultant, or volunteer at a hospital, treatment facility, detention or correctional facility, group home, or other institution; anyone who is an ambulance driver or attendant, a bus

driver or attendant, or person who participates in the transportation of a ward, patient, client, or prisoner to and from such institutions; or any official custodian of a ward, patient, client, or prisoner, who engages in a sexual act with a ward, patient, client, or prisoner, or causes a ward, patient, client, or prisoner to engage in or submit to a sexual act shall be imprisoned for not more than 10 years or fined in an amount not to exceed $100,000, or both.

D.C. CODE § 22-3014 (2011). SECOND DEGREE SEXUAL ABUSE OF A WARD

Any staff member, employee, contract employee, consultant, or volunteer at a hospital, treatment facility, detention or correctional facility, group home, or other institution; anyone who is an ambulance driver or attendant, a bus driver or attendant, or person who participates in the transportation of a ward, patient, client, or prisoner to and from such institutions; or any official custodian of a ward, patient, client, or prisoner, who engages in a sexual contact with a ward, patient, client, or prisoner, or causes a ward, patient, client, or prisoner, to engage in or submit to a sexual contact shall be imprisoned for not more than 5 years or fined in an amount not to exceed $50,000, or both.

D.C. CODE § 22-3015 (2011). FIRST DEGREE SEXUAL ABUSE OF A PATIENT OR CLIENT

(a) A person is guilty of first degree sexual abuse who purports to provide, in any manner, professional services of a medical, therapeutic, or counseling (whether legal, spiritual, or otherwise) nature, and engages in a sexual act with another person who is a patient or client of the actor, or is otherwise in a professional relationship of trust with the actor; and

(1) The actor represents falsely that the sexual act is for a bona fide medical or therapeutic purpose, or for a bona fide professional purpose for which the services are being provided;

(2) The nature of the treatment or service provided by the actor and the mental, emotional, or physical condition of the patient or client are such that the actor knows or has reason to know that the patient or client is impaired from declining participation in the sexual act;

(3) The actor represents falsely that he or she is licensed as a particular type of professional; or

(4) The sexual act occurs during the course of a consultation, examination, treatment, therapy, or other provision of professional services.

(b) Any person found guilty pursuant to subsection (a) of this section shall be imprisoned for not more than 10 years and, in addition, may be fined in an amount not to exceed $100,000.

D.C. CODE §22-3016 (2011). SECOND DEGREE SEXUAL ABUSE OF A PATIENT OR CLIENT

(a) A person is guilty of second degree sexual abuse who purports to provide, in any manner, professional services of a medical, therapeutic, or counseling (whether legal, spiritual, or otherwise) nature, and engages in a sexual contact with another person who is a patient or client of the actor, or is otherwise in a professional relationship of trust with the actor; and

(1) The actor represents falsely that the sexual contact is for a bona fide medical or therapeutic purpose, or for a bona fide professional purpose for which the services are being provided;

(2) The nature of the treatment or service provided by the actor and the mental, emotional, or physical condition of the patient or client are such that the actor knows or has reason to know that the patient or client is impaired from

declining participation in the sexual contact;

(3) The actor represents falsely that he or she is licensed as a particular type of professional; or

(4) The sexual contact occurs during the course of a consultation, examination, treatment, therapy, or other provision of professional services.

(b) Any person found guilty pursuant to subsection (a) of this section shall be imprisoned for not more than 5 years and, in addition, may be fined in an amount not to exceed $50,000.

D.C. CODE § 22-3019 (2011). NO SPOUSAL IMMUNITY FROM PROSECUTION

No actor is immune from prosecution under any section of this subchapter because of marriage, domestic partnership, or cohabitation with the victim; provided, that marriage or the domestic partnership of the parties may be asserted as an affirmative defense in prosecution under this subchapter where it is expressly so provided.

D.C. CODE § 22-3020 (2011). AGGRAVATING CIRCUMSTANCES

(a) Any person who is found guilty of an offense under this subchapter may receive a penalty up to 1 1/2 times the maximum penalty prescribed for the particular offense, and may receive a sentence of more than 30 years up to, and including life imprisonment without possibility of release for first degree sexual abuse or first degree child sexual abuse, if any of the following aggravating circumstances exists:

(1) The victim was under the age of 12 years at the time of the offense;

(2) The victim was under the age of 18 years at the time of the offense and the actor had a significant relationship to the victim;

(3) The victim sustained serious bodily injury as a result of the offense;

(4) The defendant was aided or abetted by 1 or more accomplices;

(5) The defendant is or has been found guilty of committing sex offenses against 2 or more victims, whether in the same or other proceedings by a court of the District of Columbia, any state, or the United States or its territories; or

(6) The defendant was armed with, or had readily available, a pistol or other firearm (or imitation thereof) or other dangerous or deadly weapon.

(b) It is not necessary that the accomplices have been convicted for an increased punishment (or enhanced penalty) to apply under subsection (a)(4) of this section.

(c) No person who stands convicted of an offense under this subchapter shall be sentenced to increased punishment (or enhanced penalty) by reason of the aggravating factors set forth in subsection (a) of this section, unless prior to trial or before entry of a plea of guilty, the United States Attorney or the Corporation Counsel, as the case may be, files an information with the clerk of the court, and serves a copy of such information on the person or counsel for the person, stating in writing the aggravating factors to be relied upon.

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*Statute truncated due to size.

FLORIDA

FLA. STAT. ANN. § 794.005 (WEST 2012). LEGISLATIVE FINDINGS AND INTENT AS TO BASIC CHARGE OF SEXUAL BATTERY

The Legislature finds that the least serious sexual battery offense, which is provided in s. 794.011(5), was intended, and remains intended, to serve as the basic charge of sexual battery and to be necessarily included in the offenses charged under subsections (3) and (4), within the meaning of s. 924.34; and that it was never intended that the sexual battery offense described in s. 794.011(5) require any force or violence beyond the force and violence that is inherent in the accomplishment of "penetration" or "union."

FLA. STAT. ANN. § 794.011 (WEST 2012). SEXUAL BATTERY

(1) As used in this chapter:

(a) "Consent" means intelligent, knowing, and voluntary consent and does not include coerced submission. "Consent" shall not be deemed or construed to mean the failure by the alleged victim to offer physical resistance to the offender.

(b) "Mentally defective" means a mental disease or defect which renders a person temporarily or permanently incapable of appraising the nature of his or her conduct.

(c) "Mentally incapacitated" means temporarily incapable of appraising or controlling a person's own conduct due to the influence of a narcotic, anesthetic, or intoxicating substance administered without his or her consent or due to any other act committed upon that person without his or her consent.

(d) "Offender" means a person accused of a sexual offense in violation of a provision of this chapter.

(e) "Physically helpless" means unconscious, asleep, or for any other reason physically unable to communicate unwillingness to an act.

(f) "Retaliation" includes, but is not limited to, threats of future physical punishment, kidnapping, false imprisonment or forcible confinement, or extortion.

(g) "Serious personal injury" means great bodily harm or pain, permanent disability, or permanent disfigurement.

(h) "Sexual battery" means oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object; however, sexual battery does not include an act done for a bona fide medical purpose.

(i) "Victim" means a person who has been the object of a sexual offense.

(j) "Physically incapacitated" means bodily impaired or handicapped and substantially limited in ability to resist or flee.

*Statute truncated due to size.

(2)(a) A person 18 years of age or older who commits sexual battery upon, or in an attempt to commit sexual battery injures the sexual organs of, a person less than 12 years of age commits a capital felony, punishable as provided in ss. 775.082 and 921.141.

(b) A person less than 18 years of age who commits sexual battery upon, or in an attempt to commit sexual battery injures the sexual organs of, a person less than 12 years of age commits a life felony, punishable as provided in s. 775.082, s. 775.083, s. 775.084, or s. 794.0115.

(3) A person who commits sexual battery upon a person 12 years of age or older, without that person's consent, and in the process thereof uses or threatens to use a deadly weapon or uses actual physical force likely to cause serious personal injury commits a life felony, punishable as provided in s. 775.082, s. 775.083, s. 775.084, or s. 794.0115.

(4) A person who commits sexual battery upon a person 12 years of age or older without that person's consent, under any of the following circumstances, commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, s. 775.084, or s. 794.0115:

(a) When the victim is physically helpless to resist.

(b) When the offender coerces the victim to submit by threatening to use force or violence likely to cause serious personal injury on the victim, and the victim reasonably believes that the offender has the present ability to execute the threat.

(c) When the offender coerces the victim to submit by threatening to retaliate against the victim, or any other person, and the victim reasonably believes that the offender has the ability to execute the threat in the future.

(d) When the offender, without the prior knowledge or consent of the victim, administers or has knowledge of someone else administering to the victim any narcotic, anesthetic, or other intoxicating substance which mentally or physically incapacitates the victim.

(e) When the victim is mentally defective and the offender has reason to believe this or has actual knowledge of this fact.

(f) When the victim is physically incapacitated.

(g) When the offender is a law enforcement officer, correctional officer, or correctional probation officer as defined by s. 943.10(1), (2), (3), (6), (7), (8), or (9), who is certified under the provisions of s. 943.1395 or is an elected official exempt from such certification by virtue of s. 943.253, or any other person in a position of control or authority in a probation, community control, controlled release, detention, custodial, or similar setting, and such officer, official, or person is acting in such a manner as to lead the victim to reasonably believe that the offender is in a position of control or authority as an agent or employee of government.

(5) A person who commits sexual battery upon a person 12 years of age or older, without that person's consent, and in the process thereof does not use physical force and violence likely to cause serious personal injury commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, s. 775.084, or s. 794.0115.

(6) The offense described in subsection (5) is included in any sexual battery offense charged under subsection (3) or subsection (4).

(7) A person who is convicted of committing a sexual battery on or after October 1, 1992, is not eligible for basic gain-time under s. 944.275. This subsection may be cited as the "Junny Rios-Martinez, Jr. Act of 1992."

*Statute truncated due to size.

(8) Without regard to the willingness or consent of the victim, which is not a defense to prosecution under this subsection, a person who is in a position of familial or custodial authority to a person less than 18 years of age and who:

(a) Solicits that person to engage in any act which would constitute sexual battery under paragraph (1)(h) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) Engages in any act with that person while the person is 12 years of age or older but less than 18 years of age which constitutes sexual battery under paragraph (1)(h) commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) Engages in any act with that person while the person is less than 12 years of age which constitutes sexual battery under paragraph (1)(h), or in an attempt to commit sexual battery injures the sexual organs of such person commits a capital or life felony, punishable pursuant to subsection (2).

(9) For prosecution under paragraph (4)(g), acquiescence to a person reasonably believed by the victim to be in a position of authority or control does not constitute consent, and it is not a defense that the perpetrator was not actually in a position of control or authority if the circumstances were such as to lead the victim to reasonably believe that the person was in such a position.

(10) Any person who falsely accuses any person listed in paragraph (4)(g) or other person in a position of control or authority as an agent or employee of government of violating paragraph (4)(g) is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

FLA. STAT. ANN. § 794.023 (WEST 2012). SEXUAL BATTERY BY MULTIPLE PERPETRATORS; RECLASSIFICATION OF OFFENSES

(1) The Legislature finds that an act of sexual battery, when committed by more than one person, presents a great danger to the public and is extremely offensive to civilized society. It is therefore the intent of the Legislature to reclassify offenses for acts of sexual battery committed by more than one person.

(2) A violation of s. 794.011 shall be reclassified as provided in this subsection if it is charged and proven by the prosecution that, during the same criminal transaction or episode, more than one person committed an act of sexual battery on the same victim.

(a) A felony of the second degree is reclassified to a felony of the first degree.

(b) A felony of the first degree is reclassified to a life felony.

This subsection does not apply to life felonies or capital felonies. For purposes of sentencing under chapter 921 and determining incentive gain-time eligibility under chapter 944, a felony offense that is reclassified under this subsection is ranked one level above the ranking under s. 921.0022 or s. 921.0023 of the offense committed.

FLA. STAT. ANN. § 794.021 (WEST 2012). IGNORANCE OR BELIEF AS TO VICTIM'S AGE NO DEFENSE

When, in this chapter, the criminality of conduct depends upon the victim's being below a certain specified age, ignorance of the age is no defense. Neither shall misrepresentation of age by such person nor a bona fide belief that such person is over the specified age be a defense.

*Statute truncated due to size.

FLA. STAT. ANN. § 800.02 (WEST 2012). UNNATURAL AND LASCIVIOUS ACT

A person who commits any unnatural and lascivious act with another person commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. A mother's breastfeeding of her baby does not under any circumstance violate this section.

FLA. STAT. ANN. § 800.03 (WEST 2012). EXPOSURE OF SEXUAL ORGANS

It is unlawful to expose or exhibit one's sexual organs in public or on the private premises of another, or so near thereto as to be seen from such private premises, in a vulgar or indecent manner, or to be naked in public except in any place provided or set apart for that purpose. Violation of this section is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. A mother's breastfeeding of her baby does not under any circumstance violate this section.

FLA. STAT. ANN. § 800.09 (WEST 2012). LEWD OR LASCIVIOUS EXHIBITION IN THE PRESENCE OF AN EMPLOYEE

(1) As used in this section, the term:

(a) "Employee" means any person employed by or performing contractual services for a public or private entity operating a facility or any person employed by or performing contractual services for the corporation operating the prison industry enhancement programs or the correctional work programs under part II of chapter 946. The term also includes any person who is a parole examiner with the Parole Commission.

(b) "Facility" means a state correctional institution as defined in s. 944.02 or a private correctional facility as defined in s. 944.710.

(2)(a) A person who is detained in a facility may not:

1. Intentionally masturbate;

2. Intentionally expose the genitals in a lewd or lascivious manner; or

3. Intentionally commit any other sexual act that does not involve actual physical or sexual contact with the victim, including, but not limited to, sadomasochistic abuse, sexual bestiality, or the simulation of any act involving sexual activity, in the presence of a person he or she knows or reasonably should know is an employee.

(b) A person who violates paragraph (a) commits lewd or lascivious exhibition in the presence of an employee, a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

FLA. STAT. ANN. § 826.04 (WEST 2012). INCEST

Whoever knowingly marries or has sexual intercourse with a person to whom he or she is related by lineal consanguinity, or a brother, sister, uncle, aunt, nephew, or niece, commits incest, which constitutes a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. "Sexual intercourse" is the penetration of the female sex organ by the male sex organ, however slight; emission of semen is not required.

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GEORGIA

CHARTS	PENETRATION	FORCE	CAPACITY TO CONSENT	VICTIM PERPETRATOR RELATIONSHIP	OTHER SEX CRIMES
CONSENT ANALYSIS	ALCOHOL/DRUG FACILITATED SEXUAL ASSAULT	MARITAL RAPE	SAME SEX PERPETRATOR	STATUTORY RAPE	CONSTRUCTIVE FORCE

GA. CODE ANN. § 16-6-1 (WEST 2010). RAPE

(a) A person commits the offense of rape when he has carnal knowledge of:

(1) A female forcibly and against her will; or

(2) A female who is less than ten years of age.

Carnal knowledge in rape occurs when there is any penetration of the female sex organ by the male sex organ. The fact that the person allegedly raped is the wife of the defendant shall not be a defense to a charge of rape.

(b)† A person convicted of the offense of rape shall be punished by death, by imprisonment for life without parole, by imprisonment for life, or by a split sentence that is a term of imprisonment for not less than 25 years and not exceeding life imprisonment, followed by probation for life. Any person convicted under this Code section shall, in addition, be subject to the sentencing and punishment provisions of Code Sections 17-10-6.1and 17-10-7.

(c) When evidence relating to an allegation of rape is collected in the course of a medical examination of the person who is the victim of the alleged crime, the Georgia Crime Victims Emergency Fund, as provided for in Chapter 15 of Title 17, shall be responsible for the cost of the medical examination to the extent that expense is incurred for the limited purpose of collecting evidence.

GA. CODE ANN. § 16-6-2 (WEST 2010). SODOMY; AGGRAVATED SODOMY

(a)(1) A person commits the offense of sodomy when he or she performs or submits to any sexual act involving the sex organs of one person and the mouth or anus of another.

(2) A person commits the offense of aggravated sodomy when he or she commits sodomy with force and against the will of the other person or when he or she commits sodomy with a person who is less than ten years of age. The fact that the person allegedly sodomized is the spouse of a defendant shall not be a defense to a charge of aggravated sodomy.

(b)(1) Except as provided in subsection (d) of this Code section, a person convicted of the offense of sodomy shall be punished by imprisonment for not less than one nor more than 20 years and shall be subject to the sentencing and punishment provisions of Code Section 17-10-6.2.

(2) A person convicted of the offense of aggravated sodomy shall be punished by imprisonment for life or by a split sentence that is a term of imprisonment for not less than 25 years and not exceeding life imprisonment, followed by probation for life. Any person convicted under this Code section of the offense of aggravated sodomy shall, in addition, be subject to the sentencing and punishment provisions of Code Sections 17-10-6.1 and 17-10-7.

† Validity of GA. CODE ANN. §16-6-1(B) called into doubt by Graham v. Florida, 130 S.Ct. 2011 (2010).

(c) When evidence relating to an allegation of aggravated sodomy is collected in the course of a medical examination of the person who is the victim of the alleged crime, the Georgia Crime Victims Emergency Fund, as provided for in Chapter 15 of Title 17, shall be financially responsible for the cost of the medical examination to the extent that expense is incurred for the limited purpose of collecting evidence.

(d) If the victim is at least 13 but less than 16 years of age and the person convicted of sodomy is 18 years of age or younger and is no more than four years older than the victim, such person shall be guilty of a misdemeanor and shall not be subject to the sentencing and punishment provisions of Code Section 17-10-6.2.

GA. CODE ANN. § 16-6-5.1 (WEST 2010). SEXUAL ASSAULT

(a) As used in this Code section, the term:

(1) "Actor" means a person accused of sexual assault.

(2) "Intimate parts" means the genital area, groin, inner thighs, buttocks, or breasts of a person.

(3) "Psychotherapy" means the professional treatment or counseling of a mental or emotional illness, symptom, or condition.

(4) "Sexual contact" means any contact between the actor and a person not married to the actor involving the intimate parts of either person for the purpose of sexual gratification of the actor.

(5) "School" means any educational program or institution instructing children at any level, pre-kindergarten through twelfth grade, or the equivalent thereof if grade divisions are not used.

(b) A person who has supervisory or disciplinary authority over another individual commits sexual assault when that person:

(1) Is a teacher, principal, assistant principal, or other administrator of any school and engages in sexual contact with such other individual who the actor knew or should have known is enrolled at the same school; provided, however, that such contact shall not be prohibited when the actor is married to such other individual;

(2) Is an employee or agent of any probation or parole office and engages in sexual contact with such other individual who the actor knew or should have known is a probationer or parolee under the supervision of the same probation or parole office;

(3) Is an employee or agent of a law enforcement agency and engages in sexual contact with such other individual who the actor knew or should have known is being detained by or is in the custody of any law enforcement agency;

(4) Is an employee or agent of a hospital and engages in sexual contact with such other individual who the actor knew or should have known is a patient or is being detained in the same hospital; or

(5) Is an employee or agent of a correctional facility, juvenile detention facility, facility providing services to a person with a disability, as such term is defined in Code Section 37-1-1, or a facility providing child welfare and youth services, as such term is defined in Code Section 49-5-3, who engages in sexual contact with such other individual who the actor knew or should have known is in the custody of such facility.

(c) A person who is an actual or purported practitioner of psychotherapy commits sexual assault when he or she engages in sexual contact with another individual who the actor knew or should have known is the subject of the

actor's actual or purported treatment or counseling or the actor uses the treatment or counseling relationship to facilitate sexual contact between the actor and such individual.

(d) A person who is an employee, agent, or volunteer at any facility licensed or required to be licensed under Code Section 31-7-3 or 31-7-12 or who is required to be licensed pursuant to Code Section 31-7-151 or 31-7-173 commits sexual assault when he or she engages in sexual contact with another individual who the actor knew or should have known had been admitted to or is receiving services from such facility or the actor.

(e) Consent of the victim shall not be a defense to a prosecution under this Code section.

(f) A person convicted of sexual assault shall be punished by imprisonment for not less than one nor more than 25 years or by a fine not to exceed $100,000.00, or both; provided, however, that:

(1) Except as provided in paragraph (2) of this subsection, any person convicted of the offense of sexual assault of a child under the age of 16 years shall be punished by imprisonment for not less than 25 nor more than 50 years and shall, in addition, be subject to the sentencing and punishment provisions of Code Section 17-10-6.2; and

(2) If at the time of the offense the victim of the offense is at least 14 years of age but less than 16 years of age and the actor is 18 years of age or younger and is no more than four years older than the victim, such person shall be guilty of a misdemeanor and shall not be subject to the sentencing and punishment provisions of Code Section 17-10-6.2.

GA. CODE ANN. § 16-6-8 (WEST 2010). PUBLIC INDECENCY

(a) A person commits the offense of public indecency when he or she performs any of the following acts in a public place:

(1) An act of sexual intercourse;

(2) A lewd exposure of the sexual organs;

(3) A lewd appearance in a state of partial or complete nudity; or

(4) A lewd caress or indecent fondling of the body of another person.

(b) A person convicted of the offense of public indecency as provided in subsection (a) of this Code section shall be punished as for a misdemeanor except as provided in subsection (c) of this Code section.

(c) Upon a third or subsequent conviction for public indecency for the violation of paragraph (2), (3), or (4) of subsection (a) of this Code section, a person shall be guilty of a felony and shall be punished by imprisonment for not less than one nor more than five years.

(d) For the purposes of this Code section only, “public place” shall include jails and penal and correctional institutions of the state and its political subdivisions.

(e) This Code section shall be cumulative to and shall not prohibit the enactment of any other general and local laws, rules, and regulations of state and local authorities or agencies and local.

*Statute truncated due to size.

GA. CODE ANN. § 16-6-22 (WEST 2010). INCEST

(a) A person commits the offense of incest when such person engages in sexual intercourse or sodomy, as such term is defined in Code Section 16-6-2, with a person whom he or she knows he or she is related to either by blood or by marriage as follows:

(1) Father and child or stepchild;

(2) Mother and child or stepchild;

(3) Siblings of the whole blood or of the half blood;

(4) Grandparent and grandchild;

(5) Aunt and niece or nephew; or

(6) Uncle and niece or nephew.

(b) A person convicted of the offense of incest shall be punished by imprisonment for not less than ten nor more than 30 years; provided, however, that any person convicted of the offense of incest under this subsection with a child under the age of 14 years shall be punished by imprisonment for not less than 25 nor more than 50 years. Any person convicted under this Code section of the offense of incest shall, in addition, be subject to the sentencing and punishment provisions of Code Section 17-10-6.2.

GA. CODE ANN. § 16-6-22.1 (WEST 2010). SEXUAL BATTERY

(a) For the purposes of this Code section, the term "intimate parts" means the primary genital area, anus, groin, inner thighs, or buttocks of a male or female and the breasts of a female.

(b) A person commits the offense of sexual battery when he or she intentionally makes physical contact with the intimate parts of the body of another person without the consent of that person.

(c) Except as otherwise provided in this Code section, a person convicted of the offense of sexual battery shall be punished as for a misdemeanor of a high and aggravated nature.

(d) A person convicted of the offense of sexual battery against any child under the age of 16 years shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than one nor more than five years.

(e) Upon a second or subsequent conviction under subsection (b) of this Code section, a person shall be guilty of a felony and, upon conviction thereof, shall be imprisoned for not less than one nor more than five years and, in addition, shall be subject to the sentencing and punishment provisions of Code Section 17-10-6.2.

GA. CODE ANN. § 16-6-22.2 (WEST 2010). AGGRAVATED SEXUAL BATTERY

(a) For the purposes of this Code section, the term "foreign object" means any article or instrument other than the sexual organ of a person.

(b) A person commits the offense of aggravated sexual battery when he or she intentionally penetrates with a foreign object the sexual organ or anus of another person without the consent of that person.

(c) A person convicted of the offense of aggravated sexual battery shall be punished by imprisonment for life or by a split sentence that is a term of imprisonment for not less than 25 years and not exceeding life imprisonment, followed by probation for life, and shall be subject to the sentencing and punishment provisions of Code Sections 17-10-6.1 and 17-10-7.

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HAWAII

CHARTS	PENETRATION	FORCE	CAPACITY TO CONSENT	VICTIM PERPETRATOR RELATIONSHIP	OTHER SEX CRIMES
CONSENT ANALYSIS	ALCOHOL/DRUG FACILITATED SEXUAL ASSAULT	MARITAL RAPE	SAME SEX PERPETRATOR	STATUTORY RAPE	CONSTRUCTIVE FORCE

HAW. REV. STAT. § 707-700 (2011). DEFINITIONS OF TERMS IN THIS CHAPTER

In this chapter, unless a different meaning plainly is required:

"Bodily injury" means physical pain, illness, or any impairment of physical condition.

"Compulsion" means absence of consent, or a threat, express or implied, that places a person in fear of public humiliation, property damage, or financial loss.

"Dangerous instrument" means any firearm, whether loaded or not, and whether operable or not, or other weapon, device, instrument, material, or substance, whether animate or inanimate, which in the manner it is used or is intended to be used is known to be capable of producing death or serious bodily injury.

"Deviate sexual intercourse" means any act of sexual gratification between a person and an animal or a corpse, involving the sex organs of one and the mouth, anus, or sex organs of the other.

"Emergency worker" means any:

(1) Law enforcement officer, including but not limited to any police officer, public safety officer, parole or probation officer, or any other officer of any county, state, federal, or military agency authorized to exercise law enforcement or police powers;

(2) Firefighter, emergency medical services personnel, emergency medical technician, ambulance crewmember, or any other emergency response personnel;

(3) Member of the Hawaii national guard on any duty or service done under or in pursuance of an order or call of the governor or the President of the United States or any proper authority;

(4) Member of the United States Army, Air Force, Navy, Marines, or Coast Guard on any duty or service done under or in pursuance of an order or call of the President of the United States or any proper authority;

(5) Member of the national guard from any other state ordered into service by any proper authority;

(6) Person engaged in civil defense functions as authorized by the director of civil defense or as otherwise authorized under chapter 128; or

(7) Person engaged in disaster relief by authorization of the director of disaster relief or as otherwise authorized under chapter 127.

“Labor” means work of economic or financial value.

“Married” includes persons legally married, and a male and female living together as husband and wife regardless of their legal status, but does not include spouses living apart.

“Mentally defective” means a person suffering FROM a disease, disorder, or defect which renders the person incapable of appraising the nature of the person's conduct.

“Mentally incapacitated” means a person rendered temporarily incapable of appraising or controlling the person's conduct as a result of the influence of a substance administered to the person without the person's consent.

“Person” means a human being who has been born and is alive.

“Physically helpless” means a person who is unconscious or for any other reason physically unable to communicate unwillingness to an act.

“Relative” means parent, ancestor, brother, sister, uncle, aunt, or legal guardian.

“Restrain” means to restrict a person's movement in such a manner as to interfere substantially with the person's liberty:

(1) By means of force, threat, or deception; or

(2) If the person is under the age of eighteen or incompetent, without the consent of the relative, person, or institution having lawful custody of the person.

“Serious bodily injury” means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

“Services” means a relationship between a person and the actor in which the person performs activities under the supervision of or for the benefit of the actor. Prostitution-related and obscenity-related activities as set forth in chapter 712 are forms of “services” under this section. Nothing in this chapter shall be construed to legitimize or legalize prostitution.

“Sexual contact” means any touching, other than acts of “sexual penetration”, of the sexual or other intimate parts of a person not married to the actor, or of the sexual or other intimate parts of the actor by the person, whether directly or through the clothing or other material intended to cover the sexual or other intimate parts.

“Sexual penetration” means:

(1) Vaginal intercourse, anal intercourse, fellatio, deviate sexual intercourse, or any intrusion of any part of a person's body or of any object into the genital or anal opening of another person's body; it occurs upon any penetration, however slight, but emission is not required. As used in this definition, “genital opening” includes the anterior surface of the vulva or labia majora; or

(2) Cunnilingus or anilingus, whether or not actual penetration has occurred.

For purposes of this chapter, each act of sexual penetration shall constitute a separate offense.

*Statute truncated due to size.

"Strong compulsion" means the use of or attempt to use one or more of the following to overcome a person:

(1) A threat, express or implied, that places a person in fear of bodily injury to the individual or another person, or in fear that the person or another person will be kidnapped;

(2) A dangerous instrument; or

(3) Physical force.

"Substantial bodily injury" means bodily injury which causes:

(1) A major avulsion, laceration, or penetration of the skin;

(2) A burn of at least second degree severity;

(3) A bone fracture;

(4) A serious concussion; or

(5) A tearing, rupture, or corrosive damage to the esophagus, viscera, or other internal organs.

HAW. REV. STAT. § 707-730 (2011). SEXUAL ASSAULT IN FIRST DEGREE

(1) A person commits the offense of sexual assault in the first degree if:

(a) The person knowingly subjects another person to an act of sexual penetration by strong compulsion;

(b) The person knowingly engages in sexual penetration with another person who is less than fourteen years old;

(c) The person knowingly engages in sexual penetration with a person who is at least fourteen years old but less than sixteen years old; provided that:

(i) The person is not less than five years older than the minor; and

(ii) The person is not legally married to the minor;

(d) The person knowingly subjects to sexual penetration another person who is mentally defective; or

(e) The person knowingly subjects to sexual penetration another person who is mentally incapacitated or physically helpless as a result of the influence of a substance that the actor knowingly caused to be administered to the other person without the other person's consent.

Paragraphs (b) and (c) shall not be construed to prohibit practitioners licensed under chapter 453 or 455 from performing any act within their respective practices.

(2) Sexual assault in the first degree is a class A felony.

HAW. REV. STAT. § 707-731 (2011). SEXUAL ASSAULT IN THE SECOND DEGREE

(1) A person commits the offense of sexual assault in the second degree if:

(a) The person knowingly subjects another person to an act of sexual penetration by compulsion;

(b) The person knowingly subjects to sexual penetration another person who is mentally incapacitated or physically helpless; or

(c) The person, while employed:

(i) In a state correctional facility;

(ii) By a private company providing services at a correctional facility;

(iii) By a private company providing community-based residential services to persons committed to the director of public safety and having received notice of this statute;

(iv) By a private correctional facility operating in the State of Hawaii; or

(v) As a law enforcement officer as defined in section 710-1000(13),

knowingly subjects to sexual penetration an imprisoned person, a person confined to a detention facility, a person committed to the director of public safety, a person residing in a private correctional facility operating in the State of Hawaii, or a person in custody; provided that paragraph (b) and this paragraph shall not be construed to prohibit practitioners licensed under chapter 453 or 455 from performing any act within their respective practices; and further provided that this paragraph shall not be construed to prohibit a law enforcement officer from performing a lawful search pursuant to a warrant or exception to the warrant clause.

(2) Sexual assault in the second degree is a class B felony.

HAW. REV. STAT. § 707-732 (2011). SEXUAL ASSAULT IN THE THIRD DEGREE

(1) A person commits the offense of sexual assault in the third degree if:

(a) The person recklessly subjects another person to an act of sexual penetration by compulsion;

(b) The person knowingly subjects to sexual contact another person who is less than fourteen years old or causes such a person to have sexual contact with the person;

(c) The person knowingly engages in sexual contact with a person who is at least fourteen years old but less than sixteen years old or causes the minor to have sexual contact with the person; provided that:

(i) The person is not less than five years older than the minor; and

(ii) The person is not legally married to the minor;

(d) The person knowingly subjects to sexual contact another person who is mentally defective, mentally incapacitated, or physically helpless, or causes such a person to have sexual contact with the actor;

(e) The person, while employed:

(i) In a state correctional facility;

(ii) By a private company providing services at a correctional facility;

*Statute truncated due to size.

(iii) By a private company providing community-based residential services to persons committed to the director of public safety and having received notice of this statute;

(iv) By a private correctional facility operating in the State of Hawaii; or

(v) As a law enforcement officer as defined in section 710-1000(13),
knowingly subjects to sexual contact an imprisoned person, a person confined to a detention facility, a person committed to the director of public safety, a person residing in a private correctional facility operating in the State of Hawaii, or a person in custody, or causes the person to have sexual contact with the actor; or

(f) The person knowingly, by strong compulsion, has sexual contact with another person or causes another person to have sexual contact with the actor.

Paragraphs (b), (c), (d), and (e) shall not be construed to prohibit practitioners licensed under chapter 453 or 455 from performing any act within their respective practices; provided further that paragraph (e)(v) shall not be construed to prohibit a law enforcement officer from performing a lawful search pursuant to a warrant or an exception to the warrant clause.

(2) Sexual assault in the third degree is a class C felony.

HAW. REV. STAT. § 707-733 (2011). SEXUAL ASSAULT IN THE FOURTH DEGREE

(1) A person commits the offense of sexual assault in the fourth degree if:

(a) The person knowingly subjects another person to sexual contact by compulsion or causes another person to have sexual contact with the actor by compulsion;

(b) The person knowingly exposes the person's genitals to another person under circumstances in which the actor's conduct is likely to alarm the other person or put the other person in fear of bodily injury; or

(c) The person knowingly trespasses on property for the purpose of subjecting another person to surreptitious surveillance for the sexual gratification of the actor.

(2) Sexual assault in the fourth degree is a misdemeanor.

(3) Whenever a court sentences a defendant for an offense under this section, the court may order the defendant to submit to a pre-sentence mental and medical examination pursuant to section 706-603.

HAW. REV. STAT. § 700-741 (2011). INCEST

(1) A person commits the offense of incest if the person commits an act of sexual penetration with another who is within the degrees of consanguinity or affinity within which marriage is prohibited.

(2) Incest is a class C felony.

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*Statute truncated due to size.

IDAHO

CHARTS	PENETRATION	FORCE	CAPACITY TO CONSENT	VICTIM PERPETRATOR RELATIONSHIP	OTHER SEX CRIMES
CONSENT ANALYSIS	ALCOHOL/DRUG FACILITATED SEXUAL ASSAULT	MARITAL RAPE	SAME SEX PERPETRATOR	STATUTORY RAPE	CONSTRUCTIVE FORCE

IDAHO CODE ANN. § 18-4116 (2012). INDECENT EXPOSURE

Every person who willfully and lewdly, either:

(1) Exposes his or her genitals, in any public place, or in any place where there is present another person or persons who are offended or annoyed thereby; or,

(2) Procures, counsels, or assists any person so to expose his or her genitals, where there is present another person or persons who are offended or annoyed thereby is guilty of a misdemeanor.
Any person who pleads guilty to or is found guilty of a violation of subsection (1) or (2) of this section or a similar statute in another state or any local jurisdiction for a second time within five (5) years, notwithstanding the form of the judgment(s) or withheld judgment(s), is guilty of a felony and shall be imprisoned in the state prison for a period not to exceed ten (10) years.

IDAHO CODE ANN. § 18-6101 (2011). RAPE DEFINED

Rape is defined as the penetration, however slight, of the oral, anal or vaginal opening with the perpetrator's penis accomplished with a female under any one (1) of the following circumstances:

(1) Where the female is under the age of sixteen (16) years and the perpetrator is eighteen (18) years of age or older.

(2) Where the female is sixteen (16) or seventeen (17) years of age and the perpetrator is three (3) years or more older than the female.

(3) Where she is incapable, through any unsoundness of mind, due to any cause including, but not limited to, mental illness, mental deficiency or developmental disability, whether temporary or permanent, of giving legal consent.

(4) Where she resists but her resistance is overcome by force or violence.

(5) Where she is prevented from resistance by the infliction, attempted infliction, or threatened infliction of bodily harm, accompanied by apparent power of execution; or is unable to resist due to any intoxicating, narcotic, or anaesthetic substance.

(6) Where she is at the time unconscious of the nature of the act. As used in this section, "unconscious of the nature of the act" means incapable of resisting because the victim meets one (1) of the following conditions:

(a) Was unconscious or asleep;

(b) Was not aware, knowing, perceiving, or cognizant that the act occurred.

(7) Where she submits under the belief that the person committing the act is her husband, and the belief is induced by artifice, pretense or concealment practiced by the accused, with intent to induce such belief.

(8) Where she submits under the belief, instilled by the actor, that if she does not submit, the actor will cause physical harm to some person in the future; or cause damage to property; or engage in other conduct constituting a crime; or accuse any person of a crime or cause criminal charges to be instituted against her; or expose a secret or publicize an asserted fact, whether true or false, tending to subject any person to hatred, contempt or ridicule.

The provisions of subsections (1) and (2) of this section shall not affect the age requirements in any other provision of law, unless otherwise provided in any such law. Further, for the purposes of subsection (2) of this section, in determining whether the perpetrator is three (3) years or more older than the female, the difference in age shall be measured from the date of birth of the perpetrator to the date of birth of the female.

IDAHO CODE ANN. § 18-6102 (2011). PROOF OF PHYSICAL ABILITY

No conviction for rape can be had against one who was under the age of fourteen (14) years at the time of the act alleged, unless his physical ability to accomplish penetration is proved as an independent fact, and beyond a reasonable doubt.

IDAHO CODE ANN. § 18-6103 (2011). PENETRATION

The essential guilt of rape consists in the outrage to the person and feelings of the female. Any sexual penetration, however slight, is sufficient to complete the crime.

IDAHO CODE ANN. § 18-6104 (2011). PUNISHMENT FOR RAPE

Rape is punishable by imprisonment in the state prison not less than one (1) year, and the imprisonment may be extended to life in the discretion of the District Judge, who shall pass sentence.

IDAHO CODE ANN. § 18-6107 (2011). RAPE OF SPOUSE

No person shall be convicted of rape for any act or acts with that person's spouse, except under the circumstances cited in subsections (4) and (5) of section 18-6101, Idaho Code.

IDAHO CODE ANN. § 18-6108 (2011). MALE RAPE

Male rape is defined as the penetration, however slight, of the oral or anal opening of another male, with the perpetrator's penis, for the purpose of sexual arousal, gratification or abuse, under any of the following circumstances:

(1) Where the victim is under the age of sixteen (16) years and the perpetrator is eighteen (18) years of age or older.

(2) Where the victim is sixteen (16) or seventeen (17) years of age and the perpetrator is three (3) years or more older than the victim.

(3) Where the victim is incapable, through any unsoundness of mind, whether temporary or permanent, of giving consent.

(4) Where the victim resists but his resistance is overcome by force or violence.

(5) Where the victim is prevented from resistance by threats of immediate and great bodily harm, accompanied by apparent power of execution.

(6) Where the victim is prevented from resistance by the use of any intoxicating, narcotic, or anaesthetic substance administered by or with the privity of the accused.

(7) Where the victim is at the time unconscious of the nature of the act, and this is known to the accused.

The provisions of subsections (1) and (2) of this section shall not affect the age requirements in any other provision of law, unless otherwise provided in any such law. Further, for the purposes of subsection (2) of this section, in determining whether the perpetrator is three (3) years or more older than the victim, the difference in age shall be measured from the date of birth of the perpetrator to the date of birth of the victim.

IDAHO CODE ANN. § 18-6109 (2011). PUNISHMENT FOR MALE RAPE

Male rape is punishable by imprisonment in the state prison for not less than one (1) year, and the imprisonment may be extended to life.

IDAHO CODE ANN. § 18-6110 (2011). SEXUAL CONTACT WITH A PRISONER

(1) It is a felony for any employee of the Idaho department of correction, Idaho department of juvenile corrections or any officer, employee or agent of a state, local or private correctional facility, as those terms are defined in section 18-101A, Idaho Code, to have sexual contact with a prisoner or juvenile offender, not their spouse, whether an in-state or out-of-state prisoner or juvenile offender, as those terms are defined in section 18-101A, Idaho Code.

(2) It is a felony for any supervising officer, as that term is defined in section 18-101A, Idaho Code, to knowingly have sexual contact with any parolee or probationer, as those terms are defined in section 18-101A, Idaho Code, who is not the person's spouse.

(3) For the purposes of this section “sexual contact” means sexual intercourse, genital-genital contact, manual-anal contact, manual-genital contact, oral-genital contact, anal-genital contact or oral-anal contact, between persons of the same or opposite sex.

(4) Any person found guilty of sexual contact with a prisoner or juvenile offender is punishable by imprisonment in the state prison for a term not to exceed life.

IDAHO CODE ANN. § 18-6602 (2011). INCEST

Persons being within the degrees of consanguinity within which marriages are declared by law to be incestuous and void, who intermarry with each other, or who commit fornication or adultery with each other, are punishable by imprisonment in the state prison for a term not to exceed life.

*Statute truncated due to size.

IDAHO CODE ANN. § 18-6608 (2011). FORCIBLE SEXUAL PENETRATION BY USE OF FOREIGN OBJECT

Every person who, for the purpose of sexual arousal, gratification or abuse, causes the penetration, however slight, of the genital or anal opening of another person, by any object, instrument or device, against the victim's will by use of force or violence or by duress, or by threats of immediate and great bodily harm, accompanied by apparent power of execution, or where the victim is incapable, through any unsoundness of mind, whether temporary or permanent, of giving legal consent, or where the victim is prevented from resistance by any intoxicating, narcotic or anesthetic substance, shall be guilty of a felony and shall be punished by imprisonment in the state prison for not more than life.

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ILLINOIS

CHARTS	PENETRATION	FORCE	CAPACITY TO CONSENT	VICTIM PERPETRATOR RELATIONSHIP	OTHER SEX CRIMES
CONSENT ANALYSIS	ALCOHOL/DRUG FACILITATED SEXUAL ASSAULT	MARITAL RAPE	SAME SEX PERPETRATOR	STATUTORY RAPE	CONSTRUCTIVE FORCE

720 ILL. COMP. STAT. ANN. 5/11-0.1 (WEST 2011). DEFINITIONS

§ 11-0.1. Definitions. In this Article, unless the context clearly requires otherwise, the following terms are defined as indicated:

"Accused" means a person accused of an offense prohibited by Section 11-1.20, 11-1.30, 11-1.40, 11-1.50, or 11-1.60 of this Code or a person for whose conduct the accused is legally responsible under Article 5 of this Code.

"Adult obscenity or child pornography Internet site". See Section 11-23.

"Advance prostitution" means:

(1) Soliciting for a prostitute by performing any of the following acts when acting other than as a prostitute or a patron of a prostitute:

(A) Soliciting another for the purpose of prostitution.

(B) Arranging or offering to arrange a meeting of persons for the purpose of prostitution.

(C) Directing another to a place knowing the direction is for the purpose of prostitution.

(2) Keeping a place of prostitution by controlling or exercising control over the use of any place that could offer seclusion or shelter for the practice of prostitution and performing any of the following acts when acting other than as a prostitute or a patron of a prostitute:

(A) Knowingly granting or permitting the use of the place for the purpose of prostitution.

(B) Granting or permitting the use of the place under circumstances from which he or she could reasonably know that the place is used or is to be used for purposes of prostitution.

(C) Permitting the continued use of the place after becoming aware of facts or circumstances from which he or she

should reasonably know that the place is being used for purposes of prostitution.

“Agency”. See Section 11-9.5.

“Arranges”. See Section 11-6.5.

“Bodily harm” means physical harm, and includes, but is not limited to, sexually transmitted disease, pregnancy, and impotence.

“Care and custody”. See Section 11-9.5.

“Child care institution”. See Section 11-9.3.

“Child pornography”. See Section 11-20.1.

“Child sex offender”. See Section 11-9.3.

“Community agency”. See Section 11-9.5.

“Conditional release”. See Section 11-9.2.

“Consent”. See Section 11-1.70.

“Custody”. See Section 11-9.2.

“Day care center”. See Section 11-9.3.

“Depict by computer”. See Section 11-20.1.

“Depiction by computer”. See Section 11-20.1.

“Disseminate”. See Section 11-20.1.

“Distribute”. See Section 11-21.

“Family member” means a parent, grandparent, child, aunt, uncle, great-aunt, or great-uncle, whether by whole blood, half-blood, or adoption, and includes a step-grandparent, step-parent, or step-child. “Family member” also means, if the victim is a child under 18 years of age, an accused who has resided in the household with the child continuously for at least 6 months.

“Force or threat of force” means the use of force or violence or the threat of force or violence, including, but not limited to, the following situations:

(1) when the accused threatens to use force or violence on the victim or on any other person, and the victim under the circumstances reasonably believes that the accused has the ability to execute that threat; or

(2) when the accused overcomes the victim by use of superior strength or size, physical restraint, or physical confinement.

“Harmful to minors”. See Section 11-21.

“Loiter”. See Section 9.3.

"Material". See Section 11-21.

"Minor". See Section 11-21.

"Nudity". See Section 11-21.

"Obscene". See Section 11-20.

"Part day child care facility". See Section 11-9.3.

"Penal system". See Section 11-9.2.

"Person responsible for the child's welfare". See Section 11-9.1A.

"Person with a disability". See Section 11-9.5.

"Playground". See Section 11-9.3.

"Probation officer". See Section 11-9.2.

"Produce". See Section 11-20.1.

"Profit from prostitution" means, when acting other than as a prostitute, to receive anything of value for personally rendered prostitution services or to receive anything of value from a prostitute, if the thing received is not for lawful consideration and the person knows it was earned in whole or in part from the practice of prostitution.

"Public park". See Section 11-9.3.

"Public place". See Section 11-30.

"Reproduce". See Section 11-20.1.

"Sado-masochistic abuse". See Section 11-21.

"School". See Section 11-9.3.

"School official". See Section 11-9.3.

"Sexual abuse". See Section 11-9.1A.

"Sexual act". See Section 11-9.1.

"Sexual conduct" means any knowing touching or fondling by the victim or the accused, either directly or through clothing, of the sex organs, anus, or breast of the victim or the accused, or any part of the body of a child under 13 years of age, or any transfer or transmission of semen by the accused upon any part of the clothed or unclothed body of the victim, for the purpose of sexual gratification or arousal of the victim or the accused.

"Sexual excitement". See Section 11-21.

"Sexual penetration" means any contact, however slight, between the sex organ or anus of one person and an object or the sex organ, mouth, or anus of another person, or any intrusion, however slight, of any part of the body of one person or of any animal or object into the sex organ or anus of another person, including, but not limited to, cunnilingus, fellatio, or anal penetration. Evidence of emission of semen is not required to prove sexual

penetration.

"Solicit". See Section 11-6.

"State-operated facility". See Section 11-9.5.

"Supervising officer". See Section 11-9.2.

"Surveillance agent". See Section 11-9.2.

"Treatment and detention facility". See Section 11-9.2.

"Victim" means a person alleging to have been subjected to an offense prohibited by Section 11-1.20, 11-1.30, 11-1.40, 11-1.50, or 11-1.60 of this Code.

720 ILL. COMP. STAT. ANN. 5/11-1.20 (WEST 2011). CRIMINAL SEXUAL ASSAULT

§ 11-1.20. Criminal Sexual Assault.

(a) A person commits criminal sexual assault if that person commits an act of sexual penetration and:

(1) uses force or threat of force;

(2) knows that the victim is unable to understand the nature of the act or is unable to give knowing consent;

(3) is a family member of the victim, and the victim is under 18 years of age; or

(4) is 17 years of age or over and holds a position of trust, authority, or supervision in relation to the victim, and the victim is at least 13 years of age but under 18 years of age.

(b) Sentence.

(1) Criminal sexual assault is a Class 1 felony, except that:

(A) A person who is convicted of the offense of criminal sexual assault as defined in paragraph (a)(1) or (a)(2) after having previously been convicted of the offense of criminal sexual assault or the offense of exploitation of a child, or who is convicted of the offense of criminal sexual assault as defined in paragraph (a)(1) or (a)(2) after having previously been convicted under the laws of this State or any other state of an offense that is substantially equivalent to the offense of criminal sexual assault or to the offense of exploitation of a child, commits a Class X felony for which the person shall be sentenced to a term of imprisonment of not less than 30 years and not more than 60 years. The commission of the second or subsequent offense is required to have been after the initial conviction for this paragraph (A) to apply.

(B) A person who is convicted of the offense of criminal sexual assault as defined in paragraph (a)(1) or (a)(2) after having previously been convicted of the offense of aggravated criminal sexual assault or the offense of predatory criminal sexual assault of a child, or who is convicted of the offense of criminal sexual assault as defined in paragraph (a)(1) or (a)(2) after having previously been convicted under the laws of this State or any other state of an offense that is substantially equivalent to the offense of aggravated criminal sexual assault or the offense of predatory criminal sexual assault of a child shall be sentenced to a term of natural life imprisonment. The commission of the second or subsequent offense is required to have been after the initial conviction for this paragraph (B) to apply.

(C) A second or subsequent conviction for a violation of paragraph (a)(3) or (a)(4) or under any similar statute of this State or any other state for any offense involving criminal sexual assault that is substantially equivalent to or more serious than the sexual assault prohibited under paragraph (a)(3) or (a)(4) is a Class X felony.

720 ILL. COMP. STAT. ANN. 5/11-1.30 (WEST 2011). AGGRAVATED CRIMINAL SEXUAL ASSAULT

§ 11-1.30. Aggravated Criminal Sexual Assault.

(a) A person commits aggravated criminal sexual assault if that person commits criminal sexual assault and any of the following aggravating circumstances exist during the commission of the offense or, for purposes of paragraph (7), occur as part of the same course of conduct as the commission of the offense:

(1) the person displays, threatens to use, or uses a dangerous weapon, other than a firearm, or any other object fashioned or used in a manner that leads the victim, under the circumstances, reasonably to believe that the object is a dangerous weapon;

(2) the person causes bodily harm to the victim, except as provided in paragraph (10);

(3) the person acts in a manner that threatens or endangers the life of the victim or any other person;

(4) the person commits the criminal sexual assault during the course of committing or attempting to commit any other felony;

(5) the victim is 60 years of age or older;

(6) the victim is a physically handicapped person;

(7) the person delivers (by injection, inhalation, ingestion, transfer of possession, or any other means) any controlled substance to the victim without the victim's consent or by threat or deception for other than medical purposes;

(8) the person is armed with a firearm;

(9) the person personally discharges a firearm during the commission of the offense; or

(10) the person personally discharges a firearm during the commission of the offense, and that discharge proximately causes great bodily harm, permanent disability, permanent disfigurement, or death to another person.

(b) A person commits aggravated criminal sexual assault if that person is under 17 years of age and:

(i) commits an act of sexual penetration with a victim who is under 9 years of age; or (ii) commits an act of sexual penetration with a victim who is at least 9 years of age but under 13 years of age and the person uses force or threat of force to commit the act.

(c) A person commits aggravated criminal sexual assault if that person commits an act of sexual penetration with a victim who is a severely or profoundly intellectually disabled person.

(d) Sentence.

(1) Aggravated criminal sexual assault in violation of paragraph (2), (3), (4), (5), (6), or (7) of subsection (a) or in violation of subsection (b) or (c) is a Class X felony. A violation of subsection (a)(1) is a Class X felony for which 10 years shall be added to the term of imprisonment imposed by the court. A violation of subsection (a)(8) is a Class X

felony for which 15 years shall be added to the term of imprisonment imposed by the court. A violation of subsection (a)(9) is a Class X felony for which 20 years shall be added to the term of imprisonment imposed by the court. A violation of subsection (a)(10) is a Class X felony for which 25 years or up to a term of natural life imprisonment shall be added to the term of imprisonment imposed by the court.

(2) A person who is convicted of a second or subsequent offense of aggravated criminal sexual assault, or who is convicted of the offense of aggravated criminal sexual assault after having previously been convicted of the offense of criminal sexual assault or the offense of predatory criminal sexual assault of a child, or who is convicted of the offense of aggravated criminal sexual assault after having previously been convicted under the laws of this or any other state of an offense that is substantially equivalent to the offense of criminal sexual assault, the offense of aggravated criminal sexual assault or the offense of predatory criminal sexual assault of a child, shall be sentenced to a term of natural life imprisonment. The commission of the second or subsequent offense is required to have been after the initial conviction for this paragraph (2) to apply.

720 ILL. COMP. STAT. ANN. 5/11-1.50 (WEST 2011). CRIMINAL SEXUAL ABUSE

(a) A person commits criminal sexual abuse if that person :

(1) commits an act of sexual conduct by the use of force or threat of force; or

(2) commits an act of sexual conduct and knows that the victim is unable to understand the nature of the act or is unable to give knowing consent.

(b) A person commits criminal sexual abuse if that person is under 17 years of age and commits an act of sexual penetration or sexual conduct with a victim who is at least 9 years of age but under 17 years of age.

(c) A person commits criminal sexual abuse if that person commits an act of sexual penetration or sexual conduct with a victim who is at least 13 years of age but under 17 years of age and the person is less than 5 years older than the victim.

(d) Sentence. Criminal sexual abuse for a violation of subsection (b) or (c) of this Section is a Class A misdemeanor. Criminal sexual abuse for a violation of paragraph (1) or (2) of subsection (a) of this Section is a Class 4 felony. A second or subsequent conviction for a violation of subsection (a) of this Section is a Class 2 felony. For purposes of this Section it is a second or subsequent conviction if the accused has at any time been convicted under this Section or under any similar statute of this State or any other state for any offense involving sexual abuse or sexual assault that is substantially equivalent to or more serious than the sexual abuse prohibited under this Section.

720 ILL. COMP. STAT. ANN. 5/11-1.60 (WEST 2011). AGGRAVATED CRIMINAL SEXUAL ABUSE

(a) A person commits aggravated criminal sexual abuse if that person commits criminal sexual abuse and any of the following aggravating circumstances exist (i) during the commission of the offense or (ii) for purposes of paragraph (7), as part of the same course of conduct as the commission of the offense:

(1) the person displays, threatens to use, or uses a dangerous weapon or any other object fashioned or used in a manner that leads the victim, under the circumstances, reasonably to believe that the object is a dangerous weapon;

(2) the person causes bodily harm to the victim;

(3) the victim is 60 years of age or older;

(4) the victim is a physically handicapped person;

(5) the person acts in a manner that threatens or endangers the life of the victim or any other person;

(6) the person commits the criminal sexual abuse during the course of committing or attempting to commit any other felony; or

(7) the person delivers (by injection, inhalation, ingestion, transfer of possession, or any other means) any controlled substance to the victim for other than medical purposes without the victim's consent or by threat or deception.

(b) A person commits aggravated criminal sexual abuse if that person commits an act of sexual conduct with a victim who is under 18 years of age and the person is a family member.

(c) A person commits aggravated criminal sexual abuse if:

(1) that person is 17 years of age or over and: (i) commits an act of sexual conduct with a victim who is under 13 years of age; or (ii) commits an act of sexual conduct with a victim who is at least 13 years of age but under 17 years of age and the person uses force or threat of force to commit the act; or

(2) that person is under 17 years of age and: (i) commits an act of sexual conduct with a victim who is under 9 years of age; or (ii) commits an act of sexual conduct with a victim who is at least 9 years of age but under 17 years of age and the person uses force or threat of force to commit the act.

(d) A person commits aggravated criminal sexual abuse if that person commits an act of sexual penetration or sexual conduct with a victim who is at least 13 years of age but under 17 years of age and the person is at least 5 years older than the victim.

(e) A person commits aggravated criminal sexual abuse if that person commits an act of sexual conduct with a victim who is a severely or profoundly intellectually disabled person.

(f) A person commits aggravated criminal sexual abuse if that person commits an act of sexual conduct with a victim who is at least 13 years of age but under 18 years of age and the person is 17 years of age or over and holds a position of trust, authority, or supervision in relation to the victim.

(g) Sentence. Aggravated criminal sexual abuse is a Class 2 felony.

720 ILL. COMP. STAT. ANN. 5/11-1.70 (WEST 2011). DEFENSES WITH RESPECT TO OFFENSES DESCRIBED IN SECTIONS 11-1.20 THROUGH 11-1.60

<Text of section effective July 1, 2011. See, also, § 12-17, prior to renumbering, effective until July 1, 2011.>

§ 11-1.70. Defenses with respect to offenses described in Sections 11-1.20 through 11-1.60.

(a) It shall be a defense to any offense under Section 11-1.20, 11-1.30, 11-1.40, 11-1.50, or 11-1.60 of this Code where force or threat of force is an element of the offense that the victim consented. “Consent” means a freely given agreement to the act of sexual penetration or sexual conduct in question. Lack of verbal or physical resistance or submission by the victim resulting from the use of force or threat of force by the accused shall not constitute consent. The manner of dress of the victim at the time of the offense shall not constitute consent.

(b) It shall be a defense under subsection (b) and subsection (c) of Section 11-1.50 and subsection (d) of Section 11-1.60 of this Code that the accused reasonably believed the person to be 17 years of age or over.

(c) A person who initially consents to sexual penetration or sexual conduct is not deemed to have consented to any sexual penetration or sexual conduct that occurs after he or she withdraws consent during the course of that sexual penetration or sexual conduct.

720 ILL. COMP. STAT. ANN. 5/11-9.2 (WEST 2010). CUSTODIAL SEXUAL MISCONDUCT

(a) A person commits custodial sexual misconduct when: (1) he or she is an employee of a penal system and engages in sexual conduct or sexual penetration with a person who is in the custody of that penal system or (2) he or she is an employee of a treatment and detention facility and engages in sexual conduct or sexual penetration with a person who is in the custody of that treatment and detention facility.

(b) A probation or supervising officer or surveillance agent commits custodial sexual misconduct when the probation or supervising officer or surveillance agent engages in sexual conduct or sexual penetration with a probationer, parolee, or releasee or person serving a term of conditional release who is under the supervisory, disciplinary, or custodial authority of the officer or agent so engaging in the sexual conduct or sexual penetration.

(c) Custodial sexual misconduct is a Class 3 felony.

(d) Any person convicted of violating this Section immediately shall forfeit his or her employment with a penal system, treatment and detention facility, or conditional release program.

(e) For purposes of this Section, the consent of the probationer, parolee, releasee, or inmate in custody of the penal system or person detained or civilly committed under the Sexually Violent Persons Commitment Act shall not be a defense to a prosecution under this Section. A person is deemed incapable of consent, for purposes of this Section, when he or she is a probationer, parolee, releasee, or inmate in custody of a penal system or person detained or civilly committed under the Sexually Violent Persons Commitment Act.1

(f) This Section does not apply to:

(1) Any employee, probation or supervising officer, or surveillance agent who is lawfully married to a person in custody if the marriage occurred before the date of custody.

(2) Any employee, probation or supervising officer, or surveillance agent who has no knowledge, and would have no reason to believe, that the person with whom he or she engaged in custodial sexual misconduct was a person in custody.

(g) In this Section:

(1) “Custody” means:

(i) pretrial incarceration or detention;

(ii) incarceration or detention under a sentence or commitment to a State or local penal institution;

(iii) parole or mandatory supervised release;

(iv) electronic home detention;

(v) probation;

(vi) detention or civil commitment either in secure care or in the community under the Sexually Violent Persons Commitment Act.

(2) "Penal system" means any system which includes institutions as defined in Section 2-14 of this Code or a county shelter care or detention home established under Section 1 of the County Shelter Care and Detention Home Act.2

(2.1) "Treatment and detention facility" means any Department of Human Services facility established for the detention or civil commitment of persons under the Sexually Violent Persons Commitment Act.

(2.2) "Conditional release" means a program of treatment and services, vocational services, and alcohol or other drug abuse treatment provided to any person civilly committed and conditionally released to the community under the Sexually Violent Persons Commitment Act;

(3) "Employee" means:

(i) an employee of any governmental agency of this State or any county or municipal corporation that has by statute, ordinance, or court order the responsibility for the care, control, or supervision of pretrial or sentenced persons in a penal system or persons detained or civilly committed under the Sexually Violent Persons Commitment Act;

(ii) a contractual employee of a penal system as defined in paragraph (g)(2) of this Section who works in a penal institution as defined in Section 2-14 of this Code;

(iii) a contractual employee of a "treatment and detention facility" as defined in paragraph

(g)(2.1) of this Code or a contractual employee of the Department of Human Services who provides supervision of persons serving a term of conditional release as defined in paragraph (g)(2.2) of this Code.

(4) "Sexual conduct" or "sexual penetration" means any act of sexual conduct or sexual penetration as defined in Section 11-0.1 of this Code.

(5) "Probation officer" means any person employed in a probation or court services department as defined in Section 9b of the Probation and Probation Officers Act.3

(6) "Supervising officer" means any person employed to supervise persons placed on parole or mandatory supervised release with the duties described in Section 3-14-2 of the Unified Code of Corrections.4

(7) "Surveillance agent" means any person employed or contracted to supervise persons placed on conditional release in the community under the Sexually Violent Persons Commitment Act.

720 ILL. COMP. STAT. ANN. 5/11-11 (WEST 2010). SEXUAL RELATIONS WITHIN THE FAMILIES

(a) A person commits sexual relations within families if he or she:

(1) Commits an act of sexual penetration as defined in Section 11-0.1 of this Code; and

(2) The person knows that he or she is related to the other person as follows: (i) Brother or sister, either of the whole blood or the half blood; or (ii) Father or mother, when the child, regardless of legitimacy and regardless of whether the child was of the whole blood or half-blood or was adopted, was 18 years of age or over when the act was committed; or (iii) Stepfather or stepmother, when the stepchild was 18 years of age or over

when the act was committed; or (iv) Aunt or uncle, when the niece or nephew was 18 years of age or over when the act was committed; or (v) Great-aunt or great-uncle, when the grand-niece or grand-nephew was 18 years of age or over when the act was committed; or (vi) Grandparent or step-grandparent, when the grandchild or step-grandchild was 18 years of age or over when the act was committed.

(b) Sentence. Sexual relations within families is a Class 3 felony.

720 ILL. COMP. STAT. ANN. 5/11-30 (WEST 2012). PUBLIC DECENCY

(a) Any person of the age of 17 years and upwards who performs any of the following acts in a public place commits a public indecency:

(1) An act of sexual penetration or sexual conduct; or

(2) A lewd exposure of the body done with intent to arouse or to satisfy the sexual desire of the person. Breast-feeding of infants is not an act of public indecency.

(b) "Public place" for purposes of this Section means any place where the conduct may reasonably be expected to be viewed by others.

(c) Sentence.
Public indecency is a Class A misdemeanor. A person convicted of a third or subsequent violation for public indecency is guilty of a Class 4 felony. Public indecency is a Class 4 felony if committed by a person 18 years of age or older who is on or within 500 feet of elementary or secondary school grounds when children are present on the grounds.

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IND. CODE ANN. § 35-41-1-9 (WEST 2011). "DEVIATE SEXUAL INTERCOURSE" DEFINED

<<Statute repealed effective July 1, 2012, replaced by Ind. Code. Ann. § 35-31.5-2-94. The language is identical.>>

Sec. 9. "Deviate sexual conduct" means an act involving:

(1) a sex organ of one person and the mouth or anus of another person; or

(2) the penetration of the sex organ or anus of a person by an object.

*Statute truncated due to size.

IND. CODE ANN. § 35-41-1-26 (WEST 2011). "SEXUAL INTERCOURSE" DEFINED

<<Statute repealed effective July 1, 2012, replaced by Ind. Code. Ann. § 35-31.5-2-302. The language is identical.>>

Sec. 26. "Sexual intercourse" means an act that includes any penetration of the female sex organ by the male sex organ.

IND. CODE ANN. § 35-42-4-1 (WEST 2011). RAPE

Sec. 1. (a) Except as provided in subsection (b), a person who knowingly or intentionally has sexual intercourse with a member of the opposite sex when:

(1) the other person is compelled by force or imminent threat of force;

(2) the other person is unaware that the sexual intercourse is occurring; or

(3) the other person is so mentally disabled or deficient that consent to sexual intercourse cannot be given;

commits rape, a Class B felony.

(b) An offense described in subsection (a) is a Class A felony if:

(1) it is committed by using or threatening the use of deadly force;

(2) it is committed while armed with a deadly weapon;

(3) it results in serious bodily injury to a person other than a defendant; or

(4) the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.

IND. CODE ANN. § 35-42-4-2 (WEST 2011). CRIMINAL DEVIATE CONDUCT

Sec. 2. (a) A person who knowingly or intentionally causes another person to perform or submit to deviate sexual conduct when:

(1) the other person is compelled by force or imminent threat of force;

(2) the other person is unaware that the conduct is occurring; or

(3) the other person is so mentally disabled or deficient that consent to the conduct cannot be given; commits criminal deviate conduct, a Class B felony.

(b) An offense described in subsection (a) is a Class A felony if:

(1) it is committed by using or threatening the use of deadly force;

(2) it is committed while armed with a deadly weapon;

(3) it results in serious bodily injury to any person other than a defendant; or

(4) the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.

IND. CODE ANN. § 35-42-4-5 (WEST 2012). VICARIOUS SEXUAL GRATIFICATION; FONDLING IN THE PRESENCE OF A MINOR

Sec. 5. (a) A person eighteen (18) years of age or older who knowingly or intentionally directs, aids, induces, or causes a child under the age of sixteen (16) to touch or fondle himself or another child under the age of sixteen (16) with intent to arouse or satisfy the sexual desires of a child or the older person commits vicarious sexual gratification, a Class D felony. However, the offense is:

(1) a Class C felony if a child involved in the offense is under the age of fourteen (14);

(2) a Class B felony if:

(A) the offense is committed by using or threatening the use of deadly force or while armed with a deadly weapon; or

(B) the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim' s knowledge; and

(3) a Class A felony if it results in serious bodily injury.

(b) A person eighteen (18) years of age or older who knowingly or intentionally directs, aids, induces, or causes a child under the age of sixteen (16) to:

(1) engage in sexual intercourse with another child under sixteen (16) years of age;

(2) engage in sexual conduct with an animal other than a human being; or

(3) engage in deviate sexual conduct with another person;
with intent to arouse or satisfy the sexual desires of a child or the older person commits vicarious sexual gratification, a Class C felony. However, the offense is a Class B felony if any child involved in the offense is less than fourteen (14) years of age, and it is a Class A felony if the offense is committed by using or threatening the use of deadly force, if it is committed while armed with a deadly weapon, if it results in serious bodily injury, or if the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.

(c) A person eighteen (18) years of age or older who knowingly or intentionally:

(1) engages in sexual intercourse;

(2) engages in deviate sexual conduct; or

(3) touches or fondles the person's own body;
in the presence of a child less than fourteen (14) years of age with the intent to arouse or satisfy the sexual desires of the child or the older person commits performing sexual conduct in the presence of a minor, a Class D felony.

*Statute truncated due to size.

IND. CODE ANN. § 35-42-4-8 (WEST 2011). SEXUAL BATTERY

Sec. 8. (a) A person who, with intent to arouse or satisfy the person's own sexual desires or the sexual desires of another person, touches another person when that person is:

(1) compelled to submit to the touching by force or the imminent threat of force; or

(2) so mentally disabled or deficient that consent to the touching cannot be given;

commits sexual battery, a Class D felony.

(b) An offense described in subsection (a) is a Class C felony if:

(1) it is committed by using or threatening the use of deadly force;

(2) it is committed while armed with a deadly weapon; or

(3) the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.

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IOWA CODE ANN. § 702.17 (WEST 2011). SEX ACT

The term “sex act” or “sexual activity” means any sexual contact between two or more persons by: penetration of the penis into the vagina or anus; contact between the mouth and genitalia or by contact between the genitalia of one person and the genitalia or anus of another person; contact between the finger or hand of one person and the genitalia or anus of another person, except in the course of examination or treatment by a person licensed pursuant to chapter 148, 148C, 151, or 152; or by use of artificial sexual organs or substitutes therefor in contact with the genitalia or anus.

IOWA CODE ANN. § 709.1 (WEST 2011). SEXUAL ABUSE DEFINED

Any sex act between persons is sexual abuse by either of the persons when the act is performed with the other person in any of the following circumstances:

*Statute truncated due to size.

1. The act is done by force or against the will of the other. If the consent or acquiescence of the other is procured by threats of violence toward any person or if the act is done while the other is under the influence of a drug inducing sleep or is otherwise in a state of unconsciousness, the act is done against the will of the other.

2. Such other person is suffering from a mental defect or incapacity which precludes giving consent, or lacks the mental capacity to know the right and wrong of conduct in sexual matters.

3. Such other person is a child.

IOWA CODE ANN. § 709.1A (WEST 2011). INCAPACITATION

As used in this chapter, "incapacitated" means a person is disabled or deprived of ability, as follows:

1. "Mentally incapacitated" means that a person is temporarily incapable of apprising or controlling the person's own conduct due to the influence of a narcotic, anesthetic, or intoxicating substance.

2. "Physically helpless" means that a person is unable to communicate an unwillingness to act because the person is unconscious, asleep, or is otherwise physically limited.

3. "Physically incapacitated" means that a person has a bodily impairment or handicap that substantially limits the person's ability to resist or flee.

IOWA CODE ANN. § 709.2 (WEST 2011). SEXUAL ABUSE IN THE FIRST DEGREE

A person commits sexual abuse in the first degree when in the course of committing sexual abuse the person causes another serious injury.

Sexual abuse in the first degree is a class "A" felony.

IOWA CODE ANN. § 709.3 (WEST 2011). SEXUAL ABUSE IN THE SECOND DEGREE

A person commits sexual abuse in the second degree when the person commits sexual abuse under any of the following circumstances:

1. During the commission of sexual abuse the person displays in a threatening manner a dangerous weapon, or uses or threatens to use force creating a substantial risk of death or serious injury to any person.

2. The other person is under the age of twelve.

3. The person is aided or abetted by one or more persons and the sex act is committed by force or against the will of the other person against whom the sex act is committed.

Sexual abuse in the second degree is a class "B" felony.

*Statute truncated due to size.

IOWA CODE ANN. § 709.4 (WEST 2011). SEXUAL ABUSE IN THE THIRD DEGREE

A person commits sexual abuse in the third degree when the person performs a sex act under any of the following circumstances:

1. The act is done by force or against the will of the other person, whether or not the other person is the person's spouse or is cohabiting with the person.

2. The act is between persons who are not at the time cohabiting as husband and wife and if any of the following are true:

a. The other person is suffering from a mental defect or incapacity which precludes giving consent.

b. The other person is twelve or thirteen years of age.

c. The other person is fourteen or fifteen years of age and any of the following are true:

(1) The person is a member of the same household as the other person.

(2) The person is related to the other person by blood or affinity to the fourth degree.

(3) The person is in a position of authority over the other person and uses that authority to coerce the other person to submit.

(4) The person is four or more years older than the other person.

3. The act is performed while the other person is under the influence of a controlled substance, which may include but is not limited to flunitrazepam, and all of the following are true:

a. The controlled substance, which may include but is not limited to flunitrazepam, prevents the other person from consenting to the act.

b. The person performing the act knows or reasonably should have known that the other person was under the influence of the controlled substance, which may include but is not limited to flunitrazepam.

4. The act is performed while the other person is mentally incapacitated, physically incapacitated, or physically helpless.

Sexual abuse in the third degree is a class "C" felony.

IOWA CODE ANN. § 709.5 (WEST 2011). RESISTANCE TO SEXUAL ABUSE

Under the provisions of this chapter it shall not be necessary to establish physical resistance by a person in order to establish that an act of sexual abuse was committed by force or against the will of the person. However, the circumstances surrounding the commission of the act may be considered in determining whether or not the act was done by force or against the will of the other.

*Statute truncated due to size.

IOWA CODE ANN. §709.9 (WEST 2012). INDECENT EXPOSURE

A person who exposes the person's genitals or pubes to another not the person's spouse, or who commits a sex act in the presence of or view of a third person, commits a serious misdemeanor, if:

1. The person does so to arouse or satisfy the sexual desires of either party; and

2. The person knows or reasonably should know that the act is offensive to the viewer.

IOWA CODE ANN. § 709.10 (WEST 2011). SEXUAL ABUSE--EVIDENCE

1. When an alleged victim of sexual abuse consents to undergo a sexual abuse examination and to having the evidence preserved, a sexual abuse evidence collection kit must be collected and properly stored with the law enforcement agency under whose jurisdiction the offense occurred or with the agency collecting the evidence to ensure that the chain of custody is complete and sufficient.

2. If an alleged victim of sexual abuse has not filed a complaint and a sexual abuse evidence collection kit has been completed, the kit must be stored by the law enforcement agency for a minimum of ten years. In addition, if the alleged victim does not want their name recorded on the sexual abuse collection kit, a case number or other identifying information shall be assigned to the kit in place of the name of the alleged victim.

IOWA CODE ANN. § 709.15 (WEST 2011). SEXUAL EXPLOITATION BY A COUNSELOR, THERAPIST, OR SCHOOL EMPLOYEE

1. As used in this section:

a. “Counselor or therapist” means a physician, psychologist, nurse, professional counselor, social worker, marriage or family therapist, alcohol or drug counselor, member of the clergy, or any other person, whether or not licensed or registered by the state, who provides or purports to provide mental health services.

b. “Emotionally dependent” means that the nature of the patient's or client's or former patient's or client's emotional condition or the nature of the treatment provided by the counselor or therapist is such that the counselor or therapist knows or has reason to know that the patient or client or former patient or client is significantly impaired in the ability to withhold consent to sexual conduct, as described in subsection 2, by the counselor or therapist.
For the purposes of subsection 2, a former patient or client is presumed to be emotionally dependent for one year following the termination of the provision of mental health services.

c. “Former patient or client” means a person who received mental health services from the counselor or therapist.

d. “Mental health service” means the treatment, assessment, or counseling of another person for a cognitive, behavioral, emotional, mental, or social dysfunction, including an intrapersonal or interpersonal dysfunction.

e. “Patient or client” means a person who receives mental health services from the counselor or therapist.

f. “School employee” means a practitioner as defined in section 272.1.

g. “Student” means a person who is currently enrolled in or attending a public or nonpublic elementary or secondary school, or who was a student enrolled in or who attended a public or nonpublic elementary or secondary school within thirty days of any violation of subsection 3.

2. Sexual exploitation by a counselor or therapist occurs when any of the following are found:

a. A pattern or practice or scheme of conduct to engage in any of the conduct described in paragraph “b” or “c”.

b. Any sexual conduct, with an emotionally dependent patient or client or emotionally dependent former patient or client for the purpose of arousing or satisfying the sexual desires of the counselor or therapist or the emotionally dependent patient or client or emotionally dependent former patient or client, which includes but is not limited to the following: kissing; touching of the clothed or unclothed inner thigh, breast, groin, buttock, anus, pubes, or genitals; or a sex act as defined in section 702.17.

c. Any sexual conduct with a patient or client or former patient or client within one year of the termination of the provision of mental health services by the counselor or therapist for the purpose of arousing or satisfying the sexual desires of the counselor or therapist or the patient or client or former patient or client which includes but is not limited to the following: kissing; touching of the clothed or unclothed inner thigh, breast, groin, buttock, anus, pubes, or genitals; or a sex act as defined in section 702.17.
Sexual exploitation by a counselor or therapist does not include touching which is part of a necessary examination or treatment provided a patient or client by a counselor or therapist acting within the scope of the practice or employment in which the counselor or therapist is engaged.

3. Sexual exploitation by a school employee occurs when any of the following are found:

a. A pattern or practice or scheme of conduct to engage in any of the conduct described in paragraph “b”.

b. Any sexual conduct with a student for the purpose of arousing or satisfying the sexual desires of the school employee or the student. Sexual conduct includes but is not limited to the following: kissing; touching of the clothed or unclothed inner thigh, breast, groin, buttock, anus, pubes, or genitals; or a sex act as defined in section 702.17.
Sexual exploitation by a school employee does not include touching that is necessary in the performance of the school employee's duties while acting within the scope of employment.

4. a. A counselor or therapist who commits sexual exploitation in violation of subsection 2, paragraph “a”, commits a class “D” felony.

b. A counselor or therapist who commits sexual exploitation in violation of subsection 2, paragraph “b”, commits an aggravated misdemeanor.

c. A counselor or therapist who commits sexual exploitation in violation of subsection 2, paragraph “c”, commits a serious misdemeanor. In lieu of the sentence provided for under section 903.1, subsection 1, paragraph “b”, the offender may be required to attend a sexual abuser treatment program.

5. a. A school employee who commits sexual exploitation in violation of subsection 3, paragraph “a”, commits a class “D” felony.

b. A school employee who commits sexual exploitation in violation of subsection 3, paragraph “b”, commits an aggravated misdemeanor.

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CHARTS	PENETRATION	FORCE	CAPACITY TO CONSENT	VICTIM PERPETRATOR RELATIONSHIP	OTHER SEX CRIMES
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KAN. CRIM. CODE ANN. § 21-3501 (WEST 2010). DEFINITIONS

<This section is repealed by Laws 2010, ch. 136, § 307, eff. July 1, 2011.>

The following definitions apply in this article unless a different meaning is plainly required:

(1) "Sexual intercourse" means any penetration of the female sex organ by a finger, the male sex organ or any object. Any penetration, however slight, is sufficient to constitute sexual intercourse. "Sexual intercourse" does not include penetration of the female sex organ by a finger or object in the course of the performance of:

(a) Generally recognized health care practices; or

(b) a body cavity search conducted in accordance with K.S.A. 22-2520 through 22-2524, and amendments thereto.

(2) "Sodomy" means oral contact or oral penetration of the female genitalia or oral contact of the male genitalia; anal penetration, however slight, of a male or female by any body part or object; or oral or anal copulation or sexual intercourse between a person and an animal. "Sodomy" does not include penetration of the anal opening by a finger or object in the course of the performance of:

(a) Generally recognized health care practices; or

(b) a body cavity search conducted in accordance with K.S.A. 22-2520 through 22-2524, and amendments thereto.

(3) "Spouse" means a lawful husband or wife, unless the couple is living apart in separate residences or either spouse has filed an action for annulment, separate maintenance or divorce or for relief under the protection from abuse act.

(4) "Unlawful sexual act" means any rape, indecent liberties with a child, aggravated indecent liberties with a child, criminal sodomy, aggravated criminal sodomy, lewd and lascivious behavior, sexual battery or aggravated sexual battery, as defined in this code.

KAN. CRIM. CODE ANN. § 21-5501 (WEST 2010). SEX OFFENSES; DEFINITIONS

<Text of section effective July 1, 2011>

The following definitions shall apply when the words and phrases defined are used in K.S.A. 21-5502 through 21-5513 and K.S.A. 21-6419, 21-6420 and 21-6421, and amendments thereto, except when a particular context clearly requires a different meaning:

(a) “Sexual intercourse” means any penetration of the female sex organ by a finger, the male sex organ or any object. Any penetration, however slight, is sufficient to constitute sexual intercourse. “Sexual intercourse” does not include penetration of the female sex organ by a finger or object in the course of the performance of:

(1) Generally recognized health care practices; or

(2) a body cavity search conducted in accordance with K.S.A. 22-2520 through 22-2524, and amendments thereto.

(b) "Sodomy" means oral contact or oral penetration of the female genitalia or oral contact of the male genitalia; anal penetration, however slight, of a male or female by any body part or object; or oral or anal copulation or sexual intercourse between a person and an animal. "Sodomy" does not include penetration of the anal opening by a finger or object in the course of the performance of:

(1) Generally recognized health care practices; or

(2) a body cavity search conducted in accordance with K.S.A. 22-2520 through 22-2524, and amendments thereto.

(c) "Spouse" means a lawful husband or wife, unless the couple is living apart in separate residences or either spouse has filed an action for annulment, separate maintenance or divorce or for relief under the protection from abuse act.

(d) "Unlawful sexual act" means any rape, indecent liberties with a child, aggravated indecent liberties with a child, criminal sodomy, aggravated criminal sodomy, lewd and lascivious behavior, sexual battery or aggravated sexual battery, as defined in this code.

KAN. CRIM. CODE ANN. § 21-5503 (WEST 2010). RAPE

<Text of section effective July 1, 2011>

(a) Rape is:

(1) Knowingly engaging in sexual intercourse with a victim who does not consent to the sexual intercourse under any of the following circumstances:

(A) When the victim is overcome by force or fear; or

(B) when the victim is unconscious or physically powerless.

(2) Knowingly engaging in sexual intercourse with a victim when the victim is incapable of giving consent because of mental deficiency or disease, or when the victim is incapable of giving consent because of the effect of any alcoholic liquor, narcotic, drug or other substance, which condition was known by the offender or was reasonably apparent to the offender;

(3) sexual intercourse with a child who is under 14 years of age;

(4) sexual intercourse with a victim when the victim's consent was obtained through a knowing misrepresentation made by the offender that the sexual intercourse was a medically or therapeutically necessary procedure; or

(5) sexual intercourse with a victim when the victim's consent was obtained through a knowing misrepresentation made by the offender that the sexual intercourse was a legally required procedure within the scope of the offender's authority.

(b) Rape as defined in:

(1) Subsection (a)(1) or (a)(2) is a severity level 1, person felony;

(2) subsection (a)(3) is a:

(A) Severity level 1, person felony, except as provided in subsection (b)(2)(B); and

(B) off-grid person felony, when the offender is 18 years of age or older; and

(3) subsection (a)(4) or (a)(5) is a severity level 2, person felony.

(c) It shall be a defense to a prosecution of rape under subsection (a)(3) that the child was married to the accused at the time of the offense.

(d) Except as provided in subsection (a)(2), it shall not be a defense that the offender did not know or have reason to know that the victim did not consent to the sexual intercourse, that the victim was overcome by force or fear, or that the victim was unconscious or physically powerless.

KAN. CRIM. CODE ANN. § 21-3505 (WEST 2010). CRIMINAL SODOMY

<This section is repealed by Laws 2010, ch. 136, § 307, eff. July 1, 2011.>

(a) Criminal sodomy is:

(1) Sodomy between persons who are 16 or more years of age and members of the same sex or between a person and an animal;

(2) sodomy with a child who is 14 or more years of age but less than 16 years of age; or

(3) causing a child 14 or more years of age but less than 16 years of age to engage in sodomy with any person or animal.

(b) It shall be a defense to a prosecution of criminal sodomy as provided in subsection (a)(2) that the child was married to the accused at the time of the offense.

(c) Criminal sodomy as provided in subsection (a)(1) is a class B nonperson misdemeanor. Criminal sodomy as provided in subsections (a)(2) and (a)(3) is a severity level 3, person felony.

KAN. CRIM. CODE ANN. § 21-5504 (WEST 2010). CRIMINAL SODOMY; AGGRAVATED CRIMINAL SODOMY

<Text of section effective July 1, 2011>

(a) Criminal sodomy is:

(1) Sodomy between persons who are 16 or more years of age and members of the same sex;

(2) sodomy between a person and an animal;

(3) sodomy with a child who is 14 or more years of age but less than 16 years of age; or

(4) causing a child 14 or more years of age but less than 16 years of age to engage in sodomy with any person or animal.

(b) Aggravated criminal sodomy is:

(1) Sodomy with a child who is under 14 years of age;

(2) causing a child under 14 years of age to engage in sodomy with any person or an animal; or

(3) sodomy with a victim who does not consent to the sodomy or causing a victim, without the victim's consent, to engage in sodomy with any person or an animal under any of the following circumstances:

(A) When the victim is overcome by force or fear;

(B) when the victim is unconscious or physically powerless; or

(C) when the victim is incapable of giving consent because of mental deficiency or disease, or when the victim is incapable of giving consent because of the effect of any alcoholic liquor, narcotic, drug or other substance, which condition was known by, or was reasonably apparent to, the offender.

(c)(1) Criminal sodomy as defined in:

(A) Subsection (a)(1) or (a)(2) is a class B nonperson misdemeanor; and

(B) subsection (a)(3) or (a)(4) is a severity level 3, person felony.

(2) Aggravated criminal sodomy as defined in:

(A) subsection (b)(3) is a severity level 1, person felony; and

(B) subsection (b)(1) or (b)(2) is a:

(i) Severity level 1, person felony, except as provided in subsection (c)(2)(B)(ii); and

(ii) off-grid person felony, when the offender is 18 years of age or older.

(d) It shall be a defense to a prosecution of criminal sodomy, as defined in subsection (a)(3), and aggravated criminal sodomy, as defined in subsection (b)(1), that the child was married to the accused at the time of the offense.

(e) Except as provided in subsection (b)(3)(C), it shall not be a defense that the offender did not know or have reason to know that the victim did not consent to the sodomy, that the victim was overcome by force or fear, or that the victim was unconscious or physically powerless.

KAN. CRIM. CODE ANN. § 21-3517 (WEST 2010). SEXUAL BATTERY

<This section is repealed by Laws 2010, ch. 136, § 307, eff. July 1, 2011.>

*Statute truncated due to size.

KAN. CRIM. CODE ANN. § 21-5505 (WEST 2010). SEXUAL BATTERY; AGGRAVATED SEXUAL BATTERY

<Text of section effective July 1, 2011>

(a) Sexual battery is the touching of a victim who is not the spouse of the offender, who is 16 or more years of age and who does not consent thereto, with the intent to arouse or satisfy the sexual desires of the offender or another.

(b) Aggravated sexual battery is the touching of a victim who is 16 or more years of age and who does not consent thereto with the intent to arouse or satisfy the sexual desires of the offender or another and under any of the following circumstances:

(1) When the victim is overcome by force or fear;

(2) when the victim is unconscious or physically powerless; or

(3) when the victim is incapable of giving consent because of mental deficiency or disease, or when the victim is incapable of giving consent because of the effect of any alcoholic liquor, narcotic, drug or other substance, which condition was known by, or was reasonably apparent to, the offender.

(c)(1) Sexual battery is a class A person misdemeanor.

(2) Aggravated sexual battery is a severity level 5, person felony.

(d) Except as provided in subsection (b)(3), it shall not be a defense that the offender did not know or have reason to know that the victim did not consent to the battery, that the victim was overcome by force or fear, or that the victim was unconscious or physically powerless.

KAN. CRIM. CODE ANN. § 21-5512 (2011). UNLAWFUL SEXUAL RELATIONS

(a) Unlawful sexual relations is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy with a person who is not married to the offender if:

(1) The offender is an employee or volunteer of the department of corrections, or the employee or volunteer of a contractor who is under contract to provide services for a correctional institution, and the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who is an inmate;

(2) the offender is a parole officer, volunteer for the department of corrections or the employee or volunteer of a contractor who is under contract to provide supervision services for persons on parole, conditional release or postrelease supervision and the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who is an inmate who has been released on parole, conditional release or postrelease supervision and the offender has knowledge that the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is an inmate who has been released and is currently on parole, conditional release or postrelease supervision;

(3) the offender is a law enforcement officer, an employee of a jail, or the employee of a contractor who is under contract to provide services in a jail and the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who is confined to such jail;

(4) the offender is a law enforcement officer, an employee of a juvenile detention facility or sanctions house, or the

employee of a contractor who is under contract to provide services in such facility or sanctions house and the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who is confined to such facility or sanctions house;

(5) the offender is an employee of the juvenile justice authority or the employee of a contractor who is under contract to provide services in a juvenile correctional facility and the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who is confined to such facility;

(6) the offender is an employee of the juvenile justice authority or the employee of a contractor who is under contract to provide direct supervision and offender control services to the juvenile justice authority and the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is 16 years of age or older and:

(A) Released on conditional release from a juvenile correctional facility under the supervision and control of the juvenile justice authority or juvenile community supervision agency; or

(B) placed in the custody of the juvenile justice authority under the supervision and control of the juvenile justice authority or juvenile community supervision agency and the offender has knowledge that the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is currently under supervision;

(7) the offender is an employee of the department of social and rehabilitation services or the employee of a contractor who is under contract to provide services in a social and rehabilitation services institution and the person with whom the offender is engaging in consensual sexual intercourse, not otherwise subject to subsection (a)(2) of K.S.A. 21-5503, and amendments thereto, lewd fondling or touching, or sodomy, not otherwise subject to subsection (b)(3)(C) of K.S.A. 21-5504, and amendments thereto, is a person 16 years of age or older who is a patient in such institution;

(8) the offender is a teacher or a person in a position of authority and the person with whom the offender is engaging in consensual sexual intercourse, not otherwise subject to subsection (a)(3) of K.S.A. 21-5503, or subsection (b)(1) of K.S.A. 21-5506, and amendments thereto, lewd fondling or touching, not otherwise subject to subsection (a) of K.S.A. 21-5506, or subsection (b)(2) or (b)(3) of K.S.A. 21-5506, and amendments thereto, or sodomy, not otherwise subject to subsection (a) of K.S.A. 21-5504, or subsection (b)(1) or (b)(2) of K.S.A. 21-5504, and amendments thereto, is a student enrolled at the school where the offender is employed. If the offender is the parent of the student, the provisions of subsection (b) of K.S.A. 21-5604, and amendments thereto, shall apply, not this subsection;

(9) the offender is a court services officer or the employee of a contractor who is under contract to provide supervision services for persons under court services supervision and the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who has been placed on probation under the supervision and control of court services and the offender has knowledge that the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is currently under the supervision of court services; or

(10) the offender is a community correctional services officer or the employee of a contractor who is under contract to provide supervision services for persons under community corrections supervision and the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who has been assigned to a community correctional services program under the supervision and control of community corrections and the offender has knowledge that the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is currently under the supervision of community corrections.

*Statute truncated due to size.

(b) Unlawful sexual relations as defined in:

(1) Subsection (a)(5) is a severity level 4, person felony; and

(2) subsection (a)(1), (a)(2), (a)(3), (a)(4), (a)(6), (a)(7), (a)(8), (a)(9), or (a)(10) is a severity level 5, person felony.

(c) As used in this section:

(1) "Correctional institution" means the same as in K.S.A. 75-5202, and amendments thereto;

(2) "inmate" means the same as in K.S.A. 75-5202, and amendments thereto;

(3) "parole officer" means the same as in K.S.A. 75-5202, and amendments thereto;

(4) "postrelease supervision" means the same as in K.S.A. 21-6803, and amendments thereto;

(5) "juvenile detention facility" means the same as in K.S.A. 38-2302, and amendments thereto;

(6) "juvenile correctional facility" means the same as in K.S.A. 38-2302, and amendments thereto;

(7) "sanctions house" means the same as in K.S.A. 38-2302, and amendments thereto;

(8) "institution" means the same as in K.S.A. 76-12a01, and amendments thereto;

(9) "teacher" means and includes teachers, supervisors, principals, superintendents and any other professional employee in any public or private school offering any of grades kindergarten through 12;

(10) "community corrections" means the entity responsible for supervising adults and juvenile offenders for confinement, detention, care or treatment, subject to conditions imposed by the court pursuant to the community corrections act, K.S.A. 75-5290, and amendments thereto, and the revised Kansas juvenile justice code, K.S.A. 38-2301 et seq., and amendments thereto;

(11) "court services" means the entity appointed by the district court that is responsible for supervising adults and juveniles placed on probation and misdemeanants placed on parole by district courts of this state; and

(12) "juvenile community supervision agency" means an entity that receives grants for the purpose of providing direct supervision to juveniles in the custody of the juvenile justice authority.

KAN. CRIM. CODE ANN. § 21-5513 (WEST 2011). LEWD AND LASCIVIOUS BEHAVIOR

(a) Lewd and lascivious behavior is:

(1) Publicly engaging in otherwise lawful sexual intercourse or sodomy with knowledge or reasonable anticipation that the participants are being viewed by others; or

(2) publicly exposing a sex organ or exposing a sex organ in the presence of a person who is not the spouse of the offender and who has not consented thereto, with intent to arouse or gratify the sexual desires of the offender or another.

(b) Lewd and lascivious behavior is a:

*Statute truncated due to size.

(1) Class B nonperson misdemeanor, if committed in the presence of a person 16 or more years of age; and

(2) severity level 9, person felony, if committed in the presence of a person under 16 years of age.

KAN. CRIM. CODE ANN. § 21-5604 (2011). INCEST; AGGRAVATED INCEST

(a) Incest is marriage to or engaging in otherwise lawful sexual intercourse or sodomy, as defined in K.S.A. 21-5501, and amendments thereto, with a person who is 18 or more years of age and who is known to the offender to be related to the offender as any of the following biological relatives: Parent, child, grandparent of any degree, grandchild of any degree, brother, sister, half-brother, half-sister, uncle, aunt, nephew or niece.

(b) Aggravated incest is:

(1) Marriage to a person who is under 18 years of age and who is known to the offender to be related to the offender as any of the following biological, step or adoptive relatives: Child, grandchild of any degree, brother, sister, half-brother, half-sister, uncle, aunt, nephew or niece; or

(2) engaging in the following acts with a person who is 16 or more years of age but under 18 years of age and who is known to the offender to be related to the offender as any of the following biological, step or adoptive relatives: Child, grandchild of any degree, brother, sister, half-brother, half-sister, uncle, aunt, nephew or niece:

(A) Otherwise lawful sexual intercourse or sodomy as defined by K.S.A. 21-5501, and amendments thereto; or

(B) any lewd fondling, as described in subsection (a)(1) of K.S.A. 21-5506, and amendments thereto.

(c)(1) Incest is a severity level l0, person felony.

(2) Aggravated incest as defined in:

(A) Subsection (b)(2)(A) is a severity level 5, person felony; and

(B) subsection (b)(1) or (b)(2)(B) is a severity level 7, person felony.

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KENTUCKY

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KY. REV. STAT. ANN. § 510.010 (WEST 2010). DEFINITIONS FOR CHAPTER

The following definitions apply in this chapter unless the context otherwise requires:

(1) "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. “Deviate sexual intercourse” does not include penetration of the anus by a foreign object in the course of the performance of generally recognized health-care practices;

(2) “Forcible compulsion” means physical force or threat of physical force, express or implied, which places a person in fear of immediate death, physical injury to self or another person, fear of the immediate kidnap of self or another person, or fear of any offense under this chapter. Physical resistance on the part of the victim shall not be necessary to meet this definition;

(3) “Mental illness” means a diagnostic term that covers many clinical categories, typically including behavioral or psychological symptoms, or both, along with impairment of personal and social function, and specifically defined and clinically interpreted through reference to criteria contained in the Diagnostic and Statistical Manual of Mental Disorders (Third Edition) and any subsequent revision thereto, of the American Psychiatric Association;

(4) “Mentally retarded person” means a person with significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period, as defined in KRS Chapter 202B;

(5) “Mentally incapacitated” means that a person is rendered temporarily incapable of appraising or controlling his conduct as a result of the influence of an intoxicating substance administered to him without his consent or as a result of any other act committed upon him without his consent;

(6) “Physically helpless” means that a person is unconscious or for any other reason is physically unable to communicate unwillingness to an act. “Physically helpless” also includes a person who has been rendered unconscious or for any other reason is physically unable to communicate an unwillingness to an act as a result of the influence of a controlled substance or legend drug;

(7) “Sexual contact” means any touching of the sexual or other intimate parts of a person done for the purpose of gratifying the sexual desire of either party;

(8) “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. Sexual intercourse occurs upon any penetration, however slight; emission is not required. “Sexual intercourse” does not include penetration of the sex organ by a foreign object in the course of the performance of generally recognized health-care practices; and

(9) “Foreign object” means anything used in commission of a sexual act other than the person of the actor.

KY. REV. STAT. ANN. § 510.020 (WEST 2010). 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) Mentally retarded or suffers from a mental illness;

(c) Mentally incapacitated;

(d) Physically helpless; or

(e) 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)(e) 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.

KY. REV. STAT. ANN. § 510.030 (WEST 2010). DEFENSES

In any prosecution under this chapter in which the victim's lack of consent is based solely on his incapacity to consent because he was less than sixteen (16) years old, mentally retarded, mentally incapacitated or physically helpless, the defendant may prove in exculpation that at the time he engaged in the conduct constituting the offense he did not know of the facts or conditions responsible for such incapacity to consent.

KY. REV. STAT. ANN. § 510.035 (WEST 2010). EXCEPTION TO KRS 510.020

A person who engages in sexual intercourse or deviate sexual intercourse with another person to whom the person is married, or subjects another person to whom the person is married to sexual contact, does not commit an offense under this chapter regardless of the person's age solely because the other person is less than sixteen (16) years old or mentally retarded.

KY. REV. STAT. ANN. § 510.040 (WEST 2010). RAPE IN THE FIRST DEGREE

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

(a) He engages in sexual intercourse with another person by forcible compulsion; or

(b) He engages in sexual intercourse with another person who is incapable of consent because he:

1. Is physically helpless; or

2. Is less than twelve (12) years old.

(2) Rape in the first degree is a Class B felony unless the victim is under twelve (12) years old or receives a serious physical injury in which case it is a Class A felony.

KY. REV. STAT. ANN. § 510.050 (WEST 2010). RAPE IN THE SECOND DEGREE

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

*Statute truncated due to size.

(a) Being eighteen (18) years old or more, he 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.

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

KY. REV. STAT. ANN. § 510.060 (WEST 2010). RAPE IN THE THIRD DEGREE

(1) A person is guilty of rape in the third degree when:

(a) He engages in sexual intercourse with another person who is incapable of consent because he or she is mentally retarded;

(b) Being twenty-one (21) years old or more, he or she engages in sexual intercourse with another person less than sixteen (16) years old;

(c) Being twenty-one (21) years old or more, he or she engages in sexual intercourse with another person less than eighteen (18) years old and for whom he or she provides a foster family home as defined in KRS 600.020; or

(d) Being a person in a position of authority or position of special trust, as defined in KRS 532.045, he or she engages in sexual intercourse with a minor under sixteen (16) years old with whom he or she comes into contact as a result of that position.

(e) Being a jailer, or an employee, contractor, vendor, or volunteer of the Department of Corrections, Department of Juvenile Justice, or a detention facility as defined in KRS 520.010, or of an entity under contract with either department or a detention facility for the custody, supervision, evaluation, or treatment of offenders, he or she subjects a person who he or she knows is incarcerated, supervised, evaluated, or treated by the Department of Corrections, Department of Juvenile Justice, detention facility, or contracting entity, to sexual intercourse.

(2) Rape in the third degree is a Class D felony.

KY. REV. STAT. ANN. § 510.070 (WEST 2010). SODOMY IN THE FIRST DEGREE

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

(a) He engages in deviate sexual intercourse with another person by forcible compulsion; or

(b) He engages in deviate sexual intercourse with another person who is incapable of consent because he:

1. Is physically helpless; or

2. Is less than twelve (12) years old.

(2) Sodomy in the first degree is a Class B felony unless the victim is under twelve (12) years old or receives a serious physical injury in which case it is a Class A felony.

KY. REV. STAT. ANN. § 510.080 (WEST 2010). SODOMY IN THE SECOND DEGREE

*Statute truncated due to size.

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

(a) Being eighteen (18) years old or more, he engages in deviate sexual intercourse with another person less than fourteen (14) years old; or

(b) He engages in deviate sexual intercourse with another person who is mentally incapacitated.

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

KY. REV. STAT. ANN. § 510.090 (WEST 2010). SODOMY IN THE THIRD DEGREE

(1) A person is guilty of sodomy in the third degree when:

(a) He engages in deviate sexual intercourse with another person who is incapable of consent because he or she is mentally retarded;

(b) Being twenty-one (21) years old or more, he or she engages in deviate sexual intercourse with another person less than sixteen (16) years old; or

(c) Being twenty-one (21) years old or more, he or she engages in deviate sexual intercourse with another person less than eighteen (18) years old and for whom he or she provides a foster family home as defined in KRS 600.020; or

(d) Being a person in a position of authority or position of special trust, as defined in KRS 532.045, he or she engages in deviate sexual intercourse with a minor less than sixteen (16) years old with whom he or she comes into contact as a result of that position; or

(e) Being a jailer, or an employee, contractor, vendor, or volunteer of the Department of Corrections, Department of Juvenile Justice, or a detention facility as defined in KRS 520.010, or of an entity under contract with either department or a detention facility for the custody, supervision, evaluation, or treatment of offenders, he or she subjects a person who he or she knows is incarcerated, supervised, evaluated, or treated by the Department of Corrections, Department of Juvenile Justice, detention facility, or contracting entity, to deviate sexual intercourse.

(2) Sodomy in the third degree is a Class D felony.

KY. REV. STAT. ANN. § 510.100 (WEST 2010). SODOMY IN THE FOURTH DEGREE

Held Unconstitutional by: Com. v. Wasson, 842 S.W.2d 487, 488+, 61 USLW 2180, 2180+ (Ky. Sep 24, 1992) (NO. 90-SC-558-TG)

KY. REV. STAT. ANN. § 510.110 (WEST 2010). SEXUAL ABUSE IN THE FIRST DEGREE

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

(a) He or she subjects another person to sexual contact by forcible compulsion; or

(b) He or she subjects another person to sexual contact who is incapable of consent because he or she:

1. Is physically helpless;

2. Is less than twelve (12) years old; or

3. Is mentally incapacitated; or

(c) Being twenty-one (21) years old or more, he or she:

1. Subjects another person who is less than sixteen (16) years old to sexual contact;

2. Engages in masturbation in the presence of another person who is less than sixteen (16) years old and knows or has reason to know the other person is present; or

3. Engages in masturbation while using the Internet, telephone, or other electronic communication device while communicating with a minor who the person knows is less than sixteen (16) years old, and the minor can see or hear the person masturbate; or

(d) Being a person in a position of authority or position of special trust, as defined in KRS 532.045, he or she, regardless of his or her age, subjects a minor who is less than eighteen (18) years old, with whom he or she comes into contact as a result of that position, to sexual contact or engages in masturbation in the presence of the minor and knows or has reason to know the minor is present or engages in masturbation while using the Internet, telephone, or other electronic communication device while communicating with a minor who the person knows is less than sixteen (16) years old, and the minor can see or hear the person masturbate.

(2) Sexual abuse in the first degree is a Class D felony, unless the victim is less than twelve (12) years old, in which case the offense shall be a Class C felony.

KY. REV. STAT. ANN. § 510.120 (WEST 2010). SEXUAL ABUSE IN THE SECOND DEGREE

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

(a) He or she subjects another person to sexual contact who is incapable of consent because he or she is mentally retarded;

(b) He or she is at least eighteen (18) years old but less than twenty-one (21) years old and subjects another person who is less than sixteen (16) years old to sexual contact; or

(c) Being a jailer, or an employee, contractor, vendor, or volunteer of the Department of Corrections, Department of Juvenile Justice, or a detention facility as defined in KRS 520.010, or of an entity under contract with either department or a detention facility for the custody, supervision, evaluation, or treatment of offenders, he or she subjects a person who is at least eighteen (18) years old and who he or she knows is incarcerated, supervised, evaluated, or treated by the Department of Corrections, Department of Juvenile Justice, detention facility, or contracting entity, to sexual contact.

(2) In any prosecution under subsection (1)(b) of this section, it is a defense that:

(a) The other person's lack of consent was due solely to incapacity to consent by reason of being less than sixteen (16) years old; and

(b) The other person was at least fourteen (14) years old; and

(c) The actor was less than five (5) years older than the other person.

*Statute truncated due to size.

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

KY. REV. STAT. ANN. § 510.130 (WEST 2010). SEXUAL ABUSE IN THE THIRD DEGREE

(1) A person is guilty of sexual abuse in the third degree when he or she subjects another person to sexual contact without the latter's consent.

(2) In any prosecution under this section, it is a defense that:

(a) The other person's lack of consent was due solely to incapacity to consent by reason of being less than sixteen (16) years old; and

(b) The other person was at least fourteen (14) years old; and

(c) The actor was less than eighteen (18) years old.

(3) Sexual abuse in the third degree is a Class B misdemeanor.

KY. REV. STAT. ANN. § 510.140 (WEST 2010). SEXUAL MISCONDUCT

(1) A person is guilty of sexual misconduct when he engages in sexual intercourse or deviate sexual intercourse with another person without the latter's consent.

(2) Sexual misconduct is a Class A misdemeanor.

KY. REV. STAT. ANN. § 510.148 (WEST 2011). INDECENT EXPOSURE IN THE FIRST DEGREE

(1) A person is guilty of indecent exposure in the first degree when he intentionally exposes his genitals under circumstances in which he knows or should know that his conduct is likely to cause affront or alarm to a person under the age of eighteen (18) years.

(2) Indecent exposure in the first degree is a:

(a) Class B misdemeanor for the first offense;

(b) Class A misdemeanor for the second offense, if it was committed within three (3) years of the first conviction;

(c) Class D felony for the third offense, if it was committed within three (3) years of the second conviction; and

(d) Class D felony for any subsequent offense, if it was committed within three (3) years of the prior conviction.

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*Statute truncated due to size.

LOUISIANA

CHARTS	PENETRATION	FORCE	CAPACITY TO CONSENT	VICTIM PERPETRATOR RELATIONSHIP	OTHER SEX CRIMES
CONSENT ANALYSIS	ALCOHOL/DRUG FACILITATED SEXUAL ASSAULT	MARITAL RAPE	SAME SEX PERPETRATOR	STATUTORY RAPE	CONSTRUCTIVE FORCE

LA. REV. STAT. ANN. § 14:41 (2010). RAPE; DEFINED

A. Rape is the act of anal, oral, or vaginal sexual intercourse with a male or female person committed without the person's lawful consent.

B. Emission is not necessary, and any sexual penetration, when the rape involves vaginal or anal intercourse, however slight, is sufficient to complete the crime.

C. For purposes of this Subpart, "oral sexual intercourse" means the intentional engaging in any of the following acts with another person:

(1) The touching of the anus or genitals of the victim by the offender using the mouth or tongue of the offender.

(2) The touching of the anus or genitals of the offender by the victim using the mouth or tongue of the victim.

LA. REV. STAT. ANN. § 14:42 (2009). AGGRAVATED RAPE

Held Unconstitutional by**:** Kennedy v. Louisiana, 128 S.Ct. 2641, 2641+, 171 L.Ed.2d 525, 525+, 76 USLW 4584, 4584+, 08 Cal. Daily Op. Serv. 7920, 7920+, 2008 Daily Journal D.A.R. 9470, 9470+, 21 Fla. L. Weekly Fed. S 472, 472+ (U.S. Jun 25, 2008) (NO. 07-343).

LA. REV. STAT. ANN. § 14:42.1 (2010). FORCIBLE RAPE

A. Forcible rape is rape committed when the anal, oral, or vaginal sexual intercourse is deemed to be without the lawful consent of the victim because it is committed under any one or more of the following circumstances:

(1) When the victim is prevented from resisting the act by force or threats of physical violence under circumstances where the victim reasonably believes that such resistance would not prevent the rape.

(2) When the victim is incapable of resisting or of understanding the nature of the act by reason of stupor or abnormal condition of the mind produced by a narcotic or anesthetic agent or other controlled dangerous substance administered by the offender and without the knowledge of the victim.

B. Whoever commits the crime of forcible rape shall be imprisoned at hard labor for not less than five nor more than forty years. At least two years of the sentence imposed shall be without benefit of probation, parole, or suspension of sentence.

LA. REV. STAT. ANN. § 14:43 (2010). SIMPLE RAPE

*Statute truncated due to size.

A. Simple rape is a rape committed when the anal, oral, or vaginal sexual intercourse is deemed to be without the lawful consent of a victim because it is committed under any one or more of the following circumstances:

(1) When the victim is incapable of resisting or of understanding the nature of the act by reason of a stupor or abnormal condition of mind produced by an intoxicating agent or any cause and the offender knew or should have known of the victim's incapacity.

(2) When the victim is incapable, through unsoundness of mind, whether temporary or permanent, or understanding the nature of the act and the offender knew or should have known of the victim's incapacity.

(3) When the female victim submits under the belief that the person committing the act is her husband and such belief is intentionally induced by any artifice, pretense, or concealment practiced by the offender.

B. Whoever commits the crime of simple rape shall be imprisoned, with or without hard labor, without benefit of parole, probation, or suspension of sentence, for not more than twenty-five years.

LA. REV. STAT. ANN. § 14:43.1 (2010). SEXUAL BATTERY

A. Sexual battery is the intentional engaging in any of the following acts with another person where the offender acts without the consent of the victim, or where the act is consensual but the other person, who is not the spouse of the offender, has not yet attained fifteen years of age and is at least three years younger than the offender:

(1) The touching of the anus or genitals of the victim by the offender using any instrumentality or any part of the body of the offender; or

(2) The touching of the anus or genitals of the offender by the victim using any instrumentality or any part of the body of the victim.

B. Lack of knowledge of the victim's age shall not be a defense. However, where the victim is under seventeen, normal medical treatment or normal sanitary care of an infant shall not be construed as an offense under the provisions of this Section.

C. (1) Whoever commits the crime of sexual battery shall be punished by imprisonment, with or without hard labor, without benefit of parole, probation, or suspension of sentence, for not more than ten years.

(2) Whoever commits the crime of sexual battery on a victim under the age of thirteen years when the offender is seventeen years of age or older shall be punished by imprisonment at hard labor for not less than twenty-five years nor more than ninety-nine years. At least twenty-five years of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence.

(3) Upon completion of the term of imprisonment imposed in accordance with Paragraph (2) of this Subsection, the offender shall be monitored by the Department of Public Safety and Corrections through the use of electronic monitoring equipment for the remainder of his natural life.

(4) Unless it is determined by the Department of Public Safety and Corrections, pursuant to rules adopted in accordance with the provisions of this Subsection, that a sexual offender is unable to pay all or any portion of such costs, each sexual offender to be electronically monitored shall pay the cost of such monitoring.

(5) The costs attributable to the electronic monitoring of an offender who has been determined unable to pay shall be borne by the department if, and only to the degree that sufficient funds are made available for such purpose whether by appropriation of state funds or from any other source.

*Statute truncated due to size.

(6) The Department of Public Safety and Corrections shall develop, adopt, and promulgate rules in the manner provided in the Administrative Procedure Act,[FN1] that provide for the payment of such costs. Such rules shall contain specific guidelines which shall be used to determine the ability of the offender to pay the required costs and shall establish the reasonable costs to be charged. Such rules may provide for a sliding scale of payment so that an offender who is able to pay a portion, but not all, of such costs may be required to pay such portion.

LA. REV. STAT. ANN. § 14:43.2 (2010). SECOND DEGREE SEXUAL BATTERY

A. Second degree sexual battery is the intentional engaging in any of the following acts with another person when the offender intentionally inflicts serious bodily injury on the victim:

(1) The touching of the anus or genitals of the victim by the offender using any instrumentality or any part of the body of the offender; or

(2) The touching of the anus or genitals of the offender by the victim using any instrumentality or any part of the body of the victim.

B. For the purposes of this Section, serious bodily injury means bodily injury which involves unconsciousness, extreme physical pain or protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty, or a substantial risk of death.

C. (1) Whoever commits the crime of second degree sexual battery shall be punished by imprisonment, with or without hard labor, without benefit of parole, probation, or suspension of sentence, for not more than fifteen years.

(2) Whoever commits the crime of second degree sexual battery on a victim under the age of thirteen years when the offender is seventeen years of age or older shall be punished by imprisonment at hard labor for not less than twenty-five years nor more than ninety-nine years. At least twenty-five years of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence.

(3) Upon completion of the term of imprisonment imposed in accordance with Paragraph (2) of this Subsection, the offender shall be monitored by the Department of Public Safety and Corrections through the use of electronic monitoring equipment for the remainder of his natural life.

(4) Unless it is determined by the Department of Public Safety and Corrections, pursuant to rules adopted in accordance with the provisions of this Subsection, that a sexual offender is unable to pay all or any portion of such costs, each sexual offender to be electronically monitored shall pay the cost of such monitoring.

(5) The costs attributable to the electronic monitoring of an offender who has been determined unable to pay shall be borne by the department if, and only to the degree that sufficient funds are made available for such purpose whether by appropriation of state funds or from any other source.

(6) The Department of Public Safety and Corrections shall develop, adopt, and promulgate rules in the manner provided in the Administrative Procedure Act, [FN1] that provide for the payment of such costs. Such rules shall contain specific guidelines which shall be used to determine the ability of the offender to pay the required costs and shall establish the reasonable costs to be charged. Such rules may provide for a sliding scale of payment so that an offender who is able to pay a portion, but not all, of such costs may be required to pay such portion.

LA. REV. STAT. ANN. § 14:43.3 (2010). ORAL SEXUAL BATTERY

A. Oral sexual battery is the intentional engaging in any of the following acts with another person, who is not the spouse of the offender when the other person has not yet attained fifteen years of age and is at least three years younger than the offender:

(1) The touching of the anus or genitals of the victim by the offender using the mouth or tongue of the offender; or

(2) The touching of the anus or genitals of the offender by the victim using the mouth or tongue of the victim.

B. Lack of knowledge of the victim's age shall not be a defense.

C. (1) Whoever commits the crime of oral sexual battery shall be punished by imprisonment, with or without hard labor, without benefit of parole, probation, or suspension of sentence, for not more than ten years.

(2) Whoever commits the crime of oral sexual battery on a victim under the age of thirteen years when the offender is seventeen years of age or older shall be punished by imprisonment at hard labor for not less than twenty-five years nor more than ninety-nine years. At least twenty-five years of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence.

(3) Upon completion of the term of imprisonment imposed in accordance with Paragraph (2) of this Subsection, the offender shall be monitored by the Department of Public Safety and Corrections through the use of electronic monitoring equipment for the remainder of his natural life.

(4) Unless it is determined by the Department of Public Safety and Corrections, pursuant to rules adopted in accordance with the provisions of this Subsection, that a sexual offender is unable to pay all or any portion of such costs, each sexual offender to be electronically monitored shall pay the cost of such monitoring.

(5) The costs attributable to the electronic monitoring of an offender who has been determined unable to pay shall be borne by the department if, and only to the degree that sufficient funds are made available for such purpose whether by appropriation of state funds or from any other source.

(6) The Department of Public Safety and Corrections shall develop, adopt, and promulgate rules in the manner provided in the Administrative Procedure Act, [FN1] that provide for the payment of such costs. Such rules shall contain specific guidelines which shall be used to determine the ability of the offender to pay the required costs and shall establish the reasonable costs to be charged. Such rules may provide for a sliding scale of payment so that an offender who is able to pay a portion, but not all, of such costs may be required to pay such portion.

LA. REV. STAT. ANN. § 14:78 (2010). INCEST

A. Incest is the marriage to, or sexual intercourse with, any ascendant or descendant, brother or sister, uncle or niece, aunt or nephew, with knowledge of their relationship.

B. The relationship must be by consanguinity, but it is immaterial whether the parties to the act are related to one another by the whole or half blood.

C. This Section shall not apply where one, not a resident of this state at the time of the celebration of his marriage, shall have contracted a marriage lawful at the place of celebration and shall thereafter have removed to this state.

D. (1) Whoever commits incest, where the crime is between an ascendant and descendant, or between brother and sister, shall be imprisoned at hard labor for not more than fifteen years.

(2) Whoever commits incest, where the crime is between uncle and niece, or aunt and nephew, shall be fined not more than one thousand dollars, or imprisoned, with or without hard labor, for not more than five years, or both.

*Statute truncated due to size.

LA. REV. STAT. ANN. §14:106 (2011). OBSCENITY*

A. The crime of obscenity is the intentional:

(1) Exposure of the genitals, pubic hair, anus, vulva, or female breast nipples in any public place or place open to the public view, or in any prison or jail, with the intent of arousing sexual desire or which appeals to prurient interest or is patently offensive.

(2)(a) Participation or engagement in, or management, operation, production, presentation, performance, promotion, exhibition, advertisement, sponsorship, electronic communication, or display of, hard core sexual conduct when the trier of fact determines that the average person applying contemporary community standards would find that the conduct, taken as a whole, appeals to the prurient interest; and the hard core sexual conduct, as specifically defined herein, is presented in a patently offensive way; and the conduct taken as a whole lacks serious literary, artistic, political, or scientific value.

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MAINE

CHARTS	PENETRATION	FORCE	CAPACITY TO CONSENT	VICTIM PERPETRATOR RELATIONSHIP	OTHER SEX CRIMES
CONSENT ANALYSIS	ALCOHOL/DRUG FACILITATED SEXUAL ASSAULT	MARITAL RAPE	SAME SEX PERPETRATOR	STATUTORY RAPE	CONSTRUCTIVE FORCE

ME. REV. STAT. ANN. TIT. 17-A, § 251 (2011). DEFINITIONS AND GENERAL PROVISIONS

1. In this chapter the following definitions apply.

A. "Spouse" means a person legally married to the actor, but does not include a legally married person living apart from the actor under a defacto separation.

B. Repealed. Laws 1989, c. 401, § A, 2.

C. "Sexual act" means:

(1) Any act between 2 persons involving direct physical contact between the genitals of one and the mouth or anus of the other, or direct physical contact between the genitals of one and the genitals of the other;

(2) Any act between a person and an animal being used by another person which act involves direct physical contact between the genitals of one and the mouth or anus of the other, or direct physical contact between the genitals of one and the genitals of the other; or

(3) Any act involving direct physical contact between the genitals or anus of one and an instrument or device manipulated by another person when that act is done for the purpose of arousing or gratifying sexual desire or for the purpose of causing bodily injury or offensive physical contact.

A sexual act may be proved without allegation or proof of penetration.

*Statute truncated due to size.

D. "Sexual contact" means any touching of the genitals or anus, directly or through clothing, other than as would constitute a sexual act, for the purpose of arousing or gratifying sexual desire or for the purpose of causing bodily injury or offensive physical contact.

E. "Compulsion" means the use of physical force, a threat to use physical force or a combination thereof that makes a person unable to physically repel the actor or produces in that person a reasonable fear that death, serious bodily injury or kidnapping might be imminently inflicted upon that person or another human being.

"Compulsion" as defined in this paragraph places no duty upon the victim to resist the actor.

F. "Safe children zone" means on or within 1,000 feet of the real property comprising a public or private elementary or secondary school or on or within 1,000 feet of the real property comprising a day care center licensed pursuant to Title 22, section 8301-A.

G. "Sexual touching" means any touching of the breasts, buttocks, groin or inner thigh, directly or through clothing, for the purpose of arousing or gratifying sexual desire.

ME. REV. STAT. ANN. TIT. 17-A, § 253 (2011). GROSS SEXUAL ASSAULT

1. A person is guilty of gross sexual assault if that person engages in a sexual act with another person and:

A. The other person submits as a result of compulsion, as defined in section 251, subsection 1, paragraph E. Violation of this paragraph is a Class A crime;

B. The other person, not the actor's spouse, has not in fact attained the age of 14 years. Violation of this paragraph is a Class A crime; or

C. The other person, not the actor's spouse, has not in fact attained 12 years of age. Violation of this paragraph is a Class A crime.

2. A person is guilty of gross sexual assault if that person engages in a sexual act with another person and:

A. The actor has substantially impaired the other person's power to appraise or control the other person's sexual acts by furnishing, as defined in section 1101, subsection 18, paragraph A, administering or employing drugs, intoxicants or other similar means. Violation of this paragraph is a Class B crime;

B. The actor compels or induces the other person to engage in the sexual act by any threat. Violation of this paragraph is a Class B crime;

C. The other person suffers from mental disability that is reasonably apparent or known to the actor, and which in fact renders the other person substantially incapable of appraising the nature of the contact involved or of understanding that the person has the right to deny or withdraw consent. Violation of this paragraph is a Class B crime;

D. The other person is unconscious or otherwise physically incapable of resisting and has not consented to the sexual act. Violation of this paragraph is a Class B crime;

E. The other person, not the actor's spouse, is under official supervision as a probationer, a parolee, a sex offender on supervised release, a prisoner on supervised community confinement status or a juvenile on community reintegration status or is detained in a hospital, prison or other institution, and the actor has supervisory or disciplinary authority over the other person. Violation of this paragraph is a Class B crime;

F. The other person, not the actor's spouse, has not in fact attained the age of 18 years and is a student enrolled in a private or public elementary, secondary or special education school, facility or institution and the actor is a teacher, employee or other official having instructional, supervisory or disciplinary authority over the student. Violation of this paragraph is a Class C crime;

G. The other person, not the actor's spouse, has not attained the age of 18 years and is a resident in or attending a children's home, day care facility, residential child care facility, drug treatment center, youth camp licensed under Title 22, section 2495 or similar school, facility or institution regularly providing care or services for children, and the actor is a teacher, employee or other person having instructional, supervisory or disciplinary authority over the other person. Violation of this paragraph is a Class C crime;

H. The other person has not in fact attained the age of 18 years and the actor is a parent, stepparent, foster parent, guardian or other similar person responsible for the long-term care and welfare of that other person. Violation of this paragraph is a Class B crime;

I. The actor is a psychiatrist, a psychologist or licensed as a social worker or purports to be a psychiatrist, a psychologist or licensed as a social worker to the other person and the other person, not the actor's spouse, is a patient or client for mental health therapy of the actor. As used in this paragraph, "mental health therapy" means psychotherapy or other treatment modalities intended to change behavior, emotions or attitudes, which therapy is based upon an intimate relationship involving trust and dependency with a substantial potential for vulnerability and abuse. Violation of this paragraph is a Class C crime; or

J. The actor owns, operates or is an employee of an organization, program or residence that is operated, administered, licensed or funded by the Department of Health and Human Services and the other person, not the actor's spouse, receives services from the organization, program or residence and the organization, program or residence recognizes the other person as a person with mental retardation. It is an affirmative defense to prosecution under this paragraph that the actor receives services for mental retardation or is a person with mental retardation as defined in Title 34-B, section 5001, subsection 3. Violation of this paragraph is a Class C crime.

3. It is a defense to a prosecution under subsection 2, paragraph A that the other person voluntarily consumed or allowed administration of the substance with knowledge of its nature, except that it is no defense when:

A. The other person is a patient of the actor and has a reasonable belief that the actor is administering the substance for medical or dental examination or treatment; or

B. The other person is in fact 14 or 15 years of age.

4. Repealed. Laws 2001, c. 383, § 18, eff. Jan. 31, 2003.

5. Repealed. Laws 2001, c. 383, § 19, eff. Jan. 31, 2003.

6. In using a sentencing alternative involving a term of imprisonment for a person convicted of violating this section, a court shall, in determining the maximum period of incarceration as the 2nd step in the sentencing process, treat each prior Maine conviction for a violation of this section as an aggravating sentencing factor.

A. When the sentencing class for a prior conviction under this section is Class A, the court shall enhance the basic period of incarceration by a minimum of 4 years of imprisonment.

B. When the sentencing class for a prior conviction under this section is Class B, the court shall enhance the basic period of incarceration by a minimum of 2 years of imprisonment.

C. When the sentencing class for a prior conviction under this section is Class C, the court shall enhance the basic period of incarceration by a minimum of one year of imprisonment.

In arriving at the final sentence as the 3rd step in the sentencing process, the court may not suspend that portion of the maximum term of incarceration based on a prior conviction.

7. If the State pleads and proves that a violation of subsection 1 or subsection 2 was committed in a safe children zone, the court, in determining the appropriate sentence, shall treat this as an aggravating sentencing factor.

ME. REV. STAT. ANN. TIT. 17-A, § 255-A (2011). UNLAWFUL SEXUAL CONTACT

1. A person is guilty of unlawful sexual contact if the actor intentionally subjects another person to any sexual contact and:

A. The other person has not expressly or impliedly acquiesced in the sexual contact. Violation of this paragraph is a Class D crime;

B. The other person has not expressly or impliedly acquiesced in the sexual contact and the sexual contact includes penetration. Violation of this paragraph is a Class C crime;

C. The other person is unconscious or otherwise physically incapable of resisting and has not consented to the sexual contact. Violation of this paragraph is a Class D crime;

D. The other person is unconscious or otherwise physically incapable of resisting and has not consented to the sexual contact and the sexual contact includes penetration. Violation of this paragraph is a Class C crime;

E. The other person, not the actor's spouse, is in fact less than 14 years of age and the actor is at least 3 years older. Violation of this paragraph is a Class C crime;

E-1. The other person, not the actor's spouse, is in fact less than 12 years of age and the actor is at least 3 years older. Violation of this paragraph is a Class B crime;

F. The other person, not the actor's spouse, is in fact less than 14 years of age and the actor is at least 3 years older and the sexual contact includes penetration. Violation of this paragraph is a Class B crime;

F-1. The other person, not the actor's spouse, is in fact less than 12 years of age and the actor is at least 3 years older and the sexual contact includes penetration. Violation of this paragraph is a Class A crime;

G. The other person suffers from a mental disability that is reasonably apparent or known to the actor that in fact renders the other person substantially incapable of appraising the nature of the contact involved or of understanding that the other person has the right to deny or withdraw consent. Violation of this paragraph is a Class D crime;

H. The other person suffers from a mental disability that is reasonably apparent or known to the actor that in fact renders the other person substantially incapable of appraising the nature of the contact involved or of understanding that the other person has the right to deny or withdraw consent and the sexual contact includes penetration. Violation of this paragraph is a Class C crime;

I. The other person, not the actor's spouse, is under official supervision as a probationer, a parolee, a sex offender on supervised release, a prisoner on supervised community confinement status or a juvenile on community reintegration status or is detained in a hospital, prison or other institution and the actor has supervisory or disciplinary authority over the other person. Violation of this paragraph is a Class D crime;

*Statute truncated due to size.

J. The other person, not the actor's spouse, is under official supervision as a probationer, a parolee, a sex offender on supervised release, a prisoner on supervised community confinement status or a juvenile on community reintegration status or is detained in a hospital, prison or other institution and the actor has supervisory or disciplinary authority over the other person and the sexual contact includes penetration. Violation of this paragraph is a Class C crime;

K. The other person, not the actor's spouse, is in fact less than 18 years of age and is a student enrolled in a private or public elementary, secondary or special education school, facility or institution and the actor is a teacher, employee or other official having instructional, supervisory or disciplinary authority over the student. Violation of this paragraph is a Class D crime;

L. The other person, not the actor's spouse, is in fact less than 18 years of age and is a student enrolled in a private or public elementary, secondary or special education school, facility or institution and the actor is a teacher, employee or other official having instructional, supervisory or disciplinary authority over the student and the sexual contact includes penetration. Violation of this paragraph is a Class C crime;

M. The other person is in fact less than 18 years of age and the actor is a parent, stepparent, foster parent, guardian or other similar person responsible for the long-term general care and welfare of that other person. Violation of this paragraph is a Class C crime;

N. The other person is in fact less than 18 years of age and the actor is a parent, stepparent, foster parent, guardian or other similar person responsible for the long-term general care and welfare of that other person and the sexual contact includes penetration. Violation of this paragraph is a Class B crime;

O. The other person submits as a result of compulsion. Violation of this paragraph is a Class C crime;

P. The other person submits as a result of compulsion and the sexual contact includes penetration. Violation of this paragraph is a Class B crime;

Q. The actor owns, operates or is an employee of an organization, program or residence that is operated, administered, licensed or funded by the Department of Health and Human Services and the other person, not the actor's spouse, receives services from the organization, program or residence and the organization, program or residence recognizes that other person as a person with mental retardation. It is an affirmative defense to prosecution under this paragraph that the actor receives services for mental retardation or is a person with mental retardation as defined in Title 34-B, section 5001, subsection 3. Violation of this paragraph is a Class D crime;

R. The actor owns, operates or is an employee of an organization, program or residence that is operated, administered, licensed or funded by the Department of Health and Human Services and the other person, not the actor's spouse, receives services from the organization, program or residence and the organization, program or residence recognizes that other person as a person with mental retardation and the sexual contact includes penetration. It is an affirmative defense to prosecution under this paragraph that the actor receives services for mental retardation or is a person with mental retardation as defined in Title 34-B, section 5001, subsection 3. Violation of this paragraph is a Class C crime;

S. The other person, not the actor's spouse, is in fact less than 18 years of age and is a student enrolled in a private or public elementary, secondary or special education school, facility or institution and the actor, who is at least 21 years of age, is a teacher, employee or other official in the school district, school union, educational unit, school, facility or institution in which the student is enrolled. Violation of this paragraph is a Class E crime;

T. The other person, not the actor's spouse, is in fact less than 18 years of age and is a student enrolled in a private or public elementary, secondary or special education school, facility or institution and the actor, who is at least 21 years of age, is a teacher, employee or other official in the school district, school union, educational unit, school,

facility or institution in which the student is enrolled and the sexual contact includes penetration. Violation of this paragraph is a Class D crime;

U. The actor is a psychiatrist, a psychologist or licensed as a social worker or purports to be a psychiatrist, a psychologist or licensed as a social worker to the other person and the other person, not the actor's spouse, is a patient or client of the actor for mental health therapy. As used in this paragraph, "mental health therapy" means psychotherapy or other treatment modalities intended to change behavior, emotions or attitudes and based upon an intimate relationship involving trust and dependency with a substantial potential for vulnerability and abuse. Violation of this paragraph is a Class D crime; or

V. The actor is a psychiatrist, a psychologist or licensed as a social worker or purports to be a psychiatrist, a psychologist or licensed as a social worker to the other person and the other person, not the actor's spouse, is a patient or client of the actor for mental health therapy and the sexual contact includes penetration. As used in this paragraph, "mental health therapy" means psychotherapy or other treatment modalities intended to change behavior, emotions or attitudes and based upon an intimate relationship involving trust and dependency with a substantial potential for vulnerability and abuse. Violation of this paragraph is a Class C crime.

ME. REV. STAT. ANN. TIT. 17-A, § 260 (2011). UNLAWFUL SEXUAL TOUCHING

1. Unlawful sexual touching. A person is guilty of unlawful sexual touching if the actor intentionally subjects another person to any sexual touching and:

A. The other person has not expressly or impliedly acquiesced in the sexual touching. Violation of this paragraph is a Class D crime;

B. The other person is unconscious or otherwise physically incapable of resisting and has not consented to the sexual touching. Violation of this paragraph is a Class D crime;

C. The other person, not the actor's spouse, is in fact less than 14 years of age and the actor is at least 5 years older. Violation of this paragraph is a Class D crime;

D. The other person suffers from a mental disability that is reasonably apparent or known to the actor that in fact renders the other person substantially incapable of appraising the nature of the touching involved or of understanding that the other person has the right to deny or withdraw consent. Violation of this paragraph is a Class D crime;

E. The other person, not the actor's spouse, is under official supervision as a probationer, a parolee, a sex offender on supervised release, a prisoner on supervised community confinement status or a juvenile on community reintegration status or is detained in a hospital, prison or other institution and the actor has supervisory or disciplinary authority over the other person. Violation of this paragraph is a Class D crime;

F. The other person, not the actor's spouse, is in fact less than 18 years of age and is a student enrolled in a private or public elementary, secondary or special education school, facility or institution and the actor is a teacher, employee or other official having instructional, supervisory or disciplinary authority over the student. Violation of this paragraph is a Class D crime;

G. The other person is in fact less than 18 years of age and the actor is a parent, stepparent, foster parent, guardian or other similar person responsible for the long-term general care and welfare of that other person. Violation of this paragraph is a Class D crime;

H. The other person submits as a result of compulsion. Violation of this paragraph is a Class D crime;

*Statute truncated due to size.

I. The actor owns, operates or is an employee of an organization, program or residence that is operated, administered, licensed or funded by the Department of Health and Human Services and the other person, not the actor's spouse, receives services from the organization, program or residence and the organization, program or residence recognizes that other person as a person with mental retardation. It is an affirmative defense to prosecution under this paragraph that the actor receives services for mental retardation or is a person with mental retardation as defined in Title 34-B, section 5001, subsection 3. Violation of this paragraph is a Class D crime;

J. The other person, not the actor's spouse, is in fact less than 18 years of age and is a student enrolled in a private or public elementary, secondary or special education school, facility or institution and the actor, who is at least 21 years of age, is a teacher, employee or other official in the school district, school union, educational unit, school, facility or institution in which the student is enrolled. Violation of this paragraph is a Class E crime; or

K. The actor is a psychiatrist, a psychologist or licensed as a social worker or purports to be a psychiatrist, a psychologist or licensed as a social worker to the other person and the other person, not the actor's spouse, is a patient or client of the actor for mental health therapy. As used in this paragraph, "mental health therapy" means psychotherapy or other treatment modalities intended to change behavior, emotions or attitudes and based upon an intimate relationship involving trust and dependency with a substantial potential for vulnerability and abuse. Violation of this paragraph is a Class D crime.

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MARYLAND

CHARTS	PENETRATION	FORCE	CAPACITY TO CONSENT	VICTIM PERPETRATOR RELATIONSHIP	OTHER SEX CRIMES
CONSENT ANALYSIS	ALCOHOL/DRUG FACILITATED SEXUAL ASSAULT	MARITAL RAPE	SAME SEX PERPETRATOR	STATUTORY RAPE	CONSTRUCTIVE FORCE

MD. CODE ANN., CRIM. LAW § 3-301 (WEST 2011). DEFINITIONS

In general

(a) In this subtitle the following words have the meanings indicated.

Mentally defective individual

(b) "Mentally defective individual" means an individual who suffers from mental retardation or a mental disorder, either of which temporarily or permanently renders the individual substantially incapable of:

(1) appraising the nature of the individual's conduct;

(2) resisting vaginal intercourse, a sexual act, or sexual contact; or

(3) communicating unwillingness to submit to vaginal intercourse, a sexual act, or sexual contact.

Mentally incapacitated individual

(c) "Mentally incapacitated individual" means an individual who, because of the influence of a drug, narcotic, or intoxicating substance, or because of an act committed on the individual without the individual's consent or awareness, is rendered substantially incapable of:

(1) appraising the nature of the individual's conduct; or

(2) resisting vaginal intercourse, a sexual act, or sexual contact.

Physically helpless individual

(d) “Physically helpless individual” means an individual who:

(1) is unconscious; or

(2)(i) does not consent to vaginal intercourse, a sexual act, or sexual contact; and

(ii) is physically unable to resist, or communicate unwillingness to submit to, vaginal intercourse, a sexual act, or sexual contact.

Sexual act

(e)(1) “Sexual act” means any of the following acts, regardless of whether semen is emitted:

(i) analingus;

(ii) cunnilingus;

(iii) fellatio;

(iv) anal intercourse, including penetration, however slight, of the anus; or

(v) an act:

1. in which an object penetrates, however slightly, into another individual's genital opening or anus; and

2. that can reasonably be construed to be for sexual arousal or gratification, or for the abuse of either party.

(2) “Sexual act” does not include:

(i) vaginal intercourse; or

(ii) an act in which an object penetrates an individual's genital opening or anus for an accepted medical purpose.

Sexual contact

(f)(1) “Sexual contact”, as used in §§ 3-307, 3-308, and 3-314 of this subtitle, means an intentional touching of the victim's or actor's genital, anal, or other intimate area for sexual arousal or gratification, or for the abuse of either party.

(2) “Sexual contact” includes an act:

(i) in which a part of an individual's body, except the penis, mouth, or tongue, penetrates, however slightly, into another individual's genital opening or anus; and

(ii) that can reasonably be construed to be for sexual arousal or gratification, or for the abuse of either party.

(3) “Sexual contact” does not include:

(i) a common expression of familial or friendly affection; or

(ii) an act for an accepted medical purpose.

Vaginal intercourse

(g)(1) "Vaginal intercourse" means genital copulation, whether or not semen is emitted.

(2) "Vaginal intercourse" includes penetration, however slight, of the vagina.

MD. CODE ANN., CRIM. LAW § 3-302 (WEST 2011). CONSTRUCTION OF SUBTITLE

In this subtitle an undefined word or phrase that describes an element of common-law rape retains its judicially determined meaning, except to the extent it is expressly or impliedly changed in this subtitle.

MD. CODE ANN., CRIM. LAW § 3-303 (WEST 2011). RAPE IN THE FIRST DEGREE

Prohibited--In general

(a) A person may not:

(1) engage in vaginal intercourse with another by force, or the threat of force, without the consent of the other; and

(2)(i) employ or display a dangerous weapon, or a physical object that the victim reasonably believes is a dangerous weapon;

(ii) suffocate, strangle, disfigure, or inflict serious physical injury on the victim or another in the course of committing the crime;

(iii) threaten, or place the victim in fear, that the victim, or an individual known to the victim, imminently will be subject to death, suffocation, strangulation, disfigurement, serious physical injury, or kidnapping;

(iv) commit the crime while aided and abetted by another; or

(v) commit the crime in connection with a burglary in the first, second, or third degree.

Prohibited--Child kidnapping

(b) A person may not violate subsection (a) of this section while also violating § 3-503(a)(2) of this title involving a victim who is a child under the age of 16 years.

Prohibited--Children under age 13

(c) A person 18 years of age or older may not violate subsection (a) of this section involving a victim who is a child under the age of 13 years.

Penalty

*Statute truncated due to size.

(d)(1) Except as provided in paragraphs (2), (3), and (4) of this subsection, a person who violates subsection (a) of this section is guilty of the felony of rape in the first degree and on conviction is subject to imprisonment not exceeding life.

(2) A person who violates subsection (b) of this section is guilty of the felony of rape in the first degree and on conviction is subject to imprisonment not exceeding life without the possibility of parole.

(3) A person who violates subsection (a) or (b) of this section is guilty of the felony of rape in the first degree and on conviction is subject to imprisonment not exceeding life without the possibility of parole if the defendant was previously convicted of violating this section or § 3-305 of this subtitle.

(4)(i) Subject to subparagraph (iv) of this paragraph, a person 18 years of age or older who violates subsection (c) of this section is guilty of the felony of rape in the first degree and on conviction is subject to imprisonment for not less than 25 years and not exceeding life without the possibility of parole.

(ii) A court may not suspend any part of the mandatory minimum sentence of 25 years.

(iii) The person is not eligible for parole during the mandatory minimum sentence.

(iv) If the State fails to comply with subsection (e) of this section, the mandatory minimum sentence shall not apply.

Required notice

(e) If the State intends to seek a sentence of imprisonment for life without the possibility of parole under subsection (d)(2), (3), or (4) of this section, or imprisonment for not less than 25 years under subsection (d)(4) of this section, the State shall notify the person in writing of the State's intention at least 30 days before trial.

MD. CODE ANN., CRIM. LAW § 3-304 (WEST 2011). RAPE IN THE SECOND DEGREE

Prohibited--In general

(a) A person may not engage in vaginal intercourse with another:

(1) by force, or the threat of force, without the consent of the other;

(2) if the victim is a mentally defective individual, a mentally incapacitated individual, or a physically helpless individual, and the person performing the act knows or reasonably should know that the victim is a mentally defective individual, a mentally incapacitated individual, or a physically helpless individual; or

(3) if the victim is under the age of 14 years, and the person performing the act is at least 4 years older than the victim.

Prohibited--Children under age 13

(b) A person 18 years of age or older may not violate subsection (a)(1) or (2) of this section involving a child under the age of 13 years.

Penalty

*Statute truncated due to size.

(c)(1) Except as provided in paragraph (2) of this subsection, a person who violates subsection (a) of this section is guilty of the felony of rape in the second degree and on conviction is subject to imprisonment not exceeding 20 years.

(2)(i) Subject to subparagraph (iv) of this paragraph, a person 18 years of age or older who violates subsection (b) of this section is guilty of the felony of rape in the second degree and on conviction is subject to imprisonment for not less than 15 years and not exceeding life.

(ii) A court may not suspend any part of the mandatory minimum sentence of 15 years.

(iii) The person is not eligible for parole during the mandatory minimum sentence.

(iv) If the State fails to comply with subsection (d) of this section, the mandatory minimum shall not apply.

Required notice

(d) If the State intends to seek a sentence of imprisonment for not less than 15 years under subsection (c)(2) of this section, the State shall notify the person in writing of the State's intention at least 30 days before trial.

MD. CODE ANN., CRIM. LAW § 3-305 (WEST 2011). SEXUAL OFFENSE IN THE FIRST DEGREE

Prohibited--In general

(a) A person may not:

(1) engage in a sexual act with another by force, or the threat of force, without the consent of the other; and

(2)(i) employ or display a dangerous weapon, or a physical object that the victim reasonably believes is a dangerous weapon;

(ii) suffocate, strangle, disfigure, or inflict serious physical injury on the victim or another in the course of committing the crime;

(iii) threaten, or place the victim in fear, that the victim, or an individual known to the victim, imminently will be subject to death, suffocation, strangulation, disfigurement, serious physical injury, or kidnapping;

(iv) commit the crime while aided and abetted by another; or

(v) commit the crime in connection with a burglary in the first, second, or third degree.

Prohibited--Child kidnapping

(b) A person may not violate subsection (a) of this section while also violating § 3-503(a)(2) of this title involving a victim who is a child under the age of 16 years.

Prohibited--Children under age 13

(c) A person 18 years of age or older may not violate subsection (a) of this section involving a victim who is a child under the age of 13 years.

Penalty

*Statute truncated due to size.

(d)(1) Except as provided in paragraphs (2), (3), and (4) of this subsection, a person who violates subsection (a) of this section is guilty of the felony of sexual offense in the first degree and on conviction is subject to imprisonment not exceeding life.

(2) A person who violates subsection (b) of this section is guilty of the felony of sexual offense in the first degree and on conviction is subject to imprisonment not exceeding life without the possibility of parole.

(3) A person who violates subsection (a) or (b) of this section is guilty of the felony of sexual offense in the first degree and on conviction is subject to imprisonment not exceeding life without the possibility of parole if the defendant was previously convicted of violating this section or § 3-303 of this subtitle.

(4)(i) Subject to subparagraph (iv) of this paragraph, a person 18 years of age or older who violates subsection (c) of this section is guilty of the felony of sexual offense in the first degree and on conviction is subject to imprisonment for not less than 25 years and not exceeding life without the possibility of parole.

(ii) A court may not suspend any part of the mandatory minimum sentence of 25 years.

(iii) The person is not eligible for parole during the mandatory minimum sentence.

(iv) If the State fails to comply with subsection (e) of this section, the mandatory minimum sentence shall not apply.

Required notice

(e) If the State intends to seek a sentence of imprisonment for life without the possibility of parole under subsection (d)(2), (3), or (4) of this section, or imprisonment for not less than 25 years under subsection (d)(4) of this section, the State shall notify the person in writing of the State's intention at least 30 days before trial.

MD. CODE ANN., CRIM. LAW § 3-306 (WEST 2011). SEXUAL OFFENSE IN THE SECOND DEGREE

Prohibited--In general

(a) A person may not engage in a sexual act with another:

(1) by force, or the threat of force, without the consent of the other;

(2) if the victim is a mentally defective individual, a mentally incapacitated individual, or a physically helpless individual, and the person performing the sexual act knows or reasonably should know that the victim is a mentally defective individual, a mentally incapacitated individual, or a physically helpless individual; or

(3) if the victim is under the age of 14 years, and the person performing the sexual act is at least 4 years older than the victim.

Prohibited--Children under age 13

(b) A person 18 years of age or older may not violate subsection (a)(1) or (2) of this section involving a child under the age of 13 years.

Penalty

(c)(1) Except as provided in paragraph (2) of this subsection, a person who violates this section is guilty of the felony of sexual offense in the second degree and on conviction is subject to imprisonment not exceeding 20 years.

(2)(i) Subject to subparagraph (iv) of this paragraph, a person 18 years of age or older who violates subsection (b) of this section is guilty of the felony of sexual offense in the second degree and on conviction is subject to imprisonment for not less than 15 years and not exceeding life.

(ii) A court may not suspend any part of the mandatory minimum sentence of 15 years.

(iii) The person is not eligible for parole during the mandatory minimum sentence.

(iv) If the State fails to comply with subsection (d) of this section, the mandatory minimum shall not apply.

Required notice

(d) If the State intends to seek a sentence of imprisonment for not less than 15 years under subsection (c)(2) of this section, the State shall notify the person in writing of the State's intention at least 30 days before trial.

MD. CODE ANN., CRIM. LAW § 3-307 (WEST 2011). SEXUAL OFFENSE IN THE THIRD DEGREE

Prohibited

(a) A person may not:

(1)(i) engage in sexual contact with another without the consent of the other; and

(ii) 1. employ or display a dangerous weapon, or a physical object that the victim reasonably believes is a dangerous weapon;

2. suffocate, strangle, disfigure, or inflict serious physical injury on the victim or another in the course of committing the crime;

3. threaten, or place the victim in fear, that the victim, or an individual known to the victim, imminently will be subject to death, suffocation, strangulation, disfigurement, serious physical injury, or kidnapping; or

4. commit the crime while aided and abetted by another;

(2) engage in sexual contact with another if the victim is a mentally defective individual, a mentally incapacitated individual, or a physically helpless individual, and the person performing the act knows or reasonably should know the victim is a mentally defective individual, a mentally incapacitated individual, or a physically helpless individual;

(3) engage in sexual contact with another if the victim is under the age of 14 years, and the person performing the sexual contact is at least 4 years older than the victim;

(4) engage in a sexual act with another if the victim is 14 or 15 years old, and the person performing the sexual act is at least 21 years old; or

(5) engage in vaginal intercourse with another if the victim is 14 or 15 years old, and the person performing the act is at least 21 years old.

Penalty

(b) A person who violates this section is guilty of the felony of sexual offense in the third degree and on conviction is subject to imprisonment not exceeding 10 years.

MD. CODE ANN., CRIM. LAW § 3-308 (WEST 2011). SEXUAL OFFENSE IN THE FOURTH DEGREE

"Person in a position of authority" defined

(a) In this section, "person in a position of authority":

(1) means a person who:

(i) is at least 21 years old;

(ii) is employed as a full-time permanent employee by a public or private preschool, elementary school, or secondary school; and

(iii) because of the person's position or occupation, exercises supervision over a minor who attends the school; and

(2) includes a principal, vice principal, teacher, or school counselor at a public or private preschool, elementary school, or secondary school.

Prohibited--In general

(b) A person may not engage in:

(1) sexual contact with another without the consent of the other;

(2) except as provided in § 3-307(a)(4) of this subtitle, a sexual act with another if the victim is 14 or 15 years old, and the person performing the sexual act is at least 4 years older than the victim; or

(3) except as provided in § 3-307(a)(5) of this subtitle, vaginal intercourse with another if the victim is 14 or 15 years old, and the person performing the act is at least 4 years older than the victim.

Prohibited--Persons in a position of authority

(c)(1) Except as provided in § 3-307(a)(4) of this subtitle or subsection (b)(2) of this section, a person in a position of authority may not engage in a sexual act or sexual contact with a minor who, at the time of the sexual act or sexual contact, is a student enrolled at a school where the person in a position of authority is employed.

(2) Except as provided in § 3-307(a)(5) of this subtitle or subsection (b)(3) of this section, a person in a position of authority may not engage in vaginal intercourse with a minor who, at the time of the vaginal intercourse, is a student enrolled at a school where the person in a position of authority is employed.

Penalty

(d)(1) Except as provided in paragraph (2) of this subsection, a person who violates this section is guilty of the misdemeanor of sexual offense in the fourth degree and on conviction is subject to imprisonment not exceeding 1 year or a fine not exceeding $1,000 or both.

(2)(i) On conviction of a violation of this section, a person who has been convicted on a prior occasion not arising from the same incident of a violation of §§ 3-303 through 3-312 or § 3-315 of this subtitle or § 3-602 of this title is subject to imprisonment not exceeding 3 years or a fine not exceeding $1,000 or both.

(ii) If the State intends to proceed against a person under subparagraph (i) of this paragraph, it shall comply with the procedures set forth in the Maryland Rules for the indictment and trial of a subsequent offender.

MD. CODE ANN., CRIM. LAW § 3-309 (WEST 2011). ATTEMPTED RAPE IN THE FIRST DEGREE

Prohibited

(a) A person may not attempt to commit rape in the first degree.

Penalty

(b) A person who violates this section is guilty of a felony and on conviction is subject to imprisonment not exceeding life.

MD. CODE ANN., CRIM. LAW § 3-310 (WEST 2011). ATTEMPTED RAPE IN THE SECOND DEGREE

Prohibited

(a) A person may not attempt to commit rape in the second degree.

Penalty

(b) A person who violates this section is guilty of a felony and on conviction is subject to imprisonment not exceeding 20 years.

MD. CODE ANN., CRIM. LAW § 3-311 (WEST 2011). ATTEMPTED SEXUAL OFFENSE IN THE FIRST DEGREE

Prohibited

(a) A person may not attempt to commit a sexual offense in the first degree.

Penalty

(b) A person who violates this section is guilty of a felony and on conviction is subject to imprisonment not exceeding life.

MD. CODE ANN., CRIM. LAW § 3-312 (WEST 2011). ATTEMPTED SEXUAL OFFENSE IN THE SECOND DEGREE

Prohibited

(a) A person may not attempt to commit a sexual offense in the second degree.

Penalty

*Statute truncated due to size.

(b) A person who violates this section is guilty of a felony and on conviction is subject to imprisonment not exceeding 20 years.

MD. CODE ANN., CRIM. LAW § 3-318 (WEST 2011). RAPE AND SEXUAL OFFENSE--SPOUSAL DEFENSE

In general

(a) Except as provided in subsections (b) and (c) of this section, a person may not be prosecuted under § 3-303, § 3-304, § 3-307, or § 3-308 of this subtitle for a crime against a victim who was the person's legal spouse at the time of the alleged rape or sexual offense.

Separation or use of force

(b) A person may be prosecuted under § 3-303(a), § 3-304(a)(1), or § 3-307(a)(1) of this subtitle for a crime against the person's legal spouse if:

(1) at the time of the alleged crime the person and the person's legal spouse have lived apart, without cohabitation and without interruption:

(i) under a written separation agreement executed by the person and the spouse; or

(ii) for at least 3 months immediately before the alleged rape or sexual offense; or

(2) the person in committing the crime uses force or threat of force and the act is without the consent of the spouse.

Limited divorce

(c) A person may be prosecuted under § 3-303, § 3-304, § 3-307, or § 3-308 of this subtitle for a crime against the person's legal spouse if at the time of the alleged crime the person and the spouse live apart, without cohabitation and without interruption, under a decree of limited divorce.

MD. CODE ANN., CRIM. LAW § 3-322 (WEST 2011). UNNATURAL OR PERVERTED SEXUAL PRACTICE

Prohibited
(a) A person may not:

(1) take the sexual organ of another or of an animal in the person's mouth;

(2) place the person's sexual organ in the mouth of another or of an animal; or
(3) commit another unnatural or perverted sexual practice with another or with an animal.
Penalty

(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 10 years or a fine not exceeding $1,000 or both.
Statute of limitations and in banc review

(c) A person who violates this section is subject to § 5-106(b) of the Courts Article.
Charging document

*Statute truncated due to size.

(d) An indictment for a violation of this section:

(1) is sufficient if it states that the defendant committed an unnatural and perverted sexual practice with a person or animal as applicable; but

(2) need not state the particular:

(i) unnatural or perverted sexual practice with which the defendant is charged; or

(ii) manner in which the defendant committed the unnatural or perverted sexual practice.

MD. CODE ANN., CRIM. LAW § 3-323 (WEST 2011). UNNATURAL OR PERVERTED SEXUAL PRACTICE

Prohibited
(a) A person may not:

(1) take the sexual organ of another or of an animal in the person's mouth;

(2) place the person's sexual organ in the mouth of another or of an animal; or

(3) commit another unnatural or perverted sexual practice with another or with an animal.

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MASSACHUSETTS

CHARTS	PENETRATION	FORCE	CAPACITY TO CONSENT	VICTIM PERPETRATOR RELATIONSHIP	OTHER SEX CRIMES
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MASS. GEN. LAWS ANN. CH. 265, § 22 (WEST 2011). RAPE, GENERALLY; WEAPONS; PUNISHMENT; ELIGIBILITY FOR FURLOUGH, EDUCATION, TRAINING OR EMPLOYMENT PROGRAMS

(a) Whoever has sexual intercourse or unnatural sexual intercourse with a person, and compels such person to submit by force and against his will, or compels such person to submit by threat of bodily injury and if either such sexual intercourse or unnatural sexual intercourse results in or is committed with acts resulting in serious bodily injury, or is committed by a joint enterprise, or is committed during the commission or attempted commission of an offense defined in section fifteen A, fifteen B, seventeen, nineteen or twenty-six of this chapter, section fourteen, fifteen, sixteen, seventeen or eighteen of chapter two hundred and sixty-six or section ten of chapter two hundred and sixty-nine shall be punished by imprisonment in the state prison for life or for any term of years.

No person serving a sentence for a second or subsequent such offense shall be eligible for furlough, temporary release, or education, training or employment programs established outside a correctional facility until such person shall have served two-thirds of such minimum sentence or if such person has two or more sentences to be served otherwise than concurrently, two-thirds of the aggregate of the minimum terms of such several sentences.

(b) Whoever has sexual intercourse or unnatural sexual intercourse with a person and compels such person to submit by force and against his will, or compels such person to submit by threat of bodily injury, shall be punished

by imprisonment in the state prison for not more than twenty years; and whoever commits a second or subsequent such offense shall be punished by imprisonment in the state prison for life or for any term or years.

Whoever commits any offense described in this section while being armed with a firearm, rifle, shotgun, machine-gun or assault weapon, shall be punished by imprisonment in the state prison for not less than ten years. Whoever commits a second or subsequent such offense shall be punished by imprisonment in the state prison for life or for any term of years, but not less than 15 years.

No person serving a sentence for a second or subsequent such offense shall be eligible for furlough, temporary release, or education, training or employment programs established outside a correctional facility until such person shall have served two-thirds of such minimum sentence or if such person has two or more sentences to be served otherwise than concurrently, two-thirds of the aggregate of the minimum terms of such several sentences.

For the purposes of prosecution, the offense described in subsection (b) shall be a lesser included offense to that described in subsection (a).

MASS. GEN. LAWS ANN. CH. 265, § 13H (WEST 2011). INDECENT ASSAULT AND BATTERY ON PERSON FOURTEEN OR OLDER; PENALTIES

Whoever commits an indecent assault and battery on a person who has attained age fourteen shall be punished by imprisonment in the state prison for not more than five years, or by imprisonment for not more than two and one-half years in a jail or house of correction.

Whoever commits an indecent assault and battery on an elder or person with a disability, as defined in section 13K, shall be punished by imprisonment in the state prison for not more than 10 years, or by imprisonment in the house of correction for not more than 2 1/2 years, and whoever commits a second or subsequent such offense shall be punished by imprisonment in the state prison for not more than 20 years. A prosecution commenced under this paragraph shall not be placed on file nor continued without a finding.

MASS. GEN. LAWS ANN. CH. 272, § 3 (WEST 2011). DRUGGING PERSONS FOR SEXUAL INTERCOURSE

Whoever applies, administers to or causes to be taken by a person any drug, matter or thing with intent to stupefy or overpower such person so as to thereby enable any person to have sexual intercourse or unnatural sexual intercourse with such person shall be punished by imprisonment in the state prison for life or for any term of years not less than ten years.

MASS. GEN. LAWS ANN. CH. 272, § 17 (WEST 2011). INCESTUOUS MARRIAGE OR SEXUAL ACTIVITIES

Persons within degrees of consanguinity within which marriages are prohibited or declared by law to be incestuous and void, who intermarry or have sexual intercourse with each other, or who engage in sexual activities with each other, including but not limited to, oral or anal intercourse, fellatio, cunnilingus, or other penetration of a part of a person's body, or insertion of an object into the genital or anal opening of another person's body, or the manual manipulation of the genitalia of another person's body, shall be punished by imprisonment in the state prison for not more than 20 years or in the house of correction for not more than 2 ½ years.

*Statute truncated due to size.

MASS. GEN. LAWS ANN. CH. 272 § 16 (WEST 2012). OPEN AND GROSS LEWDNESS AND LASCIVIOUS BEHAVIOR

A man or woman, married or unmarried, who is guilty of open and gross lewdness and lascivious behavior, shall be punished by imprisonment in the state prison for not more than three years or in jail for not more than two years or by a fine of not more than three hundred dollars.

MASS. GEN. LAWS ANN. CH 272 § 31 (WEST 2012). DEFINITIONS

As used in sections twenty-eight, twenty-eight C, twenty-eight D, twenty-eight E, twenty-nine, twenty-nine A, twenty-nine B, thirty and thirty D, the following words shall, unless the context requires otherwise, have the following meanings:--

"Disseminate", to import, publish, produce, print, manufacture, distribute, sell, lease, exhibit or display.

"Harmful to minors", matter is harmful to minors if it is obscene or, if taken as a whole, it (1) describes or represents nudity, sexual conduct or sexual excitement, so as to appeal predominantly to the prurient interest of minors; (2) is patently contrary to prevailing standards of adults in the county where the offense was committed as to suitable material for such minors; and (3) lacks serious literary, artistic, political or scientific value for minors.

"Knowing", a general awareness of the character of the matter.

"Lascivious intent", a state of mind in which the sexual gratification or arousal of any person is an objective. For the purposes of prosecution under this chapter, proof of lascivious intent may include, but shall not be limited to, the following:

(1) whether the circumstances include sexual behavior, sexual relations, infamous conduct of a lustful or obscene nature, deviation from accepted customs and manners, or sexually oriented displays;

(2) whether the focal point of a visual depiction is the child's genitalia, pubic area, or breast area of a female child;

(3) whether the setting or pose of a visual depiction is generally associated with sexual activity;

(4) whether the child is depicted in an unnatural pose or inappropriate attire, considering the child's age;

(5) whether the depiction denotes sexual suggestiveness or a willingness to engage in sexual activity;

(6) whether the depiction is of a child engaging in or being engaged in sexual conduct, including, but not limited to, sexual intercourse, unnatural sexual intercourse, bestiality, masturbation, sado-masochistic behavior, or lewd exhibition of the genitals.

"Minor", a person under eighteen years of age.

"Nudity", uncovered or less than opaquely covered human genitals, pubic areas, the human female breast below a point immediately above the top of the areola, or the covered male genitals in a discernibly turgid state. For purposes of this definition, a female breast is considered uncovered if the nipple or areola only are covered.

"Matter", any handwritten or printed material, visual representation, live performance or sound recording including, but not limited to, books, magazines, motion picture films, pamphlets, phonographic records, pictures, photographs, figures, statues, plays, dances, or any electronic communication including, but not limited to, electronic mail, instant messages, text messages, and any other communication created by means of use of the

*Statute truncated due to size.

Internet or wireless network, whether by computer, telephone, or any other device or by any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photo-electronic or photo-optical system.

"Performance", any play, dance, exhibit, or such similar activity performed before one or more persons.

"Obscene", matter is obscene if taken as a whole it

(1) appeals to the prurient interest of the average person applying the contemporary standards of the county where the offense was committed;

(2) depicts or describes sexual conduct in a patently offensive way; and

(3) lacks serious literary, artistic, political or scientific value.

"Sexual conduct", human masturbation, sexual intercourse, actual or simulated, normal or perverted, any lewd exhibitions of the genitals, flagellation or torture in the context of a sexual relationship, any lewd touching of the genitals, pubic areas, or buttocks of the human male or female, or the breasts of the female, whether alone or between members of the same or opposite sex or between humans and animals, and any depiction or representation of excretory functions in the context of a sexual relationship. Sexual intercourse is simulated when it depicts explicit sexual intercourse which gives the appearance of the consummation of sexual intercourse, normal or perverted.

"Sexual excitement", the condition of human male or female genitals or the breasts of the female while in a state of sexual stimulation or the sensual experiences of humans engaging in or witnessing sexual conduct or nudity.

"Visual material", any motion picture film, picture, photograph, videotape, book, magazine, pamphlet that contains pictures, photographs or similar visual representations or reproductions, or depiction by computer, telephone or any other device capable of electronic data storage or transmission. Undeveloped photographs, pictures, motion picture films, videotapes and similar visual representations or reproductions may be visual materials notwithstanding that processing, development or similar acts may be required to make the contents thereof apparent.

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MICHIGAN

CHARTS	PENETRATION	FORCE	CAPACITY TO CONSENT	VICTIM PERPETRATOR RELATIONSHIP	OTHER SEX CRIMES
CONSENT ANALYSIS	ALCOHOL/DRUG FACILITATED SEXUAL ASSAULT	MARITAL RAPE	SAME SEX PERPETRATOR	STATUTORY RAPE	CONSTRUCTIVE FORCE

MICH. COMP. LAWS ANN. § 750.520A (WEST 2011). DEFINITIONS

Sec. 520a. As used in this chapter:

(a) "Actor" means a person accused of criminal sexual conduct.

(b) "Developmental disability" means an impairment of general intellectual functioning or adaptive behavior which meets all of the following criteria:

(i) It originated before the person became 18 years of age.

(ii) It has continued since its origination or can be expected to continue indefinitely.

(iii) It constitutes a substantial burden to the impaired person's ability to perform in society.

(iv) It is attributable to 1 or more of the following:

(A) Mental retardation, cerebral palsy, epilepsy, or autism.

(B) Any other condition of a person found to be closely related to mental retardation because it produces a similar impairment or requires treatment and services similar to those required for a person who is mentally retarded.

(c) "Electronic monitoring" means that term as defined in section 85 of the corrections code of 1953, 1953 PA 232,MCL 791.285.

(d) "Intermediate school district" means a corporate body established under part 7 of the revised school code, 1976 PA 451, MCL 380.601 to 380.705.

(e) "Intimate parts" includes the primary genital area, groin, inner thigh, buttock, or breast of a human being.

(f) "Mental health professional" means that term as defined in section 100b of the mental health code, 1974 PA 258,MCL 330.1100b.

(g) "Mental illness" means a substantial disorder of thought or mood that significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life.

(h) "Mentally disabled" means that a person has a mental illness, is mentally retarded, or has a developmental disability.

(i) "Mentally incapable" means that a person suffers from a mental disease or defect that renders that person temporarily or permanently incapable of appraising the nature of his or her conduct.

(j) "Mentally incapacitated" means that a person is rendered temporarily incapable of appraising or controlling his or her conduct due to the influence of a narcotic, anesthetic, or other substance administered to that person without his or her consent, or due to any other act committed upon that person without his or her consent.

(k) "Mentally retarded" means significantly subaverage general intellectual functioning that originates during the developmental period and is associated with impairment in adaptive behavior.

(l) "Nonpublic school" means a private, denominational, or parochial elementary or secondary school.

(m) "Physically helpless" means that a person is unconscious, asleep, or for any other reason is physically unable to communicate unwillingness to an act.

(n) "Personal injury" means bodily injury, disfigurement, mental anguish, chronic pain, pregnancy, disease, or loss or impairment of a sexual or reproductive organ.

(o) "Public school" means a public elementary or secondary educational entity or agency that is established under the revised school code, 1976 PA 451, MCL 380.1 to 380.1852.

(p) "School district" means a general powers school district organized under the revised school code, 1976 PA 451,MCL 380.1 to 380.1852.

(q) “Sexual contact” includes the intentional touching of the victim's or actor's intimate parts or the intentional touching of the clothing covering the immediate area of the victim's or actor' s intimate parts, if that intentional touching can reasonably be construed as being for the purpose of sexual arousal or gratification, done for a sexual purpose, or in a sexual manner for:

(i) Revenge.

(ii) To inflict humiliation.

(iii) Out of anger.

(r) “Sexual penetration” means sexual intercourse, cunnilingus, fellatio, anal intercourse, or any other intrusion, however slight, of any part of a person's body or of any object into the genital or anal openings of another person's body, but emission of semen is not required.

(s) “Victim” means the person alleging to have been subjected to criminal sexual conduct.

MICH. COMP. LAWS ANN. § 750.520B (WEST 2011). CRIMINAL SEXUAL CONDUCT IN FIRST DEGREE

Sec. 520b. (1) A person is guilty of criminal sexual conduct in the first degree if he or she engages in sexual penetration with another person and if any of the following circumstances exists:

(a) That other person is under 13 years of age.

(b) That other person is at least 13 but less than 16 years of age and any of the following:

(i) The actor is a member of the same household as the victim.

(ii) The actor is related to the victim by blood or affinity to the fourth degree.

(iii) The actor is in a position of authority over the victim and used this authority to coerce the victim to submit.

(iv) The actor is a teacher, substitute teacher, or administrator of the public school, nonpublic school, school district, or intermediate school district in which that other person is enrolled.

(v) The actor is an employee or a contractual service provider of the public school, nonpublic school, school district, or intermediate school district in which that other person is enrolled, or is a volunteer who is not a student in any public school or nonpublic school, or is an employee of this state or of a local unit of government of this state or of the United States assigned to provide any service to that public school, nonpublic school, school district, or intermediate school district, and the actor uses his or her employee, contractual, or volunteer status to gain access to, or to establish a relationship with, that other person.

(c) Sexual penetration occurs under circumstances involving the commission of any other felony.

(d) The actor is aided or abetted by 1 or more other persons and either of the following circumstances exists:

(i) The actor knows or has reason to know that the victim is mentally incapable, mentally incapacitated, or physically helpless.

(ii) The actor uses force or coercion to accomplish the sexual penetration. Force or coercion includes, but is not limited to, any of the circumstances listed in subdivision (f).

(e) The actor is armed with a weapon or any article used or fashioned in a manner to lead the victim to reasonably believe it to be a weapon.

(f) The actor causes personal injury to the victim and force or coercion is used to accomplish sexual penetration. Force or coercion includes, but is not limited to, any of the following circumstances:

(i) When the actor overcomes the victim through the actual application of physical force or physical violence.

(ii) When the actor coerces the victim to submit by threatening to use force or violence on the victim, and the victim believes that the actor has the present ability to execute these threats.

(iii) When the actor coerces the victim to submit by threatening to retaliate in the future against the victim, or any other person, and the victim believes that the actor has the ability to execute this threat. As used in this subdivision, "to retaliate" includes threats of physical punishment, kidnapping, or extortion.

(iv) When the actor engages in the medical treatment or examination of the victim in a manner or for purposes that are medically recognized as unethical or unacceptable.

(v) When the actor, through concealment or by the element of surprise, is able to overcome the victim.

(g) The actor causes personal injury to the victim, and the actor knows or has reason to know that the victim is mentally incapable, mentally incapacitated, or physically helpless.

(h) That other person is mentally incapable, mentally disabled, mentally incapacitated, or physically helpless, and any of the following:

(i) The actor is related to the victim by blood or affinity to the fourth degree.

(ii) The actor is in a position of authority over the victim and used this authority to coerce the victim to submit.

(2) Criminal sexual conduct in the first degree is a felony punishable as follows:

(a) Except as provided in subdivisions (b) and (c), by imprisonment for life or for any term of years.

(b) For a violation that is committed by an individual 17 years of age or older against an individual less than 13 years of age by imprisonment for life or any term of years, but not less than 25 years.

(c) For a violation that is committed by an individual 17 years of age or older against an individual less than 13 years of age, by imprisonment for life without the possibility of parole if the person was previously convicted of a violation of this section or section 520c, 520d, 520e, or 520g committed against an individual less than 13 years of age or a violation of law of the United States, another state or political subdivision substantially corresponding to a violation of this section or section 520c, 520d, 520e, or 520g committed against an individual less than 13 years of age.

(d) In addition to any other penalty imposed under subdivision (a) or (b), the court shall sentence the defendant to lifetime electronic monitoring under section 520n.

(3) The court may order a term of imprisonment imposed under this section to be served consecutively to any term of imprisonment imposed for any other criminal offense arising from the same transaction.

*Statute truncated due to size.

MICH. COMP. LAWS ANN. § 750.520C (WEST 2011). CRIMINAL SEXUAL CONDUCT IN SECOND DEGREE

Sec. 520c. (1) A person is guilty of criminal sexual conduct in the second degree if the person engages in sexual contact with another person and if any of the following circumstances exists:

(a) That other person is under 13 years of age.

(b) That other person is at least 13 but less than 16 years of age and any of the following:

(i) The actor is a member of the same household as the victim.

(ii) The actor is related by blood or affinity to the fourth degree to the victim.

(iii) The actor is in a position of authority over the victim and the actor used this authority to coerce the victim to submit.

(iv) The actor is a teacher, substitute teacher, or administrator of the public school, nonpublic school, school district, or intermediate school district in which that other person is enrolled.

(v) The actor is an employee or a contractual service provider of the public school, nonpublic school, school district, or intermediate school district in which that other person is enrolled, or is a volunteer who is not a student in any public school or nonpublic school, or is an employee of this state or of a local unit of government of this state or of the United States assigned to provide any service to that public school, nonpublic school, school district, or intermediate school district, and the actor uses his or her employee, contractual, or volunteer status to gain access to, or to establish a relationship with, that other person.

(c) Sexual contact occurs under circumstances involving the commission of any other felony.

(d) The actor is aided or abetted by 1 or more other persons and either of the following circumstances exists:

(i) The actor knows or has reason to know that the victim is mentally incapable, mentally incapacitated, or physically helpless.

(ii) The actor uses force or coercion to accomplish the sexual contact. Force or coercion includes, but is not limited to, any of the circumstances listed in section 520b(1)(f).

(e) The actor is armed with a weapon, or any article used or fashioned in a manner to lead a person to reasonably believe it to be a weapon.

(f) The actor causes personal injury to the victim and force or coercion is used to accomplish the sexual contact. Force or coercion includes, but is not limited to, any of the circumstances listed in section 520b(1)(f).

(g) The actor causes personal injury to the victim and the actor knows or has reason to know that the victim is mentally incapable, mentally incapacitated, or physically helpless.

(h) That other person is mentally incapable, mentally disabled, mentally incapacitated, or physically helpless, and any of the following:

(i) The actor is related to the victim by blood or affinity to the fourth degree.

(ii) The actor is in a position of authority over the victim and used this authority to coerce the victim to submit.

(i) That other person is under the jurisdiction of the department of corrections and the actor is an employee or a contractual employee of, or a volunteer with, the department of corrections who knows that the other person is under the jurisdiction of the department of corrections.

(j) That other person is under the jurisdiction of the department of corrections and the actor is an employee or a contractual employee of, or a volunteer with, a private vendor that operates a youth correctional facility under section 20g of the corrections code of 1953, 1953 PA 232, MCL 791.220g, who knows that the other person is under the jurisdiction of the department of corrections.

(k) That other person is a prisoner or probationer under the jurisdiction of a county for purposes of imprisonment or a work program or other probationary program and the actor is an employee or a contractual employee of or a volunteer with the county or the department of corrections who knows that the other person is under the county's jurisdiction.

(l) The actor knows or has reason to know that a court has detained the victim in a facility while the victim is awaiting a trial or hearing, or committed the victim to a facility as a result of the victim having been found responsible for committing an act that would be a crime if committed by an adult, and the actor is an employee or contractual employee of, or a volunteer with, the facility in which the victim is detained or to which the victim was committed.

(2) Criminal sexual conduct in the second degree is a felony punishable as follows:

(a) By imprisonment for not more than 15 years.

(b) In addition to the penalty specified in subdivision (a), the court shall sentence the defendant to lifetime electronic monitoring under section 520n if the violation involved sexual contact committed by an individual 17 years of age or older against an individual less than 13 years of age.

MICH. COMP. LAWS ANN. § 750.520D (WEST 2011). CRIMINAL SEXUAL CONDUCT IN THIRD DEGREE

Sec. 520d. (1) A person is guilty of criminal sexual conduct in the third degree if the person engages in sexual penetration with another person and if any of the following circumstances exist:

(a) That other person is at least 13 years of age and under 16 years of age.

(b) Force or coercion is used to accomplish the sexual penetration. Force or coercion includes but is not limited to any of the circumstances listed in section 520b(1)(f)(i) to (v).

(c) The actor knows or has reason to know that the victim is mentally incapable, mentally incapacitated, or physically helpless.

(d) That other person is related to the actor by blood or affinity to the third degree and the sexual penetration occurs under circumstances not otherwise prohibited by this chapter. It is an affirmative defense to a prosecution under this subdivision that the other person was in a position of authority over the defendant and used this authority to coerce the defendant to violate this subdivision. The defendant has the burden of proving this defense by a preponderance of the evidence. This subdivision does not apply if both persons are lawfully married to each other at the time of the alleged violation.

(e) That other person is at least 16 years of age but less than 18 years of age and a student at a public school or nonpublic school, and either of the following applies:

*Statute truncated due to size.

(i) The actor is a teacher, substitute teacher, or administrator of that public school, nonpublic school, school district, or intermediate school district. This subparagraph does not apply if the other person is emancipated or if both persons are lawfully married to each other at the time of the alleged violation.

(ii) The actor is an employee or a contractual service provider of the public school, nonpublic school, school district, or intermediate school district in which that other person is enrolled, or is a volunteer who is not a student in any public school or nonpublic school, or is an employee of this state or of a local unit of government of this state or of the United States assigned to provide any service to that public school, nonpublic school, school district, or intermediate school district, and the actor uses his or her employee, contractual, or volunteer status to gain access to, or to establish a relationship with, that other person.

(f) That other person is at least 16 years old but less than 26 years of age and is receiving special education services, and either of the following applies:

(i) The actor is a teacher, substitute teacher, administrator, employee, or contractual service provider of the public school, nonpublic school, school district, or intermediate school district from which that other person receives the special education services. This subparagraph does not apply if both persons are lawfully married to each other at the time of the alleged violation.

(ii) The actor is a volunteer who is not a student in any public school or nonpublic school, or is an employee of this state or of a local unit of government of this state or of the United States assigned to provide any service to that public school, nonpublic school, school district, or intermediate school district, and the actor uses his or her employee, contractual, or volunteer status to gain access to, or to establish a relationship with, that other person.

(2) Criminal sexual conduct in the third degree is a felony punishable by imprisonment for not more than 15 years.

MICH. COMP. LAWS ANN. § 750.520E (WEST 2011). CRIMINAL SEXUAL CONDUCT IN FOURTH DEGREE

Sec. 520e. (1) A person is guilty of criminal sexual conduct in the fourth degree if he or she engages in sexual contact with another person and if any of the following circumstances exist:

(a) That other person is at least 13 years of age but less than 16 years of age, and the actor is 5 or more years older than that other person.

(b) Force or coercion is used to accomplish the sexual contact. Force or coercion includes, but is not limited to, any of the following circumstances:

(i) When the actor overcomes the victim through the actual application of physical force or physical violence.

(ii) When the actor coerces the victim to submit by threatening to use force or violence on the victim, and the victim believes that the actor has the present ability to execute that threat.

(iii) When the actor coerces the victim to submit by threatening to retaliate in the future against the victim, or any other person, and the victim believes that the actor has the ability to execute that threat. As used in this subparagraph, "to retaliate" includes threats of physical punishment, kidnapping, or extortion.

(iv) When the actor engages in the medical treatment or examination of the victim in a manner or for purposes which are medically recognized as unethical or unacceptable.

(v) When the actor achieves the sexual contact through concealment or by the element of surprise.

(c) The actor knows or has reason to know that the victim is mentally incapable, mentally incapacitated, or physically helpless.

(d) That other person is related to the actor by blood or affinity to the third degree and the sexual contact occurs under circumstances not otherwise prohibited by this chapter. It is an affirmative defense to a prosecution under this subdivision that the other person was in a position of authority over the defendant and used this authority to coerce the defendant to violate this subdivision. The defendant has the burden of proving this defense by a preponderance of the evidence. This subdivision does not apply if both persons are lawfully married to each other at the time of the alleged violation.

(e) The actor is a mental health professional and the sexual contact occurs during or within 2 years after the period in which the victim is his or her client or patient and not his or her spouse. The consent of the victim is not a defense to a prosecution under this subdivision. A prosecution under this subsection shall not be used as evidence that the victim is mentally incompetent.

(f) That other person is at least 16 years of age but less than 18 years of age and a student at a public school or nonpublic school, and either of the following applies:

(i) The actor is a teacher, substitute teacher, or administrator of that public school, nonpublic school, school district, or intermediate school district. This subparagraph does not apply if the other person is emancipated or if both persons are lawfully married to each other at the time of the alleged violation.

(ii) The actor is an employee or a contractual service provider of the public school, nonpublic school, school district, or intermediate school district in which that other person is enrolled, or is a volunteer who is not a student in any public school or nonpublic school, or is an employee of this state or of a local unit of government of this state or of the United States assigned to provide any service to that public school, nonpublic school, school district, or intermediate school district, and the actor uses his or her employee, contractual, or volunteer status to gain access to, or to establish a relationship with, that other person.

(g) That other person is at least 16 years old but less than 26 years of age and is receiving special education services, and either of the following applies:

(i) The actor is a teacher, substitute teacher, administrator, employee, or contractual service provider of the public school, nonpublic school, school district, or intermediate school district from which that other person receives the special education services. This subparagraph does not apply if both persons are lawfully married to each other at the time of the alleged violation.

(ii) The actor is a volunteer who is not a student in any public school or nonpublic school, or is an employee of this state or of a local unit of government of this state or of the United States assigned to provide any service to that public school, nonpublic school, school district, or intermediate school district, and the actor uses his or her employee, contractual, or volunteer status to gain access to, or to establish a relationship with, that other person.

(2) Criminal sexual conduct in the fourth degree is a misdemeanor punishable by imprisonment for not more than 2 years or a fine of not more than $500.00, or both.

MICH. COMP. LAWS ANN. § 750.520G (WEST 2011). ASSAULT WITH INTENT TO COMMIT CRIMINAL SEXUAL CONDUCT

Sec. 520g. (1) Assault with intent to commit criminal sexual conduct involving sexual penetration shall be a felony punishable by imprisonment for not more than 10 years.

*Statute truncated due to size.

(2) Assault with intent to commit criminal sexual conduct in the second degree is a felony punishable by imprisonment for not more than 5 years.

MICH. COMP. LAWS ANN. § 750.520H (WEST 2011). CORROBORATION OF TESTIMONY OF VICTIM

Sec. 520h. The testimony of a victim need not be corroborated in prosecutions under sections 520b to 520g.

MICH. COMP. LAWS ANN. § 750.520I (WEST 2011). RESISTANCE BY VICTIM

Sec. 520i. A victim need not resist the actor in prosecution under sections 520b to 520g.

MICH. COMP. LAWS ANN. § 750.158 (WEST 2011). CRIME AGAINST NATURE OR SODOMY; PENALTY

Sec. 158. Any person who shall commit the abominable and detestable crime against nature either with mankind or with any animal shall be guilty of a felony, punishable by imprisonment in the state prison not more than 15 years, or if such person was at the time of the said offense a sexually delinquent person, may be punishable by imprisonment in the state prison for an indeterminate term, the minimum of which shall be 1 day and the maximum of which shall be life.

MICH. COMP. LAWS ANN. § 750.338B (WEST 2011). GROSS INDECENCY; BETWEEN MALE AND FEMALE PERSONS

Sec. 338b. Any male person who, in public or in private, commits or is a party to the commission of any act of gross indecency with a female person shall be guilty of a felony, punishable as provided in this section. Any female person who, in public or in private, commits or is a party to the commission of any act of gross indecency with a male person shall be guilty of a felony punishable as provided in this section. Any person who procures or attempts to procure the commission of any act of gross indecency by and between any male person and any female person shall be guilty of a felony punishable as provided in this section. Any person convicted of a felony as provided in this section shall be punished by imprisonment in the state prison for not more than 5 years, or by a fine of not more than $2,500.00, or if such person was at the time of the said offense a sexually delinquent person, may be punishable by imprisonment in the state prison for an indeterminate term, the minimum of which shall be 1 day and the maximum of which shall be life.

MICH. COMP. LAWS ANN. § 750.520L (WEST 2011). OFFENSES INVOLVING SPOUSES

Sec. 520l. A person may be charged and convicted under sections 520b to 520g even though the victim is his or her legal spouse. However, a person may not be charged or convicted solely because his or her legal spouse is under the age of 16, mentally incapable, or mentally incapacitated.

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MINNESOTA

*Statute truncated due to size.

MINN. STAT. ANN. § 609.293 (WEST 2011). SODOMY

Subdivision 1. Definition**.** "Sodomy" means carnally knowing any person by the anus or by or with the mouth.

Subds. 2 to 4. Repealed by Laws 1977, c. 130, § 10, eff. May 20, 1977.

Subd. 5. Consensual acts. Whoever, in cases not coming within the provisions of sections 609.342 or609.344, voluntarily engages in or submits to an act of sodomy with another may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both.

MINN. STAT. ANN. § 609.341 (WEST 2011). DEFINITIONS

Subdivision 1. Scope**.** For the purposes of sections 609.341 to 609.351, the terms in this section have the meanings given them.

Subd. 2. Actor. "Actor" means a person accused of criminal sexual conduct.

Subd. 3. Force. "Force" means the infliction, attempted infliction, or threatened infliction by the actor of bodily harm or commission or threat of any other crime by the actor against the complainant or another, which (a) causes the complainant to reasonably believe that the actor has the present ability to execute the threat and (b) if the actor does not have a significant relationship to the complainant, also causes the complainant to submit.

Subd. 4. Consent. (a) "Consent" means words or overt actions by a person indicating a freely given present agreement to perform a particular sexual act with the actor. Consent does not mean the existence of a prior or current social relationship between the actor and the complainant or that the complainant failed to resist a particular sexual act.

(b) A person who is mentally incapacitated or physically helpless as defined by this section cannot consent to a sexual act.

(c) Corroboration of the victim's testimony is not required to show lack of consent.

Subd. 5. Intimate parts. "Intimate parts" includes the primary genital area, groin, inner thigh, buttocks, or breast of a human being.

Subd. 6. Mentally impaired. "Mentally impaired" means that a person, as a result of inadequately developed or impaired intelligence or a substantial psychiatric disorder of thought or mood, lacks the judgment to give a reasoned consent to sexual contact or to sexual penetration.

Subd. 7. Mentally incapacitated. "Mentally incapacitated" means that a person under the influence of alcohol, a narcotic, anesthetic, or any other substance, administered to that person without the person's agreement, lacks the judgment to give a reasoned consent to sexual contact or sexual penetration.

Subd. 8. Personal injury. "Personal injury" means bodily harm as defined in section 609.02, subdivision 7, or severe mental anguish or pregnancy.

Subd. 9. Physically helpless. "Physically helpless" means that a person is (a) asleep or not conscious, (b) unable to withhold consent or to withdraw consent because of a physical condition, or (c) unable to communicate

nonconsent and the condition is known or reasonably should have been known to the actor.

Subd. 10. Position of authority. "Position of authority" includes but is not limited to any person who is a parent or acting in the place of a parent and charged with any of a parent's rights, duties or responsibilities to a child, or a person who is charged with any duty or responsibility for the health, welfare, or supervision of a child, either independently or through another, no matter how brief, at the time of the act. For the purposes of subdivision 11, "position of authority" includes a psychotherapist.

Subd. 11. Sexual contact. (a) "Sexual contact," for the purposes of sections 609.343, subdivision 1, clauses (a) to (f), and 609.345, subdivision 1, clauses (a) to (e), and (h) to (o), includes any of the following acts committed without the complainant's consent, except in those cases where consent is not a defense, and committed with sexual or aggressive intent:

(i) the intentional touching by the actor of the complainant's intimate parts, or

(ii) the touching by the complainant of the actor's, the complainant's, or another's intimate parts effected by a person in a position of authority, or by coercion, or by inducement if the complainant is under 13 years of age or mentally impaired, or

(iii) the touching by another of the complainant's intimate parts effected by coercion or by a person in a position of authority, or

(iv) in any of the cases above, the touching of the clothing covering the immediate area of the intimate parts, or

(v) the intentional touching with seminal fluid or sperm by the actor of the complainant's body or the clothing covering the complainant's body.

(b) "Sexual contact," for the purposes of sections 609.343, subdivision 1, clauses (g) and (h), and 609.345, subdivision 1, clauses (f) and (g), includes any of the following acts committed with sexual or aggressive intent:

(i) the intentional touching by the actor of the complainant's intimate parts;

(ii) the touching by the complainant of the actor's, the complainant's, or another's intimate parts;

(iii) the touching by another of the complainant's intimate parts;

(iv) in any of the cases listed above, touching of the clothing covering the immediate area of the intimate parts; or

(v) the intentional touching with seminal fluid or sperm by the actor of the complainant's body or the clothing covering the complainant's body.

(c) "Sexual contact with a person under 13" means the intentional touching of the complainant's bare genitals or anal opening by the actor's bare genitals or anal opening with sexual or aggressive intent or the touching by the complainant's bare genitals or anal opening of the actor's or another's bare genitals or anal opening with sexual or aggressive intent.

Subd. 12. Sexual penetration. "Sexual penetration" means any of the following acts committed without the complainant's consent, except in those cases where consent is not a defense, whether or not emission of semen occurs:

(1) sexual intercourse, cunnilingus, fellatio, or anal intercourse; or

(2) any intrusion however slight into the genital or anal openings:

(i) of the complainant's body by any part of the actor's body or any object used by the actor for this purpose;

(ii) of the complainant's body by any part of the body of the complainant, by any part of the body of another person, or by any object used by the complainant or another person for this purpose, when effected by a person in a position of authority, or by coercion, or by inducement if the child is under 13 years of age or mentally impaired; or

(iii) of the body of the actor or another person by any part of the body of the complainant or by any object used by the complainant for this purpose, when effected by a person in a position of authority, or by coercion, or by inducement if the child is under 13 years of age or mentally impaired.

Subd. 13. Complainant. “Complainant” means a person alleged to have been subjected to criminal sexual conduct, but need not be the person who signs the complaint.

Subd. 14. Coercion. “Coercion” means the use by the actor of words or circumstances that cause the complainant reasonably to fear that the actor will inflict bodily harm upon the complainant or another, or the use by the actor of confinement, or superior size or strength, against the complainant that causes the complainant to submit to sexual penetration or contact against the complainant's will. Proof of coercion does not require proof of a specific act or threat.

Subd. 15. Significant relationship. “Significant relationship” means a situation in which the actor is:

(1) the complainant's parent, stepparent, or guardian;

(2) any of the following persons related to the complainant by blood, marriage, or adoption: brother, sister, stepbrother, stepsister, first cousin, aunt, uncle, nephew, niece, grandparent, great-grandparent, great-uncle, great-aunt; or

(3) an adult who jointly resides intermittently or regularly in the same dwelling as the complainant and who is not the complainant's spouse.

Subd. 16. Patient. “Patient” means a person who seeks or obtains psychotherapeutic services.

Subd. 17. Psychotherapist. “Psychotherapist” means a person who is or purports to be a physician, psychologist, nurse, chemical dependency counselor, social worker, marriage and family therapist, licensed professional counselor, or other mental health service provider; or any other person, whether or not licensed by the state, who performs or purports to perform psychotherapy.

Subd. 18. Psychotherapy. “Psychotherapy” means the professional treatment, assessment, or counseling of a mental or emotional illness, symptom, or condition.

Subd. 19. Emotionally dependent. “Emotionally dependent” means that the nature of the former patient's emotional condition and the nature of the treatment provided by the psychotherapist are such that the psychotherapist knows or has reason to know that the former patient is unable to withhold consent to sexual contact or sexual penetration by the psychotherapist.

Subd. 20. Therapeutic deception. “Therapeutic deception” means a representation by a psychotherapist that sexual contact or sexual penetration by the psychotherapist is consistent with or part of the patient's treatment.

Subd. 21. Special transportation. “Special transportation service” means motor vehicle transportation provided on a regular basis by a public or private entity or person that is intended exclusively or primarily to serve individuals who are vulnerable adults or disabled. Special transportation service includes, but is not limited to, service

provided by buses, vans, taxis, and volunteers driving private automobiles.

Subd. 22. Predatory crime. "Predatory crime" means a felony violation of section 609.185 (first-degree murder), 609.19 (second-degree murder), 609.195 (third-degree murder), 609.20 (first-degree manslaughter), 609.205 (second-degree manslaughter), 609.221 (first-degree assault), 609.222 (second-degree assault), 609.223 (third-degree assault), 609.24 (simple robbery), 609.245 (aggravated robbery), 609.25 (kidnapping), 609.255 (false imprisonment), 609.498 (tampering with a witness), 609.561 (first-degree arson), or 609.582, subdivision 1 (first-degree burglary).

Subd. 23. Secure treatment facility. "Secure treatment facility" has the meaning given in section 253B.02, subdivision 18a.

MINN. STAT. ANN. § 609.342 (WEST 2011). CRIMINAL SEXUAL CONDUCT IN THE FIRST DEGREE

Subdivision 1. Crime defined. A person who engages in sexual penetration with another person, or in sexual contact with a person under 13 years of age as defined in section 609.341, subdivision 11, paragraph (c), is guilty of criminal sexual conduct in the first degree if any of the following circumstances exists:

(a) the complainant is under 13 years of age and the actor is more than 36 months older than the complainant. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(b) the complainant is at least 13 years of age but less than 16 years of age and the actor is more than 48 months older than the complainant and in a position of authority over the complainant. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(c) circumstances existing at the time of the act cause the complainant to have a reasonable fear of imminent great bodily harm to the complainant or another;

(d) the actor is armed with a dangerous weapon or any article used or fashioned in a manner to lead the complainant to reasonably believe it to be a dangerous weapon and uses or threatens to use the weapon or article to cause the complainant to submit;

(e) the actor causes personal injury to the complainant, and either of the following circumstances exist:

(i) the actor uses force or coercion to accomplish sexual penetration; or

(ii) the actor knows or has reason to know that the complainant is mentally impaired, mentally incapacitated, or physically helpless;

(f) the actor is aided or abetted by one or more accomplices within the meaning of section 609.05, and either of the following circumstances exists:

(i) an accomplice uses force or coercion to cause the complainant to submit; or

(ii) an accomplice is armed with a dangerous weapon or any article used or fashioned in a manner to lead the complainant reasonably to believe it to be a dangerous weapon and uses or threatens to use the weapon or article to cause the complainant to submit;

(g) the actor has a significant relationship to the complainant and the complainant was under 16 years of age at the time of the sexual penetration. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense; or

(h) the actor has a significant relationship to the complainant, the complainant was under 16 years of age at the time of the sexual penetration, and:

(i) the actor or an accomplice used force or coercion to accomplish the penetration;

(ii) the complainant suffered personal injury; or

(iii) the sexual abuse involved multiple acts committed over an extended period of time.

Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense.

Subd. 2. Penalty. (a) Except as otherwise provided in section 609.3455; or Minnesota Statutes 2004, section 609.109, a person convicted under subdivision 1 may be sentenced to imprisonment for not more than 30 years or to a payment of a fine of not more than $40,000, or both.

(b) Unless a longer mandatory minimum sentence is otherwise required by law or the Sentencing Guidelines provide for a longer presumptive executed sentence, the court shall presume that an executed sentence of 144 months must be imposed on an offender convicted of violating this section. Sentencing a person in a manner other than that described in this paragraph is a departure from the Sentencing Guidelines.

(c) A person convicted under this section is also subject to conditional release under section 609.3455.

Subd. 3. Stay. Except when imprisonment is required under section 609.3455; or Minnesota Statutes 2004, section 609.109, if a person is convicted under subdivision 1, clause (g), the court may stay imposition or execution of the sentence if it finds that:

(a) a stay is in the best interest of the complainant or the family unit; and

(b) a professional assessment indicates that the offender has been accepted by and can respond to a treatment program.

If the court stays imposition or execution of sentence, it shall include the following as conditions of probation:

(1) incarceration in a local jail or workhouse;

(2) a requirement that the offender complete a treatment program; and

(3) a requirement that the offender have no unsupervised contact with the complainant until the offender has successfully completed the treatment program unless approved by the treatment program and the supervising correctional agent.

MINN. STAT. ANN. § 609.343 (WEST 2011). CRIMINAL SEXUAL CONDUCT IN THE SECOND DEGREE

Subdivision 1. Crime defined. A person who engages in sexual contact with another person is guilty of criminal sexual conduct in the second degree if any of the following circumstances exists:

(a) the complainant is under 13 years of age and the actor is more than 36 months older than the complainant. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense. In a prosecution under this clause, the state is not required to prove that the sexual contact was coerced;

(b) the complainant is at least 13 but less than 16 years of age and the actor is more than 48 months older than the complainant and in a position of authority over the complainant. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(c) circumstances existing at the time of the act cause the complainant to have a reasonable fear of imminent great bodily harm to the complainant or another;

(d) the actor is armed with a dangerous weapon or any article used or fashioned in a manner to lead the complainant to reasonably believe it to be a dangerous weapon and uses or threatens to use the dangerous weapon to cause the complainant to submit;

(e) the actor causes personal injury to the complainant, and either of the following circumstances exist:

(i) the actor uses force or coercion to accomplish the sexual contact; or

(ii) the actor knows or has reason to know that the complainant is mentally impaired, mentally incapacitated, or physically helpless;

(f) the actor is aided or abetted by one or more accomplices within the meaning of section 609.05, and either of the following circumstances exists:

(i) an accomplice uses force or coercion to cause the complainant to submit; or

(ii) an accomplice is armed with a dangerous weapon or any article used or fashioned in a manner to lead the complainant to reasonably believe it to be a dangerous weapon and uses or threatens to use the weapon or article to cause the complainant to submit;

(g) the actor has a significant relationship to the complainant and the complainant was under 16 years of age at the time of the sexual contact. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense; or

(h) the actor has a significant relationship to the complainant, the complainant was under 16 years of age at the time of the sexual contact, and:

(i) the actor or an accomplice used force or coercion to accomplish the contact;

(ii) the complainant suffered personal injury; or

(iii) the sexual abuse involved multiple acts committed over an extended period of time.

Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense.

MINN. STAT. ANN. § 609.344 (WEST 2011). CRIMINAL SEXUAL CONDUCT IN THE THIRD DEGREE

Subdivision 1. Crime defined. A person who engages in sexual penetration with another person is guilty of criminal sexual conduct in the third degree if any of the following circumstances exists:

(a) the complainant is under 13 years of age and the actor is no more than 36 months older than the complainant. Neither mistake as to the complainant's age nor consent to the act by the complainant shall be a defense;

(b) the complainant is at least 13 but less than 16 years of age and the actor is more than 24 months older than the complainant. In any such case if the actor is no more than 120 months older than the complainant, it shall be an

affirmative defense, which must be proved by a preponderance of the evidence, that the actor reasonably believes the complainant to be 16 years of age or older. In all other cases, mistake as to the complainant's age shall not be a defense. If the actor in such a case is no more than 48 months but more than 24 months older than the complainant, the actor may be sentenced to imprisonment for not more than five years. Consent by the complainant is not a defense;

(c) the actor uses force or coercion to accomplish the penetration;

(d) the actor knows or has reason to know that the complainant is mentally impaired, mentally incapacitated, or physically helpless;

(e) the complainant is at least 16 but less than 18 years of age and the actor is more than 48 months older than the complainant and in a position of authority over the complainant. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(f) the actor has a significant relationship to the complainant and the complainant was at least 16 but under 18 years of age at the time of the sexual penetration. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(g) the actor has a significant relationship to the complainant, the complainant was at least 16 but under 18 years of age at the time of the sexual penetration, and:

(i) the actor or an accomplice used force or coercion to accomplish the penetration;

(ii) the complainant suffered personal injury; or

(iii) the sexual abuse involved multiple acts committed over an extended period of time.

Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(h) the actor is a psychotherapist and the complainant is a patient of the psychotherapist and the sexual penetration occurred:

(i) during the psychotherapy session; or

(ii) outside the psychotherapy session if an ongoing psychotherapist-patient relationship exists.

Consent by the complainant is not a defense;

(i) the actor is a psychotherapist and the complainant is a former patient of the psychotherapist and the former patient is emotionally dependent upon the psychotherapist;

(j) the actor is a psychotherapist and the complainant is a patient or former patient and the sexual penetration occurred by means of therapeutic deception. Consent by the complainant is not a defense;

(k) the actor accomplishes the sexual penetration by means of deception or false representation that the penetration is for a bona fide medical purpose. Consent by the complainant is not a defense;

(l) the actor is or purports to be a member of the clergy, the complainant is not married to the actor, and:

(i) the sexual penetration occurred during the course of a meeting in which the complainant sought or received religious or spiritual advice, aid, or comfort from the actor in private; or

(ii) the sexual penetration occurred during a period of time in which the complainant was meeting on an ongoing basis with the actor to seek or receive religious or spiritual advice, aid, or comfort in private. Consent by the complainant is not a defense;

(m) the actor is an employee, independent contractor, or volunteer of a state, county, city, or privately operated adult or juvenile correctional system, or secure treatment facility, or treatment facility providing services to clients civilly committed as mentally ill and dangerous, sexually dangerous persons, or sexual psychopathic personalities, including, but not limited to, jails, prisons, detention centers, or work release facilities, and the complainant is a resident of a facility or under supervision of the correctional system. Consent by the complainant is not a defense;

(n) the actor provides or is an agent of an entity that provides special transportation service, the complainant used the special transportation service, and the sexual penetration occurred during or immediately before or after the actor transported the complainant. Consent by the complainant is not a defense; or

(o) the actor performs massage or other bodywork for hire, the complainant was a user of one of those services, and nonconsensual sexual penetration occurred during or immediately before or after the actor performed or was hired to perform one of those services for the complainant.

MINN. STAT. ANN. § 609.345 (WEST 2011). CRIMINAL SEXUAL CONDUCT IN THE FOURTH DEGREE

Subdivision 1. Crime defined. A person who engages in sexual contact with another person is guilty of criminal sexual conduct in the fourth degree if any of the following circumstances exists:

(a) the complainant is under 13 years of age and the actor is no more than 36 months older than the complainant. Neither mistake as to the complainant's age or consent to the act by the complainant is a defense. In a prosecution under this clause, the state is not required to prove that the sexual contact was coerced;

(b) the complainant is at least 13 but less than 16 years of age and the actor is more than 48 months older than the complainant or in a position of authority over the complainant. Consent by the complainant to the act is not a defense. In any such case, if the actor is no more than 120 months older than the complainant, it shall be an affirmative defense which must be proved by a preponderance of the evidence that the actor reasonably believes the complainant to be 16 years of age or older . In all other cases, mistake as to the complainant's age shall not be a defense;

(c) the actor uses force or coercion to accomplish the sexual contact;

(d) the actor knows or has reason to know that the complainant is mentally impaired, mentally incapacitated, or physically helpless;

(e) the complainant is at least 16 but less than 18 years of age and the actor is more than 48 months older than the complainant and in a position of authority over the complainant. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(f) the actor has a significant relationship to the complainant and the complainant was at least 16 but under 18 years of age at the time of the sexual contact. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(g) the actor has a significant relationship to the complainant, the complainant was at least 16 but under 18 years of age at the time of the sexual contact, and:

(i) the actor or an accomplice used force or coercion to accomplish the contact;

(ii) the complainant suffered personal injury; or

(iii) the sexual abuse involved multiple acts committed over an extended period of time.

Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(h) the actor is a psychotherapist and the complainant is a patient of the psychotherapist and the sexual contact occurred:

(i) during the psychotherapy session; or

(ii) outside the psychotherapy session if an ongoing psychotherapist-patient relationship exists. Consent by the complainant is not a defense;

(i) the actor is a psychotherapist and the complainant is a former patient of the psychotherapist and the former patient is emotionally dependent upon the psychotherapist;

(j) the actor is a psychotherapist and the complainant is a patient or former patient and the sexual contact occurred by means of therapeutic deception. Consent by the complainant is not a defense;

(k) the actor accomplishes the sexual contact by means of deception or false representation that the contact is for a bona fide medical purpose. Consent by the complainant is not a defense;

(l) the actor is or purports to be a member of the clergy, the complainant is not married to the actor, and:

(i) the sexual contact occurred during the course of a meeting in which the complainant sought or received religious or spiritual advice, aid, or comfort from the actor in private; or

(ii) the sexual contact occurred during a period of time in which the complainant was meeting on an ongoing basis with the actor to seek or receive religious or spiritual advice, aid, or comfort in private. Consent by the complainant is not a defense;

(m) the actor is an employee, independent contractor, or volunteer of a state, county, city, or privately operated adult or juvenile correctional system, or secure treatment facility, or treatment facility providing services to clients civilly committed as mentally ill and dangerous, sexually dangerous persons, or sexual psychopathic personalities, including, but not limited to, jails, prisons, detention centers, or work release facilities, and the complainant is a resident of a facility or under supervision of the correctional system. Consent by the complainant is not a defense;

(n) the actor provides or is an agent of an entity that provides special transportation service, the complainant used the special transportation service, the complainant is not married to the actor, and the sexual contact occurred during or immediately before or after the actor transported the complainant. Consent by the complainant is not a defense; or

(o) the actor performs massage or other bodywork for hire, the complainant was a user of one of those services, and nonconsensual sexual contact occurred during or immediately before or after the actor performed or was hired to perform one of those services for the complainant.

MINN. STAT. ANN. § 609.3451 (WEST 2011). CRIMINAL SEXUAL CONDUCT IN THE FIFTH DEGREE

Subdivision 1. Crime defined. A person is guilty of criminal sexual conduct in the fifth degree:

(1) if the person engages in nonconsensual sexual contact; or

(2) the person engages in masturbation or lewd exhibition of the genitals in the presence of a minor under the age of 16, knowing or having reason to know the minor is present.

For purposes of this section, "sexual contact" has the meaning given in section 609.341, subdivision 11, paragraph (a), clauses (i) and (iv), but does not include the intentional touching of the clothing covering the immediate area of the buttocks. Sexual contact also includes the intentional removal or attempted removal of clothing covering the complainant's intimate parts or undergarments, and the nonconsensual touching by the complainant of the actor's intimate parts, effected by the actor, if the action is performed with sexual or aggressive intent.

Subd. 2. Penalty. A person convicted under subdivision 1 may be sentenced to imprisonment for not more than one year or to a payment of a fine of not more than $3,000, or both.

Subd. 3. Felony. A person is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both, if the person violates subdivision 1, clause (2), after having been previously convicted of or adjudicated delinquent for violating subdivision 1, clause (2); section 617.23, subdivision 2, clause (1); or a statute from another state in conformity with subdivision 1, clause (2), or section 617.23, subdivision 2, clause (1).

MINN. STAT. ANN. § 609.3453 (WEST 2012). CRIMINAL SEXUAL PREDATORY CONDUCT

Subdivision 1. Crime defined. A person is guilty of criminal sexual predatory conduct if the person commits a predatory crime that was motivated by the offender's sexual impulses or was part of a predatory pattern of behavior that had criminal sexual conduct as its goal.

Subd. 2. Penalty. (a) Except as provided in section 609.3455, the statutory maximum sentence for a violation of subdivision 1 is: (1) 25 percent longer than for the underlying predatory crime; or (2) 50 percent longer than for the underlying predatory crime, if the violation is committed by a person with a previous sex offense conviction, as defined in section 609.3455, subdivision 1.

(b) In addition to the sentence imposed under paragraph (a), the person may also be sentenced to the payment of a fine of not more than $20,000.

(c) A person convicted under this section is also subject to conditional release under section 609.3455.

MINN. STAT. ANN. § 609.349 (WEST 2011). VOLUNTARY RELATIONSHIPS

A person does not commit criminal sexual conduct under sections 609.342, clauses (a) and (b), 609.343, clauses (a) and (b), 609.344, clauses (a), (b), (d), (e), and (n), and 609.345, clauses (a), (b), (d), (e), and (n), if the actor and complainant were adults cohabiting in an ongoing voluntary sexual relationship at the time of the alleged offense, or if the complainant is the actor's legal spouse, unless the couple is living apart and one of them has filed for legal separation or dissolution of the marriage. Nothing in this section shall be construed to prohibit or restrain the prosecution for any other offense committed by one legal spouse against the other.

MINN. STAT. ANN. § 617.23 (WEST 2012). INDECENT EXPOSURE; PENALTIES

Subdivision 1. Misdemeanor. A person who commits any of the following acts in any public place, or in any place where others are present, is guilty of a misdemeanor:

*Statute truncated due to size.

(1) willfully and lewdly exposes the person's body, or the private parts thereof;

(2) procures another to expose private parts; or

(3) engages in any open or gross lewdness or lascivious behavior, or any public indecency other than behavior specified in this subdivision.

Subd. 2. Gross misdemeanor. A person who commits any of the following acts is guilty of a gross misdemeanor:

(1) the person violates subdivision 1 in the presence of a minor under the age of 16; or

(2) the person violates subdivision 1 after having been previously convicted of violating subdivision 1, sections 609.342 to 609.3451, or a statute from another state in conformity with any of those sections.

Subd. 3. Felony. A person is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both, if:

(1) the person violates subdivision 2, clause (1), after having been previously convicted of or adjudicated delinquent for violating subdivision 2, clause (1); section 609.3451, subdivision 1, clause (2); or a statute from another state in conformity with subdivision 2, clause (1), or section 609.3451, subdivision 1, clause (2); or

(2) the person commits a violation of subdivision 1, clause (1), in the presence of another person while intentionally confining that person or otherwise intentionally restricting that person's freedom to move.
Subd. 4. Breast-feeding. It is not a violation of this section for a woman to breast-feed.

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CHARTS	PENETRATION	FORCE	CAPACITY TO CONSENT	VICTIM PERPETRATOR RELATIONSHIP	OTHER SEX CRIMES
CONSENT ANALYSIS	ALCOHOL/DRUG FACILITATED SEXUAL ASSAULT	MARITAL RAPE	SAME SEX PERPETRATOR	STATUTORY RAPE	CONSTRUCTIVE FORCE

MISS. CODE ANN. § 97-3-65 (WEST 2010). STATUTORY RAPE; DRUGGING; SPOUSAL RAPE

(1) The crime of statutory rape is committed when:

(a) Any person seventeen (17) years of age or older has sexual intercourse with a child who:

(i) Is at least fourteen (14) but under sixteen (16) years of age;

(ii) Is thirty-six (36) or more months younger than the person; and

(iii) Is not the person's spouse; or

(b) A person of any age has sexual intercourse with a child who:

(i) Is under the age of fourteen (14) years;

(ii) Is twenty-four (24) or more months younger than the person; and

(iii) Is not the person's spouse.

(2) Neither the victim's consent nor the victim's lack of chastity is a defense to a charge of statutory rape.

(3) Upon conviction for statutory rape, the defendant shall be sentenced as follows:

(a) If eighteen (18) years of age or older, but under twenty-one (21) years of age, and convicted under subsection (1)(a) of this section, to imprisonment for not more than five (5) years in the State Penitentiary or a fine of not more than Five Thousand Dollars ($5,000.00), or both;

(b) If twenty-one (21) years of age or older and convicted under subsection (1)(a) of this section, to imprisonment of not more than thirty (30) years in the State Penitentiary or a fine of not more than Ten Thousand Dollars ($10,000.00), or both, for the first offense, and not more than forty (40) years in the State Penitentiary for each subsequent offense;

(c) If eighteen (18) years of age or older and convicted under subsection (1)(b) of this section, to imprisonment for life in the State Penitentiary or such lesser term of imprisonment as the court may determine, but not less than twenty (20) years;

(d) If thirteen (13) years of age or older but under eighteen (18) years of age and convicted under subsection (1)(a) or (1)(b) of this section, such imprisonment, fine or other sentence as the court, in its discretion, may determine.

(4)(a) Every person who shall have forcible sexual intercourse with any person, or who shall have sexual intercourse not constituting forcible sexual intercourse or statutory rape with any person without that person's consent by administering to such person any substance or liquid which shall produce such stupor or such imbecility of mind or weakness of body as to prevent effectual resistance, upon conviction, shall be imprisoned for life in the State Penitentiary if the jury by its verdict so prescribes; and in cases where the jury fails to fix the penalty at life imprisonment, the court shall fix the penalty at imprisonment in the State Penitentiary for any term as the court, in its discretion, may determine.

(b) This subsection (4) shall apply whether the perpetrator is married to the victim or not.

(5) In all cases where a victim is under the age of sixteen (16) years, it shall not be necessary to prove penetration where it is shown the genitals, anus or perineum of the child have been lacerated or torn in the attempt to have sexual intercourse with the child.

(6) For the purposes of this section, “sexual intercourse” shall mean a joining of the sexual organs of a male and female human being in which the penis of the male is inserted into the vagina of the female or the penetration of the sexual organs of a male or female human being in which the penis or an object is inserted into the genitals, anus or perineum of a male or female.

MISS. CODE ANN. § 97-3-95 (WEST 2010). “SEXUAL BATTERY” DEFINED

(1) A person is guilty of sexual battery if he or she engages in sexual penetration with:

(a) Another person without his or her consent;

(b) A mentally defective, mentally incapacitated or physically helpless person;

(c) A child at least fourteen (14) but under sixteen (16) years of age, if the person is thirty-six (36) or more months older than the child; or

(d) A child under the age of fourteen (14) years of age, if the person is twenty-four (24) or more months older than the child.

(2) A person is guilty of sexual battery if he or she engages in sexual penetration with a child under the age of eighteen (18) years if the person is in a position of trust or authority over the child including without limitation the child's teacher, counselor, physician, psychiatrist, psychologist, minister, priest, physical therapist, chiropractor, legal guardian, parent, stepparent, aunt, uncle, scout leader or coach.

MISS. CODE ANN. § 97-3-97 (WEST 2010). SEXUAL BATTERY, DEFINITIONS

For purposes of sections 97-3-95 through 97-3-103 the following words shall have the meaning ascribed herein unless the context otherwise requires:

(a) "Sexual penetration" includes cunnilingus, fellatio, buggery or pederasty, any penetration of the genital or anal openings of another person's body by any part of a person's body, and insertion of any object into the genital or anal openings of another person's body.

(b) A "mentally defective person" is one who suffers from a mental disease, defect or condition which renders that person temporarily or permanently incapable of knowing the nature and quality of his or her conduct.

(c) A "mentally incapacitated person" is one rendered incapable of knowing or controlling his or her conduct, or incapable of resisting an act due to the influence of any drug, narcotic, anesthetic, or other substance administered to that person without his or her consent.

(d) A "physically helpless person" is one who is unconscious or one who for any other reason is physically incapable of communicating an unwillingness to engage in an act.

MISS. CODE ANN. § 97-3-99 (WEST 2010). SEXUAL BATTERY, DEFENSE OF MARRIAGE

A person is not guilty of any offense under Sections 97-3-95 through 97-3-103 if the alleged victim is that person's legal spouse and at the time of the alleged offense such person and the alleged victim are not separated and living apart; provided, however, that the legal spouse of the alleged victim may be found guilty of sexual battery if the legal spouse engaged in forcible sexual penetration without the consent of the alleged victim.

MISS. CODE ANN. § 97-3-101 (WEST 2010). SEXUAL BATTERY, PUNISHMENT

(1) Every person who shall be convicted of sexual battery under Section 97-3-95(1)(a), (b), or (2) shall be imprisoned in the State Penitentiary for a period of not more than thirty (30) years, and for a second or subsequent such offense shall be imprisoned in the penitentiary for not more than forty (40) years.

(2)(a) Every person who shall be convicted of sexual battery under Section 97-3-95(1)(c) who is at least eighteen (18) but under twenty-one (21) years of age shall be imprisoned for not more than five (5) years in the State Penitentiary or fined not more than Five Thousand Dollars ($5,000.00), or both;

(b) Every person who shall be convicted of sexual battery under Section 97-3-95(1)(c) who is twenty-one (21) years of age or older shall be imprisoned not more than thirty (30) years in the State Penitentiary or fined not

*Statute truncated due to size.

more than Ten Thousand Dollars ($10,000.00), or both, for the first offense, and not more than forty (40) years in the State Penitentiary for each subsequent offense.

(3) Every person who shall be convicted of sexual battery under Section 97-3-95(1)(d) who is eighteen (18) years of age or older shall be imprisoned for life in the State Penitentiary or such lesser term of imprisonment as the court may determine, but not less than twenty (20) years.

(4) Every person who shall be convicted of sexual battery who is thirteen (13) years of age or older but under eighteen (18) years of age shall be sentenced to such imprisonment, fine or other sentence as the court, in its discretion, may determine.

MISS. CODE ANN. § 97-3-99 (WEST 2010). SEXUAL BATTERY; DEFENSE

A person is not guilty of any offense under Sections 97-3-95 through 97-3-103 if the alleged victim is that person's legal spouse and at the time of the alleged offense such person and the alleged victim are not separated and living apart; provided, however, that the legal spouse of the alleged victim may be found guilty of sexual battery if the legal spouse engaged in forcible sexual penetration without the consent of the alleged victim.

MISS. CODE ANN. § 97-3-71 (WEST 2010). ASSAULT WITH INTENT TO RAVISH

Every person who shall be convicted of an assault with intent to forcibly ravish any female of previous chaste character shall be punished by imprisonment in the penitentiary for life, or for such shorter time as may be fixed by the jury, or by the court upon the entry of a plea of guilty.

MISS. CODE ANN. § 97-29-31 (WEST 2011). INDECENT EXPOSURE

A person who willfully and lewdly exposes his person, or private parts thereof, in any public place, or in any place where others are present, or procures another to so expose himself, is guilty of a misdemeanor and, on conviction, shall be punished by a fine not exceeding Five Hundred Dollars ($500.00) or be imprisoned not exceeding six (6) months, or both. It is not a violation of this statute for a woman to breast-feed.

MISS. CODE ANN. § 97-29-59 (WEST 2010). SODOMY

Every person who shall be convicted of the detestable and abominable crime against nature committed with mankind or with a beast, shall be punished by imprisonment in the penitentiary for a term of not more than ten years.

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CHARTS	PENETRATION	FORCE	CAPACITY TO CONSENT	VICTIM PERPETRATOR RELATIONSHIP	OTHER SEX CRIMES
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*Statute truncated due to size.

MO. ANN. STAT. § 566.010 (WEST 2011). CHAPTER DEFINITIONS

As used in this chapter and chapter 568, RSMo, the following terms mean:

(1) "Deviate sexual intercourse", any act involving the genitals of one person and the hand, mouth, tongue, or anus of another person or a sexual act involving the penetration, however slight, of the male or female sex organ or the anus by a finger, instrument or object done for the purpose of arousing or gratifying the sexual desire of any person or for the purpose of terrorizing the victim;

(2) "Sexual conduct", sexual intercourse, deviate sexual intercourse or sexual contact;

(3) "Sexual contact", any touching of another person with the genitals or any touching of the genitals or anus of another person, or the breast of a female person, or such touching through the clothing, for the purpose of arousing or gratifying sexual desire of any person;

(4) "Sexual intercourse", any penetration, however slight, of the female sex organ by the male sex organ, whether or not an emission results.

MO. ANN. STAT. § 566.020 (WEST 2011). MISTAKE AS TO INCAPACITY OR AGE

1. Whenever in this chapter the criminality of conduct depends upon a victim's being incapacitated, no crime is committed if the actor reasonably believed that the victim was not incapacitated and reasonably believed that the victim consented to the act. The defendant shall have the burden of injecting the issue of belief as to capacity and consent.

2. Whenever in this chapter the criminality of conduct depends upon a child being thirteen years of age or younger, it is no defense that the defendant believed the child to be older.

3. Whenever in this chapter the criminality of conduct depends upon a child being under seventeen years of age, it is an affirmative defense that the defendant reasonably believed that the child was seventeen years of age or older.

4. Consent is not an affirmative defense to any offense under Chapter 566 if the alleged victim is less than twelve years of age.

MO. ANN. STAT. § 566.023 (WEST 2011). MARRIAGE TO VICTIM, AT TIME OF OFFENSE, AFFIRMATIVE DEFENSE, FOR CERTAIN CRIMES

It shall be an affirmative defense to prosecutions pursuant to sections 566.032, 566.034, 566.062, 566.064, 566.068, and 566.090 that the defendant was married to the victim at the time of the offense.

MO. ANN. STAT. § 566.030 (WEST 2011). RAPE

1. A person commits the crime of forcible rape if such person has sexual intercourse with another person by the use of forcible compulsion. Forcible compulsion includes the use of a substance administered without a victim's knowledge or consent which renders the victim physically or mentally impaired so as to be incapable of making an informed consent to sexual intercourse.

*Statute truncated due to size.

2. Forcible rape or an attempt to commit forcible rape is a felony for which the authorized term of imprisonment is life imprisonment or a term of years not less than five years, unless:

(1) In the course thereof the actor inflicts serious physical injury or displays a deadly weapon or dangerous instrument in a threatening manner or subjects the victim to sexual intercourse or deviate sexual intercourse with more than one person, in which case the authorized term of imprisonment is life imprisonment or a term of years not less than fifteen years;

(2) The victim is a child less than twelve years of age, in which case the required term of imprisonment is life imprisonment without eligibility for probation or parole until the defendant has served not less than thirty years of such sentence or unless the defendant has reached the age of seventy-five years and has served at least fifteen years of such sentence, unless such forcible rape is described under subdivision (3) of this subsection; or

(3) The victim is a child less than twelve years of age and such forcible rape was outrageously or wantonly vile, horrible or inhumane, in that it involved torture or depravity of mind, in which case, the required term of imprisonment is life imprisonment without eligibility for probation, parole or conditional release.

3. Subsection 4 of section 558.019, RSMo, shall not apply to the sentence of a person who has pleaded guilty to or has been found guilty of forcible rape when the victim is under the age of twelve, and **"life imprisonment"** shall mean imprisonment for the duration of a person's natural life for the purposes of this section.

4. No person found guilty of or pleading guilty to forcible rape or an attempt to commit forcible rape shall be granted a suspended imposition of sentence or suspended execution of sentence.

MO. ANN. STAT. § 566.032 (WEST 2011). STATUTORY RAPE, FIRST DEGREE, PENALTIES

1. A person commits the crime of statutory rape in the first degree if he has sexual intercourse with another person who is less than fourteen years old.

2. Statutory rape in the first degree or an attempt to commit statutory rape in the first degree is a felony for which the authorized term of imprisonment is life imprisonment or a term of years not less than five years, unless in the course thereof the actor inflicts serious physical injury on any person, displays a deadly weapon or dangerous instrument in a threatening manner, subjects the victim to sexual intercourse or deviate sexual intercourse with more than one person, or the victim is less than twelve years of age in which case the authorized term of imprisonment is life imprisonment or a term of years not less than ten years.

MO. ANN. STAT. § 566.034 (WEST 2011). STATUTORY RAPE, SECOND DEGREE, PENALTY

1. A person commits the crime of statutory rape in the second degree if being twenty-one years of age or older, he has sexual intercourse with another person who is less than seventeen years of age.

2. Statutory rape in the second degree is a class C felony.

MO. ANN. STAT. § 566.062 (WEST 2011). STATUTORY SODOMY, FIRST DEGREE, PENALTIES

1. A person commits the crime of statutory sodomy in the first degree if he has deviate sexual intercourse with another person who is less than fourteen years old.

*Statute truncated due to size.

2. Statutory sodomy in the first degree or an attempt to commit statutory sodomy in the first degree is a felony for which the authorized term of imprisonment is life imprisonment or a term of years not less than five years, unless in the course thereof the actor inflicts serious physical injury on any person, displays a deadly weapon or dangerous instrument in a threatening manner, subjects the victim to sexual intercourse or deviate sexual intercourse with more than one person, or the victim is less than twelve years of age, in which case the authorized term of imprisonment is life imprisonment or a term of years not less than ten years.

MO. ANN. STAT. § 566.064 (WEST 2011). STATUTORY SODOMY, SECOND DEGREE, PENALTY

1. A person commits the crime of statutory sodomy in the second degree if being twenty-one years of age or older, he has deviate sexual intercourse with another person who is less than seventeen years of age.

2. Statutory sodomy in the second degree is a class C felony.

MO. ANN. STAT. § 566.040 (WEST 2011). SEXUAL ASSAULT

1. A person commits the crime of sexual assault if he has sexual intercourse with another person knowing that he does so without that person's consent.

2. Sexual assault is a class C felony.

MO. ANN. STAT. § 566.060 (WEST 2011). FORCIBLE SODOMY

1. A person commits the crime of forcible sodomy if such person has deviate sexual intercourse with another person by the use of forcible compulsion. Forcible compulsion includes the use of a substance administered without a victim's knowledge or consent which renders the victim physically or mentally impaired so as to be incapable of making an informed consent to sexual intercourse.

2. Forcible sodomy or an attempt to commit forcible sodomy is a felony for which the authorized term of imprisonment is life imprisonment or a term of years not less than five years, unless:

(1) In the course thereof the actor inflicts serious physical injury or displays a deadly weapon or dangerous instrument in a threatening manner or subjects the victim to sexual intercourse or deviate sexual intercourse with more than one person, in which case the authorized term of imprisonment is life imprisonment or a term of years not less than ten years; or

(2) The victim is a child less than twelve years of age, in which case the required term of imprisonment is life imprisonment without eligibility for probation or parole until the defendant has served not less than thirty years of such sentence or unless the defendant has reached the age of seventy-five years and has served at least fifteen years of such sentence, unless such forcible sodomy is described under subdivision (3) of this subsection; or

(3) The victim is a child less than twelve years of age and such forcible sodomy was outrageously or wantonly vile, horrible or inhumane, in that it involved torture or depravity of mind, in which case, the required term of imprisonment is life imprisonment without eligibility for probation, parole or conditional release.

3. Subsection 4 of section 558.019, RSMo, shall not apply to the sentence of a person who has pleaded guilty to or has been found guilty of forcible sodomy when the victim is under the age of twelve, and **"life imprisonment"** shall mean imprisonment for the duration of a person's natural life for the purposes of this section.

4. No person found guilty of or pleading guilty to forcible sodomy or an attempt to commit forcible sodomy shall be granted a suspended imposition of sentence or suspended execution of sentence.

MO. ANN. STAT. § 566.070 (WEST 2011). DEVIATE SEXUAL ASSAULT

1. A person commits the crime of deviate sexual assault if he has deviate sexual intercourse with another person knowing that he does so without that person's consent.

2. Deviate sexual assault is a class C felony.

MO. ANN. STAT. § 566.086 (WEST 2011). SEXUAL CONTACT WITH A STUDENT

1. A person commits the crime of sexual contact with a student if he or she has sexual contact with a student of the public school and is:

(1) A teacher, as that term is defined in subdivisions (4), (5), and (7) of section 168.104;

(2) A student teacher;

(3) An employee of the school;

(4) A volunteer of the school or of an organization working with the school on a project or program who is not a student at the public school;

(5) An elected or appointed official of the public school district; or

(6) A person employed by an entity that contracts with the public school district to provide services.

2. Sexual contact with a student is a class D felony.

MO. ANN. STAT. § 566.090 (WEST 2011). SEXUAL MISCONDUCT IN THE FIRST DEGREE

1. A person commits the crime of sexual misconduct in the first degree if such person purposely subjects another person to sexual contact without that person's consent.

2. Sexual misconduct in the first degree is a class A misdemeanor unless the actor has previously been convicted of an offense under this chapter or unless in the course thereof the actor displays a deadly weapon in a threatening manner or the offense is committed as a part of a ritual or ceremony, in which case it is a class D felony.

MO. ANN. STAT. § 566.093 (WEST 2011). SEXUAL MISCONDUCT IN THE SECOND DEGREE

1. A person commits the crime of sexual misconduct in the second degree if such person:

(1) Exposes his or her genitals under circumstances in which he or she knows that his or her conduct is likely to cause affront or alarm;

(2) Has sexual contact in the presence of a third person or persons under circumstances in which he or she knows that such conduct is likely to cause affront or alarm; or

(3) Has sexual intercourse or deviate sexual intercourse in a public place in the presence of a third person.

2. Sexual misconduct in the second degree is a class B misdemeanor unless the actor has previously been convicted of an offense under this chapter, in which case it is a class A misdemeanor.

MO. ANN. STAT. § 566.095 (WEST 2011). SEXUAL MISCONDUCT IN THE THIRD DEGREE

1. A person commits the crime of sexual misconduct in the third degree if he solicits or requests another person to engage in sexual conduct under circumstances in which he knows that his requests or solicitation is likely to cause affront or alarm.

2. Sexual misconduct in the third degree is a class C misdemeanor.

MO. ANN. STAT. § 566.100 (WEST 2011). SEXUAL ABUSE

1. A person commits the crime of sexual abuse if he subjects another person to sexual contact by the use of forcible compulsion.

2. Sexual abuse is a class C felony unless in the course thereof the actor inflicts serious physical injury or displays a deadly weapon or dangerous instrument in a threatening manner or subjects the victim to sexual contact with more than one person or the victim is less than fourteen years of age, in which case the crime is a class B felony.

MO. ANN. STAT. § 566.145 (WEST 2011). SEXUAL CONTACT WITH AN INMATE, CRIME

1. A person commits the crime of sexual contact with a prisoner or offender if:

(1) Such person is an employee of, or assigned to work in, any jail, prison or correctional facility and such person has sexual intercourse or deviate sexual intercourse with a prisoner or an offender who is confined in a jail, prison, or correctional facility; or

(2) Such person is a probation and parole officer and has sexual intercourse or deviate sexual intercourse with an offender who is under the direct supervision of the officer.

2. For the purposes of this section the following terms shall mean:

(1) **"Offender"**, includes any person in the custody of a prison or correctional facility and any person who is under the supervision of the state board of probation and parole;

(2) **"Prisoner"**, includes any person who is in the custody of a jail, whether pretrial or after disposition of a charge.

3. Sexual contact with a prisoner or offender is a class D felony.

4. Consent of a prisoner or offender is not an affirmative defense.

*Statute truncated due to size.

MO. ANN. STAT. § 568.020 (2011). INCEST

1. A person commits the crime of incest if he marries or purports to marry or engages in sexual intercourse or deviate sexual intercourse with a person he knows to be, without regard to legitimacy:

(1) His ancestor or descendant by blood or adoption; or

(2) His stepchild, while the marriage creating that relationship exists; or

(3) His brother or sister of the whole or half-blood; or

(4) His uncle, aunt, nephew or niece of the whole blood.
2. Incest is a class D felony.

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MONTANA

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MONT. CODE ANN. § 45-2-101 (2011). GENERAL DEFINITIONS*

(41) "Mentally incapacitated" means that a person is rendered temporarily incapable of appreciating or controlling the person's own conduct as a result of the influence of an intoxicating substance.

(67) "Sexual contact" means touching of the sexual or other intimate parts of the person of another, directly or through clothing, in order to knowingly or purposely:

(a) cause bodily injury to or humiliate, harass, or degrade another; or

(b) arouse or gratify the sexual response or desire of either party.

(68)(a) "Sexual intercourse" means penetration of the vulva, anus, or mouth of one person by the penis of another person, penetration of the vulva or anus of one person by a body member of another person, or penetration of the vulva or anus of one person by a foreign instrument or object manipulated by another person to knowingly or purposely:

(i) cause bodily injury or humiliate, harass, or degrade; or

(ii) arouse or gratify the sexual response or desire of either party.

(b) For purposes of subsection (68)(a), any penetration, however slight, is sufficient.

MONT. CODE ANN. § 45-5-501 (2011). DEFINITIONS

(1)(a) As used in 45-5-503, the term "without consent" means:

(i) the victim is compelled to submit by force against the victim or another; or

(ii) subject to subsections (1)(b) and (1)(c), the victim is incapable of consent because the victim is:

(A) mentally defective or incapacitated;

(B) physically helpless;

(C) overcome by deception, coercion, or surprise;

(D) less than 16 years old;

(E) incarcerated in an adult or juvenile correctional, detention, or treatment facility or is on probation or parole and the perpetrator is an employee, contractor, or volunteer of the supervising authority and has supervisory or disciplinary authority over the victim, unless the act is part of a lawful search;

(F) receiving services from a youth care facility, as defined in 52-2-602, and the perpetrator:

(I) has supervisory or disciplinary authority over the victim or is providing treatment to the victim; and

(II) is an employee, contractor, or volunteer of the youth care facility; or

(G) admitted to a mental health facility, as defined in 53-21-102, is admitted to a community-based facility or a residential facility, as those terms are defined in 53-20-102, or is receiving community-based services, as defined in 53-20-102, and the perpetrator:

(I) has supervisory or disciplinary authority over the victim or is providing treatment to the victim; and

(II) is an employee, contractor, or volunteer of the facility or community-based service.

(b) Subsection (1)(a)(ii)(E) does not apply if the individuals are married to each other and one of the individuals involved is on probation or parole and the other individual is a probation or parole officer of a supervising authority.

(c) Subsections (1)(a)(ii)(F) and (1)(a)(ii)(G) do not apply if the individuals are married to each other and one of the individuals involved is a patient in or resident of a facility, is a recipient of community-based services, or is receiving services from a youth care facility and the other individual is an employee, contractor, or volunteer of the facility or community-based service.

(2) As used in subsection (1), the term "force" means:

(a) the infliction, attempted infliction, or threatened infliction of bodily injury or the commission of a forcible felony by the offender; or

(b) the threat of substantial retaliatory action that causes the victim to reasonably believe that the offender has the ability to execute the threat.

(3) As used in 45-5-502 and this section, the following definitions apply:

(a) "Parole":

(i) in the case of an adult offender, has the meaning provided in 46-1-202; and

(ii) in the case of a juvenile offender, means supervision of a youth released from a state youth correctional facility, as defined in 41-5-103, to the supervision of the department of corrections.

(b) "Probation" means:

(i) in the case of an adult offender, release without imprisonment of a defendant found guilty of a crime and subject to the supervision of a supervising authority; and

(ii) in the case of a juvenile offender, supervision of the juvenile by a youth court pursuant to Title 41, chapter 5.

(c) "Supervising authority" includes a court, including a youth court, a county, or the department of corrections.

MONT. CODE ANN. § 45-5-502 (2011). SEXUAL ASSAULT

(1) A person who knowingly subjects another person to any sexual contact without consent commits the offense of sexual assault.

(2) A person convicted of sexual assault shall be fined not to exceed $500 or be imprisoned in the county jail for a term not to exceed 6 months, or both.

(3) If the victim is less than 16 years old and the offender is 3 or more years older than the victim or if the offender inflicts bodily injury upon anyone in the course of committing sexual assault, the offender shall be punished by life imprisonment or by imprisonment in the state prison for a term of not less than 4 years, unless the judge makes a written finding that there is good cause to impose a term of less than 4 years and imposes a term of less than 4 years, or more than 100 years and may be fined not more than $50,000.

(4) An act "in the course of committing sexual assault" includes an attempt to commit the offense or flight after the attempt or commission.

(5) (a) Subject to subsections (5)(b) and (5)(c), consent is ineffective under this section if the victim is:

(i) incarcerated in an adult or juvenile correctional, detention, or treatment facility or is on probation or parole and the perpetrator is an employee, contractor, or volunteer of the supervising authority and has supervisory or disciplinary authority over the victim, unless the act is part of a lawful search;

(ii) less than 14 years old and the offender is 3 or more years older than the victim;

(iii) receiving services from a youth care facility, as defined in 52-2-602, and the perpetrator:

(A) has supervisory or disciplinary authority over the victim or is providing treatment to the victim; and

(B) is an employee, contractor, or volunteer of the youth care facility; or

(iv) admitted to a mental health facility, as defined in 53-21-102, is admitted to a community-based facility or a residential facility, as those terms are defined in 53-20-102, or is receiving community-based services, as defined in 53-20-102, and the perpetrator:

(A) has supervisory or disciplinary authority over the victim or is providing treatment to the victim; and

(B) is an employee, contractor, or volunteer of the facility or community-based service.

(b) Subsection (5)(a)(i) does not apply if one of the parties is on probation or parole and the other party is a probation or parole officer of the supervising authority and the parties are married to each other.

(c) Subsections (5)(a)(iii) and (5)(a)(iv) do not apply if the individuals are married to each other and one of the individuals involved is a patient in or resident of a facility, is a recipient of community-based services, or is receiving services from a youth care facility and the other individual is an employee, contractor, or volunteer of the facility or community-based service.

<§ 45-5-502(2) amended. Approved March 23, 2011, unclear when this goes into force>

(2)(a) On a first conviction for sexual assault, the offender shall be fined an amount not to exceed $500 or be imprisoned in the county jail for a term not to exceed 6 months, or both.

(b) On a second conviction for sexual assault, the offender shall be fined an amount not to exceed $1,000 or be imprisoned in the county jail for a term not to exceed 1 year, or both.

(c) On a third and subsequent conviction for sexual assault, the offender shall be fined an amount not to exceed $10,000 or be imprisoned for a term not to exceed 5 years, or both.

MONT. CODE ANN. § 45-5-503 (2011). SEXUAL INTERCOURSE WITHOUT CONSENT

(1) A person who knowingly has sexual intercourse without consent with another person commits the offense of sexual intercourse without consent. A person may not be convicted under this section based on the age of the person's spouse, as provided in 45-5-501(1)(a)(ii)(D).

(2) A person convicted of sexual intercourse without consent shall be punished by life imprisonment or by imprisonment in the state prison for a term of not less than 2 years or more than 100 years and may be fined not more than $50,000, except as provided in 46-18-219, 46-18-222, and subsections (3) and (4) of this section.

(3)(a) If the victim is less than 16 years old and the offender is 4 or more years older than the victim or if the offender inflicts bodily injury upon anyone in the course of committing sexual intercourse without consent, the offender shall be punished by life imprisonment or by imprisonment in the state prison for a term of not less than 4 years or more than 100 years and may be fined not more than $50,000, except as provided in 46-18-219 and 46-18- 222.

(b) If two or more persons are convicted of sexual intercourse without consent with the same victim in an incident in which each offender was present at the location where another offender's offense occurred during a time period in which each offender could have reasonably known of the other's offense, each offender shall be punished by life imprisonment or by imprisonment in the state prison for a term of not less than 5 years or more than 100 years and may be fined not more than $50,000, except as provided in46-18-219 and 46-18- 222.

(c) If the offender was previously convicted of an offense under this section or of an offense under the laws of another state or of the United States that if committed in this state would be an offense under this section and if the offender inflicted serious bodily injury upon a person in the course of committing each offense, the offender shall be:

(i) punished by death as provided in 46-18-301through 46-18-310, unless the offender is less than 18 years of age at the time of the commission of the offense; or

(ii) punished as provided in 46-18-219.

*Statute truncated due to size.

(4)(a) If the victim was 12 years of age or younger and the offender was 18 years of age or older at the time of the offense, the offender:

(i) shall be punished by imprisonment in a state prison for a term of 100 years. The court may not suspend execution or defer imposition of the first 25 years of a sentence of imprisonment imposed under this subsection (4)(a)(i) except as provided in 46-18-222, and during the first 25 years of imprisonment, the offender is not eligible for parole.

(ii) may be fined an amount not to exceed $50,000; and

(iii) shall be ordered to enroll in and successfully complete the educational phase and the cognitive and behavioral phase of a sexual offender treatment program provided or approved by the department of corrections.

(b) If the offender is released after the mandatory minimum period of imprisonment, the offender is subject to supervision by the department of corrections for the remainder of the offender's life and shall participate in the program for continuous, satellite-based monitoring provided for in 46- 23-1010.

(5) In addition to any sentence imposed under subsection (2) or (3), after determining the financial resources and future ability of the offender to pay restitution as required by 46-18-242, the court shall require the offender, if able, to pay the victim's reasonable medical and counseling costs that result from the offense. The amount, method, and time of payment must be determined in the same manner as provided for in 46-18-244.

(6) As used in subsections (3) and (4), an act "in the course of committing sexual intercourse without consent" includes an attempt to commit the offense or flight after the attempt or commission.

MONT. CODE ANN. § 45-5-504 (2011). INDECENT EXPOSURE

(1) A person commits the offense of indecent exposure if the person knowingly or purposely exposes the person's genitals under circumstances in which the person knows the conduct is likely to cause affront or alarm in order to:

(a) abuse, humiliate, harass, or degrade another; or

(b) arouse or gratify the person's own sexual response or desire or the sexual response or desire of any person.

(2)(a) A person convicted of the offense of indecent exposure shall be fined an amount not to exceed $500 or be imprisoned in the county jail for a term of not more than 6 months, or both.

(b) On a second conviction, the person shall be fined an amount not to exceed $1,000 or be imprisoned in the county jail for a term of not more than 1 year, or both.

(c) On a third or subsequent conviction, the person shall be punished by life imprisonment or by imprisonment in a state prison for a term of not less than 5 years or more than 100 years and may be fined not more than $10,000.

MONT. CODE ANN. § 45-5-507 (2011). INCEST

(1) A person commits the offense of incest if the person knowingly marries, cohabits with, has sexual intercourse with, or has sexual contact, as defined in 45-2-101, with an ancestor, a descendant, a brother or sister of the whole or half blood, or any stepson or stepdaughter. The relationships referred to in this subsection include blood relationships without regard to legitimacy, relationships of parent and child by adoption, and relationships involving a stepson or stepdaughter.

(2) Consent is a defense under this section to incest with or upon a stepson or stepdaughter, but consent is ineffective if the victim is less than 18 years old.

(3) Except as provided in subsections (4) and (5), a person convicted of incest shall be punished by life imprisonment or by imprisonment in the state prison for a term not to exceed 100 years or be fined an amount not to exceed $50,000.

(4) If the victim is under 16 years of age and the offender is 3 or more years older than the victim or if the offender inflicts bodily injury upon anyone in the course of committing incest, the offender shall be punished by life imprisonment or by imprisonment in the state prison for a term of not less than 4 years or more than 100 years and may be fined not more than $50,000.

(5)(a) If the victim was 12 years of age or younger and the offender was 18 years of age or older at the time of the offense, the offender:

(i) shall be punished by imprisonment in a state prison for a term of 100 years. The court may not suspend execution or defer imposition of the first 25 years of a sentence of imprisonment imposed under this subsection (5)(a)(i) except as provided in 46-18-222, and during the first 25 years of imprisonment, the offender is not eligible for parole.

(ii) may be fined an amount not to exceed $50,000; and

(iii) shall be ordered to enroll in and successfully complete the educational phase and the cognitive and behavioral phase of a sexual offender treatment program provided or approved by the department of corrections.

(b) If the offender is released after the mandatory minimum period of imprisonment, the offender is subject to supervision by the department of corrections for the remainder of the offender's life and shall participate in the program for continuous, satellite-based monitoring provided for in 46-23-1010.

(6) In addition to any sentence imposed under subsection (3), (4), or (5), after determining the financial resources and future ability of the offender to pay restitution as required by 46-18-242, the court shall require the offender, if able, to pay the victim's reasonable costs of counseling that result from the offense. The amount, method, and time of payment must be determined in the same manner as provided for in 46-18-244.

MONT. CODE ANN. § 45-5-511 (2011). PROVISIONS GENERALLY APPLICABLE TO SEXUAL CRIMES

(1) When criminality depends on the victim being less than 16 years old, it is a defense for the offender to prove that he reasonably believed the child to be above that age. Such belief shall not be deemed reasonable if the child is less than 14 years old.

(2) No evidence concerning the sexual conduct of the victim is admissible in prosecutions under this part except evidence of the victim's past sexual conduct with the offender or evidence of specific instances of the victim's sexual activity to show the origin of semen, pregnancy, or disease which is at issue in the prosecution.

(3) If the defendant proposes for any purpose to offer evidence described in subsection

(2), the trial judge shall order a hearing out of the presence of the jury to determine whether the proposed evidence is admissible under subsection (2).

(4) Evidence of failure to make a timely complaint or immediate outcry does not raise any presumption as to the credibility of the victim.

(5) Resistance by the victim is not required to show lack of consent. Force, fear, or threat is sufficient alone to show lack of consent.

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NEBRASKA

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NEB. REV. STAT. § 28-317 (2010). SEXUAL ASSAULT; LEGISLATIVE INTENT

It is the intent of the Legislature to enact laws dealing with sexual assault and related criminal sexual offenses which will protect the dignity of the victim at all stages of judicial process, which will insure that the alleged offender in a criminal sexual offense case have preserved the constitutionally guaranteed due process of law procedures, and which will establish a system of investigation, prosecution, punishment, and rehabilitation for the welfare and benefit of the citizens of this state as such system is employed in the area of criminal sexual offenses.

NEB. REV. STAT. § 28-318 (2010). TERMS, DEFINED

As used in sections 28-317 to 28-322.04, unless the context otherwise requires:

(1) Actor means a person accused of sexual assault;

(2) Intimate parts means the genital area, groin, inner thighs, buttocks, or breasts;

(3) Past sexual behavior means sexual behavior other than the sexual behavior upon which the sexual assault is alleged;

(4) Serious personal injury means great bodily injury or disfigurement, extreme mental anguish or mental trauma, pregnancy, disease, or loss or impairment of a sexual or reproductive organ;

(5) Sexual contact means the intentional touching of the victim's sexual or intimate parts or the intentional touching of the victim's clothing covering the immediate area of the victim's sexual or intimate parts. Sexual contact shall also mean the touching by the victim of the actor's sexual or intimate parts or the clothing covering the immediate area of the actor's sexual or intimate parts when such touching is intentionally caused by the actor. Sexual contact shall include only such conduct which can be reasonably construed as being for the purpose of sexual arousal or gratification of either party. Sexual contact shall also include the touching of a child with the actor's sexual or intimate parts on any part of the child's body for purposes of sexual assault of a child under sections 28-319.01 and 28-320.01;

(6) Sexual penetration means sexual intercourse in its ordinary meaning, cunnilingus, fellatio, anal intercourse, or any intrusion, however slight, of any part of the actor's or victim's body or any object manipulated by the actor into

the genital or anal openings of the victim's body which can be reasonably construed as being for nonmedical or nonhealth purposes. Sexual penetration shall not require emission of semen;

(7) Victim means the person alleging to have been sexually assaulted;

(8) Without consent means:

(a)(i) The victim was compelled to submit due to the use of force or threat of force or coercion, or (ii) the victim expressed a lack of consent through words, or (iii) the victim expressed a lack of consent through conduct, or (iv) the consent, if any was actually given, was the result of the actor's deception as to the identity of the actor or the nature or purpose of the act on the part of the actor;

(b) The victim need only resist, either verbally or physically, so as to make the victim's refusal to consent genuine and real and so as to reasonably make known to the actor the victim's refusal to consent; and

(c) A victim need not resist verbally or physically where it would be useless or futile to do so; and

(9) Force or threat of force means (a) the use of physical force which overcomes the victim's resistance or (b) the threat of physical force, express or implied, against the victim or a third person that places the victim in fear of death or in fear of serious personal injury to the victim or a third person where the victim reasonably believes that the actor has the present or future ability to execute the threat.

NEB. REV. STAT. § 28-319 (2010). SEXUAL ASSAULT; FIRST DEGREE; PENALTY

(1) Any person who subjects another person to sexual penetration (a) without the consent of the victim, (b) who knew or should have known that the victim was mentally or physically incapable of resisting or appraising the nature of his or her conduct, or (c) when the actor is nineteen years of age or older and the victim is at least twelve but less than sixteen years of age is guilty of sexual assault in the first degree.

(2) Sexual assault in the first degree is a Class II felony. The sentencing judge shall consider whether the actor caused serious personal injury to the victim in reaching a decision on the sentence.

(3) Any person who is found guilty of sexual assault in the first degree for a second time when the first conviction was pursuant to this section or any other state or federal law with essentially the same elements as this section shall be sentenced to a mandatory minimum term of twenty-five years in prison.

NEB. REV. STAT. § 28-320 (2010). SEXUAL ASSAULT; SECOND OR THIRD DEGREE; PENALTY

(1) Any person who subjects another person to sexual contact (a) without consent of the victim, or (b) who knew or should have known that the victim was physically or mentally incapable of resisting or appraising the nature of his or her conduct is guilty of sexual assault in either the second degree or third degree.

(2) Sexual assault shall be in the second degree and is a Class III felony if the actor shall have caused serious personal injury to the victim.

(3) Sexual assault shall be in the third degree and is a Class I misdemeanor if the actor shall not have caused serious personal injury to the victim.

*Statute truncated due to size.

NEB. REV. STAT. § 28-322 (2011). SEXUAL ABUSE OF AN INMATE OR PAROLLE; TERMS, DEFINED

For purposes of sections 28-322 to 28-322.03:

(1) Inmate or parolee means any individual confined in a facility operated by the Department of Correctional Services or a city or county correctional or jail facility or under parole supervision; and

(2) Person means (a) an individual employed by the Department of Correctional Services or by the Office of Parole Administration, including any individual working in central administration of the department, any individual working under contract with the department, and any individual, other than an inmate's spouse, to whom the department has authorized or delegated control over an inmate or an inmate's activities, (b) an individual employed by a city or county correctional or jail facility, including any individual working in central administration of the city or county correctional or jail facility, any individual working under contract with the city or county correctional or jail facility, and any individual, other than an inmate's spouse, to whom the city or county correctional or jail facility has authorized or delegated control over an inmate or an inmate's activities, and (c) an individual employed by the Office of Probation Administration who performs official duties within any facility operated by the Department of Correctional Services or a city or county correctional or jail facility.

NEB. REV. STAT. § 28-367 (2011). SEXUAL ABUSE, DEFINED

Sexual abuse shall include sexual assault as described in section 28-319 or 28-320 and incest as described in section 28-703.

NEB. REV. STAT. § 28-703 (2011). INCEST; PENALTY

(1) Any person who shall knowingly intermarry or engage in sexual penetration with any person who falls within the degrees of consanguinity set forth in section 28-702 or any person who engages in sexual penetration with his or her minor stepchild commits incest.

(2) Incest is a Class III felony.

(3)(a) For purposes of this section, the definitions found in section 28-318 shall be used.

(b) The testimony of a victim shall be entitled to the same weight as the testimony of victims of other crimes under this code.

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NEVADA

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NEV. REV. STAT. ANN. § 200.180 (WEST 2010). INCEST; DEFINITION; PENALTY

*Statute truncated due to size.

Persons being within the degree of consanguinity within which marriages are declared by law to be incestuous and void who intermarry with each other or who commit fornication or adultery with each other shall be punished for a category A felony by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of life with the possibility of parole, and may be further punished by a fine of not more than $10,000.

NEV. REV. STAT. ANN. § 200.364 (WEST 2010). DEFINITIONS

As used in NRS 200.364 to 200.3784, inclusive, and sections 3 to 7, inclusive, of this act, unless the context otherwise requires:

1. "Perpetrator" means a person who commits a sexual assault.

2. "Sexual penetration" means cunnilingus, fellatio, or any intrusion, however slight, of any part of a person's body or any object manipulated or inserted by a person into the genital or anal openings of the body of another, including sexual intercourse in its ordinary meaning.

3. "Statutory sexual seduction" means:

(a) Ordinary sexual intercourse, anal intercourse, cunnilingus or fellatio committed by a person 18 years of age or older with a person under the age of 16 years; or

(b) Any other sexual penetration committed by a person 18 years of age or older with a person under the age of 16 years with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of either of the persons.

4. "Victim" means a person who is subjected to a sexual assault.

As used in NRS 200.364 to 200.3774, inclusive, unless the context otherwise requires:

1. "Offense involving a pupil" means any of the following offenses:

(a) Sexual conduct between certain employees of a school or volunteers at a school and a pupil pursuant to NRS 201.540.

(b) Sexual conduct between certain employees of a college or university and a student pursuant to NRS 201.550.

2. "Perpetrator" means a person who commits a sexual offense or an offense involving a pupil.

3. "Sexual offense" means any of the following offenses:

(a) Sexual assault pursuant to NRS 200.366.

(b) Statutory sexual seduction pursuant to NRS 200.368.

4. "Sexual penetration" means cunnilingus, fellatio, or any intrusion, however slight, of any part of a person's body or any object manipulated or inserted by a person into the genital or anal openings of the body of another, including sexual intercourse in its ordinary meaning.

5. "Statutory sexual seduction" means:

*Statute truncated due to size.

(a) Ordinary sexual intercourse, anal intercourse, cunnilingus or fellatio committed by a person 18 years of age or older with a person under the age of 16 years; or

(b) Any other sexual penetration committed by a person 18 years of age or older with a person under the age of 16 years with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of either of the persons.

6. "Victim" means a person who is a victim of a sexual offense or an offense involving a pupil.

NEV. REV. STAT. ANN. § 200.366 (WEST 2010). SEXUAL ASSAULT: DEFINITION; PENALTIES

1. A person who subjects another person to sexual penetration, or who forces another person to make a sexual penetration on himself or another, or on a beast, against the will of the victim or under conditions in which the perpetrator knows or should know that the victim is mentally or physically incapable of resisting or understanding the nature of his conduct, is guilty of sexual assault.

2. Except as otherwise provided in subsections 3 and 4, a person who commits a sexual assault is guilty of a category A felony and shall be punished:

(a) If substantial bodily harm to the victim results from the actions of the defendant committed in connection with or as a part of the sexual assault, by imprisonment in the state prison:

(1) For life without the possibility of parole; or

(2) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 15 years has been served.

(b) If no substantial bodily harm to the victim results, by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served.

3. Except as otherwise provided in subsection 4, a person who commits a sexual assault against a child under the age of 16 years is guilty of a category A felony and shall be punished:

(a) If the crime results in substantial bodily harm to the child, by imprisonment in the state prison for life without the possibility of parole.

(b) Except as otherwise provided in paragraph (c), if the crime does not result in substantial bodily harm to the child, by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of 25 years has been served.

(c) If the crime is committed against a child under the age of 14 years and does not result in substantial bodily harm to the child, by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of 35 years has been served.

4. A person who commits a sexual assault against a child under the age of 16 years and who has been previously convicted of:

(a) A sexual assault pursuant to this section or any other sexual offense against a child; or

*Statute truncated due to size.

(b) An offense committed in another jurisdiction that, if committed in this State, would constitute a sexual assault pursuant to this section or any other sexual offense against a child,

is guilty of a category A felony and shall be punished by imprisonment in the state prison for life without the possibility of parole.

5. For the purpose of this section, "other sexual offense against a child" means any act committed by an adult upon a child constituting:

(a) Incest pursuant to NRS 201.180;

(b) Lewdness with a child pursuant to NRS 201.230;

(c) Sado-masochistic abuse pursuant to NRS 201.262; or

(d) Luring a child using a computer, system or network pursuant to NRS 201.560, if punished as a felony.

NEV. REV. STAT. ANN. § 200.373 (WEST 2010). SEXUAL ASSAULT OF SPOUSE BY SPOUSE

It is no defense to a charge of sexual assault that the perpetrator was, at the time of the assault, married to the victim, if the assault was committed by force or by the threat of force.

NEV. REV. STAT. ANN. § 201.220 (WEST 2011). INDECENT OR OBSCENE EXPOSURE; PENALTY

1. A person who makes any open and indecent or obscene exposure of his or her person, or of the person of another, is guilty:
(a) For the first offense, of a gross misdemeanor.
(b) For any subsequent offense, of a category D felony and shall be punished as provided in NRS 193.130.
2. For the purposes of this section, the breast feeding of a child by the mother of the child does not constitute an act of open and indecent or obscene exposure of her body.

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NEW HAMPSHIRE

CHARTS	PENETRATION	FORCE	CAPACITY TO CONSENT	VICTIM PERPETRATOR RELATIONSHIP	OTHER SEX CRIMES
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N.H. REV. STAT. ANN. § 632-A:1 (2011). DEFINITIONS

In this chapter:

I. "Actor" means a person accused of a crime of sexual assault.

I-a. "Affinity" means a relation which one spouse because of marriage has to blood relatives of the other spouse.

I-b. “Genital openings” means the internal or external genitalia including, but not limited to, the vagina, labia majora, labia minora, vulva, urethra or perineum.

I-c. “Pattern of sexual assault” means committing more than one act under RSA 632-A:2 or RSA 632-A:3, or both, upon the same victim over a period of 2 months or more and within a period of 5 years.

II. “Retaliate” means to undertake action against the interests of the victim, including, but not limited to:

(a) Physical or mental torment or abuse.

(b) Kidnapping, false imprisonment or extortion.

(c) Public humiliation or disgrace.

III. “Serious personal injury” means extensive bodily injury or disfigurement, extreme mental anguish or trauma, disease or loss or impairment of a sexual or reproductive organ.

IV. “Sexual contact” means the intentional touching whether directly, through clothing, or otherwise, of the victim's or actor's sexual or intimate parts, including emissions, tongue, anus, breasts, and buttocks. Sexual contact includes only that aforementioned conduct which can be reasonably construed as being for the purpose of sexual arousal or gratification.

V. (a) “Sexual penetration” means:

(1) Sexual intercourse; or

(2) Cunnilingus; or

(3) Fellatio; or

(4) Anal intercourse; or

(5) Any intrusion, however slight, of any part of the actor's body, including emissions, or any object manipulated by the actor into genital or anal openings of the victim's body; or

(6) Any intrusion, however slight, of any part of the victim's body, including emissions, or any object manipulated by the victim into the oral, genital, or anal openings of the actor's body; or

(7) Any act which forces, coerces, or intimidates the victim to perform any sexual penetration as defined in subparagraphs (1)-(6) on the actor, on another person, or on himself.

(b) Emissions include semen, urine, and feces. Emission is not required as an element of any form of sexual penetration.

(c) “Objects” include animals as defined in RSA 644:8, II.

VI. “Therapy” means the treatment of bodily, mental, or behavioral disorders by remedial agents or methods.

N.H. REV. STAT. ANN. § 632-A:2 (2011). AGGRAVATED FELONIOUS SEXUAL ASSAULT

*Statute truncated due to size.

I. A person is guilty of the felony of aggravated felonious sexual assault if such person engages in sexual penetration with another person under any of the following circumstances:

(a) When the actor overcomes the victim through the actual application of physical force, physical violence or superior physical strength.

(b) When the victim is physically helpless to resist.

(c) When the actor coerces the victim to submit by threatening to use physical violence or superior physical strength on the victim, and the victim believes that the actor has the present ability to execute these threats.

(d) When the actor coerces the victim to submit by threatening to retaliate against the victim, or any other person, and the victim believes that the actor has the ability to execute these threats in the future.

(e) When the victim submits under circumstances involving false imprisonment, kidnapping or extortion.

(f) When the actor, without the prior knowledge or consent of the victim, administers or has knowledge of another person administering to the victim any intoxicating substance which mentally incapacitates the victim.

(g) When the actor provides therapy, medical treatment or examination of the victim and in the course of that therapeutic or treating relationship or within one year of termination of that therapeutic or treating relationship:

(1) Acts in a manner or for purposes which are not professionally recognized as ethical or acceptable; or

(2) Uses this position as such provider to coerce the victim to submit.

(h) When, except as between legally married spouses, the victim is mentally defective and the actor knows or has reason to know that the victim is mentally defective.

(i) When the actor through concealment or by the element of surprise is able to cause sexual penetration with the victim before the victim has an adequate chance to flee or resist.

(j) When, except as between legally married spouses, the victim is 13 years of age or older and under 16 years of age and:

(1) the actor is a member of the same household as the victim; or

(2) the actor is related by blood or affinity to the victim.

(k) When, except as between legally married spouses, the victim is 13 years of age or older and under 18 years of age and the actor is in a position of authority over the victim and uses this authority to coerce the victim to submit.

(l) When the victim is less than 13 years of age.

(m) When at the time of the sexual assault, the victim indicates by speech or conduct that there is not freely given consent to performance of the sexual act.

(n) When the actor is in a position of authority over the victim and uses this authority to coerce the victim to submit under any of the following circumstances:

(1) When the actor has direct supervisory or disciplinary authority over the victim by virtue of the victim being incarcerated in a correctional institution, the secure psychiatric unit, or juvenile detention facility where the actor is employed; or

(2) When the actor is a probation or parole officer or a juvenile probation and parole officer who has direct supervisory or disciplinary authority over the victim while the victim is on parole or probation or under juvenile probation.

Consent of the victim under any of the circumstances set forth in subparagraph (n) shall not be considered a defense.

II. A person is guilty of aggravated felonious sexual assault without penetration when he intentionally touches whether directly, through clothing, or otherwise, the genitalia of a person under the age of 13 under circumstances that can be reasonably construed as being for the purpose of sexual arousal or gratification.

III. A person is guilty of aggravated felonious sexual assault when such person engages in a pattern of sexual assault against another person, not the actor's legal spouse, who is less than 16 years of age. The mental state applicable to the underlying acts of sexual assault need not be shown with respect to the element of engaging in a pattern of sexual assault.

IV. A person is guilty of aggravated felonious sexual assault when such person engages in sexual penetration as defined in RSA 632-A:1, V with another person under 18 years of age whom such person knows to be his or her ancestor, descendant, brother or sister of the whole or half blood, uncle, aunt, nephew, or niece. The relationships referred to herein include blood relationships without regard to legitimacy, stepchildren, and relationships of parent and child by adoption.

N.H. REV. STAT. ANN. § 632-A:3 (2011). FELONIOUS SEXUAL ASSAULT

A person is guilty of a class B felony if such person:

I. Subjects a person to sexual contact and causes serious personal injury to the victim under any of the circumstances named in RSA 632-A:2; or

II. Engages in sexual penetration with a person, other than his legal spouse, who is 13 years of age or older and under 16 years of age where the age difference between the actor and the other person is 4 years or more; or

III. Engages in sexual contact with a person other than his legal spouse who is under 13 years of age.

IV. (a) Engages in sexual contact with the person, or causes the person to engage in sexual contact on himself or herself in the presence of the actor, when the actor is in a position of authority over the person and uses that authority to coerce the victim to submit under any of the following circumstances:

(1) When the actor has direct supervisory or disciplinary authority over the victim by virtue of the victim being incarcerated in a correctional institution, the secure psychiatric unit, or juvenile detention facility where the actor is employed; or

(2) When the actor is a probation or parole officer or a juvenile probation and parole officer who has direct supervisory or disciplinary authority over the victim while the victim is on parole or probation or under juvenile probation.

(b) Consent of the victim under any of the circumstances set forth in this paragraph shall not be considered a defense.

(c) For the purposes of this paragraph, “sexual contact” means the intentional touching of the person’s sexual or intimate parts, including genitalia, anus, breasts, and buttocks, where such contact, or the causing of such contact,

can reasonably be construed as being for the purpose of sexual arousal or gratification of the person in the position of authority, or the humiliation of the person being touched.

N.H. REV. STAT. ANN. § 632-A:4 (2011). SEXUAL ASSAULT

I. A person is guilty of a class A misdemeanor under any of the following circumstances:

(a) When the actor subjects another person who is 13 years of age or older to sexual contact under any of the circumstances named in RSA 632-A:2.

(b) When the actor subjects another person, other than the actor's legal spouse, who is 13 years of age or older and under 16 years of age to sexual contact where the age difference between the actor and the other person is 5 years or more.

(c) In the absence of any of the circumstances set forth in RSA 632-A:2, when the actor engages in sexual penetration with a person, other than the actor's legal spouse, who is 13 years of age or older and under 16 years of age where the age difference between the actor and the other person is 4 years or less.

II. A person found guilty under subparagraph I(c) of this section shall not be required to register as a sexual offender under RSA 651-B.

III. (a) A person is guilty of a misdemeanor if such person engages in sexual contact or sexual penetration with another person, or causes the person to engage in sexual contact on himself or herself in the presence of the actor, when the actor is in a position of authority over the person under any of the following circumstances:

(1) When the actor has direct supervisory or disciplinary authority over the victim by virtue of the victim being incarcerated in a correctional institution, the secure psychiatric unit, or juvenile detention facility where the actor is employed; or

(2) When the actor is a probation or parole officer or a juvenile probation and parole officer who has direct supervisory or disciplinary authority over the victim while the victim is on parole or probation or under juvenile probation.

(b) Consent of the victim under any of the circumstances set forth in this paragraph shall not be considered a defense.

(c) For the purpose of this paragraph, “sexual contact” means the intentional touching of the person’s sexual or intimate parts, including genitalia, anus, breasts, and buttocks, where such contact, or the causing of such contact, can reasonably be construed as being for the purpose of sexual arousal or gratification of the person in the position of authority, or humiliation of the person being touched.

N.H. REV. STAT. ANN. § 632-A:5 (2011). SPOUSE AS VICTIM; EVIDENCE OF HUSBAND AND WIFE

An actor commits a crime under this chapter even though the victim is the actor's legal spouse. Laws attaching a privilege against the disclosure of communications between husband and wife are inapplicable to proceedings under this chapter.

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*Statute truncated due to size.

NEW JERSEY

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N.J. STAT. ANN. § 2C:14-5 (WEST 2011). PROVISIONS GENERALLY APPLICABLE TO CHAPTER 14

a. The prosecutor shall not be required to offer proof that the victim resisted, or resisted to the utmost, or reasonably resisted the sexual assault in any offense proscribed by this chapter.

b. No actor shall be presumed to be incapable of committing a crime under this chapter because of age or impotency or marriage to the victim.

c. It shall be no defense to a prosecution for a crime under this chapter that the actor believed the victim to be above the age stated for the offense, even if such a mistaken belief was reasonable.

N.J. STAT. ANN. § 2C:14-1 (WEST 2011). DEFINITIONS

The following definitions apply to this chapter:

a. “Actor” means a person accused of an offense proscribed under this act;

b. “Victim” means a person alleging to have been subjected to offenses proscribed by this act;

c. “Sexual penetration” means vaginal intercourse, cunnilingus, fellatio or anal intercourse between persons or insertion of the hand, finger or object into the anus or vagina either by the actor or upon the actor's instruction. The depth of insertion shall not be relevant as to the question of commission of the crime;

d. “Sexual contact” means an intentional touching by the victim or actor, either directly or through clothing, of the victim's or actor's intimate parts for the purpose of degrading or humiliating the victim or sexually arousing or sexually gratifying the actor. Sexual contact of the actor with himself must be in view of the victim whom the actor knows to be present;

e. “Intimate parts” means the following body parts: sexual organs, genital area, anal area, inner thigh, groin, buttock or breast of a person;

f. “Severe personal injury” means severe bodily injury, disfigurement, disease, incapacitating mental anguish or chronic pain;

*Statute truncated due to size.

g. "Physically helpless" means that condition in which a person is unconscious or is physically unable to flee or is physically unable to communicate unwillingness to act;

h. "Mentally defective" means that condition in which a person suffers from a mental disease or defect which renders that person temporarily or permanently incapable of understanding the nature of his conduct, including, but not limited to, being incapable of providing consent;

i. "Mentally incapacitated" means that condition in which a person is rendered temporarily incapable of understanding or controlling his conduct due to the influence of a narcotic, anesthetic, intoxicant, or other substance administered to that person without his prior knowledge or consent, or due to any other act committed upon that person which rendered that person incapable of appraising or controlling his conduct;

j. "Coercion" as used in this chapter shall refer to those acts which are defined as criminal coercion in section 2C:13-5(1), (2), (3), (4), (6) and (7).

N.J. STAT. ANN. § 2C:14-2 (WEST 2011). SEXUAL ASSAULT

a. An actor is guilty of aggravated sexual assault if he commits an act of sexual penetration with another person under any one of the following circumstances:

(1) The victim is less than 13 years old;

(2) The victim is at least 13 but less than 16 years old; and

(a) The actor is related to the victim by blood or affinity to the third degree, or

(b) The actor has supervisory or disciplinary power over the victim by virtue of the actor's legal, professional, or occupational status, or

(c) The actor is a resource family parent, a guardian, or stands in loco parentis within the household;

(3) The act is committed during the commission, or attempted commission, whether alone or with one or more other persons, of robbery, kidnapping, homicide, aggravated assault on another, burglary, arson or criminal escape;

(4) The actor is armed with a weapon or any object fashioned in such a manner as to lead the victim to reasonably believe it to be a weapon and threatens by word or gesture to use the weapon or object;

(5) The actor is aided or abetted by one or more other persons and the actor uses physical force or coercion;

(6) The actor uses physical force or coercion and severe personal injury is sustained by the victim;

(7) The victim is one whom the actor knew or should have known was physically helpless, mentally defective or mentally incapacitated.

Aggravated sexual assault is a crime of the first degree.

b. An actor is guilty of sexual assault if he commits an act of sexual contact with a victim who is less than 13 years old and the actor is at least four years older than the victim.

c. An actor is guilty of sexual assault if he commits an act of sexual penetration with another person under any one of the following circumstances:

*Statute truncated due to size.

(1) The actor uses physical force or coercion, but the victim does not sustain severe personal injury;

(2) The victim is on probation or parole, or is detained in a hospital, prison or other institution and the actor has supervisory or disciplinary power over the victim by virtue of the actor's legal, professional or occupational status;

(3) The victim is at least 16 but less than 18 years old and:

(a) The actor is related to the victim by blood or affinity to the third degree; or

(b) The actor has supervisory or disciplinary power of any nature or in any capacity over the victim; or

(c) The actor is a resource family parent, a guardian, or stands in loco parentis within the household;

(4) The victim is at least 13 but less than 16 years old and the actor is at least four years older than the victim.

Sexual assault is a crime of the second degree.

N.J. STAT. ANN. § 2C:14-3 (WEST 2011). CRIMINAL SEXUAL CONTACT

a. An actor is guilty of aggravated criminal sexual contact if he commits an act of sexual contact with the victim under any of the circumstances set forth in 2C:14-2a. (2) through (7).

Aggravated criminal sexual contact is a crime of the third degree.

b. An actor is guilty of criminal sexual contact if he commits an act of sexual contact with the victim under any of the circumstances set forth in section 2C:14-2c. (1) through (4).

Criminal sexual contact is a crime of the fourth degree.

N.J. STAT. ANN. § 2C:14-4 (WEST 2012). LEWDNESS

a. A person commits a disorderly persons offense if he does any flagrantly lewd and offensive act which he knows or reasonably expects is likely to be observed by other nonconsenting persons who would be affronted or alarmed.

b. A person commits a crime of the fourth degree if:

(1) He exposes his intimate parts for the purpose of arousing or gratifying the sexual desire of the actor or of any other person under circumstances where the actor knows or reasonably expects he is likely to be observed by a child who is less than 13 years of age where the actor is at least four years older than the child.

(2) He exposes his intimate parts for the purpose of arousing or gratifying the sexual desire of the actor or of any other person under circumstances where the actor knows or reasonably expects he is likely to be observed by a person who because of mental disease or defect is unable to understand the sexual nature of the actor's conduct.

c. As used in this section:
"lewd acts" shall include the exposing of the genitals for the purpose of arousing or gratifying the sexual desire of the actor or of any other person.

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NEW MEXICO

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N.M. STAT. ANN. § 30-9-10 (WEST 2010). DEFINITIONS

As used in Sections 30-9-10 through 30-9-16 NMSA1978:

A. "force or coercion" means:

(1) the use of physical force or physical violence;

(2) the use of threats to use physical violence or physical force against the victim or another when the victim believes that there is a present ability to execute the threats;

(3) the use of threats, including threats of physical punishment, kidnapping, extortion or retaliation directed against the victim or another when the victim believes that there is an ability to execute the threats;

(4) the perpetration of criminal sexual penetration or criminal sexual contact when the perpetrator knows or has reason to know that the victim is unconscious, asleep or otherwise physically helpless or suffers from a mental condition that renders the victim incapable of understanding the nature or consequences of the act; or

(5) the perpetration of criminal sexual penetration or criminal sexual contact by a psychotherapist on his patient, with or without the patient's consent, during the course of psychotherapy or within a period of one year following the termination of psychotherapy.

Physical or verbal resistance of the victim is not an element of force or coercion;

B. "great mental anguish" means psychological or emotional damage that requires psychiatric or psychological treatment or care, either on an inpatient or outpatient basis, and is characterized by extreme behavioral change or severe physical symptoms;

C. "patient" means a person who seeks or obtains psychotherapy;

D. "personal injury" means bodily injury to a lesser degree than great bodily harm and includes, but is not limited to, disfigurement, mental anguish, chronic or recurrent pain, pregnancy or disease or injury to a sexual or reproductive organ;

E. "position of authority" means that position occupied by a parent, relative, household member, teacher, employer or other person who, by reason of that position, is able to exercise undue influence over a child;

F. "psychotherapist" means a person who is or purports to be a:

(1) licensed physician who practices psychotherapy;

(2) licensed psychologist;

(3) licensed social worker;

(4) licensed nurse;

(5) counselor;

(6) substance abuse counselor;

(7) psychiatric technician;

(8) mental health worker;

(9) marriage and family therapist;

(10) hypnotherapist; or

(11) minister, priest, rabbi or other similar functionary of a religious organization acting in his role as a pastoral counselor;

G. "psychotherapy" means professional treatment or assessment of a mental or an emotional illness, symptom or condition;

H. "school" means any public or private school, including the New Mexico military institute, the New Mexico school for the blind and visually impaired, the New Mexico school for the deaf, the New Mexico boys' school, the New Mexico youth diagnostic and development center, the Los Lunas medical center, the Fort Stanton hospital, the New Mexico behavioral health institute at Las Vegas and the Carrie Tingley crippled children's hospital, that offers a program of instruction designed to educate a person in a particular place, manner and subject area. "School" does not include a college or university; and

I. "spouse" means a legal husband or wife, unless the couple is living apart or either husband or wife has filed for separate maintenance or divorce.

N.M. STAT. ANN. § 30-9-11 (WEST 2010). CRIMINAL SEXUAL PENETRATION

A. Criminal sexual penetration is the unlawful and intentional causing of a person to engage in sexual intercourse, cunnilingus, fellatio or anal intercourse or the causing of penetration, to any extent and with any object, of the genital or anal openings of another, whether or not there is any emission.

B. Criminal sexual penetration does not include medically indicated procedures.

C. Aggravated criminal sexual penetration consists of all criminal sexual penetration perpetrated on a child under thirteen years of age with an intent to kill or with a depraved mind regardless of human life. Whoever commits aggravated criminal sexual penetration is guilty of a first degree felony for aggravated criminal sexual penetration.

D. Criminal sexual penetration in the first degree consists of all criminal sexual penetration perpetrated:

(1) on a child under thirteen years of age; or

(2) by the use of force or coercion that results in great bodily harm or great mental anguish to the victim.

Whoever commits criminal sexual penetration in the first degree is guilty of a first degree felony.

E. Criminal sexual penetration in the second degree consists of all criminal sexual penetration perpetrated:

(1) by the use of force or coercion on a child thirteen to eighteen years of age;

(2) on an inmate confined in a correctional facility or jail when the perpetrator is in a position of authority over the inmate;

(3) by the use of force or coercion that results in personal injury to the victim;

(4) by the use of force or coercion when the perpetrator is aided or abetted by one or more persons;

(5) in the commission of any other felony; or

(6) when the perpetrator is armed with a deadly weapon.

Whoever commits criminal sexual penetration in the second degree is guilty of a second degree felony. Whoever commits criminal sexual penetration in the second degree when the victim is a child who is thirteen to eighteen years of age is guilty of a second degree felony for a sexual offense against a child and, notwithstanding the provisions of Section 31-18-15 NMSA 1978, shall be sentenced to a minimum term of imprisonment of three years, which shall not be suspended or deferred. The imposition of a minimum, mandatory term of imprisonment pursuant to the provisions of this subsection shall not be interpreted to preclude the imposition of sentencing enhancements pursuant to the provisions of the Criminal Sentencing Act.

F. Criminal sexual penetration in the third degree consists of all criminal sexual penetration perpetrated through the use of force or coercion not otherwise specified in this section.

Whoever commits criminal sexual penetration in the third degree is guilty of a third degree felony.

G. Criminal sexual penetration in the fourth degree consists of all criminal sexual penetration:

(1) not defined in Subsections D through F of this section perpetrated on a child thirteen to sixteen years of age when the perpetrator is at least eighteen years of age and is at least four years older than the child and not the spouse of that child; or

(2) perpetrated on a child thirteen to eighteen years of age when the perpetrator, who is a licensed school employee, an unlicensed school employee, a school contract employee, a school health service provider or a school volunteer, and who is at least eighteen years of age and is at least four years older than the child and not the spouse of that child, learns while performing services in or for a school that the child is a student in a school.

Whoever commits criminal sexual penetration in the fourth degree is guilty of a fourth degree felony.

N.M. STAT. ANN. § 30-9-12 (WEST 2010). CRIMINAL SEXUAL CONTACT

A. Criminal sexual contact is the unlawful and intentional touching of or application of force, without consent, to the unclothed intimate parts of another who has reached his eighteenth birthday, or intentionally causing another who has reached his eighteenth birthday to touch one's intimate parts.

B. Criminal sexual contact does not include touching by a psychotherapist on his patient that is:

(1) inadvertent;

(2) casual social contact not intended to be sexual in nature; or

(3) generally recognized by mental health professionals as being a legitimate element of psychotherapy.

C. Criminal sexual contact in the fourth degree consists of all criminal sexual contact perpetrated:

(1) by the use of force or coercion that results in personal injury to the victim;

(2) by the use of force or coercion when the perpetrator is aided or abetted by one or more persons; or

(3) when the perpetrator is armed with a deadly weapon.

Whoever commits criminal sexual contact in the fourth degree is guilty of a fourth degree felony.

D. Criminal sexual contact is a misdemeanor when perpetrated with the use of force or coercion.

E. For the purposes of this section, "intimate parts" means the primary genital area, groin, buttocks, anus or breast.

N.M. STAT. ANN. § 30-9-14 (WEST 2012). INDECENT EXPOSURE

A. Indecent exposure consists of a person knowingly and intentionally exposing his primary genital area to public view.

B. As used in this section, "primary genital area" means the mons pubis, penis, testicles, mons veneris, vulva or vagina.

C. Whoever commits indecent exposure is guilty of a misdemeanor.

D. In addition to any punishment provided pursuant to the provisions of this section, the court shall order a person convicted for committing indecent exposure to participate in and complete a program of professional counseling at his own expense.

SEE ALSO, N.M. STAT. ANN. § 30-9-14.1 (WEST 2012). INDECENT DANCING AND N.M. STAT. ANN. § 30-9-14.2 (WEST 20120). INDECENT WAITERING

N.M. STAT. ANN. § 30-9-14.3 (WEST 2012). AGGRAVATED INDECENT EXPOSURE

A. Aggravated indecent exposure consists of a person knowingly and intentionally exposing his primary genital area to public view in a lewd and lascivious manner, with the intent to threaten or intimidate another person, while committing one or more of the following acts or criminal offenses:

(1) exposure to a child less than eighteen years of age;

(2) assault, as provided in Section 30-3-1 NMSA 1978;

(3) aggravated assault, as provided in Section 30-3-2 NMSA 1978;

(4) assault with intent to commit a violent felony, as provided in Section 30-3-3 NMSA 1978;

(5) battery, as provided in Section 30-3-4 NMSA 1978;

(6) aggravated battery, as provided in Section 30-3-5 NMSA 1978;

(7) criminal sexual penetration, as provided in Section 30-9-11 NMSA 1978; or

(8) abuse of a child, as provided in Section 30-6-1 NMSA 1978.

B. As used in this section, "primary genital area" means the mons pubis, penis, testicles, mons veneris, vulva or vagina.

C. Whoever commits aggravated indecent exposure is guilty of a fourth degree felony.

D. In addition to any punishment provided pursuant to the provisions of this section, the court shall order a person convicted for committing aggravated indecent exposure to participate in and complete a program of professional counseling at his own expense.

N.M. STAT. ANN. § 30-10-3 (WEST 2010). INCEST

Incest consists of knowingly intermarrying or having sexual intercourse with persons within the following degrees of consanguinity: parents and children including grandparents and grandchildren of every degree, brothers and sisters of the half as well as of the whole blood, uncles and nieces, aunts and nephews.
Whoever commits incest is guilty of a third degree felony.

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NEW YORK

CHARTS	PENETRATION	FORCE	CAPACITY TO CONSENT	VICTIM PERPETRATOR RELATIONSHIP	OTHER SEX CRIMES
CONSENT ANALYSIS	ALCOHOL/DRUG FACILITATED SEXUAL ASSAULT	MARITAL RAPE	SAME SEX PERPETRATOR	STATUTORY RAPE	CONSTRUCTIVE FORCE

N.Y. PENAL LAW § 130.00 (MCKINNEY 2011). SEX OFFENSES; DEFINITIONS OF TERMS

The following definitions are applicable to this article:

1. "Sexual intercourse" has its ordinary meaning and occurs upon any penetration, however slight.

2. (a) "Oral sexual conduct" means conduct between persons consisting of contact between the mouth and the penis, the mouth and the anus, or the mouth and the vulva or vagina.

(b) "Anal sexual conduct" means conduct between persons consisting of contact between the penis and anus.

3. "Sexual contact" means any touching of the sexual or other intimate parts of a person for the purpose of gratifying sexual desire of either party. It includes the touching of the actor by the victim, as well as the touching of

the victim by the actor, whether directly or through clothing, as well as the emission of ejaculate by the actor upon any part of the victim, clothed or unclothed.

4. For the purposes of this article "married" means the existence of the relationship between the actor and the victim as spouses which is recognized by law at the time the actor commits an offense proscribed by this article against the victim.

5. "Mentally disabled" means that a person suffers from a mental disease or defect which renders him or her incapable of appraising the nature of his or her conduct.

6. "Mentally incapacitated" means that a person is rendered temporarily incapable of appraising or controlling his conduct owing to the influence of a narcotic or intoxicating substance administered to him without his consent, or to any other act committed upon him without his consent.

7. "Physically helpless" means that a person is unconscious or for any other reason is physically unable to communicate unwillingness to an act.

8. "Forcible compulsion" means to compel by either:

a. use of physical force; or

b. a threat, express or implied, which places a person in fear of immediate death or physical injury to himself, herself or another person, or in fear that he, she or another person will immediately be kidnapped.

9. "Foreign object" means any instrument or article which, when inserted in the vagina, urethra, penis, rectum or anus, is capable of causing physical injury.

10. "Sexual conduct" means sexual intercourse, oral sexual conduct, anal sexual conduct, aggravated sexual contact, or sexual contact.

11. "Aggravated sexual contact" means inserting, other than for a valid medical purpose, a foreign object in the vagina, urethra, penis, rectum or anus of a child, thereby causing physical injury to such child.

12. "Health care provider" means any person who is, or is required to be, licensed or registered or holds himself or herself out to be licensed or registered, or provides services as if he or she were licensed or registered in the profession of medicine, chiropractic, dentistry or podiatry under any of the following: article one hundred thirty-one, one hundred thirty-two, one hundred thirty-three, or one hundred forty-one of the education law.

13. "Mental health care provider" shall mean a licensed physician, licensed psychologist, registered professional nurse, licensed clinical social worker or a licensed master social worker under the supervision of a physician, psychologist or licensed clinical social worker.

N.Y. PENAL LAW § 130.05 (MCKINNEY 2011). SEX OFFENSES; LACK OF CONSENT

1. Whether or not specifically stated, it is an element of every offense defined in this article that the sexual act was committed without consent of the victim.

2. Lack of consent results from:

(a) Forcible compulsion; or

(b) Incapacity to consent; or

(c) Where the offense charged is sexual abuse or forcible touching, 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; or

(d) Where the offense charged is rape in the third degree as defined in subdivision three of section 130.25, or criminal sexual act in the third degree as defined in subdivision three of section 130.40, in addition to forcible compulsion, circumstances under which, at the time of the act of intercourse, oral sexual conduct or anal sexual conduct, the victim clearly expressed that he or she did not consent to engage in such act, and a reasonable person in the actor's situation would have understood such person's words and acts as an expression of lack of consent to such act under all the circumstances.

3. A person is deemed incapable of consent when he or she is:

(a) less than seventeen years old; or

(b) mentally disabled; or

(c) mentally incapacitated; or

(d) physically helpless; or

(e) committed to the care and custody of the state department of correctional services or a hospital, as such term is defined in subdivision two of section four hundred of the correction law, and the actor is an employee, not married to such person, who knows or reasonably should know that such person is committed to the care and custody of such department or hospital. For purposes of this paragraph, "employee" means (i) an employee of the state department of correctional services who performs professional duties in a state correctional facility consisting of providing custody, medical or mental health services, counseling services, educational programs, or vocational training for inmates;

(ii) an employee of the division of parole who performs professional duties in a state correctional facility and who provides institutional parole services pursuant tosection two hundred fifty-nine-e of the executive law; or

(iii) an employee of the office of mental health who performs professional duties in a state correctional facility or hospital, as such term is defined in subdivision two of section four hundred of the correction law, consisting of providing custody, or medical or mental health services for such inmates; or

(iv) a person, including a volunteer, providing direct services to inmates in the state correctional facility in which the victim is confined at the time of the offense pursuant to a contractual arrangement with the state department of correctional services or, in the case of a volunteer, a written agreement with such department, provided that the person received written notice concerning the provisions of this paragraph; or

(f) committed to the care and custody of a local correctional facility, as such term is defined insubdivision two of section forty of the correction law, and the actor is an employee, not married to such person, who knows or reasonably should know that such person is committed to the care and custody of such facility. For purposes of this paragraph, "employee" means an employee of the local correctional facility where the person is committed who performs professional duties consisting of providing custody, medical or mental health services, counseling services, educational services, or vocational training for inmates. For purposes of this paragraph, "employee" shall also mean a person, including a volunteer or a government employee of the state division of parole or a local health, education or probation agency, providing direct services to inmates in the local correctional facility in which the victim is confined at the time of the offense pursuant to a contractual arrangement with the local correctional department or, in the case of such a volunteer or government employee, a written agreement with

such department, provided that such person received written notice concerning the provisions of this paragraph; or

(g) committed to or placed with the office of children and family services and in residential care, and the actor is an employee, not married to such person, who knows or reasonably should know that such person is committed to or placed with such office of children and family services and in residential care. For purposes of this paragraph, "employee" means an employee of the office of children and family services or of a residential facility who performs duties consisting of providing custody, medical or mental health services, counseling services, educational services, or vocational training for persons committed to or placed with the office of children and family services and in residential care; or

(h) a client or patient and the actor is a health care provider or mental health care provider charged with rape in the third degree as defined in section 130.25, criminal sexual act in the third degree as defined insection 130.40, aggravated sexual abuse in the fourth degree as defined in section 130.65-a, or sexual abuse in the third degree as defined in section 130.55, and the act of sexual conduct occurs during a treatment session, consultation, interview, or examination.

N.Y. PENAL LAW § 130.10 (MCKINNEY 2011). SEX OFFENSES; LIMITATION; DEFENSES

1. In any prosecution under this article in which the victim's lack of consent is based solely upon his or her incapacity to consent because he or she was mentally disabled, mentally incapacitated or physically helpless, it is an affirmative defense that the defendant, at the time he or she engaged in the conduct constituting the offense, did not know of the facts or conditions responsible for such incapacity to consent.

2. Conduct performed for a valid medical or mental health care purpose shall not constitute a violation of any section of this article in which incapacity to consent is based on the circumstances set forth in paragraph (h) of subdivision three of section 130.05 of this article.

3. In any prosecution for the crime of rape in the third degree as defined in section 130.25, criminal sexual act in the third degree as defined in section 130.40, aggravated sexual abuse in the fourth degree as defined in section 130.65-a, or sexual abuse in the third degree as defined in section 130.55 in which incapacity to consent is based on the circumstances set forth in paragraph (h) of subdivision three of section 130.05 of this article it shall be an affirmative defense that the client or patient consented to such conduct charged after having been expressly advised by the health care or mental health care provider that such conduct was not performed for a valid medical purpose.

4. In any prosecution under this article in which the victim's lack of consent is based solely on his or her incapacity to consent because he or she was less than seventeen years old, mentally disabled, or a client or patient and the actor is a health care provider, it shall be a defense that the defendant was married to the victim as defined in subdivision four of section 130.00 of this article.

N.Y. PENAL LAW § 130.16 (MCKINNEY 2011). SEX OFFENSES; CORROBORATION

A person shall not be convicted of any offense defined in this article of which lack of consent is an element but results solely from incapacity to consent because of the victim's mental defect, or mental incapacity, or an attempt to commit the same, solely on the testimony of the victim, unsupported by other evidence tending to:

(a) Establish that an attempt was made to engage the victim in sexual intercourse, oral sexual conduct, anal sexual conduct, or sexual contact, as the case may be, at the time of the occurrence; and

(b) Connect the defendant with the commission of the offense or attempted offense.

N.Y. PENAL LAW § 130.20 (MCKINNEY 2011). SEXUAL MISCONDUCT

A person is guilty of sexual misconduct when:

1. He or she engages in sexual intercourse with another person without such person's consent; or

2. He or she engages in oral sexual conduct or anal sexual conduct with another person without such person's consent; or

3. He or she engages in sexual conduct with an animal or a dead human body.

Sexual misconduct is a class A misdemeanor.

N.Y. PENAL LAW § 130.25 (MCKINNEY 2011). RAPE IN THE THIRD DEGREE

A person is guilty of rape in the third degree when:

1. He or she engages in sexual intercourse with another person who is incapable of consent by reason of some factor other than being less than seventeen years old;

2. Being twenty-one years old or more, he or she engages in sexual intercourse with another person less than seventeen years old; or

3. He or she engages in sexual intercourse with another person without such person's consent where such lack of consent is by reason of some factor other than incapacity to consent.

Rape in the third degree is a class E felony.

N.Y. PENAL LAW § 130.30 (MCKINNEY 2011). RAPE IN THE SECOND DEGREE

A person is guilty of rape in the second degree when:

1. being eighteen years old or more, he or she engages in sexual intercourse with another person less than fifteen years old; or

2. he or she engages in sexual intercourse with another person who is incapable of consent by reason of being mentally disabled or mentally incapacitated.

It shall be an affirmative defense to the crime of rape in the second degree as defined in subdivision one of this section that the defendant was less than four years older than the victim at the time of the act.

Rape in the second degree is a class D felony.

N.Y. PENAL LAW § 130.35 (MCKINNEY 2011). RAPE IN THE FIRST DEGREE

A person is guilty of rape in the first degree when he or she engages in sexual intercourse with another person:

1. By forcible compulsion; or

2. Who is incapable of consent by reason of being physically helpless; or

3. Who is less than eleven years old; or

4. Who is less than thirteen years old and the actor is eighteen years old or more.

Rape in the first degree is a class B felony.

N.Y. PENAL LAW § 130.40 (MCKINNEY 2011). CRIMINAL SEXUAL ACT IN THE THIRD DEGREE

A person is guilty of criminal sexual act in the third degree when:

1. He or she engages in oral sexual conduct or anal sexual conduct with a person who is incapable of consent by reason of some factor other than being less than seventeen years old;

2. Being twenty-one years old or more, he or she engages in oral sexual conduct or anal sexual conduct with a person less than seventeen years old; or

3. He or she engages in oral sexual conduct or anal sexual conduct with another person without such person's consent where such lack of consent is by reason of some factor other than incapacity to consent.

Criminal sexual act in the third degree is a class E felony.

N.Y. PENAL LAW § 130.45 (MCKINNEY 2011). CRIMINAL SEXUAL ACT IN THE SECOND DEGREE

A person is guilty of criminal sexual act in the second degree when:

1. being eighteen years old or more, he or she engages in oral sexual conduct or anal sexual conduct with another person less than fifteen years old; or

2. he or she engages in oral sexual conduct or anal sexual conduct with another person who is incapable of consent by reason of being mentally disabled or mentally incapacitated.

It shall be an affirmative defense to the crime of criminal sexual act in the second degree as defined in subdivision one of this section that the defendant was less than four years older than the victim at the time of the act.

Criminal sexual act in the second degree is a class D felony.

N.Y. PENAL LAW § 130.50 (MCKINNEY 2011). CRIMINAL SEXUAL ACT IN THE FIRST DEGREE

A person is guilty of criminal sexual act in the first degree when he or she engages in oral sexual conduct or anal sexual conduct with another person:

1. By forcible compulsion; or

2. Who is incapable of consent by reason of being physically helpless; or

3. Who is less than eleven years old; or

4. Who is less than thirteen years old and the actor is eighteen years old or more.

Criminal sexual act in the first degree is a class B felony.

N.Y. PENAL LAW § 130.52 (MCKINNEY 2011). FORCIBLE TOUCHING

A person is guilty of forcible touching when such person intentionally, and for no legitimate purpose, forcibly touches the sexual or other intimate parts of another person for the purpose of degrading or abusing such person; or for the purpose of gratifying the actor's sexual desire.

For the purposes of this section, forcible touching includes squeezing, grabbing or pinching.

Forcible touching is a class A misdemeanor.

N.Y. PENAL LAW § 130.53 (MCKINNEY 2011). PERSISTENT SEXUAL ABUSE

A person is guilty of persistent sexual abuse when he or she commits the crime of forcible touching, as defined insection 130.52 of this article, sexual abuse in the third degree, as defined in section 130.55 of this article, or sexual abuse in the second degree, as defined in section 130.60 of this article, and, within the previous ten year period, has been convicted two or more times, in separate criminal transactions for which sentence was imposed on separate occasions, of forcible touching, as defined in section 130.52 of this article, sexual abuse in the third degree as defined in section 130.55 of this article, sexual abuse in the second degree, as defined in section 130. 60 of this article, or any offense defined in this article, of which the commission or attempted commission thereof is a felony.

Persistent sexual abuse is a class E felony.

N.Y. PENAL LAW § 130.55 (MCKINNEY 2011). SEXUAL ABUSE IN THE THIRD DEGREE

A person is guilty of sexual abuse in the third degree when he or she subjects another person to sexual contact without the latter's consent; except that in any prosecution under this section, it is an affirmative defense that (a) such other person's lack of consent was due solely to incapacity to consent by reason of being less than seventeen years old, and (b) such other person was more than fourteen years old, and (c) the defendant was less than five years older than such other person.

Sexual abuse in the third degree is a class B misdemeanor.

N.Y. PENAL LAW § 130.60 (MCKINNEY 2011). SEXUAL ABUSE IN THE SECOND DEGREE

A person is guilty of sexual abuse in the second degree when he or she subjects another person to sexual contact and when such other person is:

1. Incapable of consent by reason of some factor other than being less than seventeen years old; or

2. Less than fourteen years old.

Sexual abuse in the second degree is a class A misdemeanor.

N.Y. PENAL LAW § 130.65 (MCKINNEY 2011). SEXUAL ABUSE IN THE FIRST DEGREE

A person is guilty of sexual abuse in the first degree when he or she subjects another person to sexual contact:

1. By forcible compulsion; or

2. When the other person is incapable of consent by reason of being physically helpless; or

3. When the other person is less than eleven years old.

Sexual abuse in the first degree is a class D felony.

<Amended § 130.65, effective November 1, 2011>

§ 130.65 Sexual abuse in the first degree

A person is guilty of sexual abuse in the first degree when he or she subjects another person to sexual contact:

1. By forcible compulsion; or

2. When the other person is incapable of consent by reason of being physically helpless; or

3. When the other person is less than eleven years old; or

4. When the other person is less than thirteen years old and the actor is twenty-one years old or older.

Sexual abuse in the first degree is a class D felony.

N.Y. PENAL LAW § 130.65-A (MCKINNEY 2011). AGGRAVATED SEXUAL ABUSE IN THE FOURTH DEGREE

1. A person is guilty of aggravated sexual abuse in the fourth degree when:

(a) He or she inserts a foreign object in the vagina, urethra, penis, rectum or anus of another person and the other person is incapable of consent by reason of some factor other than being less than seventeen years old; or

(b) He or she inserts a finger in the vagina, urethra, penis, rectum or anus of another person causing physical injury to such person and such person is incapable of consent by reason of some factor other than being less than seventeen years old.

2. Conduct performed for a valid medical purpose does not violate the provisions of this section.

Aggravated sexual abuse in the fourth degree is a class E felony.

*Statute truncated due to size.

N.Y. PENAL LAW § 130.66 (MCKINNEY 2011). AGGRAVATED SEXUAL ABUSE IN THE THIRD DEGREE

1. A person is guilty of aggravated sexual abuse in the third degree when he or she inserts a foreign object in the vagina, urethra, penis, rectum or anus of another person:

(a) By forcible compulsion; or

(b) When the other person is incapable of consent by reason of being physically helpless; or

(c) When the other person is less than eleven years old.

2. A person is guilty of aggravated sexual abuse in the third degree when he or she inserts a foreign object in the vagina, urethra, penis, rectum or anus of another person causing physical injury to such person and such person is incapable of consent by reason of being mentally disabled or mentally incapacitated.

3. Conduct performed for a valid medical purpose does not violate the provisions of this section.

Aggravated sexual abuse in the third degree is a class D felony.

N.Y. PENAL LAW § 130.67 (MCKINNEY 2011). AGGRAVATED SEXUAL ABUSE IN THE SECOND DEGREE

1. A person is guilty of aggravated sexual abuse in the second degree when he or she inserts a finger in the vagina, urethra, penis, rectum or anus of another person causing physical injury to such person:

(a) By forcible compulsion; or

(b) When the other person is incapable of consent by reason of being physically helpless; or

(c) When the other person is less than eleven years old.

2. Conduct performed for a valid medical purpose does not violate the provisions of this section.

Aggravated sexual abuse in the second degree is a class C felony.

N.Y. PENAL LAW § 130.70 (MCKINNEY 2011). AGGRAVATED SEXUAL ABUSE IN THE FIRST DEGREE

1. A person is guilty of aggravated sexual abuse in the first degree when he or she inserts a foreign object in the vagina, urethra, penis, rectum or anus of another person causing physical injury to such person:

(a) By forcible compulsion; or

(b) When the other person is incapable of consent by reason of being physically helpless; or

(c) When the other person is less than eleven years old.

2. Conduct performed for a valid medical purpose does not violate the provisions of this section.
Aggravated sexual abuse in the first degree is a class B felony.

N.Y. PENAL LAW § 130.90 (MCKINNEY 2011). FACILITATING A SEX OFFENSE WITH A CONTROLLED SUBSTANCE

A person is guilty of facilitating a sex offense with a controlled substance when he or she:

1. knowingly and unlawfully possesses a controlled substance or any preparation, compound, mixture or substance that requires a prescription to obtain and administers such substance or preparation, compound, mixture or substance that requires a prescription to obtain to another person without such person's consent and with intent to commit against such person conduct constituting a felony defined in this article; and

2. commits or attempts to commit such conduct constituting a felony defined in this article.

Facilitating a sex offense with a controlled substance is a class D felony.

N.Y. PENAL LAW § 130.91 (MCKINNEY 2011). SEXUALLY MOTIVATED FELONY

1. A person commits a sexually motivated felony when he or she commits a specified offense for the purpose, in whole or substantial part, of his or her own direct sexual gratification.

2. A "specified offense" is a felony offense defined by any of the following provisions of this chapter: assault in the second degree as defined in section 120.05, assault in the first degree as defined in section 120.10, gang assault in the second degree as defined in section 120.06, gang assault in the first degree as defined in section 120.07, stalking in the first degree as defined in section 120.60, strangulation in the second degree as defined in section 121.12, strangulation in the first degree as defined in section 121.13, manslaughter in the second degree as defined in subdivision one of section 125.15, manslaughter in the first degree as defined in section 125.20, murder in the second degree as defined in section 125.25, aggravated murder as defined in section 125.26, murder in the first degree as defined in section 125.27, kidnapping in the second degree as defined in section 135.20, kidnapping in the first degree as defined in section 135.25, burglary in the third degree as defined in section 140.20, burglary in the second degree as defined in section 140.25, burglary in the first degree as defined in section 140.30, arson in the second degree as defined in section 150.15, arson in the first degree as defined in section 150.20, robbery in the third degree as defined in section 160.05, robbery in the second degree as defined in section 160.10, robbery in the first degree as defined in section 160.15, promoting prostitution in the second degree as defined in section 230.30, promoting prostitution in the first degree as defined in section 230.32, compelling prostitution as defined in section 230.33, disseminating indecent material to minors in the first degree as defined in section 235.22, use of a child in a sexual performance as defined in section 263.05, promoting an obscene sexual performance by a child as defined in section 263.10, promoting a sexual performance by a child as defined in section 263.15, or any felony attempt or conspiracy to commit any of the foregoing offenses.

N.Y. PENAL LAW § 130.95 (MCKINNEY 2011). PREDATORY SEXUAL ASSAULT

A person is guilty of predatory sexual assault when he or she commits the crime of rape in the first degree, criminal sexual act in the first degree, aggravated sexual abuse in the first degree, or course of sexual conduct against a child in the first degree, as defined in this article, and when:

1. In the course of the commission of the crime or the immediate flight therefrom, he or she:

(a) Causes serious physical injury to the victim of such crime; or

(b) Uses or threatens the immediate use of a dangerous instrument; or

2. He or she has engaged in conduct constituting the crime of rape in the first degree, criminal sexual act in the first degree, aggravated sexual abuse in the first degree, or course of sexual conduct against a child in the first degree, as defined in this article, against one or more additional persons; or

3. He or she has previously been subjected to a conviction for a felony defined in this article, incest as defined in section 255.25 of this chapter or use of a child in a sexual performance as defined in section 263.05 of this chapter.

Predatory sexual assault is a class A-II felony.

N.Y. PENAL LAW § 245.00 (MCKINNEY 2012). PUBLIC LEWDNESS

A person is guilty of public lewdness when he intentionally exposes the private or intimate parts of his body in a lewd manner or commits any other lewd act (a) in a public place, or (b) in private premises under circumstances in which he may readily be observed from either a public place or from other private premises, and with intent that he be so observed.
Public lewdness is a class B misdemeanor.

N.Y. PENAL LAW § 245.01 (MCKINNEY 2012). EXPOSURE OF A PERSON

A person is guilty of exposure if he appears in a public place in such a manner that the private or intimate parts of his body are unclothed or exposed. For purposes of this section, the private or intimate parts of a female person shall include that portion of the breast which is below the top of the areola. This section shall not apply to the breastfeeding of infants or to any person entertaining or performing in a play, exhibition, show or entertainment.
Exposure of a person is a violation.

Nothing in this section shall prevent the adoption by a city, town or village of a local law prohibiting exposure of a person as herein defined in a public place, at any time, whether or not such person is entertaining or performing in a play, exhibition, show or entertainment.

N.Y. PENAL LAW § 245.02 (MCKINNEY 2012). PROMOTING THE EXPOSURE OF A PERSON

A person is guilty of promoting the exposure of a person when he knowingly conducts, maintains, owns, manages, operates or furnishes any public premise or place where a person in a public place appears in such a manner that the private or intimate parts of his body are unclothed or exposed. For purposes of this section, the private or intimate parts of a female person shall include that portion of the breast which is below the top of the areola. This section shall not apply to the breastfeeding of infants or to any person entertaining or performing in a play, exhibition, show or entertainment.

Promoting the exposure of a person is a violation. Nothing in this section shall prevent the adoption by a city, town or village of a local law prohibiting the exposure of a person substantially as herein defined in a public place, at any time, whether or not such person is entertaining or performing in a play, exhibition, show or entertainment.

*Statute truncated due to size.

N.Y. PENAL LAW § 255.25 (MCKINNEY 2011). INCEST IN THE THIRD DEGREE

A person is guilty of incest in the third degree when he or she marries or engages in sexual intercourse, oral sexual conduct or anal sexual conduct with a person whom he or she knows to be related to him or her, whether through marriage or not, as an ancestor, descendant, brother or sister of either the whole or the half blood, uncle, aunt, nephew or niece.

Incest in the third degree is a class E felony.

N.Y. PENAL LAW § 255.26 (MCKINNEY 2011). INCEST IN THE SECOND DEGREE

A person is guilty of incest in the second degree when he or she commits the crime of rape in the second degree, as defined in section 130.30 of this part, or criminal sexual act in the second degree, as defined in section 130.45 of this part, against a person whom he or she knows to be related to him or her, whether through marriage or not, as an ancestor, descendant, brother or sister of either the whole or the half blood, uncle, aunt, nephew or niece. Incest in the second degree is a class D felony.

N.Y. PENAL LAW § 255.27 (MCKINNEY 2011). INCEST IN THE FIRST DEGREE

A person is guilty of incest in the first degree when he or she commits the crime of rape in the first degree, as defined in subdivision three or four of section 130.35 of this part, or criminal sexual act in the first degree, as defined in subdivision three or four of section 130.50 of this part, against a person whom he or she knows to be related to him or her, whether through marriage or not, as an ancestor, descendant, brother or sister of either the whole or half blood, uncle, aunt, nephew or niece.

Incest in the first degree is a class B felony.

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NORTH CAROLINA

CHARTS	PENETRATION	FORCE	CAPACITY TO CONSENT	VICTIM PERPETRATOR RELATIONSHIP	OTHER SEX CRIMES
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N.C. GEN. STAT. ANN. § 14-27.1 (WEST 2011). DEFINITIONS

As used in this Article, unless the context requires otherwise:

(1) "Mentally disabled" means (i) a victim who suffers from mental retardation, or (ii) a victim who suffers from a mental disorder, either of which temporarily or permanently renders the victim substantially incapable of appraising the nature of his or her conduct, or of resisting the act of vaginal intercourse or a sexual act, or of communicating unwillingness to submit to the act of vaginal intercourse or a sexual act.

(2) "Mentally incapacitated" means a victim who due to any act committed upon the victim is rendered substantially incapable of either appraising the nature of his or her conduct, or resisting the act of vaginal intercourse or a sexual act.

(3) "Physically helpless" means (i) a victim who is unconscious; or (ii) a victim who is physically unable to resist an act of vaginal intercourse or a sexual act or communicate unwillingness to submit to an act of vaginal intercourse or a sexual act.

(4) "Sexual act" means cunnilingus, fellatio, analingus, or anal intercourse, but does not include vaginal intercourse. Sexual act also means the penetration, however slight, by any object into the genital or anal opening of another person's body: provided, that it shall be an affirmative defense that the penetration was for accepted medical purposes.

(5) "Sexual contact" means (i) touching the sexual organ, anus, breast, groin, or buttocks of any person, (ii) a person touching another person with their own sexual organ, anus, breast, groin, or buttocks, or (iii) a person ejaculating, emitting, or placing semen, urine, or feces upon any part of another person.

(6) "Touching" as used in subdivision (5) of this section, means physical contact with another person, whether accomplished directly, through the clothing of the person committing the offense, or through the clothing of the victim.

N.C. GEN. STAT. ANN. § 14-27.2 (WEST 2011). FIRST-DEGREE RAPE

(a) A person is guilty of rape in the first degree if the person engages in vaginal intercourse:

(1) With a victim who is a child under the age of 13 years and the defendant is at least 12 years old and is at least four years older than the victim; or

(2) With another person by force and against the will of the other person, and:

a. Employs or displays a dangerous or deadly weapon or an article which the other person reasonably believes to be a dangerous or deadly weapon; or

b. Inflicts serious personal injury upon the victim or another person; or

c. The person commits the offense aided and abetted by one or more other persons.

(b) Any person who commits an offense defined in this section is guilty of a Class B1 felony.

(c) Upon conviction, a person convicted under this section has no rights to custody of or rights of inheritance from any child born as a result of the commission of the rape, nor shall the person have any rights related to the child under Chapter 48 or Subchapter 1 of Chapter 7B of the General Statutes.

N.C. GEN. STAT. ANN. § 14-27.3 (WEST 2011). SECOND-DEGREE RAPE

(a) A person is guilty of rape in the second degree if the person engages in vaginal intercourse with another person:

(1) By force and against the will of the other person; or

(2) Who is mentally disabled, mentally incapacitated, or physically helpless, and the person performing the act knows or should reasonably know the other person is mentally disabled, mentally incapacitated, or physically helpless.

*Statute truncated due to size.

(b) Any person who commits the offense defined in this section is guilty of a Class C felony.

(c) Upon conviction, a person convicted under this section has no rights to custody of or rights of inheritance from any child conceived during the commission of the rape, nor shall the person have any rights related to the child under Chapter 48 or Subchapter 1 of Chapter 7B of the General Statutes.

N.C. GEN. STAT. ANN. § 14-27.4 (WEST 2011). FIRST-DEGREE SEXUAL OFFENSE

(a) A person is guilty of a sexual offense in the first degree if the person engages in a sexual act:

(1) With a victim who is a child under the age of 13 years and the defendant is at least 12 years old and is at least four years older than the victim; or

(2) With another person by force and against the will of the other person, and:

a. Employs or displays a dangerous or deadly weapon or an article which the other person reasonably believes to be a dangerous or deadly weapon; or

b. Inflicts serious personal injury upon the victim or another person; or

c. The person commits the offense aided and abetted by one or more other persons.

(b) Any person who commits an offense defined in this section is guilty of a Class B1 felony.

N.C. GEN. STAT. ANN. § 14-27.5 (WEST 2011). SECOND-DEGREE SEXUAL OFFENSE

(a) A person is guilty of a sexual offense in the second degree if the person engages in a sexual act with another person:

(1) By force and against the will of the other person; or

(2) Who is mentally disabled, mentally incapacitated, or physically helpless, and the person performing the act knows or should reasonably know that the other person is mentally disabled, mentally incapacitated, or physically helpless.

(b) Any person who commits the offense defined in this section is guilty of a Class C felony.

N.C. GEN. STAT. ANN. § 14-27.5A (WEST 2011). SEXUAL BATTERY

(a) A person is guilty of sexual battery if the person, for the purpose of sexual arousal, sexual gratification, or sexual abuse, engages in sexual contact with another person:

(1) By force and against the will of the other person; or

(2) Who is mentally disabled, mentally incapacitated, or physically helpless, and the person performing the act knows or should reasonably know that the other person is mentally disabled, mentally incapacitated, or physically helpless.

(b) Any person who commits the offense defined in this section is guilty of a Class A1 misdemeanor.

*Statute truncated due to size.

N.C. GEN. STAT. ANN. § 14-27.7 (WEST 2011). INTERCOURSE AND SEXUAL OFFENSES WITH CERTAIN VICTIMS; CONSENT NO DEFENSE

(a) If a defendant who has assumed the position of a parent in the home of a minor victim engages in vaginal intercourse or a sexual act with a victim who is a minor residing in the home, or if a person having custody of a victim of any age or a person who is an agent or employee of any person, or institution, whether such institution is private, charitable, or governmental, having custody of a victim of any age engages in vaginal intercourse or a sexual act with such victim, the defendant is guilty of a Class E felony. Consent is not a defense to a charge under this section.

(b) If a defendant, who is a teacher, school administrator, student teacher, school safety officer, or coach, at any age, or who is other school personnel, and who is at least four years older than the victim engages in vaginal intercourse or a sexual act with a victim who is a student, at any time during or after the time the defendant and victim were present together in the same school, but before the victim ceases to be a student, the defendant is guilty of a Class G felony, except when the defendant is lawfully married to the student. The term "same school" means a school at which the student is enrolled and the defendant is employed, assigned, or volunteers. A defendant who is school personnel, other than a teacher, school administrator, student teacher, school safety officer, or coach, and is less than four years older than the victim and engages in vaginal intercourse or a sexual act with a victim who is a student, is guilty of a Class A1 misdemeanor. This subsection shall apply unless the conduct is covered under some other provision of law providing for greater punishment. Consent is not a defense to a charge under this section. For purposes of this subsection, the terms "school", "school personnel", and "student" shall have the same meaning as in G.S. 14-202.4(d). For purposes of this subsection, the term "school safety officer" shall include a school resource officer or any other person who is regularly present in a school for the purpose of promoting and maintaining safe and orderly schools.

N.C. GEN. STAT. § 14-27.8 (WEST 2011). NO DEFENSE THAT VICTIM IS SPOUSE OF PERSON COMMITTING ACT

A person may be prosecuted under this Article whether or not the victim is the person's legal spouse at the time of the commission of the alleged rape or sexual offense.

N.C. GEN. STAT. § 14-27.10 (WEST 2011). EVIDENCE REQUIRED IN PROSEUTIONS UNDER THIS ARTICLE

It shall not be necessary upon the trial of any indictment for an offense under this Article where the sex act alleged is vaginal intercourse or anal intercourse to prove the actual emission of semen in order to constitute the offense; but the offense shall be completed upon proof of penetration only. Penetration, however slight, is vaginal intercourse or anal intercourse.

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*Statute truncated due to size.

NORTH DAKOTA

N.D. CENT. CODE § 12.1-20-02 (2009). DEFINITIONS

In sections 12.1-20-03 through 12.1-20-12:

1. "Coercion" means to exploit fear or anxiety through intimidation, compulsion, domination, or control with the intent to compel conduct or compliance.

2. "Deviate sexual act" means any form of sexual contact with an animal, bird, or dead person.

3. "Object" means anything used in commission of a sexual act other than the person of the actor.

4. "Sexual act" means sexual contact between human beings consisting of contact between the penis and the vulva, the penis and the anus, the mouth and the penis, the mouth and the vulva, or any other portion of the human body and the penis, anus, or vulva; or the use of an object which comes in contact with the victim's anus, vulva, or penis. For the purposes of this subsection, sexual contact between the penis and the vulva, the penis and the anus, any other portion of the human body and the anus or vulva, or an object and the anus, vulva, or penis of the victim, occurs upon penetration, however slight. Emission is not required.

5. "Sexual contact" means any touching, whether or not through the clothing or other covering, of the sexual or other intimate parts of the person, or the penile ejaculation or ejaculate or emission of urine or feces upon any part of the person, for the purpose of arousing or satisfying sexual or aggressive desires.

N.D. CENT. CODE § 12.1-20-03 (2009). GROSS SEXUAL IMPOSITION--PENALTY

1. A person who engages in a sexual act with another, or who causes another to engage in a sexual act, is guilty of an offense if:

a. That person compels the victim to submit by force or by threat of imminent death, serious bodily injury, or kidnapping, to be inflicted on any human being;

b. That person or someone with that person's knowledge has substantially impaired the victim's power to appraise or control the victim's conduct by administering or employing without the victim's knowledge intoxicants, a controlled substance as defined in chapter 19-03.1, or other means with intent to prevent resistance;

c. That person knows or has reasonable cause to believe that the victim is unaware that a sexual act is being committed upon him or her;

d. The victim is less than fifteen years old; or

e. That person knows or has reasonable cause to believe that the other person suffers from a mental disease or defect which renders him or her incapable of understanding the nature of his or her conduct.

2. A person who engages in sexual contact with another, or who causes another to engage in sexual contact, is guilty of an offense if:

a. The victim is less than fifteen years old;

b. That person compels the victim to submit by force or by threat of imminent death, serious bodily injury, or kidnapping, to be inflicted on any human being; or

c. That person knows or has reasonable cause to believe that the victim is unaware that sexual contact is being committed on the victim.

3. a. An offense under this section is a class AA felony if in the course of the offense the actor inflicts serious bodily injury upon the victim, if the actor's conduct violates subdivision a of subsection 1, or if the actor's conduct violates subdivision d of subsection 1 and the actor was at least twenty-two years of age at the time of the offense. For any conviction of a class AA felony under subdivision a of subsection 1, the court shall impose a minimum sentence of twenty years' imprisonment, with probation supervision to follow the incarceration. The court may deviate from the mandatory sentence if the court finds that the sentence would impose a manifest injustice as defined in section 39-01-01 and the defendant has accepted responsibility for the crime or cooperated with law enforcement. However, a defendant convicted of a class AA felony under this section may not be sentenced to serve less than five years of incarceration.

b. Otherwise the offense is a class A felony.

4. If, as a result of injuries sustained during the course of an offense under this section, the victim dies, the offense is a class AA felony, for which the maximum penalty of life imprisonment without parole must be imposed.

N.D. CENT. CODE § 12.1-20-04 (2009). SEXUAL IMPOSITION

A person who engages in a sexual act or sexual contact with another, or who causes another to engage in a sexual act or sexual contact, is guilty of a class B felony if the actor:

1. Compels the other person to submit by any threat or coercion that would render a person reasonably incapable of resisting; or

2. Engages in a sexual act or sexual contact with another, whether consensual or not, as part of an induction, initiation, ceremony, pledge, hazing, or qualification to become a member or an associate of any criminal street gang as defined in section 12.1-06.2-01.

N.D. CENT. CODE § 12.1-20-07 (2009). SEXUAL ASSAULT

1. A person who knowingly has sexual contact with another person, or who causes another person to have sexual contact with that person, is guilty of an offense if:

a. That person knows or has reasonable cause to believe that the contact is offensive to the other person;

b. That person knows or has reasonable cause to believe that the other person suffers from a mental disease or defect which renders that other person incapable of understanding the nature of that other person's conduct;

c. That person or someone with that person's knowledge has substantially impaired the victim's power to appraise or control the victim's conduct, by administering or employing without the victim's knowledge intoxicants, a controlled substance as defined in chapter 19-03.1, or other means for the purpose of preventing resistance;

d. The other person is in official custody or detained in a hospital, prison, or other institution and the actor has supervisory or disciplinary authority over that other person;

e. The other person is a minor, fifteen years of age or older, and the actor is the other person's parent, guardian, or is otherwise responsible for general supervision of the other person's welfare; or

f. The other person is a minor, fifteen years of age or older, and the actor is an adult.

2. The offense is a class C felony if the actor's conduct violates subdivision b, c, d, or e of subsection 1, or subdivision f of subsection 1 if the adult is at least twenty-two years of age, a class A misdemeanor if the actor's conduct violates subdivision f of subsection 1 if the adult is at least eighteen years of age and not twenty-two years of age or older, or a class B misdemeanor if the actor's conduct violates subdivision a of subsection 1.

N.D. CENT. CODE § 12.1-20-12 (2009). DEVIATE SEXUAL ACT

A person who performs a deviate sexual act with the intent to arouse or gratify his sexual desire is guilty of a class A misdemeanor.

N.D. CENT. CODE § 12.1-20-12.1 (2011). INDECENT EXPOSURE

1. A person, with intent to arouse, appeal to, or gratify that person's lust, passions, or sexual desires, is guilty of a class A misdemeanor if that person:

a. Masturbates in a public place or in the presence of a minor; or

b. Exposes one's penis, vulva, or anus in a public place or to a minor in a public or private place.

2. A person is guilty of a class C felony if the person violates subsection 1 after a previous conviction for violating subsection 1, after a previous conviction for violating section 12.1-20-12.2, or after being required to register under section 12.1-32-15.

3. A person who commits a violation of subsection 1 within fifty feet [15.24 meters] of or on the real property comprising a public or nonpublic elementary, middle, or high school is guilty of a class C felony. A person who commits a violation of subsection 2 within fifty feet [15.24 meters] of or on the real property comprising a public or nonpublic elementary, middle, or high school is guilty of a class B felony.

4. The act of a woman discreetly breastfeeding her child is not a violation of this section.

N.D. CENT. CODE § 12.1-20-12.2 (2011). SURREPTITIOUS INTRUSION

1. An individual, with the intent to arouse, appeal to, or gratify that individual's lust, passions, or sexual desires, is guilty of a class A misdemeanor if that individual does any of the following:

a. With intent to intrude upon or interfere with the privacy of another, enters upon another's property and surreptitiously gazes, stares, or peeps into a house or place of dwelling of another.

b. With intent to intrude upon or interfere with the privacy of another, enters upon another's property and surreptitiously installs or uses any device for observing, photographing, recording, amplifying, or broadcasting sounds or events from a house or place of dwelling of another.

*Statute truncated due to size.

c. With intent to intrude upon or interfere with the privacy of the occupant, surreptitiously gazes, stares, or peeps into a tanning booth, a sleeping room in a hotel, or other place where a reasonable individual would have an expectation of privacy and has exposed or is likely to expose that individual's intimate parts or has removed the clothing covering the immediate area of the intimate parts.

d. With intent to intrude upon or interfere with the privacy of the occupant, surreptitiously installs or uses any device for observing, photographing, recording, amplifying, or broadcasting sounds or events from a tanning booth, a sleeping room in a hotel, or other place where a reasonable individual would have an expectation of privacy and has exposed or is likely to expose that individual's intimate parts or has removed the clothing covering the immediate area of the intimate parts.

2. A person is guilty of a class C felony if the person violates subsection 1 after a previous conviction for violating subsection 1, after a previous conviction for violating section 12.1-20-12.1, or after being required to register under section 12.1-32-15.

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OHIO REV. CODE ANN. § 2907.01 (WEST 2011). DEFINITIONS

As used in sections 2907.01 to 2907.38 of the Revised Code:

(A) "Sexual conduct" means vaginal intercourse between a male and female; anal intercourse, fellatio, and cunnilingus between persons regardless of sex; and, without privilege to do so, the insertion, however slight, of any part of the body or any instrument, apparatus, or other object into the vaginal or anal opening of another. Penetration, however slight, is sufficient to complete vaginal or anal intercourse.

(B) "Sexual contact" means any touching of an erogenous zone of another, including without limitation the thigh, genitals, buttock, pubic region, or, if the person is a female, a breast, for
the purpose of sexually arousing or gratifying either person.

(C) "Sexual activity" means sexual conduct or sexual contact, or both.

(D) "Prostitute" means a male or female who promiscuously engages in sexual activity for hire, regardless of whether the hire is paid to the prostitute or to another.

(E) "Harmful to juveniles" means that quality of any material or performance describing or representing nudity, sexual conduct, sexual excitement, or sado-masochistic abuse in any form to which all of the following apply:

(1) The material or performance, when considered as a whole, appeals to the prurient interest of juveniles in sex.

(2) The material or performance is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable for juveniles.

(3) The material or performance, when considered as a whole, lacks serious literary, artistic, political, and scientific

value for juveniles.

(F) When considered as a whole, and judged with reference to ordinary adults or, if it is designed for sexual deviates or other specially susceptible group, judged with reference to that group, any material or performance is "obscene" if any of the following apply:

(1) Its dominant appeal is to prurient interest;

(2) Its dominant tendency is to arouse lust by displaying or depicting sexual activity, masturbation, sexual excitement, or nudity in a way that tends to represent human beings as mere objects of sexual appetite;

(3) Its dominant tendency is to arouse lust by displaying or depicting bestiality or extreme or bizarre violence, cruelty, or brutality;

(4) Its dominant tendency is to appeal to scatological interest by displaying or depicting human bodily functions of elimination in a way that inspires disgust or revulsion in persons with ordinary sensibilities, without serving any genuine scientific, educational, sociological, moral, or artistic purpose;

(5) It contains a series of displays or descriptions of sexual activity, masturbation, sexual excitement, nudity, bestiality, extreme or bizarre violence, cruelty, or brutality, or human bodily functions of elimination, the cumulative effect of which is a dominant tendency to appeal to prurient or scatological interest, when the appeal to such an interest is primarily for its own sake or for commercial exploitation, rather than primarily for a genuine scientific, educational, sociological, moral, or artistic purpose.

(G) "Sexual excitement" means the condition of human male or female genitals when in a state of sexual stimulation or arousal.

(H) "Nudity" means the showing, representation, or depiction of human male or female genitals, pubic area, or buttocks with less than a full, opaque covering, or of a female breast with less than a full, opaque covering of any portion thereof below the top of the nipple, or of covered male genitals in a discernibly turgid state.

(I) "Juvenile" means an unmarried person under the age of eighteen.

(J) "Material" means any book, magazine, newspaper, pamphlet, poster, print, picture, figure, image, description, motion picture film, phonographic record, or tape, or other tangible thing capable of arousing interest through sight, sound, or touch and includes an image or text appearing on a computer monitor, television screen, liquid crystal display, or similar display device or an image or text recorded on a computer hard disk, computer floppy disk, compact disk, magnetic tape, or similar data storage device.

(K) "Performance" means any motion picture, preview, trailer, play, show, skit, dance, or other exhibition performed before an audience.

(L) "Spouse" means a person married to an offender at the time of an alleged offense, except that such person shall not be considered the spouse when any of the following apply:

(1) When the parties have entered into a written separation agreement authorized by section 3103.06 of the Revised Code;

(2) During the pendency of an action between the parties for annulment, divorce, dissolution of marriage, or legal separation;

(3) In the case of an action for legal separation, after the effective date of the judgment for legal separation.

(M) "Minor" means a person under the age of eighteen.

(N) "Mental health client or patient" has the same meaning as in section 2305.51 of the Revised Code.

(O) "Mental health professional" has the same meaning as in section 2305.115 of the Revised Code.

(P) "Sado-masochistic abuse" means flagellation or torture by or upon a person or the condition of being fettered, bound, or otherwise physically restrained.

OHIO REV. CODE ANN. § 2907.02 (WEST 2011). RAPE; EVIDENCE; MARRIAGE OR COHABITATION NOT DEFENSES TO RAPE CHARGES

(A)(1) No person shall engage in sexual conduct with another who is not the spouse of the offender or who is the spouse of the offender but is living separate and apart from the offender, when any of the following applies:

(a) For the purpose of preventing resistance, the offender substantially impairs the other person's judgment or control by administering any drug, intoxicant, or controlled substance to the other person surreptitiously or by force, threat of force, or deception.

(b) The other person is less than thirteen years of age, whether or not the offender knows the age of the other person.

(c) The other person's ability to resist or consent is substantially impaired because of a mental or physical condition or because of advanced age, and the offender knows or has reasonable cause to believe that the other person's ability to resist or consent is substantially impaired because of a mental or physical condition or because of advanced age.

(2) No person shall engage in sexual conduct with another when the offender purposely compels the other person to submit by force or threat of force.

(B) Whoever violates this section is guilty of rape, a felony of the first degree. If the offender under division (A)(1)(a) of this section substantially impairs the other person's judgment or control by administering any controlled substance described in section 3719.41 of the Revised Code to the other person surreptitiously or by force, threat of force, or deception, the prison term imposed upon the offender shall be one of the prison terms prescribed for a felony of the first degree in section 2929.14 of the Revised Code that is not less than five years. Except as otherwise provided in this division, notwithstanding sections 2929.11 to 2929.14 of the Revised Code, an offender under division (A)(1)(b) of this section shall be sentenced to a prison term or term of life imprisonment pursuant to section 2971.03 of the Revised Code. If an offender is convicted of or pleads guilty to a violation of division (A)(1)(b) of this section, if the offender was less than sixteen years of age at the time the offender committed the violation of that division, and if the offender during or immediately after the commission of the offense did not cause serious physical harm to the victim, the victim was ten years of age or older at the time of the commission of the violation, and the offender has not previously been convicted of or pleaded guilty to a violation of this section or a substantially similar existing or former law of this state, another state, or the United States, the court shall not sentence the offender to a prison term or term of life imprisonment pursuant to section 2971.03 of the Revised Code, and instead the court shall sentence the offender as otherwise provided in this division. If an offender under division (A)(1)(b) of this section previously has been convicted of or pleaded guilty to violating division (A)(1)(b) of this section or to violating an existing or former law of this state, another state, or the United States that is substantially similar to division (A)(1)(b) of this section, if the offender during or immediately after the commission of the offense caused serious physical harm to the victim, or if the victim under division (A)(1)(b) of this section is less than ten years of age, in lieu of sentencing the offender to a prison term or term of life imprisonment pursuant to section 2971.03 of the Revised Code, the court may impose upon the offender a term of life without parole. If the court imposes a term of life without parole pursuant to this division, division (F) of

section 2971.03 of the Revised Code applies, and the offender automatically is classified a tier III sex offender/child-victim offender, as described in that division.

(C) A victim need not prove physical resistance to the offender in prosecutions under this section.

(D) Evidence of specific instances of the victim's sexual activity, opinion evidence of the victim's sexual activity, and reputation evidence of the victim's sexual activity shall not be admitted under this section unless it involves evidence of the origin of semen, pregnancy, or disease, or the victim's past sexual activity with the offender, and only to the extent that the court finds that the evidence is material to a fact at issue in the case and that its inflammatory or prejudicial nature does not outweigh its probative value.

Evidence of specific instances of the defendant's sexual activity, opinion evidence of the defendant's sexual activity, and reputation evidence of the defendant's sexual activity shall not be admitted under this section unless it involves evidence of the origin of semen, pregnancy, or disease, the defendant's past sexual activity with the victim, or is admissible against the defendant under section 2945.59 of the Revised Code, and only to the extent that the court finds that the evidence is material to a fact at issue in the case and that its inflammatory or prejudicial nature does not outweigh its probative value.

(E) Prior to taking testimony or receiving evidence of any sexual activity of the victim or the defendant in a proceeding under this section, the court shall resolve the admissibility of the proposed evidence in a hearing in chambers, which shall be held at or before preliminary hearing and not less than three days before trial, or for good cause shown during the trial.

(F) Upon approval by the court, the victim may be represented by counsel in any hearing in chambers or other proceeding to resolve the admissibility of evidence. If the victim is indigent or otherwise is unable to obtain the services of counsel, the court, upon request, may appoint counsel to represent the victim without cost to the victim.

(G) It is not a defense to a charge under division (A)(2) of this section that the offender and the victim were married or were cohabiting at the time of the commission of the offense.

OHIO REV. CODE ANN. § 2907.03 (WEST 2011). SEXUAL BATTERY

(A) No person shall engage in sexual conduct with another, not the spouse of the offender, when any of the following apply:

(1) The offender knowingly coerces the other person to submit by any means that would prevent resistance by a person of ordinary resolution.

(2) The offender knows that the other person's ability to appraise the nature of or control the other person's own conduct is substantially impaired.

(3) The offender knows that the other person submits because the other person is unaware that the act is being committed.

(4) The offender knows that the other person submits because the other person mistakenly identifies the offender as the other person's spouse.

(5) The offender is the other person's natural or adoptive parent, or a stepparent, or guardian, custodian, or person in loco parentis of the other person.

(6) The other person is in custody of law or a patient in a hospital or other institution, and the offender has supervisory or disciplinary authority over the other person.

(7) The offender is a teacher, administrator, coach, or other person in authority employed by or serving in a school for which the state board of education prescribes minimum standards pursuant to division (D) of section 3301.07 of the Revised Code, the other person is enrolled in or attends that school, and the offender is not enrolled in and does not attend that school.

(8) The other person is a minor, the offender is a teacher, administrator, coach, or other person in authority employed by or serving in an institution of higher education, and the other person is enrolled in or attends that institution.

(9) The other person is a minor, and the offender is the other person's athletic or other type of coach, is the other person's instructor, is the leader of a scouting troop of which the other person is a member, or is a person with temporary or occasional disciplinary control over the other person.

(10) The offender is a mental health professional, the other person is a mental health client or patient of the offender, and the offender induces the other person to submit by falsely representing to the other person that the sexual conduct is necessary for mental health treatment purposes.

(11) The other person is confined in a detention facility, and the offender is an employee of that detention facility.

(12) The other person is a minor, the offender is a cleric, and the other person is a member of, or attends, the church or congregation served by the cleric.

(13) The other person is a minor, the offender is a peace officer, and the offender is more than two years older than the other person.

(B) Whoever violates this section is guilty of sexual battery. Except as otherwise provided in this division, sexual battery is a felony of the third degree. If the other person is less than thirteen years of age, sexual battery is a felony of the second degree, and the court shall impose upon the offender a mandatory prison term equal to one of the prison terms prescribed in section 2929.14 of the Revised Code for a felony of the second degree.

(C) As used in this section:

(1) “Cleric” has the same meaning as in section 2317.02 of the Revised Code.

(2) “Detention facility” has the same meaning as insection 2921.01 of the Revised Code.

(3) “Institution of higher education” means a state institution of higher education defined in section 3345.011 of the Revised Code, a private nonprofit college or university located in this state that possesses a certificate of authorization issued by the Ohio board of regents pursuant to Chapter 1713. of the Revised Code, or a school certified under Chapter 3332. of the Revised Code.

(4) “Peace officer” has the same meaning as in section 2935.01 of the Revised Code.

OHIO REV. CODE ANN. § 2907.05 (WEST 2011). GROSS SEXUAL IMPOSITION

(A) No person shall have sexual contact with another, not the spouse of the offender; cause another, not the spouse of the offender, to have sexual contact with the offender; or cause two or more other persons to have sexual contact when any of the following applies:

(1) The offender purposely compels the other person, or one of the other persons, to submit by force or threat of force.

(2) For the purpose of preventing resistance, the offender substantially impairs the judgment or control of the other person or of one of the other persons by administering any drug, intoxicant, or controlled substance to the other person surreptitiously or by force, threat of force, or deception.

(3) The offender knows that the judgment or control of the other person or of one of the other persons is substantially impaired as a result of the influence of any drug or intoxicant administered to the other person with the other person's consent for the purpose of any kind of medical or dental examination, treatment, or surgery.

(4) The other person, or one of the other persons, is less than thirteen years of age, whether or not the offender knows the age of that person.

(5) The ability of the other person to resist or consent or the ability of one of the other persons to resist or consent is substantially impaired because of a mental or physical condition or because of advanced age, and the offender knows or has reasonable cause to believe that the ability to resist or consent of the other person or of one of the other persons is substantially impaired because of a mental or physical condition or because of advanced age.

(B) No person shall knowingly touch the genitalia of another, when the touching is not through clothing, the other person is less than twelve years of age, whether or not the offender knows the age of that person, and the touching is done with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.

(C) Whoever violates this section is guilty of gross sexual imposition.

(1) Except as otherwise provided in this section, gross sexual imposition committed in violation of division (A)(1), (2), (3), or (5) of this section is a felony of the fourth degree. If the offender under division (A)(2) of this section substantially impairs the judgment or control of the other person or one of the other persons by administering any controlled substance described insection 3719.41 of the Revised Code to the person surreptitiously or by force, threat of force, or deception, gross sexual imposition committed in violation of division (A)(2) of this section is a felony of the third degree.

(2) Gross sexual imposition committed in violation of division (A)(4) or (B) of this section is a felony of the third degree. Except as otherwise provided in this division, for gross sexual imposition committed in violation of division (A)(4) or (B) of this section there is a presumption that a prison term shall be imposed for the offense. The court shall impose on an offender convicted of gross sexual imposition in violation of division (A)(4) or (B) of this section a mandatory prison term equal to one of the prison terms prescribed insection 2929.14 of the Revised Code for a felony of the third degree if either of the following applies:

(a) Evidence other than the testimony of the victim was admitted in the case corroborating the violation;

(b) The offender previously was convicted of or pleaded guilty to a violation of this section, rape, the former offense of felonious sexual penetration, or sexual battery, and the victim of the previous offense was less than thirteen years of age.

(D) A victim need not prove physical resistance to the offender in prosecutions under this section.

(E) Evidence of specific instances of the victim's sexual activity, opinion evidence of the victim's sexual activity, and reputation evidence of the victim's sexual activity shall not be admitted under this section unless it involves evidence of the origin of semen, pregnancy, or disease, or the victim's past sexual activity with the offender, and only to the extent that the court finds that the evidence is material to a fact at issue in the case and that its inflammatory or prejudicial nature does not outweigh its probative value.

Evidence of specific instances of the defendant's sexual activity, opinion evidence of the defendant's sexual activity, and reputation evidence of the defendant's sexual activity shall not be admitted under this section unless it

involves evidence of the origin of semen, pregnancy, or disease, the defendant's past sexual activity with the victim, or is admissible against the defendant under section 2945.59 of the Revised Code, and only to the extent that the court finds that the evidence is material to a fact at issue in the case and that its inflammatory or prejudicial nature does not outweigh its probative value.

(F) Prior to taking testimony or receiving evidence of any sexual activity of the victim or the defendant in a proceeding under this section, the court shall resolve the admissibility of the proposed evidence in a hearing in chambers, which shall be held at or before preliminary hearing and not less than three days before trial, or for good cause shown during the trial.

(G) Upon approval by the court, the victim may be represented by counsel in any hearing in chambers or other proceeding to resolve the admissibility of evidence. If the victim is indigent or otherwise is unable to obtain the services of counsel, the court, upon request, may appoint counsel to represent the victim without cost to the victim.

OHIO REV. CODE ANN. § 2907.06 (WEST 2011). SEXUAL IMPOSITION

(A) No person shall have sexual contact with another, not the spouse of the offender; cause another, not the spouse of the offender, to have sexual contact with the offender; or cause two or more other persons to have sexual contact when any of the following applies:

(1) The offender knows that the sexual contact is offensive to the other person, or one of the other persons, or is reckless in that regard.

(2) The offender knows that the other person's, or one of the other person's, ability to appraise the nature of or control the offender's or touching person's conduct is substantially impaired.

(3) The offender knows that the other person, or one of the other persons, submits because of being unaware of the sexual contact.

(4) The other person, or one of the other persons, is thirteen years of age or older but less than sixteen years of age, whether or not the offender knows the age of such person, and the offender is at least eighteen years of age and four or more years older than such other person.

(5) The offender is a mental health professional, the other person or one of the other persons is a mental health client or patient of the offender, and the offender induces the other person who is the client or patient to submit by falsely representing to the other person who is the client or patient that the sexual contact is necessary for mental health treatment purposes.

(B) No person shall be convicted of a violation of this section solely upon the victim's testimony unsupported by other evidence.

(C) Whoever violates this section is guilty of sexual imposition, a misdemeanor of the third degree. If the offender previously has been convicted of a violation of this section or of section 2907.02, 2907.03, 2907.04,2907.05, or 2907.12 of the Revised Code, a violation of this section is a misdemeanor of the first degree.

OHIO REV. CODE ANN. § 2907.09 (WEST 2011). PUBLIC INDECENCY

(A) No person shall recklessly do any of the following, under circumstances in which the person's conduct is likely to be viewed by and affront others who are in the person's physical proximity and who are not members of the person's household:

(1) Expose the person's private parts;

(2) Engage in sexual conduct or masturbation;

(3) Engage in conduct that to an ordinary observer would appear to be sexual conduct or masturbation.

(B) No person shall knowingly do any of the following, under circumstances in which the person's conduct is likely to be viewed by and affront another person who is a minor, who is not the spouse of the offender, and who resides in the person's household:

(1) Engage in masturbation;

(2) Engage in sexual conduct;

(3) Engage in conduct that to an ordinary observer would appear to be sexual conduct or masturbation;

(4) Expose the person's private parts with the purpose of personal sexual arousal or gratification or to lure the minor into sexual activity.

(C)(1) Whoever violates this section is guilty of public indecency and shall be punished as provided in divisions (C)(2), (3), (4), and (5) of this section.

(2) Except as otherwise provided in division (C)(2) of this section, a violation of division (A)(1) of this section is a misdemeanor of the fourth degree. If the offender previously has been convicted of or pleaded guilty to one violation of this section, a violation of division (A)(1) of this section is a misdemeanor of the third degree or, if any person who was likely to view and be affronted by the offender's conduct was a minor, a misdemeanor of the second degree. If the offender previously has been convicted of or pleaded guilty to two violations of this section, a violation of division (A)(1) of this section is a misdemeanor of the second degree or, if any person who was likely to view and be affronted by the offender's conduct was a minor, a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to three or more violations of this section, a violation of division (A)(1) of this section is a misdemeanor of the first degree or, if any person who was likely to view and be affronted by the offender's conduct was a minor, a felony of the fifth degree.

(3) Except as otherwise provided in division (C)(3) of this section, a violation of division (A)(2) or (3) of this section is a misdemeanor of the third degree. If the offender previously has been convicted of or pleaded guilty to one violation of this section, a violation of division (A)(2) or (3) of this section is a misdemeanor of the second degree or, if any person who was likely to view and be affronted by the offender's conduct was a minor, a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to two or more violations of this section, a violation of division (A)(2) or (3) of this section is a misdemeanor of the first degree or, if any person who was likely to view and be affronted by the offender's conduct was a minor, a felony of the fifth degree.

(4) Except as otherwise provided in division (C)(4) of this section, a violation of division (B)(1), (2), or (3) of this section is a misdemeanor of the second degree. If the offender previously has been convicted of or pleaded guilty to one violation of this section, a violation of division (B)(1), (2), or (3) of this section is a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to two or more violations of this section, a violation of division (B)(1), (2), or (3) of this section is a felony of the fifth degree.

(5) Except as otherwise provided in division (C)(5) of this section, a violation of division (B)(4) of this section is a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to any violation of this section, a violation of division (B)(4) of this section is a felony of the fifth degree.

*Statute truncated due to size.

OHIO REV. CODE ANN. § 2907.12 (WEST 2011). FELONIOUS SEXUAL PENETRATION; MARRIAGE OR COHABITATION NOT DEFENSES TO CHARGES

(A)(1) No person, without privilege to do so, shall insert any part of the body or any instrument, apparatus, or other object into the vaginal or anal cavity of another who is not the spouse of the offender or who is the spouse of the offender but is living separate and apart from the offender, when any of the following applies:

(a) For the purpose of preventing resistance, the offender substantially impairs the other person's judgment or control by administering any drug or intoxicant to the other person, surreptitiously or by force, threat of force, or deception.

(b) The other person is less than thirteen years of age, whether or not the offender knows the age of the other person.

(c) The other person's ability to resist or consent is substantially impaired because of a mental or physical condition or because of advanced age, and the offender knows or has reasonable cause to believe that the other person's ability to resist or consent is substantially impaired because of a mental or physical condition or because of advanced age.

(2) No person, without privilege to do so, shall insert any part of the body or any instrument, apparatus, or other object into the vaginal or anal cavity of another when the offender purposely compels the other person to submit by force or threat of force.

(B) Whoever violates this section is guilty of felonious sexual penetration, an aggravated felony of the first degree. If the offender under division (A)(1)(b) of this section purposely compels the victim to submit by force or threat of force, whoever violates division (A)(1)(b) of this section shall be imprisoned for life.

(C) It is not a defense to a charge under division (A)(2) of this section that the offender and the victim were married or were cohabiting at the time of the commission of the offense.

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OKLAHOMA

CHARTS	PENETRATION	FORCE	CAPACITY TO CONSENT	VICTIM PERPETRATOR RELATIONSHIP	OTHER SEX CRIMES
CONSENT ANALYSIS	ALCOHOL/DRUG FACILITATED SEXUAL ASSAULT	MARITAL RAPE	SAME SEX PERPETRATOR	STATUTORY RAPE	CONSTRUCTIVE FORCE

OKLA. STAT. ANN. TIT. 21, § 1111 (WEST 2011). RAPE DEFINED

A. Rape is an act of sexual intercourse involving vaginal or anal penetration accomplished with a male or female who is not the spouse of the perpetrator and who may be of the same or the opposite sex as the perpetrator under any of the following circumstances:

1. Where the victim is under sixteen (16) years of age;

2. Where the victim is incapable through mental illness or any other unsoundness of mind, whether temporary or permanent, of giving legal consent;

3. Where force or violence is used or threatened, accompanied by apparent power of execution to the victim or to another person;

4. Where the victim is intoxicated by a narcotic or anesthetic agent, administered by or with the privity of the accused as a means of forcing the victim to submit;

5. Where the victim is at the time unconscious of the nature of the act and this fact is known to the accused;

6. Where the victim submits to sexual intercourse under the belief that the person committing the act is a spouse, and this belief is induced by artifice, pretense, or concealment practiced by the accused or by the accused in collusion with the spouse with intent to induce that belief. In all cases of collusion between the accused and the spouse to accomplish such act, both the spouse and the accused, upon conviction, shall be deemed guilty of rape;

7. Where the victim is under the legal custody or supervision of a state agency, a federal agency, a county, a municipality or a political subdivision and engages in sexual intercourse with a state, federal, county, municipal or political subdivision employee or an employee of a contractor of the state, the federal government, a county, a municipality or a political subdivision that exercises authority over the victim; or

8. Where the victim is at least sixteen (16) years of age and is less than twenty (20) years of age and is a student, or under the legal custody or supervision of any public or private elementary or secondary school, junior high or high school, or public vocational school, and engages in sexual intercourse with a person who is eighteen (18) years of age or older and is an employee of the same school system.

B. Rape is an act of sexual intercourse accomplished with a male or female who is the spouse of the perpetrator if force or violence is used or threatened, accompanied by apparent power of execution to the victim or to another person.

OKLA. STAT. ANN. TIT. 21, § 1111.1 (WEST 2011). RAPE BY INSTRUMENTATION

Rape by instrumentation is an act within or without the bonds of matrimony in which any inanimate object or any part of the human body, not amounting to sexual intercourse is used in the carnal knowledge of another person without his or her consent and penetration of the anus or vagina occurs to that person. Provided, further, that at least one of the circumstances specified in Section 1111 of this title has been met; further, where the victim is at least sixteen (16) years of age and is less than twenty (20) years of age and is a student, or under the legal custody or supervision of any public or private elementary or secondary school, junior high or high school, or public vocational school, and engages in conduct prohibited by this section of law with a person who is eighteen (18) years of age or older and is an employee of the same school system, or where the victim is under the legal custody or supervision of a state or federal agency, county, municipal or a political subdivision and engages in conduct prohibited by this section of law with a federal, state, county, municipal or political subdivision employee or an employee of a contractor of the state, the federal government, a county, a municipality or a political subdivision that exercises authority over the victim, consent shall not be an element of the crime. Except for persons sentenced to life or life without parole, any person sentenced to imprisonment for two (2) years or more for a violation of this section shall be required to serve a term of post-imprisonment supervision pursuant to subparagraph f of paragraph 1 of subsection A of Section 991a of Title 22 of the Oklahoma Statutes under conditions determined by the Department of Corrections. The jury shall be advised that the mandatory post-imprisonment supervision shall be in addition to the actual imprisonment.

*Statute truncated due to size.

OKLA. STAT. ANN. TIT. 21, § 1112 (WEST 2011). AGE LIMITATIONS ON CONVICTION FOR RAPE

No person can be convicted of rape or rape by instrumentation on account of an act of sexual intercourse with anyone over the age of fourteen (14) years, with his or her consent, unless such person was over the age of eighteen (18) years at the time of such act.

OKLA. STAT. ANN. TIT. 21, § 1113 (WEST 2011). SLIGHT PENETRATION IS SUFFICIENT TO COMPLETE CRIME

The essential guilt of rape or rape by instrumentation, except with the consent of a male or female over fourteen (14) years of age, consists in the outrage to the person and feelings of the victim. Any sexual penetration, however slight, is sufficient to complete the crime.

OKLA. STAT. ANN. TIT. 21, § 1114 (WEST 2011). RAPE IN FIRST DEGREE--SECOND DEGREE

A. Rape in the first degree shall include:

1. rape committed by a person over eighteen (18) years of age upon a person under fourteen (14) years of age; or

2. rape committed upon a person incapable through mental illness or any unsoundness of mind of giving legal consent regardless of the age of the person committing the crime; or

3. rape accomplished where the victim is intoxicated by a narcotic or anesthetic agent, administered by or with the privity of the accused as a means of forcing the victim to submit; or

4. rape accomplished where the victim is at the time unconscious of the nature of the act and this fact is known to the accused; or

5. rape accomplished with any person by means of force, violence, or threats of force or violence accompanied by apparent power of execution regardless of the age of the person committing the crime; or

6. rape by instrumentation resulting in bodily harm is rape by instrumentation in the first degree regardless of the age of the person committing the crime; or

7. rape by instrumentation committed upon a person under fourteen (14) years of age.

B. In all other cases, rape or rape by instrumentation is rape in the second degree.

OKLA. STAT. ANN. TIT. 21, § 1116 (WEST 2011). RAPE IN SECOND DEGREE A FELONY

Rape in the second degree is a felony punishable by imprisonment in the State Penitentiary not less than one (1) year nor more than fifteen (15) years.

*Statute truncated due to size.

OKLA. STAT. ANN. TIT. 21, § 1117 (WEST 2011). COMPELLING WOMAN TO MARRY

Any person who takes any woman against her will, and by force, menace or duress, compels her to marry him or to marry any other person, shall be guilty of a felony punishable by imprisonment in the State Penitentiary not less than ten (10) years.

OKLA. STAT. ANN. TIT. 21, § 1118 (WEST 2011). INTENT TO COMPEL WOMAN TO MARRY

Any person who takes any woman unlawfully against her will, with the intent to compel her by force, menace or duress to marry him, or to marry any other person, shall be guilty of a felony punishable by imprisonment in the State Penitentiary not exceeding ten (10) years.

OKLA. STAT. ANN. TIT. 21, § 1120 (WEST 2011). SEDUCTION UNDER PROMISE OF MARRIAGE

Any person who, under promise of marriage, seduces and has illicit connection with any unmarried female of previous chaste character shall be guilty of a felony punishable by imprisonment in the State Penitentiary not exceeding five (5) years, or by imprisonment in a county jail not exceeding one (1) year, or by a fine not exceeding One Thousand Dollars ($1,000.00), or by both such fine and imprisonment.

OKLA. STAT. ANN. TIT. 21, § 1121 (WEST 2011). SUBSEQUENT MARRIAGE AS A DEFENSE

The subsequent marriage of the parties is a defense to a prosecution for a violation of the last section.

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OREGON

CHARTS	PENETRATION	FORCE	CAPACITY TO CONSENT	VICTIM PERPETRATOR RELATIONSHIP	OTHER SEX CRIMES
CONSENT ANALYSIS	ALCOHOL/DRUG FACILITATED SEXUAL ASSAULT	MARITAL RAPE	SAME SEX PERPETRATOR	STATUTORY RAPE	CONSTRUCTIVE FORCE

OR. REV. STAT. ANN. § 163.305 (WEST 2011). DEFINITIONS

As used in chapter 743, Oregon Laws 1971, unless the context requires otherwise:

(1) "Deviate sexual intercourse" means sexual conduct between persons consisting of contact between the sex organs of one person and the mouth or anus of another.

(2) "Forcible compulsion" means to compel by:

(a) Physical force; or

(b) A threat, express or implied, that places a person in fear of immediate or future death or physical injury to self or another person, or in fear that the person or another person will immediately or in the future be kidnapped.

(3) "Mentally defective" means that a person suffers from a mental disease or defect that renders the person incapable of appraising the nature of the conduct of the person.

(4) "Mentally incapacitated" means that a person is rendered incapable of appraising or controlling the conduct of the person at the time of the alleged offense.

(5) "Physically helpless" means that a person is unconscious or for any other reason is physically unable to communicate unwillingness to an act.

(6) "Sexual contact" means any touching of the sexual or other intimate parts of a person or causing such person to touch the sexual or other intimate parts of the actor for the purpose of arousing or gratifying the sexual desire of either party.

(7) "Sexual intercourse" has its ordinary meaning and occurs upon any penetration, however slight; emission is not required.

OR. REV. STAT. ANN. § 163.315 (WEST 2011). CAPABILITY TO CONSENT; LACK OF RESISTANCE

(1) A person is considered incapable of consenting to a sexual act if the person is:

(a) Under 18 years of age;

(b) Mentally defective;

(c) Mentally incapacitated; or

(d) Physically helpless.

(2) A lack of verbal or physical resistance does not, by itself, constitute consent but may be considered by the trier of fact along with all other relevant evidence.

OR. REV. STAT. ANN. § 163.325 (WEST 2011). KNOWLEDGE OF VICTIM'S AGE

(1) In any prosecution under ORS 163.355 to 163.445 in which the criminality of conduct depends on a child's being under the age of 16, it is no defense that the defendant did not know the child's age or that the defendant reasonably believed the child to be older than the age of 16.

(2) When criminality depends on the child's being under a specified age other than 16, it is an affirmative defense for the defendant to prove that the defendant reasonably believed the child to be above the specified age at the time of the alleged offense.

(3) In any prosecution under ORS 163.355 to 163.445 in which the victim's lack of consent is based solely upon the incapacity of the victim to consent because the victim is mentally defective, mentally incapacitated or physically helpless, it is an affirmative defense for the defendant to prove that at the time of the alleged offense the defendant did not know of the facts or conditions responsible for the victim's incapacity to consent.

*Statute truncated due to size.

OR. REV. STAT. ANN. § 163.345 (WEST 2011). AGE; DEFENSE

(1) In any prosecution under ORS 163.355, 163.365,163.385, 163.395, 163.415, 163.425, 163.427 or 163.435in which the victim's lack of consent was due solely to incapacity to consent by reason of being less than a specified age, it is a defense that the actor was less than three years older than the victim at the time of the alleged offense.

(2) In any prosecution under ORS 163.408, when the object used to commit the unlawful sexual penetration was the hand or any part thereof of the actor and in which the victim's lack of consent was due solely to incapacity to consent by reason of being less than a specified age, it is a defense that the actor was less than three years older than the victim at the time of the alleged offense.

(3) In any prosecution under ORS 163.445 in which the victim's lack of consent was due solely to incapacity to consent by reason of being less than a specified age, it is a defense that the actor was less than three years older than the victim at the time of the alleged offense if the victim was at least 15 years of age at the time of the alleged offense.

OR. REV. STAT. ANN. § 163.355 (WEST 2011). RAPE IN THE THIRD DEGREE

(1) A person commits the crime of rape in the third degree if the person has sexual intercourse with another person under 16 years of age.

(2) Rape in the third degree is a Class C felony.

OR. REV. STAT. ANN. § 163.365 (WEST 2011). RAPE IN THE SECOND DEGREE

(1) A person who has sexual intercourse with another person commits the crime of rape in the second degree if the other person is under 14 years of age.

(2) Rape in the second degree is a Class B felony.

OR. REV. STAT. ANN. § 163.375 (WEST 2011). RAPE IN THE FIRST DEGREE

(1) A person who has sexual intercourse with another person commits the crime of rape in the first degree if:

(a) The victim is subjected to forcible compulsion by the person;

(b) The victim is under 12 years of age;

(c) The victim is under 16 years of age and is the person's sibling, of the whole or half blood, the person's child or the person's spouse's child; or

(d) The victim is incapable of consent by reason of mental defect, mental incapacitation or physical helplessness.

(2) Rape in the first degree is a Class A felony.

*Statute truncated due to size.

OR. REV. STAT. ANN. § 163.385 (*WEST* 2011). SODOMY IN THE THIRD DEGREE

(1) A person commits the crime of sodomy in the third degree if the person engages in deviate sexual intercourse with another person under 16 years of age or causes that person to engage in deviate sexual intercourse.

(2) Sodomy in the third degree is a Class C felony.

OR. REV. STAT. ANN. § 163.395 (WEST 2011). SODOMY IN THE SECOND DEGREE

(1) A person who engages in deviate sexual intercourse with another person or causes another to engage in deviate sexual intercourse commits the crime of sodomy in the second degree if the victim is under 14 years of age.

(2) Sodomy in the second degree is a Class B felony.

OR. REV. STAT. ANN. § 163.405 (WEST 2011). SODOMY IN THE FIRST DEGREE

(1) A person who engages in deviate sexual intercourse with another person or causes another to engage in deviate sexual intercourse commits the crime of sodomy in the first degree if:

(a) The victim is subjected to forcible compulsion by the actor;

(b) The victim is under 12 years of age;

(c) The victim is under 16 years of age and is the actor's brother or sister, of the whole or half blood, the son or daughter of the actor or the son or daughter of the actor's spouse; or

(d) The victim is incapable of consent by reason of mental defect, mental incapacitation or physical helplessness.

(2) Sodomy in the first degree is a Class A felony.

OR. REV. STAT. ANN. § 163.408 (WEST 2011). UNLAWFUL SEXUAL PENETRATION IN THE SECOND DEGREE

(1) Except as permitted under ORS 163.412, a person commits the crime of unlawful sexual penetration in the second degree if the person penetrates the vagina, anus or penis of another with any object other than the penis or mouth of the actor and the victim is under 14 years of age.

(2) Unlawful sexual penetration in the second degree is a Class B felony.

OR. REV. STAT. ANN. § 163.411 (WEST 2011). UNLAWFUL SEXUAL PENETRATION IN THE FIRST DEGREE

(1) Except as permitted under ORS 163.412, a person commits the crime of unlawful sexual penetration in the first degree if the person penetrates the vagina, anus or penis of another with any object other than the penis or mouth of the actor and:

(a) The victim is subjected to forcible compulsion;

(b) The victim is under 12 years of age; or

(c) The victim is incapable of consent by reason of mental defect, mental incapacitation or physical helplessness.

(2) Unlawful sexual penetration in the first degree is a Class A felony.

OR. REV. STAT. ANN. § 163.412 (WEST 2011). UNLAWFUL SEXUAL PENETRATION; EXCEPTIONS

Nothing in ORS 163.408, 163.411 or 163.452 prohibits a penetration described in those sections when:

(1) The penetration is part of a medically recognized treatment or diagnostic procedure; or

(2) The penetration is accomplished by a peace officer or a corrections officer acting in official capacity, or by medical personnel at the request of such an officer, in order to search for weapons, contraband or evidence of crime.

OR. REV. STAT. ANN. § 163.415 (WEST 2011). SEXUAL ABUSE IN THE THIRD DEGREE

(1) A person commits the crime of sexual abuse in the third degree if:

(a) The person subjects another person to sexual contact and:

(A) The victim does not consent to the sexual contact; or

(B) The victim is incapable of consent by reason of being under 18 years of age; or

(b) For the purpose of arousing or gratifying the sexual desire of the person or another person, the person intentionally propels any dangerous substance at a victim without the consent of the victim.

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

(3) As used in this section, “dangerous substance” means blood, urine, semen or feces.

OR. REV. STAT. ANN. § 163.425 (WEST 20011). SEXUAL ABUSE IN THE SECOND DEGREE

(1) A person commits the crime of sexual abuse in the second degree when:

(a) The person subjects another person to sexual intercourse, deviate sexual intercourse or, except as provided in ORS 163.412, penetration of the vagina, anus or penis with any object other than the penis or mouth of the actor and the victim does not consent thereto; or

(b)(A) The person violates ORS 163.415 (1)(a)(B);

(B) The person is 21 years of age or older; and

(C) At any time before the commission of the offense, the person was the victim's coach as defined in ORS 163.426.

*Statute truncated due to size.

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

OR. REV. STAT. ANN. § 163.427 (WEST 2011). SEXUAL ABUSE IN THE FIRST DEGREE

(1) A person commits the crime of sexual abuse in the first degree when that person:

(a) Subjects another person to sexual contact and:

(A) The victim is less than 14 years of age;

(B) The victim is subjected to forcible compulsion by the actor; or

(C) The victim is incapable of consent by reason of being mentally defective, mentally incapacitated or physically helpless; or

(b) Intentionally causes a person under 18 years of age to touch or contact the mouth, anus or sex organs of an animal for the purpose of arousing or gratifying the sexual desire of a person.

(2) Sexual abuse in the first degree is a Class B felony.

OR. REV. STAT. ANN. § 163.445 (WEST 2011). SEXUAL MISCONDUCT

(1) A person commits the crime of sexual misconduct if the person engages in sexual intercourse or deviate sexual intercourse with an unmarried person under 18 years of age.

(2) Sexual misconduct is a Class C misdemeanor.

OR. REV. STAT. ANN. § 163.465 (WEST 2011) PUBLIC INDECENCY

(1) A person commits the crime of public indecency if while in, or in view of, a public place the person performs:

(a) An act of sexual intercourse;

(b) An act of deviate sexual intercourse; or

(c) An act of exposing the genitals of the person with the intent of arousing the sexual desire of the person or another person.

(2)(a) Public indecency is a Class A misdemeanor.

(b) Notwithstanding paragraph (a) of this subsection, public indecency is a Class C felony if the person has a prior conviction for public indecency or a crime described in ORS 163.355 to 163.445 or for a crime in another jurisdiction that, if committed in this state, would constitute public indecency or a crime described in ORS 163.355 to 163.445.

*Statute truncated due to size.

OR. REV. STAT. ANN. § 163.466 (WEST 2012). FELONY PUBLIC INDECENCY; SENTENCING CLASSIFICATION

The Oregon Criminal Justice Commission shall classify felony public indecency as a person felony and crime category 6 of the sentencing guidelines grid of the commission.

OR. REV. STAT. ANN. § 163.467 (WEST 2012). PRIVATE INDECENCY

(1) A person commits the crime of private indecency if the person exposes the genitals of the person with the intent of arousing the sexual desire of the person or another person and:

(a) The person is in a place where another person has a reasonable expectation of privacy;

(b) The person is in view of the other person;

(c) The exposure reasonably would be expected to alarm or annoy the other person; and

(d) The person knows that the other person did not consent to the exposure.

(2) Private indecency is a Class A misdemeanor.

(3) Subsection (1) of this section does not apply to a person who commits the act described in subsection (1) of this section if the person cohabits with and is involved in a sexually intimate relationship with the other person.

(4) For purposes of this section, "place where another person has a reasonable expectation of privacy" includes, but is not limited to, residences, yards of residences, working areas and offices.

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PENNSYLVANIA

CHARTS	PENETRATION	FORCE	CAPACITY TO CONSENT	VICTIM PERPETRATOR RELATIONSHIP	OTHER SEX CRIMES
CONSENT ANALYSIS	ALCOHOL/DRUG FACILITATED SEXUAL ASSAULT	MARITAL RAPE	SAME SEX PERPETRATOR	STATUTORY RAPE	CONSTRUCTIVE FORCE

PA. CONS. STAT. ANN. 18 § 3101 (WEST 2011). DEFINITIONS

Subject to additional definitions contained in subsequent provisions of this chapter which are applicable to specific provisions of this chapter, the following words and phrases when used in this chapter shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

"Complainant." An alleged victim of a crime under this chapter.

"Deviate sexual intercourse." Sexual intercourse per os or per anus between human beings and any form of sexual intercourse with an animal. The term also includes penetration, however slight, of the genitals or anus of another person with a foreign object for any purpose other than good faith medical, hygienic or law enforcement procedures.

*Statute truncated due to size.

"Forcible compulsion." Compulsion by use of physical, intellectual, moral, emotional or psychological force, either express or implied. The term includes, but is not limited to, compulsion resulting in another person's death, whether the death occurred before, during or after sexual intercourse.

"Foreign object." Includes any physical object not a part of the actor's body.

"Indecent contact." Any touching of the sexual or other intimate parts of the person for the purpose of arousing or gratifying sexual desire, in either person.

"Serious bodily injury." As defined in section 2301(relating to definitions).

"Sexual intercourse." In addition to its ordinary meaning, includes intercourse per os or per anus, with some penetration however slight; emission is not required.

PA. CONS. STAT. ANN. 18 § 3107 (WEST 2011). RESISTANCE NOT REQUIRED

The alleged victim need not resist the actor in prosecutions under this chapter: Provided, however, That nothing in this section shall be construed to prohibit a defendant from introducing evidence that the alleged victim consented to the conduct in question.

PA. CONS. STAT. ANN. 18 § 3121 (WEST 2011). RAPE

(a) Offense defined.--A person commits a felony of the first degree when the person engages in sexual intercourse with a complainant:

(1) By forcible compulsion.

(2) By threat of forcible compulsion that would prevent resistance by a person of reasonable resolution.

(3) Who is unconscious or where the person knows that the complainant is unaware that the sexual intercourse is occurring.

(4) Where the person has substantially impaired the complainant's power to appraise or control his or her conduct by administering or employing, without the knowledge of the complainant, drugs, intoxicants or other means for the purpose of preventing resistance.

(5) Who suffers from a mental disability which renders the complainant incapable of consent.

(6) Deleted by 2002, Dec. 9, P.L. 1350, No. 162, § 2, effective in 60 days.

(b) Additional penalties.--In addition to the penalty provided for by subsection (a), a person may be sentenced to an additional term not to exceed ten years' confinement and an additional amount not to exceed $100,000 where the person engages in sexual intercourse with a complainant and has substantially impaired the complainant's power to appraise or control his or her conduct by administering or employing, without the knowledge of the complainant, any substance for the purpose of preventing resistance through the inducement of euphoria, memory loss and any other effect of this substance.

(c) Rape of a child.--A person commits the offense of rape of a child, a felony of the first degree, when the person engages in sexual intercourse with a complainant who is less than 13 years of age.

*Statute truncated due to size.

(d) Rape of a child with serious bodily injury.--A person commits the offense of rape of a child resulting in serious bodily injury, a felony of the first degree, when the person violates this section and the complainant is under 13 years of age and suffers serious bodily injury in the course of the offense.

(e) Sentences.--Notwithstanding the provisions ofsection 1103 (relating to sentence of imprisonment for felony), a person convicted of an offense under:

(1) Subsection (c) shall be sentenced to a term of imprisonment which shall be fixed by the court at not more than 40 years.

(2) Subsection (d) shall be sentenced up to a maximum term of life imprisonment.

PA. CONS. STAT. ANN. 18 § 3122.1 (WEST 2011). STATUTORY SEXUAL ASSAULT

(a) Felony of the second degree.--Except as provided in section 3121 (relating to rape), a person commits a felony of the second degree when that person engages in sexual intercourse with a complainant to whom the person is not married who is under the age of 16 years and that person is either:

(1) four years older but less than eight years older than the complainant; or

(2) eight years older but less than 11 years older than the complainant.

(b) Felony of the first degree.--A person commits a felony of the first degree when that person engages in sexual intercourse with a complainant under the age of 16 years and that person is 11 or more years older than the complainant and the complainant and the person are not married to each other.

PA. CONS. STAT. ANN. 18 § 3123 (WEST 2011). INVOLUNTARY DEVIATE SEXUAL INTERCOURSE

(a) Offense defined.--A person commits a felony of the first degree when the person engages in deviate sexual intercourse with a complainant:

(1) by forcible compulsion;

(2) by threat of forcible compulsion that would prevent resistance by a person of reasonable resolution;

(3) who is unconscious or where the person knows that the complainant is unaware that the sexual intercourse is occurring;

(4) where the person has substantially impaired the complainant's power to appraise or control his or her conduct by administering or employing, without the knowledge of the complainant, drugs, intoxicants or other means for the purpose of preventing resistance;

(5) who suffers from a mental disability which renders him or her incapable of consent; or

(6) Deleted by 2002, Dec. 9, P.L. 1350, No. 162, § 2, effective in 60 days.

(7) who is less than 16 years of age and the person is four or more years older than the complainant and the complainant and person are not married to each other.

*Statute truncated due to size.

(b) Involuntary deviate sexual intercourse with a child.--A person commits involuntary deviate sexual intercourse with a child, a felony of the first degree, when the person engages in deviate sexual intercourse with a complainant who is less than 13 years of age.

(c) Involuntary deviate sexual intercourse with a child with serious bodily injury.--A person commits an offense under this section with a child resulting in serious bodily injury, a felony of the first degree, when the person violates this section and the complainant is less than 13 years of age and the complainant suffers serious bodily injury in the course of the offense.

(d) Sentences.--Notwithstanding the provisions of section 1103 (relating to sentence of imprisonment for felony), a person convicted of an offense under:

(1) Subsection (b) shall be sentenced to a term of imprisonment which shall be fixed by the court at not more than 40 years.

(2) Subsection (c) shall be sentenced up to a maximum term of life imprisonment.

(e) Definition.--As used in this section, the term "forcible compulsion" includes, but is not limited to, compulsion resulting in another person's death, whether the death occurred before, during or after the sexual intercourse.

PA. CONS. STAT. ANN. 18 § 3124.1 (WEST 2011). SEXUAL ASSAULT

Except as provided in section 3121 (relating to rape) or 3123 (relating to involuntary deviate sexual intercourse), a person commits a felony of the second degree when that person engages in sexual intercourse or deviate sexual intercourse with a complainant without the complainant's consent.

PA. CONS. STAT. ANN. 18 § 3124.2 (WEST 2011). INSTITUTIONAL SEXUAL ASSAULT

(a) General rule.--Except as provided under subsection (a.1) and in sections 3121 (relating to rape), 3122.1 (relating to statutory sexual assault), 3123 (relating to involuntary deviate sexual intercourse), 3124.1 (relating to sexual assault) and 3125 (relating to aggravated indecent assault), a person who is an employee or agent of the Department of Corrections or a county correctional authority, youth development center, youth forestry camp, State or county juvenile detention facility, other licensed residential facility serving children and youth, or mental health or mental retardation facility or institution commits a felony of the third degree when that person engages in sexual intercourse, deviate sexual intercourse or indecent contact with an inmate, detainee, patient or resident.

(a.1) Institutional sexual assault of a minor.--A person who is an employee or agent of the Department of Corrections or a county correctional authority, youth development center, youth forestry camp, State or county juvenile detention facility, other licensed residential facility serving children and youth or mental health or mental retardation facility or institution commits a felony of the third degree when that person engages in sexual intercourse, deviate sexual intercourse or indecent contact with an inmate, detainee, patient or resident who is under 18 years of age.

(a.2) Schools.--

(1) Except as provided in sections 3121, 3122.1, 3123, 3124.1 and 3125, a person who is a volunteer or an employee of a school or any other person who has direct contact with a student at a school commits a felony of the third degree when he engages in sexual intercourse, deviate sexual intercourse or indecent contact with a student of the school.

*Statute truncated due to size.

(2) As used in this subsection, the following terms shall have the meanings given to them in this paragraph:

(i) “Direct contact.” Care, supervision, guidance or control.

(ii) “Employee.”

(A) Includes:

(I) A teacher, a supervisor, a supervising principal, a principal, an assistant principal, a vice principal, a director of vocational education, a dental hygienist, a visiting teacher, a home and school visitor, a school counselor, a child nutrition program specialist, a school librarian, a school secretary the selection of whom is on the basis of merit as determined by eligibility lists, a school nurse, a substitute teacher, a janitor, a cafeteria worker, a bus driver, a teacher aide and any other employee who has direct contact with school students.

(II) An independent contractor who has a contract with a school for the purpose of performing a service for the school, a coach, an athletic trainer, a coach hired as an independent contractor by the Pennsylvania Interscholastic Athletic Association or an athletic trainer hired as an independent contractor by the Pennsylvania Interscholastic Athletic Association.

(B) The term does not include:

(I) A student employed at the school.

(II) An independent contractor or any employee of an independent contractor who has no direct contact with school students.

(iii) “School.” A public or private school, intermediate unit or area vocational-technical school.

(iv) “Volunteer.” The term does not include a school student.

(a.3) Child care.--Except as provided in sections 3121, 3122.1, 3123, 3124.1 and 3125, a person who is a volunteer or an employee of a center for children commits a felony of the third degree when he engages in sexual intercourse, deviate sexual intercourse or indecent contact with a child who is receiving services at the center.

(b) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

“Agent.” A person who is assigned to work in a State or county correctional or juvenile detention facility, a youth development center, youth forestry camp, other licensed residential facility serving children and youth or mental health or mental retardation facility or institution, who is employed by any State or county agency or any person employed by an entity providing contract services to the agency.

“Center for children.” Includes a child day-care center, group and family day-care home, boarding home for children, a center providing early intervention and drug and alcohol services for children or other facility which provides child-care services which are subject to approval, licensure, registration or certification by the Department of Public Welfare or a county social services agency or which are provided pursuant to a contract with the department or a county social services agency. The term does not include a youth development center, youth forestry camp, State or county juvenile detention facility and other licensed residential facility serving children and youth.

*Statute truncated due to size.

PA. CONS. STAT. ANN. 18 § 3125 (WEST 2011). AGGRAVATED INDECENT ASSAULT

(a) Offenses defined.--Except as provided in sections 3121 (relating to rape), 3122.1 (relating to statutory sexual assault), 3123 (relating to involuntary deviate sexual intercourse) and 3124.1 (relating to sexual assault), a person who engages in penetration, however slight, of the genitals or anus of a complainant with a part of the person's body for any purpose other than good faith medical, hygienic or law enforcement procedures commits aggravated indecent assault if:

(1) the person does so without the complainant's consent;

(2) the person does so by forcible compulsion;

(3) the person does so by threat of forcible compulsion that would prevent resistance by a person of reasonable resolution;

(4) the complainant is unconscious or the person knows that the complainant is unaware that the penetration is occurring;

(5) the person has substantially impaired the complainant's power to appraise or control his or her conduct by administering or employing, without the knowledge of the complainant, drugs, intoxicants or other means for the purpose of preventing resistance;

(6) the complainant suffers from a mental disability which renders him or her incapable of consent;

(7) the complainant is less than 13 years of age; or

(8) the complainant is less than 16 years of age and the person is four or more years older than the complainant and the complainant and the person are not married to each other.

(b) Aggravated indecent assault of a child.--A person commits aggravated indecent assault of a child when the person violates subsection (a)(1), (2), (3), (4), (5) or (6) and the complainant is less than 13 years of age.

(c) Grading and sentences.--

(1) An offense under subsection (a) is a felony of the second degree.

(2) An offense under subsection (b) is a felony of the first degree.

PA. CONS. STAT. ANN. 18 § 3126 (WEST 2011). INDECENT ASSAULT

(a) Offense defined.--A person is guilty of indecent assault if the person has indecent contact with the complainant, causes the complainant to have indecent contact with the person or intentionally causes the complainant to come into contact with seminal fluid, urine or feces for the purpose of arousing sexual desire in the person or the complainant and:

(1) the person does so without the complainant's consent;

(2) the person does so by forcible compulsion;

(3) the person does so by threat of forcible compulsion that would prevent resistance by a person of reasonable resolution;

(4) the complainant is unconscious or the person knows that the complainant is unaware that the indecent contact is occurring;

(5) the person has substantially impaired the complainant's power to appraise or control his or her conduct by administering or employing, without the knowledge of the complainant, drugs, intoxicants or other means for the purpose of preventing resistance;

(6) the complainant suffers from a mental disability which renders the complainant incapable of consent;

(7) the complainant is less than 13 years of age; or

(8) the complainant is less than 16 years of age and the person is four or more years older than the complainant and the complainant and the person are not married to each other.

(b) Grading.--Indecent assault shall be graded as follows:

(1) An offense under subsection (a)(1) or (8) is a misdemeanor of the second degree.

(2) An offense under subsection (a)(2), (3), (4), (5) or (6) is a misdemeanor of the first degree.

(3) An offense under subsection (a)(7) is a misdemeanor of the first degree unless any of the following apply, in which case it is a felony of the third degree:

(i) It is a second or subsequent offense.

(ii) There has been a course of conduct of indecent assault by the person.

(iii) The indecent assault was committed by touching the complainant's sexual or intimate parts with sexual or intimate parts of the person.

(iv) The indecent assault is committed by touching the person's sexual or intimate parts with the complainant's sexual or intimate parts.

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RHODE ISLAND

CHARTS	PENETRATION	FORCE	CAPACITY TO CONSENT	VICTIM PERPETRATOR RELATIONSHIP	OTHER SEX CRIMES
CONSENT ANALYSIS	ALCOHOL/DRUG FACILITATED SEXUAL ASSAULT	MARITAL RAPE	SAME SEX PERPETRATOR	STATUTORY RAPE	CONSTRUCTIVE FORCE

R.I. GEN. LAWS § 11-37-1 (2010). DEFINITIONS

The following words and phrases, when used in this chapter, have the following meanings:

(1) “Accused” means a person accused of a sexual assault.

(2) “Force or coercion” means when the accused does any of the following:

*Statute truncated due to size.

(i) Uses or threatens to use a weapon, or any article used or fashioned in a manner to lead the victim to reasonably believe it to be a weapon.

(ii) Overcomes the victim through the application of physical force or physical violence.

(iii) Coerces the victim to submit by threatening to use force or violence on the victim and the victim reasonably believes that the accused has the present ability to execute these threats.

(iv) Coerces the victim to submit by threatening to at some time in the future murder, inflict serious bodily injury upon or kidnap the victim or any other person and the victim reasonably believes that the accused has the ability to execute this threat.

(3) "Intimate parts" means the genital or anal areas, groin, inner thigh, or buttock of any person or the breast of a female.

(4) "Mentally disabled" means a person who has a mental impairment which renders that person incapable of appraising the nature of the act.

(5) "Mentally incapacitated" means a person who is rendered temporarily incapable of appraising or controlling his or her conduct due to the influence of a narcotic, anesthetic, or other substance administered to that person without his or her consent, or who is mentally unable to communicate unwillingness to engage in the act.

(6) "Physically helpless" means a person who is unconscious, asleep, or for any other reason is physically unable to communicate unwillingness to an act.

(7) "Sexual contact" means the intentional touching of the victim's or accused's intimate parts, clothed or unclothed, if that intentional touching can be reasonably construed as intended by the accused to be for the purpose of sexual arousal, gratification, or assault.

(8) "Sexual penetration" means sexual intercourse, cunnilingus, fellatio, and anal intercourse, or any other intrusion, however slight, by any part of a person's body or by any object into the genital or anal openings of another person's body, or the victim's own body upon the accused's instruction, but emission of semen is not required.

(9) "Spouse" means a person married to the accused at the time of the alleged sexual assault, except that such persons shall not be considered the spouse if the couple are living apart and a decision for divorce has been granted, whether or not a final decree has been entered.

(10) "Victim" means the person alleging to have been subjected to sexual assault.

R.I. GEN. LAWS § 11-37-2 (2010). FIRST DEGREE SEXUAL ASSAULT

A person is guilty of first degree sexual assault if he or she engages in sexual penetration with another person, and if any of the following circumstances exist:

(1) The accused, not being the spouse, knows or has reason to know that the victim is mentally incapacitated, mentally disabled, or physically helpless.

(2) The accused uses force or coercion.

(3) The accused, through concealment or by the element of surprise, is able to overcome the victim.

*Statute truncated due to size.

(4) The accused engages in the medical treatment or examination of the victim for the purpose of sexual arousal, gratification, or stimulation.

R.I. GEN. LAWS § 11-37-3.2 (2010). NECESSITY OF COMPLAINT FROM VICTIM

No person shall be charged under § 11-37-3.1 unless and until the police department investigating the incident obtains from the victim a signed complaint against the person alleging a violation of § 11-37-3.1.

R.I. GEN. LAWS § 11-37-4 (2010). SECOND DEGREE SEXUAL ASSAULT

A person is guilty of a second degree sexual assault if he or she engages in sexual contact with another person and if any of the following circumstances exist:

(1) The accused knows or has reason to know that the victim is mentally incapacitated, mentally disabled or physically helpless.

(2) The accused uses force or coercion.

(3) The accused engages in the medical treatment or examination of the victim for the purpose of sexual arousal, gratification or stimulation.

R.I. GEN. LAWS § 11-37-6 (2010). THIRD DEGREE SEXUAL ASSAULT

A person is guilty of third degree sexual assault if he or she is over the age of eighteen (18) years and engaged in sexual penetration with another person over the age of fourteen (14) years and under the age of consent, sixteen (16) years of age.

R.I. GEN. LAWS § 11-45-2 (2012). INDECENT EXPOSURE--DISORDERLY CONDUCT

(a) A person commits indecent exposure/disorderly conduct when for the purpose of sexual arousal, gratification or stimulation, such person intentionally, knowingly, or recklessly:

(1) Exposes his or her genitals to the view of another under circumstances in which his or her conduct is likely to cause affront, distress, or alarm to that person;

(b) Any person may be a complainant for the purposes of instituting action for any violation of this section. This act shall not apply to any conduct between consenting adults where the complainant is an unintended witness;

(c) Any person found guilty of, or who pleads nolo contendere to the crime of indecent exposure/disorderly conduct, shall be imprisoned for a term of not more than one year, or fined not more than one thousand dollars ($1,000), or both. Any subsequent offense shall be punished by imprisonment for a term of up to three (3) years;

(d) Counseling. Every person convicted of, or placed on probation for a violation of this section, may be ordered to attend appropriate professional counseling to address his or her behavior;

(e) In no event shall the provisions of this section be construed to apply to breastfeeding in public.

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*Statute truncated due to size.

SOUTH CAROLINA

CHARTS	PENETRATION	FORCE	CAPACITY TO CONSENT	VICTIM PERPETRATOR RELATIONSHIP	OTHER SEX CRIMES
CONSENT ANALYSIS	ALCOHOL/DRUG FACILITATED SEXUAL ASSAULT	MARITAL RAPE	SAME SEX PERPETRATOR	STATUTORY RAPE	CONSTRUCTIVE FORCE

S.C. CODE ANN. § 16-15-365 (2011). EXPOSURE OF PRIVATE PARTS IN LEWD AND LASCIVIOUS MANNER, AIDING OR PROCURING PERSON TO PERFORM SUCH ACT, OR PERMITTING USE OF PREMISES FOR SUCH ACT PROHIBITED; PENALTIES

Any person who willfully and knowingly exposes the private parts of his person in a lewd and lascivious manner and in the presence of any other person, or aids or abets any such act, or who procures another to perform such act, or any person, who as owner, manager, lessee, director, promoter, or agent, or in any other capacity knowingly hires, leases, or permits the land, building, or premises of which he is owner, lessee, or tenant, or over which he has control, to be used for purposes of any such act, is guilty of a misdemeanor and, upon conviction, must be imprisoned for not more than six months or fined not more than five hundred dollars, or both.

S.C. CODE ANN. § 16-3-615 (2010). SPOUSAL SEXUAL BATTERY

(A) Sexual battery, as defined in Section 16-3-651(h), when accomplished through use of aggravated force, defined as the use or the threat of use of a weapon or the use or threat of use of physical force or physical violence of a high and aggravated nature, by one spouse against the other spouse if they are living together, constitutes the felony of spousal sexual battery and, upon conviction, a person must be imprisoned not more than ten years.

(B) The offending spouse's conduct must be reported to appropriate law enforcement authorities within thirty days in order for that spouse to be prosecuted for this offense.

(C) The provisions of Section 16-3-659.1 apply to any trial brought under this section.

(D) This section is not applicable to a purported marriage entered into by a male under the age of sixteen or a female under the age of fourteen.

S.C. CODE ANN. § 16-3-651 (2010). CRIMINAL SEXUAL CONDUCT: DEFINITIONS.

For the purposes of §§ 16-3-651 to 16-3-659.1:

(a) “Actor” means a person accused of criminal sexual conduct.

(b) “Aggravated coercion” means that the actor threatens to use force or violence of a high and aggravated nature to overcome the victim or another person, if the victim reasonably believes that the actor has the present ability to carry out the threat, or threatens to retaliate in the future by the infliction of physical harm, kidnapping or extortion, under circumstances of aggravation, against the victim or any other person.

(c) “Aggravated force” means that the actor uses physical force or physical violence of a high and aggravated nature to overcome the victim or includes the threat of the use of a deadly weapon.

(d) “Intimate parts” includes the primary genital area, anus, groin, inner thighs, or buttocks of a male or female human being and the breasts of a female human being.

(e) “Mentally defective” means that a person suffers from a mental disease or defect which renders the person temporarily or permanently incapable of appraising the nature of his or her conduct.

(f) “Mentally incapacitated” means that a person is rendered temporarily incapable of appraising or controlling his or her conduct whether this condition is produced by illness, defect, the influence of a substance or from some other cause.

(g) “Physically helpless” means that a person is unconscious, asleep, or for any other reason physically unable to communicate unwillingness to an act.

(h) “Sexual battery” means sexual intercourse, cunnilingus, fellatio, anal intercourse, or any intrusion, however slight, of any part of a person's body or of any object into the genital or anal openings of another person's body, except when such intrusion is accomplished for medically recognized treatment or diagnostic purposes.

(i) “Victim” means the person alleging to have been subjected to criminal sexual conduct.

S.C. CODE ANN. § 16-3-652 (2010). CRIMINAL SEXUAL CONDUCT IN THE FIRST DEGREE

(1) A person is guilty of criminal sexual conduct in the first degree if the actor engages in sexual battery with the victim and if any one or more of the following circumstances are proven:

(a) The actor uses aggravated force to accomplish sexual battery.

(b) The victim submits to sexual battery by the actor under circumstances where the victim is also the victim of forcible confinement, kidnapping, trafficking in persons, robbery, extortion, burglary, housebreaking, or any other similar offense or act.

(c) The actor causes the victim, without the victim's consent, to become mentally incapacitated or physically helpless by administering, distributing, dispensing, delivering, or causing to be administered, distributed, dispensed, or delivered a controlled substance, a controlled substance analogue, or any intoxicating substance.

(2) Criminal sexual conduct in the first degree is a felony punishable by imprisonment for not more than thirty years, according to the discretion of the court.

S.C. CODE ANN. § 16-3-653 (2010). CRIMINAL SEXUAL CONDUCT IN THE SECOND DEGREE

(1) A person is guilty of criminal sexual conduct in the second degree if the actor uses aggravated coercion to accomplish sexual battery.

(2) Criminal sexual conduct in the second degree is a felony punishable by imprisonment for not more than twenty years according to the discretion of the court.

S.C. CODE ANN. § 16-3-654 (2010). CRIMINAL SEXUAL CONDUCT IN THE THIRD DEGREE

(1) A person is guilty of criminal sexual conduct in the third degree if the actor engages in sexual battery with the victim and if any one or more of the following circumstances are proven:

*Statute truncated due to size.

(a) The actor uses force or coercion to accomplish the sexual battery in the absence of aggravating circumstances.

(b) The actor knows or has reason to know that the victim is mentally defective, mentally incapacitated, or physically helpless and aggravated force or aggravated coercion was not used to accomplish sexual battery.

(2) Criminal sexual conduct in the third degree is a felony punishable by imprisonment for not more than ten years, according to the discretion of the court.

S.C. CODE ANN. § 16-3-656 (2010). CRIMINAL SEXUAL CONDUCT: ASSAULTS WITH INTENT TO COMMIT

Assault with intent to commit criminal sexual conduct described in the above sections shall be punishable as if the criminal sexual conduct was committed.

S.C. CODE ANN. § 16-3-657 (2010). CRIMINAL SEXUAL CONDUCT: TESTIMONY OF VICTIM NEED NOT BE CORROBORATED

The testimony of the victim need not be corroborated in prosecutions under §§ 16-3-652 through 16-3-658.

S.C. CODE ANN. § 16-3-658 (2010). CRIMINAL SEXUAL CONDUCT: WHERE VICTIM IS SPOUSE

A person cannot be guilty of criminal sexual conduct under Sections 16-3-651 through 16-3-659.1 if the victim is the legal spouse unless the couple is living apart and the offending spouse's conduct constitutes criminal sexual conduct in the first degree or second degree as defined by Sections 16-3-652 and 16-3-653.

The offending spouse's conduct must be reported to appropriate law enforcement authorities within thirty days in order for a person to be prosecuted for these offenses.

This section is not applicable to a purported marriage entered into by a male under the age of sixteen or a female under the age of fourteen.

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SOUTH DAKOTA

CHARTS	PENETRATION	FORCE	CAPACITY TO CONSENT	VICTIM PERPETRATOR RELATIONSHIP	OTHER SEX CRIMES
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S.D. CODIFIED LAWS § 22-22-1 (2012). RAPE DEFINED--DEGREES--FELONY

Rape is an act of sexual penetration accomplished with any person under any of the following circumstances:

(1) If the victim is less than thirteen years of age; or

*Statute truncated due to size.

(2) Through the use of force, coercion, or threats of immediate and great bodily harm against the victim or other persons within the victim's presence, accompanied by apparent power of execution; or

(3) If the victim is incapable, because of physical or mental incapacity, of giving consent to such act; or

(4) If the victim is incapable of giving consent because of any intoxicating, narcotic, or anesthetic agent or hypnosis; or

(5) If the victim is thirteen years of age, but less than sixteen years of age, and the perpetrator is at least three years older than the victim.

A violation of subdivision (1) of this section is rape in the first degree, which is a Class C felony. A violation of subdivision (2) of this section is rape in the second degree which is a Class 1 felony. A violation of subdivision (3) or (4) of this section is rape in the third degree, which is a Class 2 felony. A violation of subdivision (5) of this section is rape in the fourth degree, which is a Class 3 felony. Notwithstanding § 23A-42-2 a charge brought pursuant to this section may be commenced at any time prior to the time the victim becomes age twenty-five or within seven years of the commission of the crime, whichever is longer.

S.D. CODIFIED LAWS § 22-22-2 (2012). SEXUAL PENETRATION DEFINED--ACTS CONSTITUTING SODOMY--MEDICAL PRACTITIONERS EXCEPTED

Sexual penetration means an act, however slight, of sexual intercourse, cunnilingus, fellatio, anal intercourse, or any intrusion, however slight, of any part of the body or of any object into the genital or anal openings of another person's body. All of the foregoing acts of sexual penetration, except sexual intercourse, are also defined as sodomy. Practitioners of the healing arts lawfully practicing within the scope of their practice, which determination shall be conclusive as against the state and shall be made by the court prior to trial, are not included within the provisions of this section. In any pretrial proceeding under this section, the prosecution has the burden of establishing probable cause.

S.D. CODIFIED LAWS § 22-22-7 (2012). SEXUAL CONTACT WITH CHILD UNDER SIXTEEN--FELONY OR MISDEMEANOR

Any person, sixteen years of age or older, who knowingly engages in sexual contact with another person, other than that person's spouse if the other person is under the age of sixteen years is guilty of a Class 3 felony. If the victim is at least thirteen years of age and the actor is less than five years older than the victim, the actor is guilty of a Class 1 misdemeanor. Notwithstanding § 23A-42-2, a charge brought pursuant to this section may be commenced at any time before the victim becomes age twenty-five or within seven years of the commission of the crime, whichever is longer.

S.D. CODIFIED LAWS § 22-22-7.1 (2012) SEXUAL CONTACT DEFINED – EXCEPTION WHEN WITHIN THE SCOPE OF MEDICAL PRACTICE

As used in this chapter, the term, sexual contact, means any touching, not amounting to rape, whether or not through clothing or other covering, of the breasts of a female or the genitalia or anus of any person with the intent to arouse or gratify the sexual desire of either party. Practitioners of the healing arts lawfully practicing within the scope of their practice, which determination shall be conclusive as against the state and shall be made by the court prior to trial, are not included within the provisions of this section. In any pretrial proceeding under this section, the prosecution has the burden of establishing probable cause.

S.D. CODIFIED LAWS § 22-22-7.2 (2012). SEXUAL CONTACT WITH PERSON INCAPABLE OF CONSENTING--FELONY

Any person, fifteen years of age or older, who knowingly engages in sexual contact with another person, other than his or her spouse if the other person is sixteen years of age or older and the other person is incapable, because of physical or mental incapacity, of consenting to sexual contact, is guilty of a Class 4 felony.

S.D. CODIFIED LAWS § 22-22-7.3 (2012). SEXUAL CONTACT WITH CHILD UNDER SIXTEEN YEARS OF AGE--VIOLATION AS MISDEMEANOR

Any person, younger than sixteen years of age, who knowingly engages in sexual contact with another person, other than his or her spouse, if such other person is younger than sixteen years of age, is guilty of a Class 1 misdemeanor.

S.D. CODIFIED LAWS § 22-22-7.4 (2012). SEXUAL CONTACT WITHOUT CONSENT WITH PERSON CAPABLE OF CONSENTING AS MISDEMEANOR

No person fifteen years of age or older may knowingly engage in sexual contact with another person other than his or her spouse who, although capable of consenting, has not consented to such contact. A violation of this section is a Class 1 misdemeanor.

S.D. CODIFIED LAWS § 22-22-7.6 (2012). SEXUAL ACTS BETWEEN JAIL EMPLOYEES AND DETAINEES – FELONY – JUVENILE CORRECTIONAL FACILITY DEFINED

Any person employed at any jail or juvenile correctional facility, who knowingly engages in an act of sexual contact or sexual penetration with another person who is in detention and under the custodial, supervisory, or disciplinary authority of the person so engaging, and which act of sexual contact or sexual penetration does not otherwise constitute a felony pursuant to the provisions of chapter 22-22, is guilty of a Class 6 felony.

A juvenile correctional facility pursuant to this section is a juvenile detention facility as defined in subdivision 26-7A-1(16) or a juvenile facility operated by the Department of Corrections under § 1-15-1.4.

S.D. CODIFIED LAWS § 22-22-27 (2012). DEFINITION OF TERMS – SEX OFFENSES BY PSYCHOTHERAPISTS

Terms used in §§ 22-22-28 and 22-22-29 mean:

(1) "Emotional dependency," a condition of the patient brought about by the nature of the patient's own emotional condition or the nature of the treatment provided by the psychotherapist which is characterized by significant impairment of the patient's ability to withhold consent to sexual acts or contact with the psychotherapist and which the psychotherapist knows or has reason to know exists;

(2) "Patient," any person who seeks or obtains psychotherapeutic services from a psychotherapist on a regular and ongoing basis;

(3) "Psychotherapist," any physician, psychologist, nurse, chemical dependency counselor, social worker, member of the clergy, marriage and family therapist, mental health service provider, or other person, whether or not licensed or certified by the state, who performs or purports to perform psychotherapy; and

(4) "Psychotherapy," the professional treatment, assessment, or counseling of a mental or emotional illness, symptom, or condition.

S.D. CODIFIED LAWS § 22-22-28 (2012). SEXUAL CONTACT BY PSYCHOTHERAPIST – FELONY

Any psychotherapist who knowingly engages in sexual contact, as defined in § 22-22-7.1, with a person who is not his or her spouse and who is a patient who is emotionally dependent on the psychotherapist at the time of contact, commits a Class 5 felony. Consent by the patient is not a defense.

S.D. CODIFIED LAWS § 22-22-29 (2012). SEXUAL PENETRATION BY PSYCHOTHERAPIST – FELONY

Any psychotherapist who knowingly engages in an act of sexual penetration, as defined in § 22-22-2, with a person who is not his or her spouse and who is a patient who is emotionally dependent on the psychotherapist at the time that the act of sexual penetration is committed, commits a Class 4 felony. Consent by the patient is not a defense.

S.D. CODIFIED LAWS § 22-24-1.1 (2012). PUBLIC INDECENCY – MISDEMEANOR

A person commits the crime of public indecency if the person, under circumstances in which that person knows that his or her conduct is likely to annoy, offend, or alarm some other person, exposes his or her anus or genitals in a public place where another may be present who will be annoyed, offended, or alarmed by the person's act. A violation of this section is a Class 2 misdemeanor.

S.D. CODIFIED LAWS § 22-24-1.2 (2012). INDECENT EXPOSURE – MISDEMEANOR OR FELONY

A person commits the crime of indecent exposure if, with the intent to arouse or gratify the sexual desire of any person, the person exposes his or her genitals in a public place, or in the view of a public place, under circumstances in which that person knows that person's conduct is likely to annoy, offend, or alarm another person. A violation of this section is a Class 1 misdemeanor. However, if such person has been previously convicted of a felony violation of § 22-22-1, 22-22-7, or 22-24A-3, that person is guilty of a Class 6 felony. Any person convicted of a third or subsequent violation of this section is guilty of a Class 6 felony.

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*Statute truncated due to size.

TENNESSEE

CHARTS	PENETRATION	FORCE	CAPACITY TO CONSENT	VICTIM PERPETRATOR RELATIONSHIP	OTHER SEX CRIMES
CONSENT ANALYSIS	ALCOHOL/DRUG FACILITATED SEXUAL ASSAULT	MARITAL RAPE	SAME SEX PERPETRATOR	STATUTORY RAPE	CONSTRUCTIVE FORCE

TENN. CODE ANN § 39-13-501 (WEST 2011). DEFINITIONS

As used in §§ 39-13-501 -- 39-13-511, except as specifically provided in § 39-13-505, unless the context otherwise requires:

(1) "Coercion" means threat of kidnapping, extortion, force or violence to be performed immediately or in the future or the use of parental, custodial, or official authority over a child less than fifteen (15) years of age;

(2) "Intimate parts" includes the primary genital area, groin, inner thigh, buttock or breast of a human being;

(3) "Mentally defective" means that a person suffers from a mental disease or defect which renders that person temporarily or permanently incapable of appraising the nature of the person's conduct;

(4) "Mentally incapacitated" means that a person is rendered temporarily incapable of appraising or controlling the person's conduct due to the influence of a narcotic, anesthetic or other substance administered to that person without the person's consent, or due to any other act committed upon that person without the person's consent;

(5) "Physically helpless" means that a person is unconscious, asleep or for any other reason physically or verbally unable to communicate unwillingness to do an act;

(6) "Sexual contact" includes the intentional touching of the victim's, the defendant's, or any other person's intimate parts, or the intentional touching of the clothing covering the immediate area of the victim's, the defendant's, or any other person's intimate parts, if that intentional touching can be reasonably construed as being for the purpose of sexual arousal or gratification;

(7) "Sexual penetration" means sexual intercourse, cunnilingus, fellatio, anal intercourse, or any other intrusion, however slight, of any part of a person's body or of any object into the genital or anal openings of the victim's, the defendant's, or any other person's body, but emission of semen is not required; and

(8) "Victim" means the person alleged to have been subjected to criminal sexual conduct and includes the spouse of the defendant.

TENN. CODE ANN § 39-13-502 (WEST 2011). AGGRAVATED RAPE

(a) Aggravated rape is unlawful sexual penetration of a victim by the defendant or the defendant by a victim accompanied by any of the following circumstances:

(1) Force or coercion is used to accomplish the act and the defendant is armed with a weapon or any article used or fashioned in a manner to lead the victim reasonably to believe it to be a weapon;

(2) The defendant causes bodily injury to the victim;

(3) The defendant is aided or abetted by one (1) or more other persons; and

(A) Force or coercion is used to accomplish the act; or

(B) The defendant knows or has reason to know that the victim is mentally defective, mentally incapacitated or physically helpless.

(b) Aggravated rape is a Class A felony.

TENN. CODE ANN § 39-13-503 (WEST 2011). RAPE

(a) Rape is unlawful sexual penetration of a victim by the defendant or of the defendant by a victim accompanied by any of the following circumstances:

(1) Force or coercion is used to accomplish the act;

(2) The sexual penetration is accomplished without the consent of the victim and the defendant knows or has reason to know at the time of the penetration that the victim did not consent;

(3) The defendant knows or has reason to know that the victim is mentally defective, mentally incapacitated or physically helpless; or

(4) The sexual penetration is accomplished by fraud.

(b) Rape is a Class B felony.

TENN. CODE ANN § 39-13-504 (WEST 2011). AGGRAVATED SEXUAL BATTERY

(a) Aggravated sexual battery is unlawful sexual contact with a victim by the defendant or the defendant by a victim accompanied by any of the following circumstances:

(1) Force or coercion is used to accomplish the act and the defendant is armed with a weapon or any article used or fashioned in a manner to lead the victim reasonably to believe it to be a weapon;

(2) The defendant causes bodily injury to the victim;

(3) The defendant is aided or abetted by one (1) or more other persons; and

(A) Force or coercion is used to accomplish the act; or

(B) The defendant knows or has reason to know that the victim is mentally defective, mentally incapacitated or physically helpless; or

(4) The victim is less than thirteen (13) years of age.

(b) Aggravated sexual battery is a Class B felony.

TENN. CODE ANN § 39-13-505 (WEST 2011). SEXUAL BATTERY

(a) Sexual battery is unlawful sexual contact with a victim by the defendant or the defendant by a victim accompanied by any of the following circumstances:

(1) Force or coercion is used to accomplish the act;

(2) The sexual contact is accomplished without the consent of the victim and the defendant knows or has reason to know at the time of the contact that the victim did not consent;

(3) The defendant knows or has reason to know that the victim is mentally defective, mentally incapacitated or physically helpless; or

(4) The sexual contact is accomplished by fraud.

(b) As used in this section, "coercion" means the threat of kidnapping, extortion, force or violence to be performed immediately or in the future.

(c) Sexual battery is a Class E felony.

TENN. CODE ANN. § 39-13-511 (WEST 2011). INDECENT EXPOSURE; PENALTIES; EXCEPTION FOR BREASTFEEDING

(a)(1)(A) A person commits the offense of public indecency who, in a public place, as defined in subdivision (a)(2)(B), knowingly or intentionally:

(i) Engages in sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, excretory functions or other ultimate sex acts;

(ii) Appears in a state of nudity; or

(iii) Fondles the genitals of the person, or another person.

(B) A person does not violate subdivision (a)(1)(A) if the person makes intentional and reasonable attempts to conceal the person from public view while performing an excretory function, and the person performs the function in an unincorporated area of the state.

(2) As used in subdivision (a)(1):

(A) "Nudity" or "state of nudity" means the showing of the bare human male or female genitals or pubic area with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of the areola, or the showing of the covered male genitals in a discernibly turgid state. "Nudity" or "state of nudity" does not include a mother in the act of nursing the mother's baby; and

(B)(i) "Public place" means any location frequented by the public, or where the public is present or likely to be present, or where a person may reasonably be expected to be observed by members of the public. "Public place" includes, but is not limited to, streets, sidewalks, parks, beaches, business and commercial establishments, whether for profit or not-for-profit and whether open to the public at large or where entrance is limited by a cover charge or membership requirement, bottle clubs, hotels, motels, restaurants, night clubs, country clubs, cabarets and meeting facilities utilized by any religious, social, fraternal or similar organizations.

(ii) Premises used solely as a private residence, whether permanent or temporary in nature, are not deemed to be a public place. "Public place" does not include enclosed single sex public restrooms, enclosed single sex functional showers, locker or dressing room facilities, enclosed motel rooms and hotel rooms designed and intended for sleeping accommodations, doctors' offices, portions of hospitals and similar places in which nudity or exposure is necessarily and customarily expected outside of the home and the sphere of privacy constitutionally protected

therein; nor does it include a person appearing in a state of nudity in a modeling class operated by a proprietary school, licensed by the state of Tennessee, a college, junior college, or university supported entirely or partly by taxation, or a private college or university where such private college or university maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation or an accredited private college. “Public place” does not include a private facility that has been formed as a family-oriented clothing optional facility, properly licensed by the state.

(3) Public indecency is punishable as follows:

(A) A first or second offense is a Class B misdemeanor punishable only by a fine of five hundred dollars ($500); and

(B) A third or subsequent offense is a Class A misdemeanor punishable by a fine of one thousand five hundred dollars ($1,500) or confinement for not more than eleven (11) months and twenty-nine (29) days, or both.

(4)(A) If a person is arrested for public indecency while working as an employee or a contractor, the employer or principal may be held liable for a fine imposed by subdivision (a)(3).

(B) The employer may not be held liable under this section, unless it is shown the employer knew or should have known the acts of the employee or contractor were in violation of this section.

(5) This subsection (a) does not apply to any theatrical production that contains nudity as defined by this section, performed in a theater by a professional or amateur theatrical or musical company that has serious artistic merit; provided, that the production is not in violation of chapter 17, part 9 of this title.

(6) This subsection (a) shall not affect in any fashion the ability of local jurisdictions or the state of Tennessee to regulate any activity where alcoholic beverages, including malt beverages, are sold for consumption.

(b)(1) A person commits the offense of indecent exposure who:

(A) In a public place, as defined in § 39-11-106, or on the private premises of another, or so near thereto as to be seen from the private premises:

(i) Intentionally:

(*a*) Exposes the person's genitals or buttocks to another; or

(*b*) Engages in sexual contact or sexual penetration as defined in § 39-13-501; and

(ii) Reasonably expects that the acts will be viewed by another and the acts:

(*a*) Will offend an ordinary viewer; or

(*b*) Are for the purpose of sexual arousal and gratification of the defendant; or

(B)(i) Knowingly invites, entices or fraudulently induces the child of another into the person's residence for the purpose of attaining sexual arousal or gratification by intentionally engaging in the following conduct in the presence of the child:

(*a*) Exposure of such person's genitals, buttocks or female breasts; or

(*b*) Masturbation.

(ii) Knowingly engages in the person's own residence, in the intended presence of any child, for the defendant's

sexual arousal or gratification the following intentional conduct:

(*a*) Exposure of the person's genitals, buttocks or female breasts; or

(*b*) Masturbation.

(iii) No prosecution shall be commenced for a violation of subdivision (b)(1)(B)(ii)(a) based solely upon the uncorroborated testimony of a witness who shares with the accused any of the relationships described in § 36-3-601(5).

(iv) For the provisions of subdivision (b)(1)(B)(i) or (b)(1)(B)(ii) to apply, the defendant must be eighteen (18) years of age or older and the child victim must be less than thirteen (13) years of age.

(2) "Indecent exposure," as defined in subdivision (b)(1), is a Class B misdemeanor, unless the defendant is eighteen (18) years of age or older and the victim is under thirteen (13) years of age, in which event, indecent exposure is a Class A misdemeanor. Additionally, "indecent exposure," as defined in subdivision (b)(1), is a Class E felony when the defendant is eighteen (18) years of age or older, the victim is under thirteen (13) years of age, and the defendant has any combination of two

(2) or more prior convictions under this section.

(c)(1) A person confined in a penal institution, as defined in § 39-16-601, commits the offense of indecent exposure who with the intent to abuse, torment, harass or embarrass a guard:

(A) Intentionally exposes the person's genitals or buttocks to the guard; or

(B) Engages in sexual contact as defined in § 39-13-501.

(2) For purposes of this subsection (c), "guard" means any sheriff, jailer, guard, correctional officer or other authorized personnel charged with the custody of the person.

(3) Notwithstanding subdivision (b)(2), a violation of this subsection (c) is a Class A misdemeanor.

(d) This section does not apply to a mother who is breastfeeding her child in any location, public or private.

TENN. CODE ANN. § 39-13-527 (2012). AUTHORITY FIGURE; SEXUAL BATTERY; PENALTY

(a) Sexual battery by an authority figure is unlawful sexual contact with a victim by the defendant or the defendant by a victim accompanied by the following circumstances:

(1) The victim was, at the time of the offense, thirteen (13) years of age or older but less then eighteen (18) years of age; or

(2) The victim was, at the time of the offense, mentally defective, mentally incapacitated or physically helpless, regardless of age; and,

(3)(A) The defendant was at the time of the offense in a position of trust, or had supervisory or disciplinary power over the victim by virtue of the defendant's legal, professional or occupational status and used the position of trust or power to accomplish the sexual contact; or

(B) The defendant had, at the time of the offense, parental or custodial authority over the victim and used the

*Statute truncated due to size.

authority to accomplish the sexual contact.

(b) Sexual battery by an authority figure is a Class C felony.

TENN. CODE ANN. § 39-15-302 (2012). INCEST

(a) A person commits incest who engages in sexual penetration as defined in § 39-13-501, with a person, knowing the person to be, without regard to legitimacy:

(1) The person's natural parent, child, grandparent, grandchild, uncle, aunt, nephew, niece, stepparent, stepchild, adoptive parent, adoptive child; or

(2) The person's brother or sister of the whole or half-blood or by adoption.

(b) Incest is a Class C felony.

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TEXAS

CHARTS	PENETRATION	FORCE	CAPACITY TO CONSENT	VICTIM PERPETRATOR RELATIONSHIP	OTHER SEX CRIMES
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TEX. PENAL CODE ANN. § 21.01 (VERNON 2011). DEFINITIONS

In this chapter:

(1) "Deviate sexual intercourse" means:

(A) any contact between any part of the genitals of one person and the mouth or anus of another person; or

(B) the penetration of the genitals or the anus of another person with an object.

(2) "Sexual contact" means, except as provided by Section 21.11, any touching of the anus, breast, or any part of the genitals of another person with intent to arouse or gratify the sexual desire of any person.

(3) "Sexual intercourse" means any penetration of the female sex organ by the male sex organ.

(4) "Spouse" means a person to whom a person is legally married under Subtitle A, Title 1, Family Code, or a comparable law of another jurisdiction.

TEX. PENAL CODE ANN. § 21.08 (VERNON 2011). INDECENT EXPOSURE

(a) A person commits an offense if he exposes his anus or any part of his genitals with intent to arouse or gratify the sexual desire of any person, and he is reckless about whether another is present who will be offended or alarmed by his act.

(b) An offense under this section is a Class B misdemeanor.

TEX. PENAL CODE ANN. § 21.12 (VERNON 2011). IMPROPER RELATIONSHIP BETWEEN EDUCATOR AND STUDENT

(a) An employee of a public or private primary or secondary school commits an offense if the employee:

(1) engages in sexual contact, sexual intercourse, or deviate sexual intercourse with a person who is enrolled in a public or private primary or secondary school at which the employee works;

(2) holds a certificate or permit issued as provided by Subchapter B, Chapter 21, Education Code, or is a person who is required to be licensed by a state agency as provided by Section 21.003(b), Education Code, and engages in sexual contact, sexual intercourse, or deviate sexual intercourse with a person the employee knows is:

(A) enrolled in a public primary or secondary school in the same school district as the school at which the employee works; or

(B) a student participant in an educational activity that is sponsored by a school district or a public or private primary or secondary school, if:

(i) students enrolled in a public or private primary or secondary school are the primary participants in the activity; and

(ii) the employee provides education services to those participants; or

(3) engages in conduct described by Section 33.021, with a person described by Subdivision

(1), or a person the employee knows is a person described by Subdivision (2)(A) or (B), regardless of the age of that person.

(b) An offense under this section is a felony of the second degree.

(b-1) It is an affirmative defense to prosecution under this section that:

(1) the actor was the spouse of the enrolled person at the time of the offense; or

(2) the actor was not more than three years older than the enrolled person and, at the time of the offense, the actor and the enrolled person were in a relationship that began before the actor's employment at a public or private primary or secondary school.

(c) If conduct constituting an offense under this section also constitutes an offense under another section of this code, the actor may be prosecuted under either section or both sections.

(d) The name of a person who is enrolled in a public or private primary or secondary school and involved in an improper relationship with an educator as provided by Subsection (a) may not be released to the public and is not public information under Chapter 552, Government Code.

*Statute truncated due to size.

TEX. PENAL CODE ANN. § 22.011 (VERNON 2011). SEXUAL ASSAULT

(a) A person commits an offense if the person:

(1) intentionally or knowingly:

(A) causes the penetration of the anus or sexual organ of another person by any means, without that person's consent;

(B) causes the penetration of the mouth of another person by the sexual organ of the actor, without that person's consent; or

(C) causes the sexual organ of another person, without that person's consent, to contact or penetrate the mouth, anus, or sexual organ of another person, including the actor; or

(2) intentionally or knowingly:

(A) causes the penetration of the anus or sexual organ of a child by any means;

(B) causes the penetration of the mouth of a child by the sexual organ of the actor;

(C) causes the sexual organ of a child to contact or penetrate the mouth, anus, or sexual organ of another person, including the actor;

(D) causes the anus of a child to contact the mouth, anus, or sexual organ of another person, including the actor; or

(E) causes the mouth of a child to contact the anus or sexual organ of another person, including the actor.

(b) A sexual assault under Subsection (a)(1) is without the consent of the other person if:

(1) the actor compels the other person to submit or participate by the use of physical force or violence;

(2) the actor compels the other person to submit or participate by threatening to use force or violence against the other person, and the other person believes that the actor has the present ability to execute the threat;

(3) the other person has not consented and the actor knows the other person is unconscious or physically unable to resist;

(4) the actor knows that as a result of mental disease or defect the other person is at the time of the sexual assault incapable either of appraising the nature of the act or of resisting it;

(5) the other person has not consented and the actor knows the other person is unaware that the sexual assault is occurring;

(6) the actor has intentionally impaired the other person's power to appraise or control the other person's conduct by administering any substance without the other person's knowledge;

(7) the actor compels the other person to submit or participate by threatening to use force or violence against any person, and the other person believes that the actor has the ability to execute the threat;

(8) the actor is a public servant who coerces the other person to submit or participate;

(9) the actor is a mental health services provider or a health care services provider who causes the other person, who is a patient or former patient of the actor, to submit or participate by exploiting the other person's emotional dependency on the actor;

(10) the actor is a clergyman who causes the other person to submit or participate by exploiting the other person's emotional dependency on the clergyman in the clergyman's professional character as spiritual adviser; or

(11) the actor is an employee of a facility where the other person is a resident, unless the employee and resident are formally or informally married to each other under Chapter 2, Family Code.

(c) In this section:

(1) “Child” means a person younger than 17 years of age .

(2) “Spouse” means a person who is legally married to another.

(3) “Health care services provider” means:

(A) a physician licensed under Subtitle B, Title 3, Occupations Code;

(B) a chiropractor licensed under Chapter 201, Occupations Code;

(C) a physical therapist licensed under Chapter 453, Occupations Code;

(D) a physician assistant licensed under Chapter 204, Occupations Code; or

(E) a registered nurse, a vocational nurse, or an advanced practice nurse licensed under Chapter 301, Occupations Code.

(4) “Mental health services provider” means an individual, licensed or unlicensed, who performs or purports to perform mental health services, including a:

(A) licensed social worker as defined by Section 505.002, Occupations Code;

(B) chemical dependency counselor as defined by Section 504.001, Occupations Code;

(C) licensed professional counselor as defined by Section 503.002, Occupations Code;

(D) licensed marriage and family therapist as defined by Section 502.002, Occupations Code;

(E) member of the clergy;

(F) psychologist offering psychological services as defined by Section 501.003, Occupations Code; or

(G) special officer for mental health assignment certified under Section 1701.404, Occupations Code.

(5) “Employee of a facility” means a person who is an employee of a facility defined by Section 250.001, Health and Safety Code, or any other person who provides services for a facility for compensation, including a contract laborer.

(d) It is a defense to prosecution under Subsection (a)(2) that the conduct consisted of medical care for the child and did not include any contact between the anus or sexual organ of the child and the mouth, anus, or sexual organ of the actor or a third party.

*Statute truncated due to size.

(e) It is an affirmative defense to prosecution under Subsection (a)(2):

(1) that the actor was the spouse of the child at the time of the offense; or

(2) that:

(A) the actor was not more than three years older than the victim and at the time of the offense:

(i) was not required under Chapter 62, Code of Criminal Procedure, to register for life as a sex offender; or

(ii) was not a person who under Chapter 62, Code of Criminal Procedure, had a reportable conviction or adjudication for an offense under this section; and

(B) the victim:

(i) was a child of 14 years of age or older; and

(ii) was not a person whom the actor was prohibited from marrying or purporting to marry or with whom the actor was prohibited from living under the appearance of being married under Section 25.01.

(f) An offense under this section is a felony of the second degree, except that an offense under this section is a felony of the first degree if the victim was a person whom the actor was prohibited from marrying or purporting to marry or with whom the actor was prohibited from living under the appearance of being married under Section 25.01.

TEX. PENAL CODE ANN. § 22.021 (VERNON 2011). AGGRAVATED SEXUAL ASSAULT

(a) A person commits an offense:

(1) if the person:

(A) intentionally or knowingly:

(i) causes the penetration of the anus or sexual organ of another person by any means, without that person's consent;

(ii) causes the penetration of the mouth of another person by the sexual organ of the actor, without that person's consent; or

(iii) causes the sexual organ of another person, without that person's consent, to contact or penetrate the mouth, anus, or sexual organ of another person, including the actor; or

(B) intentionally or knowingly:

(i) causes the penetration of the anus or sexual organ of a child by any means;

(ii) causes the penetration of the mouth of a child by the sexual organ of the actor;

(iii) causes the sexual organ of a child to contact or penetrate the mouth, anus, or sexual organ of another person, including the actor;

(iv) causes the anus of a child to contact the mouth, anus, or sexual organ of another person, including the actor; or

(v) causes the mouth of a child to contact the anus or sexual organ of another person, including the actor; and

(2) if:

(A) the person:

(i) causes serious bodily injury or attempts to cause the death of the victim or another person in the course of the same criminal episode;

(ii) by acts or words places the victim in fear that any person will become the victim of an offense under Section 20A.02(a)(3), (4), (7), or (8) or that death, serious bodily injury, or kidnapping will be imminently inflicted on any person;

(iii) by acts or words occurring in the presence of the victim threatens to cause any person to become the victim of an offense under Section 20A.02(a)(3), (4), (7), or (8) or to cause the death, serious bodily injury, or kidnapping of any person;

(iv) uses or exhibits a deadly weapon in the course of the same criminal episode;

(v) acts in concert with another who engages in conduct described by Subdivision (1) directed toward the same victim and occurring during the course of the same criminal episode; or

(vi) administers or provides flunitrazepam, otherwise known as rohypnol, gamma hydroxybutyrate, or ketamine to the victim of the offense with the intent of facilitating the commission of the offense;

(B) the victim is younger than 14 years of age; or

(C) the victim is an elderly individual or a disabled individual.

(b) In this section:

(1) “Child” has the meaning assigned by Section 22.011(c).

(2) “Elderly individual” and “disabled individual” have the meanings assigned by Section 22.04(c).

(c) An aggravated sexual assault under this section is without the consent of the other person if the aggravated sexual assault occurs under the same circumstances listed in Section 22.011(b).

(d) The defense provided by Section 22.011(d) applies to this section.

(e) An offense under this section is a felony of the first degree.

(f) The minimum term of imprisonment for an offense under this section is increased to 25 years if:

(1) the victim of the offense is younger than six years of age at the time the offense is committed; or

(2) the victim of the offense is younger than 14 years of age at the time the offense is committed and the actor commits the offense in a manner described by Subsection (a)(2)(A).

*Statute truncated due to size.

TEX. PENAL CODE ANN. § 42.01 (VERNON 2011). DISORDERLY CONDUCT*

(a) A person commits an offense if he intentionally or knowingly:

(1) uses abusive, indecent, profane, or vulgar language in a public place, and the language by its very utterance tends to incite an immediate breach of the peace;

(2) makes an offensive gesture or display in a public place, and the gesture or display tends to incite an immediate breach of the peace;

(3) creates, by chemical means, a noxious and unreasonable odor in a public place;

(4) abuses or threatens a person in a public place in an obviously offensive manner;

(5) makes unreasonable noise in a public place other than a sport shooting range, as defined by Section 250.001, Local Government Code, or in or near a private residence that he has no right to occupy;

(6) fights with another in a public place;

(7) discharges a firearm in a public place other than a public road or a sport shooting range, as defined by Section 250.001, Local Government Code;

(8) displays a firearm or other deadly weapon in a public place in a manner calculated to alarm;

(9) discharges a firearm on or across a public road;

(10) exposes his anus or genitals in a public place and is reckless about whether another may be present who will be offended or alarmed by his act; or

(11) for a lewd or unlawful purpose:

(A) enters on the property of another and looks into a dwelling on the property through any window or other opening in the dwelling;

(B) while on the premises of a hotel or comparable establishment, looks into a guest room not the person's own through a window or other opening in the room; or

(C) while on the premises of a public place, looks into an area such as a restroom or shower stall or changing or dressing room that is designed to provide privacy to a person using the area.

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*Statute truncated due to size.

UTAH

CHARTS	PENETRATION	FORCE	CAPACITY TO CONSENT	VICTIM PERPETRATOR RELATIONSHIP	OTHER SEX CRIMES
CONSENT ANALYSIS	ALCOHOL/DRUG FACILITATED SEXUAL ASSAULT	MARITAL RAPE	SAME SEX PERPETRATOR	STATUTORY RAPE	CONSTRUCTIVE FORCE

UTAH CODE ANN. § 76-5-402 (WEST 2010). RAPE

(1) A person commits rape when the actor has sexual intercourse with another person without the victim's consent.

(2) This section applies whether or not the actor is married to the victim.

(3) Rape is a felony of the first degree, punishable by a term of imprisonment of:

(a) except as provided in Subsection (3)(b) or (c), not less than five years and which may be for life;

(b) except as provided in Subsection (3)(c) or (4), 15 years and which may be for life, if the trier of fact finds that during the course of the commission of the rape the defendant caused serious bodily injury to another; or

(c) life without parole, if the trier of fact finds that at the time of the commission of the rape the defendant was previously convicted of a grievous sexual offense.

(4) If, when imposing a sentence under Subsection (3)(b), a court finds that a lesser term than the term described in Subsection (3)(b) is in the interests of justice and states the reasons for this finding on the record, the court may impose a term of imprisonment of not less than:

(a) ten years and which may be for life; or

(b) six years and which may be for life.

(5) The provisions of Subsection (4) do not apply when a person is sentenced under Subsection (3)(a) or (c).

(6) Imprisonment under Subsection (3)(b), (3)(c), or (4) is mandatory in accordance with Section 76-3-406.

UTAH CODE ANN. § 76-5-402.2 (WEST 2010). OBJECT RAPE

(1) A person who, without the victim's consent, causes the penetration, however slight, of the genital or anal opening of another person who is 14 years of age or older, by any foreign object, substance, instrument, or device, including a part of the human body other than the mouth or genitals, with intent to cause substantial emotional or bodily pain to the victim or with the intent to arouse or gratify the sexual desire of any person, commits an offense which is a first degree felony, punishable by a term of imprisonment of:

(a) except as provided in Subsection (1)(b) or (c), not less than five years and which may be for life;

(b) except as provided in Subsection (1)(c) or (2), 15 years and which may be for life, if the trier of fact finds that during the course of the commission of the object rape the defendant caused serious bodily injury to another; or

(c) life without parole, if the trier of fact finds that at the time of the commission of the object rape, the defendant was previously convicted of a grievous sexual offense.

(2) If, when imposing a sentence under Subsection (1)(b), a court finds that a lesser term than the term described in Subsection (1)(b) is in the interests of justice and states the reasons for this finding on the record, the court may impose a term of imprisonment of not less than:

(a) ten years and which may be for life; or

(b) six years and which may be for life.

(3) The provisions of Subsection (2) do not apply when a person is sentenced under Subsection (1)(a) or (c).

(4) Imprisonment under Subsection (1)(b), (1)(c), or (2) is mandatory in accordance with Section 76-3-406.

UTAH CODE ANN. § 76-5-403 (WEST 2010). SODOMY--FORCIBLE SODOMY

(1) A person commits sodomy when the actor engages in any sexual act with a person who is 14 years of age or older involving the genitals of one person and mouth or anus of another person, regardless of the sex of either participant.

(2) A person commits forcible sodomy when the actor commits sodomy upon another without the other's consent.

(3) Sodomy is a class B misdemeanor.

(4) Forcible sodomy is a felony of the first degree, punishable by a term of imprisonment of:

(a) except as provided in Subsection (4)(b) or (c), not less than five years and which may be for life;

(b) except as provided in Subsection (4)(c) or (5), 15 years and which may be for life, if the trier of fact finds that during the course of the commission of the forcible sodomy the defendant caused serious bodily injury to another; or

(c) life without parole, if the trier of fact finds that at the time of the commission of the forcible sodomy the defendant was previously convicted of a grievous sexual offense.

(5) If, when imposing a sentence under Subsection (4)(b), a court finds that a lesser term than the term described in Subsection (4)(b) is in the interests of justice and states the reasons for this finding on the record, the court may impose a term of imprisonment of not less than:

(a) ten years and which may be for life; or

(b) six years and which may be for life.

(6) The provisions of Subsection (5) do not apply when a person is sentenced under Subsection (4)(a) or (c).

(7) Imprisonment under Subsection (4)(b), (4)(c), or (5) is mandatory in accordance with Section 76-3-406.

UTAH CODE ANN. § 76-5-404 (WEST 2010). FORCIBLE SEXUAL ABUSE

(1) A person commits forcible sexual abuse if the victim is 14 years of age or older and, under circumstances not amounting to rape, object rape, sodomy, or attempted rape or sodomy, the actor touches the anus, buttocks, or any part of the genitals of another, or touches the breast of a female, or otherwise takes indecent liberties with another,

or causes another to take indecent liberties with the actor or another, with intent to cause substantial emotional or bodily pain to any person or with the intent to arouse or gratify the sexual desire of any person, without the consent of the other, regardless of the sex of any participant.

(2) Forcible sexual abuse is:

(a) except as provided in Subsection (2)(b), a felony of the second degree, punishable by a term of imprisonment of not less than one year nor more than 15 years; or

(b) except as provided in Subsection (3), a felony of the first degree, punishable by a term of imprisonment for 15 years and which may be for life, if the trier of fact finds that during the course of the commission of the forcible sexual abuse the defendant caused serious bodily injury to another.

(3) If, when imposing a sentence under Subsection (2)(b), a court finds that a lesser term than the term described in Subsection (2)(b) is in the interests of justice and states the reasons for this finding on the record, the court may impose a term of imprisonment of not less than:

(a) 10 years and which may be for life; or

(b) six years and which may be for life.

(4) Imprisonment under Subsection (2)(b) or (3) is mandatory in accordance with Section 76-3-406.

UTAH CODE ANN. § 76-5-405 (WEST 2010). AGGRAVATED SEXUAL ASSAULT--PENALTY

(1) A person commits aggravated sexual assault if:

(a) in the course of a rape, object rape, forcible sodomy, or forcible sexual abuse, the actor:

(i) uses, or threatens the victim with the use of, a dangerous weapon as defined in Section 76-1-601;

(ii) compels, or attempts to compel, the victim to submit to rape, object rape, forcible sodomy, or forcible sexual abuse, by threat of kidnaping, death, or serious bodily injury to be inflicted imminently on any person; or

(iii) is aided or abetted by one or more persons;

(b) in the course of an attempted rape, attempted object rape, or attempted forcible sodomy, the actor:

(i) causes serious bodily injury to any person;

(ii) uses, or threatens the victim with the use of, a dangerous weapon as defined in Section 76-1-601;

(iii) attempts to compel the victim to submit to rape, object rape, or forcible sodomy, by threat of kidnaping, death, or serious bodily injury to be inflicted imminently on any person; or

(iv) is aided or abetted by one or more persons ; or

(c) in the course of an attempted forcible sexual abuse, the actor:

(i) causes serious bodily injury to any person;

(ii) uses, or threatens the victim with the use of, a dangerous weapon as defined in Section 76-1-601;

(iii) attempts to compel the victim to submit to forcible sexual abuse, by threat of kidnaping, death, or serious bodily injury to be inflicted imminently on any person; or

(iv) is aided or abetted by one or more persons.

(2) Aggravated sexual assault is a first degree felony, punishable by a term of imprisonment of:

(a) for an aggravated sexual assault described in Subsection (1)(a):

(i) except as provided in Subsection (2)(a)(ii) or (3)(a), not less than 15 years and which may be for life; or

(ii) life without parole, if the trier of fact finds that at the time of the commission of the aggravated sexual assault, the defendant was previously convicted of a grievous sexual offense ;

(b) for an aggravated sexual assault described in Subsection (1)(b):

(i) except as provided in Subsection (2)(b)(ii) or (4)(a), not less than ten years and which may be for life; or

(ii) life without parole, if the trier of fact finds that at the time of the commission of the aggravated sexual assault, the defendant was previously convicted of a grievous sexual offense; or

(c) for an aggravated sexual assault described in Subsection (1)(c):

(i) except as provided in Subsection (2)(c)(ii) or (5)(a), not less than six years and which may be for life; or

(ii) life without parole, if the trier of fact finds that at the time of the commission of the aggravated sexual assault, the defendant was previously convicted of a grievous sexual offense.

(3)(a) If, when imposing a sentence under Subsection (2)(a)(i), a court finds that a lesser term than the term described in Subsection (2)(a)(i) is in the interests of justice and states the reasons for this finding on the record, the court may impose a term of imprisonment of not less than:

(i) ten years and which may be for life; or

(ii) six years and which may be for life.

(b) The provisions of Subsection (3)(a) do not apply when a person is sentenced under Subsection (2) (a)(ii).

(4)(a) If, when imposing a sentence under Subsection (2)(b)(i), a court finds that a lesser term than the term described in Subsection (2)(b)(i) is in the interests of justice and states the reasons for this finding on the record, the court may impose a term of imprisonment of not less than six years and which may be for life.

(b) The provisions of Subsection (4)(a) do not apply when a person is sentenced under Subsection (2)(b)(ii).

(5)(a) If, when imposing a sentence under Subsection (2)(c)(i), a court finds that a lesser term than the term described in Subsection (2)(c)(i) is in the interests of justice and states the reasons for this finding on the record, the court may impose a term of imprisonment of not less than three years and which may be for life.

(b) The provisions of Subsection (5)(a) do not apply when a person is sentenced under Subsection (2)(c)(ii).

(6) Imprisonment under this section is mandatory in accordance with Section 76-3-406.

*Statute truncated due to size.

UTAH CODE ANN. § 76-5-406 (WEST 2010). SEXUAL OFFENSES AGAINST THE VICTIM WITHOUT CONSENT OF VICTIM--CIRCUMSTANCES

An act of sexual intercourse, rape, attempted rape, rape of a child, attempted rape of a child, object rape, attempted object rape, object rape of a child, attempted object rape of a child, sodomy, attempted sodomy, forcible sodomy, attempted forcible sodomy, sodomy upon a child, attempted sodomy upon a child, forcible sexual abuse, attempted forcible sexual abuse, sexual abuse of a child, attempted sexual abuse of a child, aggravated sexual abuse of a child, attempted aggravated sexual abuse of a child, or simple sexual abuse is without consent of the victim under any of the following circumstances:

(1) the victim expresses lack of consent through words or conduct;

(2) the actor overcomes the victim through the actual application of physical force or violence;

(3) the actor is able to overcome the victim through concealment or by the element of surprise;

(4)(a)(i) the actor coerces the victim to submit by threatening to retaliate in the immediate future against the victim or any other person, and the victim perceives at the time that the actor has the ability to execute this threat; or

(ii) the actor coerces the victim to submit by threatening to retaliate in the future against the victim or any other person, and the victim believes at the time that the actor has the ability to execute this threat;

(b) as used in this Subsection (4) "to retaliate" includes but is not limited to threats of physical force, kidnaping, or extortion;

(5) the victim has not consented and the actor knows the victim is unconscious, unaware that the act is occurring, or physically unable to resist;

(6) the actor knows that as a result of mental disease or defect, the victim is at the time of the act incapable either of appraising the nature of the act or of resisting it;

(7) the actor knows that the victim submits or participates because the victim erroneously believes that the actor is the victim's spouse;

(8) the actor intentionally impaired the power of the victim to appraise or control his or her conduct by administering any substance without the victim's knowledge;

(9) the victim is younger than 14 years of age;

(10) the victim is younger than 18 years of age and at the time of the offense the actor was the victim's parent, stepparent, adoptive parent, or legal guardian or occupied a position of special trust in relation to the victim as defined in Subsection 76-5-404.1(4)(h);

(11) the victim is 14 years of age or older, but younger than 18 years of age, and the actor is more than three years older than the victim and entices or coerces the victim to submit or participate, under circumstances not amounting to the force or threat required under Subsection (2) or (4); or

(12) the actor is a health professional or religious counselor, as those terms are defined in this Subsection (12), the act is committed under the guise of providing professional diagnosis, counseling, or treatment, and at the time of the act the victim reasonably believed that the act was for medically or professionally appropriate diagnosis, counseling, or treatment to the extent that resistance by the victim could not reasonably be expected to have been manifested. For purposes of this Subsection (12):

(a) "health professional" means an individual who is licensed or who holds himself out to be licensed, or who otherwise provides professional physical or mental health services, diagnosis, treatment, or counseling including, but not limited to, a physician, osteopathic physician, nurse, dentist, physical therapist, chiropractor, mental health therapist, social service worker, clinical social worker, certified social worker, marriage and family therapist, professional counselor, psychiatrist, psychologist, psychiatric mental health nurse specialist, or substance abuse counselor; and

(b) "religious counselor" means a minister, priest, rabbi, bishop, or other recognized member of the clergy.

UTAH CODE ANN. § 76-5-407 (WEST 2011). APPLICABILITY OF PART – "PENETRATION" OR "TOUCHING" SUFFICIENT TO CONSTITUTE OFFENSE

(1) The provisions of this part do not apply to consensual conduct between persons married to each other.

(2) In any prosecution for:

(a) the following offenses, any sexual penetration, however slight, is sufficient to constitute the relevant element of the offense:

(i) unlawful sexual activity with a minor, a violation of Section 76-5-401, involving sexual intercourse;

(ii) unlawful sexual conduct with a 16 or 17 year old, a violation of Subsection 76-5-401.2, involving sexual intercourse; or

(iii) rape, a violation of Section 76-5-402; or

(b) the following offenses, any touching, however slight, is sufficient to constitute the relevant element of the offense:

(i) unlawful sexual activity with a minor, a violation of Section 76-5-401, involving acts of sodomy;

(ii) unlawful sexual conduct with a 16 or 17 year old, a violation of Section 76-5-401.2, involving acts of sodomy;

(iii) sodomy, a violation of Subsection 76-5-403(1);

(iv) forcible sodomy, a violation of Subsection 76-5-403(2);

(v) rape of a child, a violation of Section 76-5-402.1; or

(vi) object rape of a child, a violation of Section 76-5-402.3.

(3) In any prosecution for the following offenses, any touching, even if accomplished through clothing, is sufficient to constitute the relevant element of the offense:

(a) sodomy on a child, a violation of Section 76-5-403.1; or

(b) sexual abuse of a child or aggravated sexual abuse of a child, a violation of Section 76-5-404.1.

*Statute truncated due to size.

SEE ALSO* UTAH CODE ANN. §76-5-412 (WEST 2010). CUSTODIAL SEXUAL RELATIONS – CUSTODIAL SEXUAL MISCONDUCT – DEFINITIONS – PENALTIES – DEFENSES

UTAH CODE ANN. § 76-7-102 (WEST 2010). INCEST – DEFINITIONS – PENALTY

(1) As used in this section:

(a) "Provider" means a person who provides or makes available his seminal fluid or her human egg.

(b) "Related person" means a person related to the provider or actor as an ancestor, descendant, brother, sister, uncle, aunt, nephew, niece, or first cousin, and includes:

(i) blood relationships of the whole or half blood without regard to legitimacy;

(ii) the relationship of parent and child by adoption; and

(iii) the relationship of stepparent and stepchild while the marriage creating the relationship of a stepparent and stepchild exists.

(2)(a) An actor is guilty of incest when, under circumstances not amounting to rape, rape of a child, or aggravated sexual assault, the actor knowingly and intentionally:

(i) engages in conduct under Subsection (2)(b)(i), (ii), (iii), or (iv); or

(ii) provides a human egg or seminal fluid under Subsection (2)(b)(v).

(b) Conduct referred to under Subsection (2)(a) is:

(i) sexual intercourse between the actor and a person the actor knows has kinship to the actor as a related person;

(ii) the insertion or placement of the provider's seminal fluid into the vagina, cervix, or uterus of a related person by means other than sexual intercourse;

(iii) providing or making available his seminal fluid for the purpose of insertion or placement of the fluid into the vagina, cervix, or uterus of a related person by means other than sexual intercourse;

(iv) a woman 18 years of age or older who:

(A) knowingly allows the insertion of the seminal fluid of a provider into her vagina, cervix, or uterus by means other than sexual intercourse; and

(B) knows that the seminal fluid is that of a person with whom she has kinship as a related person; or

(v) providing the actor's sperm or human egg that is used to conduct in vitro fertilization, or any other means of fertilization, with the human egg or sperm of a person who is a related person.

(c) This Subsection (2) does not prohibit providing a fertilized human egg if the provider of the fertilizing sperm is not a related person regarding the person providing the egg.

(3) Incest is a third degree felony.

(4) A provider under this section is not a donor under Section 78B-15-702.

UTAH CODE ANN. § 76-9-702 (WEST 2012). LEWDNESS

(1) A person is guilty of lewdness if the person under circumstances not amounting to rape, object rape, forcible sodomy, forcible sexual abuse, aggravated sexual assault, or an attempt to commit any of these offenses, performs any of the following acts in a public place or under circumstances which the person should know will likely cause affront or alarm to, on, or in the presence of another who is 14 years of age or older:

(a) an act of sexual intercourse or sodomy;

(b) exposes his or her genitals, the female breast below the top of the areola, the buttocks, the anus, or the pubic area;

(c) masturbates; or

(d) any other act of lewdness.

(2)(a) A person convicted the first or second time of a violation of Subsection (1) is guilty of a class B misdemeanor, except under Subsection (2)(b).

(b) A person convicted of a violation of Subsection (1) is guilty of a third degree felony if at the time of the violation:

(i) the person is a sex offender as defined in Section 77-27-21.7;

(ii) the person has been previously convicted two or more times of violating Subsection (1); or

(iii) the person has previously been convicted of a violation of Subsection (1) and has also previously been convicted of a violation of Section 76-9-702.5.

(c)(i) For purposes of this Subsection (2) and Subsection 77-27-21.5(1)(n), a plea of guilty or nolo contendere to a charge under this section that is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction.

(ii) This Subsection (2)(c) also applies if the charge under this Subsection (2) has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

(3) A woman's breast feeding, including breast feeding in any location where the woman otherwise may rightfully be, does not under any circumstance constitute a lewd act, irrespective of whether or not the breast is covered during or incidental to feeding.

UTAH CODE ANN. § 76-9-702.1 (WEST 2012). SEXUAL BATTERY

(1) A person is guilty of sexual battery if the person, under circumstances not amounting to an offense under Subsection (2), intentionally touches, whether or not through clothing, the anus, buttocks, or any part of the genitals of another person, or the breast of a female person, and the actor's conduct is under circumstances the actor knows or should know will likely cause affront or alarm to the person touched.

*Statute truncated due to size.

(2) Offenses referred to in Subsection (1) are:

(a) rape, Section 76-5-402;

(b) rape of a child, Section 76-5-402.1;

(c) object rape, Section 76-5-402.2;

(d) object rape of a child, Section 76-5-402.3;

(e) forcible sodomy, Subsection 76-5-403(2);

(f) sodomy on a child, Section 76-5-403.1;

(g) forcible sexual abuse, Section 76-5-404;

(h) sexual abuse of a child, Subsection 76-5-404.1(2);

(i) aggravated sexual abuse of a child, Subsection 76-5-404.1(4);

(j) aggravated sexual assault, Section 76-5-405; and

(k) an attempt to commit any offense under this Subsection (2).

(3) Sexual battery is a class A misdemeanor.

(4) For purposes of Subsection 77-27-21.5(1)(n) only, a plea of guilty or nolo contendere to a charge under this section that is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction. This Subsection (4) also applies if the charge under this section has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

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VERMONT

CHARTS	PENETRATION	FORCE	CAPACITY TO CONSENT	VICTIM PERPETRATOR RELATIONSHIP	OTHER SEX CRIMES
CONSENT ANALYSIS	ALCOHOL/DRUG FACILITATED SEXUAL ASSAULT	MARITAL RAPE	SAME SEX PERPETRATOR	STATUTORY RAPE	CONSTRUCTIVE FORCE

VT. STAT. ANN. TIT 13, § 3251 (2011). DEFINITIONS

As used in this chapter:

(1) A “sexual act” means conduct between persons consisting of contact between the penis and the vulva, the penis and the anus, the mouth and the penis, the mouth and the vulva, or any intrusion, however slight, by any part of a person's body or any object into the genital or anal opening of another.

*Statute truncated due to size.

(2) "Sexual conduct" means any conduct or behavior relating to sexual activities of the complaining witness, including but not limited to prior experience of sexual acts, use of contraceptives, living arrangement and mode of living.

(3) "Consent" means words or actions by a person indicating a voluntary agreement to engage in a sexual act.

(4) "Serious bodily injury" shall have the same meaning as in subdivision 1021(2) of this title;

(5) "Bodily injury" means physical pain, illness or any impairment of physical condition.

(6) "Actor" means a person charged with sexual assault or aggravated sexual assault.

(7) "Deadly force" means physical force which a person uses with the intent of causing, or which the person knows or should have known would create a substantial risk of causing, death or serious bodily injury.

(8) "Deadly weapon" means

(A) any firearm; or

(B) any weapon, device, instrument, material or substance, whether animate or inanimate, which in the manner it is used or is intended to be used, is known to be capable of producing death or serious bodily injury.

VT. STAT. ANN. TIT 13, § 3252 (2011). SEXUAL ASSAULT

(a) No person shall engage in a sexual act with another person and

compel the other person to participate in a sexual act:

(1) without the consent of the other person; or

(2) by threatening or coercing the other person; or

(3) by placing the other person in fear that any person will suffer imminent bodily injury.

(b) No person shall engage in a sexual act with another person and impair substantially the ability of the other person to appraise or control conduct by administering or employing drugs or intoxicants without the knowledge or against the will of the other person.

(c) No person shall engage in a sexual act with a child who is under the age of 16, except:

(1) where the persons are married to each other and the sexual act is consensual; or

(2) where the person is less than 19 years old, the child is at least 15 years old, and the sexual act is consensual.

(d) No person shall engage in a sexual act with a child who is under the age of 18 and is entrusted to the actor's care by authority of law or is the actor's child, grandchild, foster child, adopted child, or stepchild.

(e) No person shall engage in a sexual act with a child under the age of 16 if:

(1) the victim is entrusted to the actor's care by authority of law or is the actor's child, grandchild, foster child, adopted child, or stepchild; or

(2) the actor is at least 18 years of age, resides in the victim's household, and serves in a parental role with respect to the victim.

(f)(1) A person who violates subsection (a), (b), (d), or (e) of this section shall be imprisoned not less than three years and for a maximum term of life, and, in addition, may be fined not more than $25,000.00.

(2) A person who violates subsection (c) of this section shall be imprisoned for not more than 20 years, and, in addition, may be fined not more than $10,000.00.

(g) A person convicted of violating subsection (a), (b), (d), or (e) of this section shall be sentenced under section 3271 of this title.

VT. STAT. ANN. TIT 13, § 3253 (2011). AGGRAVATED SEXUAL ASSAULT

(a) A person commits the crime of aggravated sexual assault if the person commits sexual assault under any one of the following circumstances:

(1) At the time of the sexual assault, the actor causes serious bodily injury to the victim or to another.

(2) The actor is joined or assisted by one or more persons in physically restraining, assaulting or sexually assaulting the victim.

(3) The actor commits the sexual act under circumstances which constitute the crime of kidnapping.

(4) The actor has previously been convicted in this state of sexual assault under subsection 3252(a) or (b) of this title or aggravated sexual assault or has been convicted in any jurisdiction in the United States or territories of an offense which would constitute sexual assault under subsection 3252(a) or (b) of this title or aggravated sexual assault if committed in this state.

(5) At the time of the sexual assault, the actor is armed with a deadly weapon and uses or threatens to use the deadly weapon on the victim or on another.

(6) At the time of the sexual assault, the actor threatens to cause imminent serious bodily injury to the victim or to another and the victim reasonably believes that the actor has the present ability to carry out the threat.

(7) At the time of the sexual assault, the actor applies deadly force to the victim.

(8) The victim is under the age of 13 and the actor is at least 18 years of age.

(9) The victim is subjected by the actor to repeated nonconsensual sexual acts as part of the same occurrence or the victim is subjected to repeated nonconsensual sexual acts as part of the actor's common scheme and plan.

(b) A person who commits the crime of aggravated sexual assault shall be imprisoned not less than ten years and a maximum term of life, and, in addition, may be fined not more than $50,000.00.

(c)(1) Except as provided in subdivision (2) of this subsection, a sentence ordered pursuant to subsection (b) of this section shall include at least a ten-year term of imprisonment. The ten-year term of imprisonment required by this subdivision shall be served and may not be suspended, deferred, or served as a supervised sentence. The defendant shall not be eligible for probation, parole, furlough, or any other type of early release until the expiration of the five-year or ten-year term of imprisonment.

*Statute truncated due to size.

(2) The court may depart downwardly from the ten-year term of imprisonment required by subsection (b) of this section and impose a lesser term of incarceration if the court makes written findings on the record that the downward departure will serve the interests of justice and public safety, provided that in no event may the court impose a term of incarceration of less than five years.

(d) A person convicted of violating this section shall be sentenced under section 3271 of this title.

VT. STAT. ANN. TIT 13, § 3257 (2011). SEXUAL EXPLOITATION OF AN INMATE

(a) No correctional employee, contractor, or other person providing services to offenders on behalf of the department of corrections or pursuant to a court order or in accordance with a condition of parole, probation, supervised community sentence, or furlough shall engage in a sexual act with a person who the employee, contractor, or other person providing services knows:

(1) is confined to a correctional facility; or

(2) is being supervised by the department of corrections while on parole, probation, supervised community sentence, or furlough, where the employee, contractor, or other service provider is currently engaged in a direct supervisory relationship with the person being supervised. For purposes of this subdivision, a person is engaged in a direct supervisory relationship with a supervisee if the supervisee is assigned to the caseload of that person.

(b) A person who violates subsection (a) of this section shall be imprisoned for not more than five years or fined not more than $10,000.00, or both.

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VIRGINIA

CHARTS	PENETRATION	FORCE	CAPACITY TO CONSENT	VICTIM PERPETRATOR RELATIONSHIP	OTHER SEX CRIMES
CONSENT ANALYSIS	ALCOHOL/DRUG FACILITATED SEXUAL ASSAULT	MARITAL RAPE	SAME SEX PERPETRATOR	STATUTORY RAPE	CONSTRUCTIVE FORCE

VA. CODE ANN. § 18.2-61 (WEST 2011). RAPE

A. If any person has sexual intercourse with a complaining witness, whether or not his or her spouse, or causes a complaining witness, whether or not his or her spouse, to engage in sexual intercourse with any other person and such act is accomplished (i) against the complaining witness's will, by force, threat or intimidation of or against the complaining witness or another person; or (ii) through the use of the complaining witness's mental incapacity or physical helplessness; or (iii) with a child under age 13 as the victim, he or she shall be guilty of rape.

B. A violation of this section shall be punishable, in the discretion of the court or jury, by confinement in a state correctional facility for life or for any term not less than five years; the penalty for a violation of subdivision A (iii), where the offender is more than three years older than the victim, if done in the commission of, or as part of the same course of conduct as, or as part of a common scheme or plan as a violation of (i) subsection A of § 18.2-47 or § 18.2-48, (ii) § 18.2-89, 18.2-90 or18.2-91, or (iii) § 18.2-51.2, shall include a mandatory minimum term of confinement of 25 years. If the term of confinement imposed for any violation of subdivision A (iii), where the offender is more than three years older than the victim, is for a term less than life imprisonment, the judge shall

impose, in addition to any active sentence, a suspended sentence of no less than 40 years. This suspended sentence shall be suspended for the remainder of the defendant's life, subject to revocation by the court.

There shall be a rebuttable presumption that a juvenile over the age of 10 but less than 12, does not possess the physical capacity to commit a violation of this section. In any case deemed appropriate by the court, all or part of any sentence imposed for a violation under this section against a spouse may be suspended upon the defendant's completion of counseling or therapy, if not already provided, in the manner prescribed under § 19.2-218.1 if, after consideration of the views of the complaining witness and such other evidence as may be relevant, the court finds such action will promote maintenance of the family unit and will be in the best interest of the complaining witness.

C. Upon a finding of guilt under this section, when a spouse is the complaining witness in any case tried by the court without a jury, the court, without entering a judgment of guilt, upon motion of the defendant who has not previously had a proceeding against him for violation of this section dismissed pursuant to this subsection and with the consent of the complaining witness and the attorney for the Commonwealth, may defer further proceedings and place the defendant on probation pending completion of counseling or therapy, if not already provided, in the manner prescribed under § 19.2-218.1. If the defendant fails to so complete such counseling or therapy, the court may make final disposition of the case and proceed as otherwise provided. If such counseling is completed as prescribed under § 19.2-218.1, the court may discharge the defendant and dismiss the proceedings against him if, after consideration of the views of the complaining witness and such other evidence as may be relevant, the court finds such action will promote maintenance of the family unit and be in the best interest of the complaining witness.

VA. CODE ANN. § 18.2-63.1 (WEST 2011). DEATH OF VICTIM

When the death of the victim occurs in connection with an offense under this article, it shall be immaterial in the prosecution thereof whether the alleged offense occurred before or after the death of the victim.

VA. CODE ANN. § 18.2-67.1 (WEST 2011). FORCIBLE SODOMY

A. An accused shall be guilty of forcible sodomy if he or she engages in cunnilingus, fellatio, anilingus, or anal intercourse with a complaining witness whether or not his or her spouse, or causes a complaining witness, whether or not his or her spouse, to engage in such acts with any other person, and

1. The complaining witness is less than 13 years of age, or

2. The act is accomplished against the will of the complaining witness, by force, threat or intimidation of or against the complaining witness or another person, or through the use of the complaining witness's mental incapacity or physical helplessness.

B. Forcible sodomy is a felony punishable by confinement in a state correctional facility for life or for any term not less than five years. The penalty for a violation of subdivision A 1, where the offender is more than three years older than the victim, if done in the commission of, or as part of the same course of conduct as, or as part of a common scheme or plan as a violation of (i) subsection A of § 18.2-47 or 18.2-48, (ii) § 18.2-89, 18.2-90 or 18.2-91, or (iii) § 18.2-51.2, shall include a mandatory minimum term of confinement of 25 years. If the term of confinement imposed for any violation of subdivision A 1, where the offender is more than three years older than the victim, is for a term less than life imprisonment, the judge shall impose, in addition to any active sentence, a suspended sentence of no less than 40 years. This suspended sentence shall be suspended for the remainder of the defendant's life, subject to revocation by the court.

In any case deemed appropriate by the court, all or part of any sentence imposed for a violation under this section against a spouse may be suspended upon the defendant's completion of counseling or therapy, if not already

provided, in the manner prescribed under § 19.2-218.1 if, after consideration of the views of the complaining witness and such other evidence as may be relevant, the court finds such action will promote maintenance of the family unit and will be in the best interest of the complaining witness.

C. Upon a finding of guilt under this section, when a spouse is the complaining witness in any case tried by the court without a jury, the court, without entering a judgment of guilt, upon motion of the defendant who has not previously had a proceeding against him for violation of this section dismissed pursuant to this subsection and with the consent of the complaining witness and the attorney for the Commonwealth, may defer further proceedings and place the defendant on probation pending completion of counseling or therapy, if not already provided, in the manner prescribed under § 19.2-218.1. If the defendant fails to so complete such counseling or therapy, the court may make final disposition of the case and proceed as otherwise provided. If such counseling is completed as prescribed under § 19.2-218.1, the court may discharge the defendant and dismiss the proceedings against him if, after consideration of the views of the complaining witness and such other evidence as may be relevant, the court finds such action will promote maintenance of the family unit and be in the best interest of the complaining witness.

VA. CODE ANN. § 18.2-67.2 (WEST 2011). OBJECT SEXUAL PENETRATION; PENALTY

A. An accused shall be guilty of inanimate or animate object sexual penetration if he or she penetrates the labia majora or anus of a complaining witness, whether or not his or her spouse, other than for a bona fide medical purpose, or causes such complaining witness to so penetrate his or her own body with an object or causes a complaining witness, whether or not his or her spouse, to engage in such acts with any other person or to penetrate, or to be penetrated by, an animal, and

1. The complaining witness is less than 13 years of age, or

2. The act is accomplished against the will of the complaining witness, by force, threat or intimidation of or against the complaining witness or another person, or through the use of the complaining witness's mental incapacity or physical helplessness.

B. Inanimate or animate object sexual penetration is a felony punishable by confinement in the state correctional facility for life or for any term not less than five years. The penalty for a violation of subdivision A 1 where the offender is more than three years older than the victim, if done in the commission of, or as part of the same course of conduct as, or as part of a common scheme or plan as a violation of (i) subsection A of § 18.2-47 or 18.2-48, (ii) § 18.2-89, 18.2-90 or 18.2-91, or (iii) § 18.2-51.2, shall include a mandatory minimum term of confinement of 25 years. If the term of confinement imposed for any violation of subdivision A 1, where the offender is more than three years older than the victim, is for a term less than life imprisonment, the judge shall impose, in addition to any active sentence, a suspended sentence of no less than 40 years. This suspended sentence shall be suspended for the remainder of the defendant's life, subject to revocation by the court.

In any case deemed appropriate by the court, all or part of any sentence imposed for a violation under this section against a spouse may be suspended upon the defendant's completion of counseling or therapy, if not already provided, in the manner prescribed under § 19.2-218.1 if, after consideration of the views of the complaining witness and such other evidence as may be relevant, the court finds such action will promote maintenance of the family unit and will be in the best interest of the complaining witness.

C. Upon a finding of guilt under this section, when a spouse is the complaining witness in any case tried by the court without a jury, the court, without entering a judgment of guilt, upon motion of the defendant who has not previously had a proceeding against him for violation of this section dismissed pursuant to this subsection and with the consent of the complaining witness and the attorney for the Commonwealth, may defer further proceedings and place the defendant on probation pending completion of counseling or therapy, if not already provided, in the manner prescribed under § 19.2-218.1. If the defendant fails to so complete such counseling or

therapy, the court may make final disposition of the case and proceed as otherwise provided. If such counseling is completed as prescribed under § 19.2-218.1, the court may discharge the defendant and dismiss the proceedings against him if, after consideration of the views of the complaining witness and such other evidence as may be relevant, the court finds such action will promote maintenance of the family unit and be in the best interest of the complaining witness.

VA. CODE ANN. § 18.2-67.3 (WEST 2011). AGGRAVATED SEXUAL BATTERY; PENALTY

A. An accused shall be guilty of aggravated sexual battery if he or she sexually abuses the complaining witness, and

1. The complaining witness is less than 13 years of age, or

2. The act is accomplished through the use of the complaining witness's mental incapacity or physical helplessness, or

3. The offense is committed by a parent, step-parent, grandparent, or step-grandparent and the complaining witness is at least 13 but less than 18 years of age, or

4. The act is accomplished against the will of the complaining witness by force, threat or intimidation, and

a. The complaining witness is at least 13 but less than 15 years of age, or

b. The accused causes serious bodily or mental injury to the complaining witness, or

c. The accused uses or threatens to use a dangerous weapon.

B. Aggravated sexual battery is a felony punishable by confinement in a state correctional facility for a term of not less than one nor more than 20 years and by a fine of not more than $100,000.

VA. CODE ANN. § 18.2-67.4 (WEST 2011). SEXUAL BATTERY

A. An accused is guilty of sexual battery if he sexually abuses, as defined in § 18.2-67.10, (i) the complaining witness against the will of the complaining witness, by force, threat, intimidation, or ruse, (ii) an inmate who has been committed to jail or convicted and sentenced to confinement in a state or local correctional facility or regional jail, and the accused is an employee or contractual employee of, or a volunteer with, the state or local correctional facility or regional jail; is in a position of authority over the inmate; and knows that the inmate is under the jurisdiction of the state or local correctional facility or regional jail, or (iii) a probationer, parolee, or a pretrial defendant or posttrial offender under the jurisdiction of the Department of Corrections, a local community-based probation services agency, a pretrial services agency, a local or regional jail for the purposes of imprisonment, a work program or any other parole/probationary or pretrial services or agency and the accused is an employee or contractual employee of, or a volunteer with, the Department of Corrections, a local community-based probation services agency, a pretrial services agency or a local or regional jail; is in a position of authority over an offender; and knows that the offender is under the jurisdiction of the Department of Corrections, a local community-based probation services agency, a pretrial services agency or a local or regional jail.

B. Sexual battery is a Class 1 misdemeanor.

*Statute truncated due to size.

VA. CODE ANN. § 18.2-67.4:1 (WEST 2011). INFECTED SEXUAL BATTERY; PENALTY

A. Any person who, knowing he is infected with HIV, syphilis, or hepatitis B, has sexual intercourse, cunnilingus, fellatio, anallingus or anal intercourse with the intent to transmit the infection to another person is guilty of a Class 6 felony.

B. Any person who, knowing he is infected with HIV, syphilis, or hepatitis B, has sexual intercourse, cunnilingus, fellatio, anallingus or anal intercourse with another person without having previously disclosed the existence of his infection to the other person is guilty of a Class 1 misdemeanor.

C. "HIV" means the human immunodeficiency virus or any other related virus that causes acquired immunodeficiency syndrome (AIDS).

Nothing in this section shall prevent the prosecution of any other crime against persons under Chapter 4 (§ 18.2-30 et seq.) of this title. Any person charged with a violation of this section alleging he is infected with HIV shall be subject to the testing provisions of § 18.2-62.

VA. CODE ANN. § 18.2-67.5 (WEST 2011). ATTEMPTED RAPE, FORCIBLE SODOMY, OBJECT SEXUAL PENETRATION, AGGRAVATED SEXUAL BATTERY, AND SEXUAL BATTERY

A. An attempt to commit rape, forcible sodomy, or inanimate or animate object sexual penetration shall be punishable as a Class 4 felony.

B. An attempt to commit aggravated sexual battery shall be a felony punishable as a Class 6 felony.

C. An attempt to commit sexual battery is a Class 1 misdemeanor.

VA. CODE ANN. § 18.2-67.6 (WEST 2011). PROOF OF PHYSICAL RESISTANCE NOT REQUIRED

The Commonwealth need not demonstrate that the complaining witness cried out or physically resisted the accused in order to convict the accused of an offense under this article, but the absence of such resistance may be considered when relevant to show that the act alleged was not against the will of the complaining witness.

VA. CODE ANN. § 18.2-387 (WEST 2011). INDECENT EXPOSURE

Every person who intentionally makes an obscene display or exposure of his person, or the private parts thereof, in any public place, or in any place where others are present, or procures another to so expose himself, shall be guilty of a Class 1 misdemeanor. No person shall be deemed to be in violation of this section for breastfeeding a child in any public place or any place where others are present.

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*Statute truncated due to size.

WASHINGTON

CHARTS	PENETRATION	FORCE	CAPACITY TO CONSENT	VICTIM PERPETRATOR RELATIONSHIP	OTHER SEX CRIMES
CONSENT ANALYSIS	ALCOHOL/DRUG FACILITATED SEXUAL ASSAULT	MARITAL RAPE	SAME SEX PERPETRATOR	STATUTORY RAPE	CONSTRUCTIVE FORCE

WASH. REV. CODE ANN. § 9A.44.010 (WEST 2011). DEFINITIONS

As used in this chapter:

(1) "Sexual intercourse" (a) has its ordinary meaning and occurs upon any penetration, however slight, and

(b) Also means any penetration of the vagina or anus however slight, by an object, when committed on one person by another, whether such persons are of the same or opposite sex, except when such penetration is accomplished for medically recognized treatment or diagnostic purposes, and

(c) Also means any act of sexual contact between persons involving the sex organs of one person and the mouth or anus of another whether such persons are of the same or opposite sex.

(2) "Sexual contact" means any touching of the sexual or other intimate parts of a person done for the purpose of gratifying sexual desire of either party or a third party.

(3) "Married" means one who is legally married to another, but does not include a person who is living separate and apart from his or her spouse and who has filed in an appropriate court for legal separation or for dissolution of his or her marriage.

(4) "Mental incapacity" is that condition existing at the time of the offense which prevents a person from understanding the nature or consequences of the act of sexual intercourse whether that condition is produced by illness, defect, the influence of a substance or from some other cause.

(5) "Physically helpless" means a person who is unconscious or for any other reason is physically unable to communicate unwillingness to an act.

(6) "Forcible compulsion" means physical force which overcomes resistance, or a threat, express or implied, that places a person in fear of death or physical injury to herself or himself or another person, or in fear that she or he or another person will be kidnapped.

(7) "Consent" means that at the time of the act of sexual intercourse or sexual contact there are actual words or conduct indicating freely given agreement to have sexual intercourse or sexual contact.

(8) "Significant relationship" means a situation in which the perpetrator is:

(a) A person who undertakes the responsibility, professionally or voluntarily, to provide education, health, welfare, or organized recreational activities principally for minors;

(b) A person who in the course of his or her employment supervises minors; or

(c) A person who provides welfare, health or residential assistance, personal care, or organized recreational activities to frail elders or vulnerable adults, including a provider, employee, temporary employee, volunteer, or independent contractor who supplies services to long-term care facilities licensed or required to be licensed under chapter 18.20, 18.51, 72.36, or 70.128 RCW, and home health, hospice, or home care agencies licensed or required to be licensed under chapter 70.127 RCW, but not including a consensual sexual partner.

(9) "Abuse of a supervisory position" means:

(a) To use a direct or indirect threat or promise to exercise authority to the detriment or benefit of a minor; or

(b) To exploit a significant relationship in order to obtain the consent of a minor.

(10) "Person with a developmental disability," for purposes of RCW 9A.44.050(1)(c) and 9A.44.100(1)(c), means a person with a developmental disability as defined in RCW 71A.10.020.

(11) "Person with supervisory authority," for purposes of RCW 9A.44.050(1)(c) or (e) and 9A.44.100(1)(c) or (e), means any proprietor or employee of any public or private care or treatment facility who directly supervises developmentally disabled, mentally disordered, or chemically dependent persons at the facility.

(12) "Person with a mental disorder" for the purposes of RCW 9A.44.050(1)(e) and 9A.44.100(1)(e) means a person with a "mental disorder" as defined in RCW 71.05.020.

(13) "Person with a chemical dependency" for purposes of RCW 9A.44.050(1)(e) and 9A.44.100(1)(e) means a person who is "chemically dependent" as defined in RCW 70.96A.020(4).

(14) "Health care provider" for purposes of RCW 9A.44.050 and 9A.44.100 means a person who is, holds himself or herself out to be, or provides services as if he or she were: (a) A member of a health care profession under chapter 18.130 RCW; or (b) registered under chapter 18.19 RCW or licensed under chapter 18.225 RCW, regardless of whether the health care provider is licensed, certified, or registered by the state.

(15) "Treatment" for purposes of RCW 9A.44.050 and9A.44.100 means the active delivery of professional services by a health care provider which the health care provider holds himself or herself out to be qualified to provide.

(16) "Frail elder or vulnerable adult" means a person sixty years of age or older who has the functional, mental, or physical inability to care for himself or herself. "Frail elder or vulnerable adult" also includes a person found incapacitated under chapter 11.88 RCW, a person over eighteen years of age who has a developmental disability under chapter 71A.10 RCW, a person admitted to a long-term care facility that is licensed or required to be licensed under chapter 18.20, 18.51, 72.36, or 70.128 RCW, and a person receiving services from a home health, hospice, or home care agency licensed or required to be licensed under chapter 70.127 RCW.

WASH. REV. CODE ANN. § 9A.44.040 (WEST 2011). RAPE IN THE FIRST DEGREE

(1) A person is guilty of rape in the first degree when such person engages in sexual intercourse with another person by forcible compulsion where the perpetrator or an accessory:

(a) Uses or threatens to use a deadly weapon or what appears to be a deadly weapon; or

(b) Kidnaps the victim; or

(c) Inflicts serious physical injury, including but not limited to physical injury which renders the victim unconscious; or

(d) Feloniously enters into the building or vehicle where the victim is situated.

(2) Rape in the first degree is a class A felony.

*Statute truncated due to size.

WASH. REV. CODE ANN. § 9A.44.050 (WEST 2011). RAPE IN THE SECOND DEGREE

(1) A person is guilty of rape in the second degree when, under circumstances not constituting rape in the first degree, the person engages in sexual intercourse with another person:

(a) By forcible compulsion;

(b) When the victim is incapable of consent by reason of being physically helpless or mentally incapacitated;

(c) When the victim is a person with a developmental disability and the perpetrator is a person who is not married to the victim and who:

(i) Has supervisory authority over the victim; or

(ii) Was providing transportation, within the course of his or her employment, to the victim at the time of the offense;

(d) When the perpetrator is a health care provider, the victim is a client or patient, and the sexual intercourse occurs during a treatment session, consultation, interview, or examination. It is an affirmative defense that the defendant must prove by a preponderance of the evidence that the client or patient consented to the sexual intercourse with the knowledge that the sexual intercourse was not for the purpose of treatment;

(e) When the victim is a resident of a facility for persons with a mental disorder or chemical dependency and the perpetrator is a person who is not married to the victim and has supervisory authority over the victim; or

(f) When the victim is a frail elder or vulnerable adult and the perpetrator is a person who is not married to the victim and who:

(i) Has a significant relationship with the victim; or

(ii) Was providing transportation, within the course of his or her employment, to the victim at the time of the offense.

(2) Rape in the second degree is a class A felony.

WASH. REV. CODE ANN. § 9A.44.060 (WEST 2011). RAPE IN THE THIRD DEGREE

(1) A person is guilty of rape in the third degree when, under circumstances not constituting rape in the first or second degrees, such person engages in sexual intercourse with another person, not married to the perpetrator:

(a) Where the victim did not consent as defined in RCW 9A.44.010(7), to sexual intercourse with the perpetrator and such lack of consent was clearly expressed by the victim's words or conduct, or

(b) Where there is threat of substantial unlawful harm to property rights of the victim.

(2) Rape in the third degree is a class C felony.

*Statute truncated due to size.

WASH. REV. CODE ANN. § 9A.44.100 (WEST 2011). INDECENT LIBERTIES

(1) A person is guilty of indecent liberties when he or she knowingly causes another person who is not his or her spouse to have sexual contact with him or her or another:

(a) By forcible compulsion;

(b) When the other person is incapable of consent by reason of being mentally defective, mentally incapacitated, or physically helpless;

(c) When the victim is a person with a developmental disability and the perpetrator is a person who is not married to the victim and who:

(i) Has supervisory authority over the victim; or

(ii) Was providing transportation, within the course of his or her employment, to the victim at the time of the offense;

(d) When the perpetrator is a health care provider, the victim is a client or patient, and the sexual contact occurs during a treatment session, consultation, interview, or examination. It is an affirmative defense that the defendant must prove by a preponderance of the evidence that the client or patient consented to the sexual contact with the knowledge that the sexual contact was not for the purpose of treatment;

(e) When the victim is a resident of a facility for persons with a mental disorder or chemical dependency and the perpetrator is a person who is not married to the victim and has supervisory authority over the victim; or

(f) When the victim is a frail elder or vulnerable adult and the perpetrator is a person who is not married to the victim and who:

(i) Has a significant relationship with the victim; or

(ii) Was providing transportation, within the course of his or her employment, to the victim at the time of the offense.

(2)(a) Except as provided in (b) of this subsection, indecent liberties is a class B felony.

(b) Indecent liberties by forcible compulsion is a class A felony.

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WEST VIRGINIA

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W. VA. CODE ANN. § 61-8B-1 (WEST 2011). DEFINITION OF TERMS

In this article, unless a different meaning plainly is required:

(1) “Forcible compulsion” means:

(a) Physical force that overcomes such earnest resistance as might reasonably be expected under the circumstances; or

(b) Threat or intimidation, expressed or implied, placing a person in fear of immediate death or bodily injury to himself or herself or another person or in fear that he or she or another person will be kidnapped; or

(c) Fear by a person under sixteen years of age caused by intimidation, expressed or implied, by another person who is at least four years older than the victim.

For the purposes of this definition “resistance” includes physical resistance or any clear communication of the victim's lack of consent.

(2) “Married”, for the purposes of this article in addition to its legal meaning, includes persons living together as husband and wife regardless of the legal status of their relationship.

(3) “Mentally defective” means that a person suffers from a mental disease or defect which renders that person incapable of appraising the nature of his or her conduct.

(4) “Mentally incapacitated” means that a person is rendered temporarily incapable of appraising or controlling his or her conduct as a result of the influence of a controlled or intoxicating substance administered to that person without his or her consent or as a result of any other act committed upon that person without his or her consent.

(5) “Physically helpless” means that a person is unconscious or for any reason is physically unable to communicate unwillingness to an act.

(6) “Sexual contact” means any intentional touching, either directly or through clothing, of the breasts, buttocks, anus or any part of the sex organs of another person, or intentional touching of any part of another person's body by the actor's sex organs, where the victim is not married to the actor and the touching is done for the purpose of gratifying the sexual desire of either party.

(7) “Sexual intercourse” means any act between persons involving penetration, however slight, of the female sex organ by the male sex organ or involving contact between the sex organs of one person and the mouth or anus of another person.

(8) “Sexual intrusion” means any act between persons involving penetration, however slight, of the female sex organ or of the anus of any person by an object for the purpose of degrading or humiliating the person so penetrated or for gratifying the sexual desire of either party.

(9) “Bodily injury” means substantial physical pain, illness or any impairment of physical condition.

(10) “Serious bodily injury” means bodily injury which creates a substantial risk of death, which causes serious or prolonged disfigurement, prolonged impairment of health or prolonged loss or impairment of the function of any bodily organ.

(11) “Deadly weapon” means any instrument, device or thing capable of inflicting death or serious bodily injury, and designed or specially adapted for use as a weapon, or possessed, carried or used as a weapon.

(12) “Forensic medical examination” means an examination provided to a possible victim of a violation of the provisions of this article by medical personnel qualified to gather evidence of the violation in a manner suitable for use in a court of law, to include: An examination for physical trauma; a determination of penetration or force; a

patient interview; and the collection and evaluation of other evidence that is potentially relevant to the determination that a violation of the provisions of this article occurred and to the determination of the identity of the assailant.

W. VA. CODE ANN. § 61-8B-2 (WEST 2011). LACK OF CONSENT

(a) Whether or not specifically stated, it is an element of every offense defined in this article that the sexual act was committed without the consent of the victim.

(b) Lack of consent results from:

(1) Forcible compulsion; or

(2) Incapacity to consent; or

(3) If the offense charged is sexual abuse, any circumstances in addition to the forcible compulsion or incapacity to consent in which the victim does not expressly or impliedly acquiesce in the actor's conduct.

(c) A person is deemed incapable of consent when such person is:

(1) Less than sixteen years old; or

(2) Mentally defective; or

(3) Mentally incapacitated; or

(4) Physically helpless.

W. VA. CODE ANN. § 61-8B-3 (WEST 2011). SEXUAL ASSAULT IN THE FIRST DEGREE

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

(1) The person engages in sexual intercourse or sexual intrusion with another person and, in so doing:

(i) Inflicts serious bodily injury upon anyone; or

(ii) Employs a deadly weapon in the commission of the act; or

(2) The person, being fourteen years old or more, engages in sexual intercourse or sexual intrusion with another person who is younger than twelve years old and is not married to that person.

(b) Any person violating the provisions of this section is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility not less than fifteen nor more than thirty-five years, or fined not less than one thousand dollars nor more than ten thousand dollars and imprisoned in a state correctional facility not less than fifteen nor more than thirty-five years.

(c) Notwithstanding the provisions of subsection (b) of this section, the penalty for any person violating the provisions of subsection (a) of this section who is eighteen years of age or older and whose victim is younger than twelve years of age, shall be imprisonment in a state correctional facility for not less than twenty-five nor more than one hundred years and a fine of not less than five thousand dollars nor more than twenty-five thousand dollars.

W. VA. CODE ANN. § 61-8B-4 (WEST 2011). SEXUAL ASSAULT IN THE SECOND DEGREE

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

(1) Such person engages in sexual intercourse or sexual intrusion with another person without the person's consent, and the lack of consent results from forcible compulsion; or

(2) Such person engages in sexual intercourse or sexual intrusion with another person who is physically helpless.

(b) Any person who violates the provisions of this section shall be guilty of a felony, and, upon conviction thereof, shall be imprisoned in the penitentiary not less than ten nor more than twenty-five years, or fined not less than one thousand dollars nor more than ten thousand dollars and imprisoned in the penitentiary not less than ten nor more than twenty-five years.

W. VA. CODE ANN. § 61-8B-5 (WEST 2011). SEXUAL ASSAULT IN THE THIRD DEGREE

(a) A person is guilty of sexual assault in the third degree when:

(1) The person engages in sexual intercourse or sexual intrusion with another person who is mentally defective or mentally incapacitated; or

(2) The person, being sixteen years old or more, engages in sexual intercourse or sexual intrusion with another person who is less than sixteen years old and who is at least four years younger than the defendant and is not married to the defendant.

(b) Any person violating the provisions of this section is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility not less than one year nor more than five years, or fined not more than ten thousand dollars and imprisoned in a state correctional facility not less than one year nor more than five years.

W. VA. CODE ANN. § 61-8B-7 (WEST 2011). SEXUAL ABUSE IN THE FIRST DEGREE

(a) A person is guilty of sexual abuse in the first degree when:

(1) Such person subjects another person to sexual contact without their consent, and the lack of consent results from forcible compulsion; or

(2) Such person subjects another person to sexual contact who is physically helpless; or

(3) Such person, being fourteen years old or more, subjects another person to sexual contact who is younger than twelve years old.

(b) Any person who violates the provisions of this section shall be guilty of a felony, and, upon conviction thereof, shall be imprisoned in a state correctional facility not less than one year nor more than five years, or fined not more than ten thousand dollars and imprisoned in a state correctional facility not less than one year nor more than five years.

(c) Notwithstanding the provisions of subsection (b) of this section, the penalty for any person violating the provisions of subsection (a) of this section who is eighteen years of age or older and whose victim is younger than

twelve years of age, shall be imprisonment for not less than five nor more than twenty-five years and fined not less than one thousand dollars nor more than five thousand dollars.

W. VA. CODE ANN. § 61-8B-8 (WEST 2011). SEXUAL ABUSE IN THE SECOND DEGREE

(a) A person is guilty of sexual abuse in the second degree when such person subjects another person to sexual contact who is mentally defective or mentally incapacitated.

(b) Any person who violates the provisions of this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be confined in the county jail not more than twelve months, or fined not more than five hundred dollars and confined in the county jail not more than twelve months.

W. VA. CODE ANN. § 61-8B-9 (WEST 2011). SEXUAL ABUSE IN THE THIRD DEGREE

(a) A person is guilty of sexual abuse in the third degree when he subjects another person to sexual contact without the latter's consent, when such lack of consent is due to the victim's incapacity to consent by reason of being less than sixteen years old.

(b) In any prosecution under this section it is a defense that:

(1) The defendant was less than sixteen years old; or

(2) The defendant was less than four years older than the victim.

(c) Any person who violates the provisions of this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be confined in the county jail not more than ninety days, or fined not more than five hundred dollars and confined in the county jail not more than ninety days.

W. VA. CODE ANN. § 61-8-12 (2012). INCEST; PENALTY

(a) For the purposes of this section:

(1) “Aunt” means the sister of a person's mother or father;

(2) “Brother” means the son of a person's mother or father;

(3) “Daughter” means a person's natural daughter, adoptive daughter or the daughter of a person's husband or wife;

(4) “Father” means a person's natural father, adoptive father or the husband of a person's mother;

(5) “Granddaughter” means the daughter of a person's son or daughter;

(6) “Grandfather” means the father of a person's father or mother;

(7) “Grandmother” means the mother of a person's father or mother;

(8) “Grandson” means the son of a person's son or daughter;

(9) “Mother” means a person's natural mother, adoptive mother or the wife of a person's father;

(10) “Niece” means the daughter of a person's brother or sister;

(11) “Nephew” means the son of a person's brother or sister;

(12) “Sexual intercourse” means any act between persons involving penetration, however slight, of the female sex organ by the male sex organ or involving contact between the sex organs of one person and the mouth or anus of another person;

(13) “Sexual intrusion” means any act between persons involving penetration, however slight, of the female sex organ or of the anus of any person by an object for the purpose of degrading or humiliating the person so penetrated or for gratifying the sexual desire of either party;

(14) “Sister” means the daughter of a person's father or mother;

(15) “Son” means a person's natural son, adoptive son or the son of a person's husband or wife; and

(16) “Uncle” means the brother of a person's father or mother.

(b) A person is guilty of incest when such person engages in sexual intercourse or sexual intrusion with his or her father, mother, brother, sister, daughter, son, grandfather, grandmother, grandson, granddaughter, nephew, niece, uncle or aunt.

(c) Any person who violates the provisions of this section shall be guilty of a felony, and, upon conviction thereof, shall be imprisoned in the penitentiary not less than five years nor more than fifteen years, or fined not less than five hundred dollars nor more than five thousand dollars and imprisoned in the penitentiary not less than five years nor more than fifteen years.

(d) In addition to any penalty provided under this section and any restitution which may be ordered by the court under article eleven-a of this chapter, the court may order any person convicted under the provisions of this section where the victim is a minor to pay all or any portion of the cost of medical, psychological or psychiatric treatment of the victim, the need for which results from the act or acts for which the person is convicted, whether or not the victim is considered to have sustained bodily injury.

(e) In any case where a person is convicted of an offense described herein against a child and further has or may have custodial, visitation or other parental rights to the child, the court shall find that the person is an abusing parent within the meaning of article six, chapter forty-nine of this code, and shall take such further action in accord with the provisions of said article.

W. VA. CODE ANN. § 61-8B-10 (2012). IMPOSITION OF SEXUAL INTERCOURSE OR SEXUAL INTRUSION ON INCARCERATED PERSONS; PENALTIES

(a) Any person employed by the Division of Corrections, any person working at a correctional facility managed by the Commissioner of Corrections pursuant to contract or as an employee of a state agency, any person working at a correctional facility managed by the Division of Juvenile Services pursuant to contract or as an employee of a state agency, any person employed by a jail or by the Regional Jail and Correctional Facility Authority, any person working at a facility managed by the Regional Jail and Correctional Facility Authority or a jail or any person employed by, or acting pursuant to, the authority of any sheriff, county commission or court to ensure compliance with the provisions of article eleven-b, chapter sixty-two of this code who engages in sexual intercourse or sexual intrusion with a person who is incarcerated in this state is guilty of a felony and, upon conviction thereof, shall be confined in a state correctional facility under the control of the Commissioner of Corrections for not less than one

nor more than five years or fined not more than five thousand dollars.

(b) Any person employed by the Division of Corrections as a parole officer or by the West Virginia Supreme Court of Appeals as an adult or juvenile probation officer who engages in sexual intercourse or sexual intrusion with a person said parole officer or probation officer is charged as part of his or her employment with supervising, is guilty of a felony and, upon conviction thereof, shall be confined in a state correctional facility under the control of the Commissioner of Corrections for not less than one nor more than five years or fined not more than five thousand dollars, or both.

(c) The term "incarcerated in this state" for purposes of this section includes in addition to its usual meaning, offenders serving a sentence under the provisions of article eleven-b, chapter sixty-two of this code.

W. VA. CODE ANN. § 61-8D-5 (2012). SEXUAL ABUSE BY A PARENT, GUARDIAN, CUSTODIAN OR PERSON IN A POSITION OF TRUST TO A CHILD; PARENT, GUARDIAN, CUSTODIAN OR PERSON IN A POSITION OF TRUST ALLOWING SEXUAL ABUSE TO BE INFLICTED UPON A CHILD; DISPLAYING OF SEX ORGANS BY A PARENT, GUARDIAN, OR CUSTODIAN; PENALTIES

(a) In addition to any other offenses set forth in this code, the Legislature hereby declares a separate and distinct offense under this subsection, as follows: If any parent, guardian or custodian of or other person in a position of trust in relation to a child under his or her care, custody or control, shall engage in or attempt to engage in sexual exploitation of, or in sexual intercourse, sexual intrusion or sexual contact with, a child under his or her care, custody or control, notwithstanding the fact that the child may have willingly participated in such conduct, or the fact that the child may have consented to such conduct or the fact that the child may have suffered no apparent physical injury or mental or emotional injury as a result of such conduct, then such parent, guardian, custodian or person in a position of trust shall be guilty of a felony and, upon conviction thereof, shall be imprisoned in a correctional facility not less than ten nor more than twenty years, or fined not less than $500 nor more than $5,000 and imprisoned in a correctional facility not less than ten years nor more than twenty years.

(b) Any parent, guardian, custodian or other person in a position of trust in relation to the child who knowingly procures, authorizes, or induces another person to engage in or attempt to engage in sexual exploitation of, or sexual intercourse, sexual intrusion or sexual contact with, a child under the care, custody or control of such parent, guardian, custodian or person in a position of trust when such child is less than sixteen years of age, notwithstanding the fact that the child may have willingly participated in such conduct or the fact that the child may have suffered no apparent physical injury or mental or emotional injury as a result of such conduct, such parent, guardian, custodian or person in a position of trust shall be guilty of a felony and, upon conviction thereof, shall be imprisoned in a correctional facility not less than five years nor more than fifteen years, or fined not less than $1,000 nor more than $10,000 and imprisoned in a correctional facility not less than five years nor more than fifteen years.

(c) Any parent, guardian, custodian or other person in a position of trust in relation to the child who knowingly procures, authorizes, or induces another person to engage in or attempt to engage in sexual exploitation of, or sexual intercourse, sexual intrusion or sexual contact with, a child under the care, custody or control of such parent, guardian, custodian or person in a position of trust when such child is sixteen years of age or older, notwithstanding the fact that the child may have consented to such conduct or the fact that the child may have suffered no apparent physical injury or mental or emotional injury as a result of such conduct, then such parent, guardian, custodian or person in a position of trust shall be guilty of a felony and, upon conviction thereof, shall be imprisoned in a correctional facility not less than one year nor more than five years.

(d) The provisions of this section shall not apply to a custodian or person in a position of trust whose age exceeds the age of the child by less than four years.

*Statute truncated due to size.

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WIS. STAT. ANN. § 939.22 (WEST 2011). WORDS AND PHRASES DEFINED*

34) "Sexual contact" means any of the following if done for the purpose of sexual humiliation, degradation, arousal, or gratification:

(a) The intentional touching by the defendant or, upon the defendant's instruction, by a third person of the clothed or unclothed intimate parts of another person with any part of the body, clothed or unclothed, or with any object or device.

(b) The intentional touching by the defendant or, upon the defendant's instruction, by a third person of any part of the body, clothed or unclothed, of another person with the intimate parts of the body, clothed or unclothed.

(c) The intentional penile ejaculation of ejaculate or the intentional emission of urine or feces by the defendant or, upon the defendant's instruction, by a third person upon any part of the body, clothed or unclothed, of another person.

(d) Intentionally causing another person to ejaculate or emit urine or feces on any part of the actor's body, whether clothed or unclothed.

(36) "Sexual intercourse" requires only vulvar penetration and does not require emission.

WIS. STAT. ANN. § 940.225 (WEST 2011). SEXUAL ASSAULT

(1) First degree sexual assault. Whoever does any of the following is guilty of a Class B felony:

(a) Has sexual contact or sexual intercourse with another person without consent of that person and causes pregnancy or great bodily harm to that person.

(b) Has sexual contact or sexual intercourse with another person without consent of that person by use or threat of use of a dangerous weapon or any article used or fashioned in a manner to lead the victim reasonably to believe it to be a dangerous weapon.

(c) Is aided or abetted by one or more other persons and has sexual contact or sexual intercourse with another person without consent of that person by use or threat of force or violence.

(2) Second degree sexual assault. Whoever does any of the following is guilty of a Class C felony:

(a) Has sexual contact or sexual intercourse with another person without consent of that person by use or threat of force or violence.

*Statute truncated due to size.

(b) Has sexual contact or sexual intercourse with another person without consent of that person and causes injury, illness, disease or impairment of a sexual or reproductive organ, or mental anguish requiring psychiatric care for the victim.

(c) Has sexual contact or sexual intercourse with a person who suffers from a mental illness or deficiency which renders that person temporarily or permanently incapable of appraising the person's conduct, and the defendant knows of such condition.

(cm) Has sexual contact or sexual intercourse with a person who is under the influence of an intoxicant to a degree which renders that person incapable of giving consent if the defendant has actual knowledge that the person is incapable of giving consent and the defendant has the purpose to have sexual contact or sexual intercourse with the person while the person is incapable of giving consent.

(d) Has sexual contact or sexual intercourse with a person who the defendant knows is unconscious.

(f) Is aided or abetted by one or more other persons and has sexual contact or sexual intercourse with another person without the consent of that person.

(g) Is an employee of a facility or program under s. 940.295(2)(b), (c), (h) or (k) and has sexual contact or sexual intercourse with a person who is a patient or resident of the facility or program.

(h) Has sexual contact or sexual intercourse with an individual who is confined in a correctional institution if the actor is a correctional staff member. This paragraph does not apply if the individual with whom the actor has sexual contact or sexual intercourse is subject to prosecution for the sexual contact or sexual intercourse under this section.

(i) Has sexual contact or sexual intercourse with an individual who is on probation, parole, or extended supervision if the actor is a probation, parole, or extended supervision agent who supervises the individual, either directly or through a subordinate, in his or her capacity as a probation, parole, or extended supervision agent or who has influenced or has attempted to influence another probation, parole, or extended supervision agent's supervision of the individual. This paragraph does not apply if the individual with whom the actor has sexual contact or sexual intercourse is subject to prosecution for the sexual contact or sexual intercourse under this section.

(j) Is a licensee, employee, or nonclient resident of an entity, as defined in s. 48.685(1)(b) or 50.065(1)(c), and has sexual contact or sexual intercourse with a client of the entity.

(3) Third degree sexual assault. Whoever has sexual intercourse with a person without the consent of that person is guilty of a Class G felony. Whoever has sexual contact in the manner described in sub. (5)(b)2. or 3. with a person without the consent of that person is guilty of a Class G felony.

(3m) Fourth degree sexual assault. Except as provided in sub. (3), whoever has sexual contact with a person without the consent of that person is guilty of a Class A misdemeanor.

(4) Consent. "Consent", as used in this section, means words or overt actions by a person who is competent to give informed consent indicating a freely given agreement to have sexual intercourse or sexual contact. Consent is not an issue in alleged violations of sub. (2)(c), (cm), (d), (g), (h), and (i). The following persons are presumed incapable of consent but the presumption may be rebutted by competent evidence, subject to the provisions of s. 972.11(2):

(b) A person suffering from a mental illness or defect which impairs capacity to appraise personal conduct.

(c) A person who is unconscious or for any other reason is physically unable to communicate unwillingness to an act.

(5) Definitions. In this section:

(abm) "Client" means an individual who receives direct care or treatment services from an entity.

(acm) "Correctional institution" means a jail or correctional facility, as defined in s. 961.01(12m), a juvenile correctional facility, as defined in s. 938.02(10p), or a juvenile detention facility, as defined in s. 938.02(10r).

(ad) "Correctional staff member" means an individual who works at a correctional institution, including a volunteer.

(ag) "Inpatient facility" has the meaning designated ins. 51.01(10).

(ai) "Intoxicant" means any alcohol beverage, controlled substance, controlled substance analog, or other drug or any combination thereof.

(ak) "Nonclient resident" means an individual who resides, or is expected to reside, at an entity, who is not a client of the entity, and who has, or is expected to have, regular, direct contact with the clients of the entity.

(am) "Patient" means any person who does any of the following:

1. Receives care or treatment from a facility or program under s. 940.295(2)(b), (c), (h) or (k), from an employee of a facility or program or from a person providing services under contract with a facility or program.

2. Arrives at a facility or program under s. 940.295(2)(b), (c), (h) or (k) for the purpose of receiving care or treatment from a facility or program under s. 940.295(2)(b), (c), (h) or (k), from an employee of a facility or program under s. 940.295(2)(b), (c), (h) or (k), or from a person providing services under contract with a facility or program under s. 940.295(2)(b), (c), (h) or (k).

(ar) "Resident" means any person who resides in a facility under s. 940.295(2)(b), (c), (h) or (k).

(b) "Sexual contact" means any of the following:

1. Any of the following types of intentional touching, whether direct or through clothing, if that intentional touching is either for the purpose of sexually degrading; or for the purpose of sexually humiliating the complainant or sexually arousing or gratifying the defendant or if the touching contains the elements of actual or attempted battery under s. 940.19(1):

a. Intentional touching by the defendant or, upon the defendant's instruction, by another person, by the use of any body part or object, of the complainant's intimate parts.

b. Intentional touching by the complainant, by the use of any body part or object, of the defendant's intimate parts or, if done upon the defendant's instructions, the intimate parts of another person.

2. Intentional penile ejaculation of ejaculate or intentional emission of urine or feces by the defendant or, upon the defendant's instruction, by another person upon any part of the body clothed or unclothed of the complainant if that ejaculation or emission is either for the purpose of sexually degrading or sexually humiliating the complainant or for the purpose of sexually arousing or gratifying the defendant.

*Statute truncated due to size.

3. For the purpose of sexually degrading or humiliating the complainant or sexually arousing or gratifying the defendant, intentionally causing the complainant to ejaculate or emit urine or feces on any part of the defendant's body, whether clothed or unclothed.

(c) "Sexual intercourse" includes the meaning assigned under s. 939.22(36) as well as cunnilingus, fellatio or anal intercourse between persons or any other intrusion, however slight, of any part of a person's body or of any object into the genital or anal opening either by the defendant or upon the defendant's instruction. The emission of semen is not required.

(d) "State treatment facility" has the meaning designated in s. 51.01(15).

(6) Marriage not a bar to prosecution. A defendant shall not be presumed to be incapable of violating this section because of marriage to the complainant.

(7) Death of victim. This section applies whether a victim is dead or alive at the time of the sexual contact or sexual intercourse.

WIS. STAT. ANN. § 944.06 (WEST 2011). INCEST

Whoever marries or has nonmarital sexual intercourse, as defined in s. 948.01(6), with a person he or she knows is a blood relative and such relative is in fact related in a degree within which the marriage of the parties is prohibited by the law of this state is guilty of a Class F felony.

WIS. STAT. ANN. § 944.20 (WEST 2011). LEWD AND LASCIVIOUS BEHAVIOR

(1) Whoever does any of the following is guilty of a Class A misdemeanor:

(a) Commits an indecent act of sexual gratification with another with knowledge that they are in the presence of others; or

(b) Publicly and indecently exposes genitals or pubic area.

(2) Subsection (1) does not apply to a mother's breast-feeding of her child.

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WYOMING

CHARTS	PENETRATION	FORCE	CAPACITY TO CONSENT	VICTIM PERPETRATOR RELATIONSHIP	OTHER SEX CRIMES
CONSENT ANALYSIS	ALCOHOL/DRUG FACILITATED SEXUAL ASSAULT	MARITAL RAPE	SAME SEX PERPETRATOR	STATUTORY RAPE	CONSTRUCTIVE FORCE

WYO. STAT. ANN. § 6-2-301 (2010). DEFINITIONS

(a) As used in this article:

(i) "Actor" means the person accused of criminal assault;

(ii) “Intimate parts” means the external genitalia, perineum, anus or pubes of any person or the breast of a female person;

(iii) “Physically helpless” means unconscious, asleep or otherwise physically unable to communicate unwillingness to act;

(iv) “Position of authority” means that position occupied by a parent, guardian, relative, household member, teacher, employer, custodian or any other person who, by reason of his position, is able to exercise significant influence over a person;

(v) “Sexual assault” means any act made criminal pursuant to W.S. 6-2-302 through 6-2-304;

(vi) “Sexual contact” means touching, with the intention of sexual arousal, gratification or abuse, of the victim's intimate parts by the actor, or of the actor's intimate parts by the victim, or of the clothing covering the immediate area of the victim's or actor's intimate parts;

(vii) “Sexual intrusion” means:

(A) Any intrusion, however slight, by any object or any part of a person's body, except the mouth, tongue or penis, into the genital or anal opening of another person's body if that sexual intrusion can reasonably be construed as being for the purposes of sexual arousal, gratification or abuse; or

(B) Sexual intercourse, cunnilingus, fellatio, analingus or anal intercourse with or without emission.

(viii) “Victim” means the person alleged to have been subjected to sexual assault;

(ix) “This article” means W.S. 6-2-301 through 6-2-320.

WYO. STAT. ANN. § 6-2-302 (2010). SEXUAL ASSAULT IN THE FIRST DEGREE

(a) Any actor who inflicts sexual intrusion on a victim commits a sexual assault in the first degree if:

(i) The actor causes submission of the victim through the actual application, reasonably calculated to cause submission of the victim, of physical force or forcible confinement;

(ii) The actor causes submission of the victim by threat of death, serious bodily injury, extreme physical pain or kidnapping to be inflicted on anyone and the victim reasonably believes that the actor has the present ability to execute these threats;

(iii) The victim is physically helpless, and the actor knows or reasonably should know that the victim is physically helpless and that the victim has not consented; or

(iv) The actor knows or reasonably should know that the victim through a mental illness, mental deficiency or developmental disability is incapable of appraising the nature of the victim's conduct.

WYO. STAT. ANN. § 6-2-303 (2010). SEXUAL ASSAULT IN THE SECOND DEGREE

(a) Any actor who inflicts sexual intrusion on a victim commits sexual assault in the second degree if, under circumstances not constituting sexual assault in the first degree:

(i) The actor causes submission of the victim by threatening to retaliate in the future against the victim or the victim's spouse, parents, brothers, sisters or children, and the victim reasonably believes the actor will execute this threat. "To retaliate" includes threats of kidnapping, death, serious bodily injury or extreme physical pain;

(ii) The actor causes submission of the victim by any means that would prevent resistance by a victim of ordinary resolution;

(iii) The actor administers, or knows that someone else administered to the victim, without the prior knowledge or consent of the victim, any substance which substantially impairs the victim's power to appraise or control his conduct;

(iv) The actor knows or should reasonably know that the victim submits erroneously believing the actor to be the victim's spouse;

(v) Repealed by Laws 2007, ch. 159, § 3.

(vi) The actor is in a position of authority over the victim and uses this position of authority to cause the victim to submit;

(vii) The actor is an employee, independent contractor or volunteer of a state, county, city or town, or privately operated adult or juvenile correctional system, including but not limited to jails, penal institutions, detention centers, juvenile residential or rehabilitative facilities, adult community correctional facilities, secure treatment facilities or work release facilities, and the victim is known or should be known by the actor to be a resident of such facility or under supervision of the correctional system; or

(viii) The actor inflicts sexual intrusion in treatment or examination of a victim for purposes or in a manner substantially inconsistent with reasonable medical practices.

(b) A person is guilty of sexual assault in the second degree if he subjects another person to sexual contact and causes serious bodily injury to the victim under any of the circumstances listed in W.S. 6-2-302(a)(i) through (iv) or paragraphs (a)(i) through (vii) of this section.

(c) Repealed by Laws 1997, ch. 135, § 2.

WYO. STAT. ANN. § 6-2-304 (2010). SEXUAL ASSAULT IN THE THIRD DEGREE

(a) An actor commits sexual assault in the third degree if, under circumstances not constituting sexual assault in the first or second degree:

(i), (ii) Repealed by Laws 2007, ch. 159, § 3.

(iii) The actor subjects a victim to sexual contact under any of the circumstances of W.S. 6-2-302(a)(i) through (iv) or 6-2-303(a)(i) through (vii) without inflicting sexual intrusion on the victim and without causing serious bodily injury to the victim.

WYO. STAT. ANN. § 6-2-306 (2010). PENALTIES FOR SEXUAL ASSAULT

(a) An actor convicted of sexual assault under W.S. 6-2-302 through 6-2-304 who does not qualify under the criteria of subsection (b) or (d) of this section shall be punished as follows:

*Statute truncated due to size.

(i) Sexual assault in the first degree under W.S. 6-2-302 is a felony punishable by imprisonment for not less than five (5) years nor more than fifty (50) years;

(ii) Sexual assault in the second degree under W.S. 6-2-303 is a felony punishable by imprisonment for not less than two (2) years nor more than twenty (20) years;

(iii) Sexual assault in the third degree under W.S. 6-2-304 is a felony punishable by imprisonment for not more than fifteen (15) years;

(iv) Repealed by Laws 1997, ch. 135, § 2.

(b) An actor who is convicted of sexual assault under W.S. 6-2-302 through 6-2-304, who has previously been convicted of any crime containing the same or similar elements as the crimes defined in W.S. 6-2-302 through6-2-304 and who does not qualify under the criteria of subsection (d) of this section shall be punished as follows:

(i), (ii) Repealed by Laws 2007, ch. 159, § 3.

(iii) Sexual assault in the first or second degree under W.S. 6-2-302 or 6-2-303 is a felony punishable by imprisonment for not less than twenty-five (25) years or for life; or

(iv) Sexual assault in the third degree under W.S. 6-2-304 is a felony punishable by imprisonment for not more than twenty (20) years.

(c) Repealed by Laws 2007, ch. 159, § 3.

(i), (ii) Repealed by Laws 2007, ch. 159, § 3.

(iii) Repealed by Laws 1997, ch. 135, § 2.

(d) An actor who is convicted of sexual assault under W.S. 6-2-302 through 6-2-304, or sexual abuse of a minor under W.S. 6-2-316 through 6-2-317, shall be punished by life imprisonment without parole if the actor has two (2) or more previous convictions for any of the following designated offenses, which convictions resulted from charges separately brought and which arose out of separate occurrences in this state or elsewhere:

(i) A crime defined in W.S. 6-2-302 through 6-2-304 or a criminal statute from another jurisdiction containing the same or similar elements as a crime defined by W.S. 6-2-302 through 6-2-304.

(ii) Repealed by Laws 1997, ch. 135, § 2.

(iii) Repealed by Laws 2007, ch. 159, § 3.

(e) An actor who is convicted of sexual abuse of a minor under W.S. 6-2-314 or 6-2-315 shall be punished by life imprisonment without parole if the actor has one (1) or more previous convictions for a violation of W.S. 6-2-302through 6-2-304, 6-2-314 or 6-2-315, or a criminal statute containing the same or similar elements as the crimes defined by W.S. 6-2-302 through 6-2-304, 6-2-314 or 6-2-315, which convictions resulted from charges separately brought and which arose out of separate occurrences in this state or elsewhere.

WYO. STAT. ANN. § 6-2-307 (2010). EVIDENCE OF MARRIAGE AS DEFENSE

(a) The fact that the actor and the victim are married to each other is not by itself a defense to a violation of W.S. 6-2-302(a)(i), (ii) or (iii) or 6-2-303(a)(i), (ii), (iii), (vi) or (vii).

*Statute truncated due to size.

(b) Consent of the victim is not a defense to a violation of W.S. 6-2-303(a)(vii) or 6-2-304(a)(iii).

WYO. STAT. ANN. § 6-2-311 (2010). CORROBORATION UNNECESSARY

Corroboration of a victim's testimony is not necessary to obtain a conviction for sexual assault.

WYO. STAT. ANN. § 6-2-313 (2010). SEXUAL BATTERY

(a) Except under circumstances constituting a violation of W.S. 6-2-302 through 6-2-304, 6-2-314 through 6-2-317 or 6-2-502, an actor who unlawfully subjects another person to any sexual contact is guilty of sexual battery.

(b) Sexual battery is a misdemeanor punishable by imprisonment for not more than one (1) year, a fine of not more than one thousand dollars ($1,000.00), or both.

WYO. STAT. ANN. § 6-4-201 (2012). PUBLIC INDECENCY; EXCEPTION; PENALTIES

(a) A person is guilty of public indecency if, while in a public place where he may reasonably be expected to be viewed by others, he:

(i) Performs an act of sexual intrusion, as defined by W.S. 6-2-301(a)(vii); or

(ii) Exposes his intimate parts, as defined by W.S. 6-2-301(a)(ii), with the intent of arousing the sexual desire of himself or another person; or

(iii) Engages in sexual contact, as defined by W.S. 6-2-301(a)(vi), with or without consent, with the intent of arousing the sexual desire of himself or another person.

(b) The act of breastfeeding an infant child, including breastfeeding in any place where the woman may legally be, does not constitute public indecency.

(c) Public indecency is a misdemeanor punishable by imprisonment for not more than six (6) months, a fine of not more than seven hundred fifty dollars ($750.00), or both.

WYO. STAT. ANN. § 6-4-402 (2011). INCEST; PENALTIES; DISCLOSURE OR PUBLICATION OF IDENTIFYING INFORMATION; "MINOR VICTIM"

(a) A person is guilty of incest if he knowingly commits sexual intrusion, as defined by W.S. 6-2-301(a)(vii), or sexual contact, as defined by W.S. 6-2-301(a)(vi), with an ancestor or descendant or a brother or sister of the whole or half blood. The relationships referred to herein include relationships of:

(i) Parent and child by adoption;

(ii) Blood relationships without regard to legitimacy; and

(iii) Stepparent and stepchild.

*Statute truncated due to size.

(b) Incest is a felony punishable by imprisonment for not more than fifteen (15) years, a fine of not more than ten thousand dollars ($10,000.00), or both.

(c) Prior to the filing of an information or indictment charging a violation under this section, neither the name of the person accused or the victim nor any other information reasonably likely to disclose their identity shall be released or negligently allowed to be released to the public by any public employee, except as authorized by the judge with jurisdiction over the criminal charges. The name of the person accused may be released to the public to aid or facilitate an arrest.

(d) After the filing of an information or indictment and absent a request to release the identity of a minor victim by the victim or another acting on behalf of a minor victim, the trial court shall restrict the disclosure or publication of information reasonably likely to identify the minor victim.

(e) Any person who willfully violates subsection (c) or (d) of this section or who willfully neglects or refuses to obey any court order made pursuant thereto is guilty of contempt and, upon conviction, shall be fined not more than seven hundred fifty dollars ($750.00) or be imprisoned in the county jail not more than ninety (90) days, or both.

(f) A release of a name or other information to the public in violation of the proscriptions of subsection (c) or (d) of this section shall not stand as a bar to the prosecution of a defendant nor be grounds for dismissal of any charges against a defendant.

(g) As used in this section, "minor victim" means a person under the age of eighteen (18) years.

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U.S. TERRITORIES

AMERICAN SAMOA

CHARTS	PENETRATION	FORCE	CAPACITY TO CONSENT	VICTIM PERPETRATOR RELATIONSHIP	OTHER SEX CRIMES
CONSENT ANALYSIS	ALCOHOL/DRUG FACILITATED SEXUAL ASSAULT	MARITAL RAPE	SAME SEX PERPETRATOR	STATUTORY RAPE	CONSTRUCTIVE FORCE

AMERICAN SAMOA CODE ANN. § 46.3601 (2004). DEFINITIONS

As used in this chapter:

(a) "Deviate sexual intercourse" means any sexual act involving the genitals of one person and the mouth, tongue, hand, or anus of another person.

(b) "Sexual contact" means any touching of the genitals or anus of any person, or the breast of any female person, or any such touching through the clothing, for the purpose of arousing or gratifying sexual desire of any person.

(c) "Sexual intercourse" means any penetration, however slight, of the female sex organ by the male sex organ, whether or not an emission results.

*Statute truncated due to size.

AMERICAN SAMOA CODE ANN. § 46.3602 (2004). DETERMINATION OF MARRIAGE

Persons living together as man and wife are married for purposes of this chapter, regard less of the legal status of their relationship otherwise. Spouses living apart under a decree of judicial separation are not married to one another for purposes of this chapter.

AMERICAN SAMOA CODE ANN. § 46.3603 (2004). MISTAKE AS TO INCAPACITY OR AGE

(a) Whenever in this chapter the criminality of conduct depends upon a victim's being in capacitated, no crime is committed if the defendant reasonably believed that the victim consented to the act. The defendant has the burden of injecting the issue of belief as to capacity and consent.

(b) Whenever in this chapter the criminality of conduct depends upon a child's being under the age of 14, it is no defense that the defendant believed the child to be 14 years old or older.

AMERICAN SAMOA CODE ANN. § 46.3604 (2004). RAPE

(a) A person commits the crime of rape if:

(1) he has sexual intercourse with another person without that person's consent by the use of forcible compulsion; or

(2) he has sexual intercourse with another person who is 16 years of age or less.

(b) Rape is a class B felony unless in the course of it the actor inflicts serious physical injury on any person or displays a deadly weapon in a threatening manner, then rape is a class A felony.

AMERICAN SAMOA CODE ANN. § 46.3610 (2004). SEXUAL ASSAULT

(a) A person commits the crime of sexual assault if he has sexual intercourse with another person who is incapacitated or 16 years of age or less.

(b) Sexual assault is a class C felony unless in the course of it the actor inflicts serious physical injury on any person or displays a deadly weapon in a threatening manner, then the crime is a class B felony.

AMERICAN SAMOA CODE ANN. § 46.3611 (2004). SODOMY

(a) A person commits the crime of sodomy if:

(1) he has deviate sexual intercourse with another person without that person's consent or by the use of forcible compulsion; or

(2) he has deviate sexual intercourse with another person who is 16 years of age or less.

*Statute truncated due to size.

(b) Sodomy is a class B felony unless in the course of it the actor inflicts serious physical injury on any person or displays a deadly weapon, then sodomy is a class A felony.

AMERICAN SAMOA CODE ANN. § 46.3612 (2004). DEVIATE SEXUAL ASSAULT

(a) A person commits the crime of deviate sexual assault if he has deviate sexual inter course with another person without consent or who is incapacitated or who is 16 years of age or less.

(b) Deviate sexual assault is a class C felony unless in the course of it the actor inflicts serious physical injury on any person or dis plays a deadly weapon in a threatening manner, then the crime is a class B felony.

AMERICAN SAMOA CODE ANN. § 46.3615 (2004). SEXUAL ABUSE IN THE FIRST DEGREE

(a) A person commits the crime of sexual abuse in the first degree if:

(1) he subjects another person to sexual contact without that person's consent or by the use of forcible compulsion; or

(2) he subjects another person who is 16 years of age or less to sexual contact.

(b) Sexual abuse in the first degree is a class D felony unless in the course of it the actor inflicts serious physical harm on any person or displays a deadly weapon in a threatening manner, then the crime is a class C felony.

AMERICAN SAMOA CODE ANN. § 46.3616 (2004). SEXUAL ABUSE IN THE SECOND DEGREE

(a) A person commits the crime of sexual abuse in the second degree if he subjects another person to sexual contact without that person's consent.

(b) Sexual abuse in the second degree is a class B misdemeanor unless in the course of it the actor displays a deadly weapon in a threatening manner, then the crime is a class A misdemeanor.

AMERICAN SAMOA CODE ANN. § 46.3617 (2004). INDECENT EXPOSURE

(a) A person commits the crime of indecent exposure if he knowingly exposes his genitals under the circumstances in which he knows that his conduct is likely to cause affront or alarm.

(b) Indecent exposure is a class A misdemeanor.

AMERICAN SAMOA CODE ANN. § 46.3802 (2004). INCEST

(a) A person commits the crime of incest if he marries or purports to marry or engages in sexual intercourse or deviate sexual inter-course with a person he knows to be:

(1) his ancestor or descendant by blood or adoption;

(2) his stepchild or stepparent, while the marriage creating that relationship exists and while the stepchild is

18 years of age or less;

(3) his brother or sister of the whole or half-blood; or
(4) his uncle, aunt, nephew, or niece of the whole blood.

(b) For purposes of this section:

(1) "Sexual intercourse" has the meaning specified in subsection (c) of 46.2001.

(2) "Deviate sexual intercourse" has the meaning specified in subsection (a) of 46.3601.

(3) Incest is a class D felony.

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GUAM

CHARTS	PENETRATION	FORCE	CAPACITY TO CONSENT	VICTIM PERPETRATOR RELATIONSHIP	OTHER SEX CRIMES
CONSENT ANALYSIS	ALCOHOL/DRUG FACILITATED SEXUAL ASSAULT	MARITAL RAPE	SAME SEX PERPETRATOR	STATUTORY RAPE	CONSTRUCTIVE FORCE

9 GUAM CODE ANN. § 25.10 (2010). DEFINITIONS

(a) As used in this Chapter:

(1) Actor means a person accused of criminal sexual conduct;

(2) Force or Coercion includes but is not limited to any of the following circumstances:

(i) when the actor overcomes the victim through the actual application of physical force or physical violence;

(ii) when the actor coerces the victim to submit by threatening to use force or violence on the victim and the victim believes that the actor has the present ability to execute these threats;

(iii) when the actor coerces the victim to submit by threatening to retaliate in the future against the victim or any other person and the victim believes that the actor has the ability to execute this threat.

As used in this Subsection, to retaliate includes threats of physical punishment, kidnapping or extortion;

(iv) when the actor engages in the medical treatment or examination of the victim in a manner or for purposes which are medically recognized as unethical or unacceptable; or

(v) when the actor, through concealment or by the element of surprise, is able to overcome the victim.

(3) Intimate Parts includes the primary genital area, groin, inner thigh, buttock or breast of a human being;

(4) Mentally Defective means that a person suffers from a mental disease or defect which renders that person temporary or permanently incapable of appraising the nature of his or her conduct;

(5) Mentally Incapacitated means that a person is rendered temporarily incapable of appraising or controlling his or her conduct due to the influence of a narcotic, anesthetic or other substance administered to that person without his or her consent, or due to any other act committed upon that person without his or her consent;

(6) Physically Helpless means that a person is unconscious, asleep or for any other reason is physically unable to communicate unwillingness to an act;

(7) Personal Injury means bodily injury, disfigurement, mental anguish, chronic pain, pregnancy, disease or loss or impairment of a sexual or reproductive organ;

(8) Sexual Contact includes the intentional touching of the victim's or actor's intimate parts or the intentional touching of the clothing covering the immediate area of the victim's or actor's intimate parts, if that intentional touching can reasonably be construed as being for the purpose of sexual arousal or gratification;

(9) Sexual Penetration means sexual intercourse, cunnilingus, fellatio, anal intercourse or any other intrusion, however slight, of any part of a person's body or of any object into the genital or anal openings of another person's body, but emission of semen is not required; and

(10) Victim means the person alleging to have been subjected to criminal sexual conduct.

(b) Whenever in this Chapter the criminality of conduct depends on a child's being below the age of fourteen (14), it is no defense that the defendant reasonably believed the child to be fourteen (14) or older. Whenever in this Chapter the criminality of conduct depends on a child's being below a specified age older than fourteen (14), it is an affirmative defense that the defendant reasonably believed the child to be of that age or above.

9 GUAM CODE ANN. § 25.15 (2010). FIRST DEGREE CRIMINAL SEXUAL CONDUCT

(a) A person is guilty of criminal sexual conduct in the first degree if he or she engages in sexual penetration with the victim and if any of the following circumstances exists:

(1) the victim is under fourteen (14) years of age;

(2) the victim is at least fourteen (14) but less than sixteen (16) years of age and the actor is a member of the same household as the victim, the actor is related to the victim by blood or affinity to the fourth degree to the victim, or the actor is in a position of authority over the victim and used this authority to coerce the victim to submit;

(3) sexual penetration occurs under circumstances involving the commission of any other felony;

(4) the actor is aided or abetted by one or more other persons and either of the following circumstances exists:

(i) the actor knows or has reason to know that the victim is mentally defective, mentally incapacitated or physically helpless; or

(ii) the actor uses force or coercion to accomplish the sexual penetration.

(5) the actor is armed with a weapon or any article used or fashioned in a manner to lead the victim to reasonably believe it to be a weapon;

(6) the actor causes personal injury to the victim and force or coercion is used to accomplish sexual penetration; and

*Statute truncated due to size.

(7) the actor causes personal injury to the victim, and the actor knows or has reason to know that the victim is mentally defective, mentally incapacitated or physically helpless.

(b) Criminal sexual conduct in the first degree is a felony in the first degree. Any person convicted of criminal sexual conduct under §25.15(a) shall be sentenced to a minimum of fifteen (15) years imprisonment, and may be sentenced to a maximum of life imprisonment without the possibility of parole. Any person convicted of criminal sexual conduct in the first degree shall not be eligible for work release or educational programs outside the confines of prison nor shall the provisions under §80.31 apply.

9 GUAM CODE ANN. § 25.20 (2010). SECOND DEGREE CRIMINAL SEXUAL CONDUCT

(a) A person is guilty of criminal sexual conduct in the second degree if the person engages in sexual contact with another person and if any of the following circumstances exists:

(1) that other person is under fourteen (14) years of age;

(2) that other person is at least fourteen (14) but less than sixteen (16) years of age and the actor is a member of the same household as the victim, or is related by blood or affinity to the fourth degree to the victim, or is in a position of authority over the victim and the actor used this authority to coerce the victim to submit;

(3) sexual contact occurs under circumstances involving the commission of any other felony;

(4) the actor is aided or abetted by one or more other persons and either of the following circumstances exists:

(i) the actor knows or has reason to know that the victim is mentally defective, mentally incapacitated or physically helpless; or

(ii) the actor uses force or coercion to accomplish the sexual contact.

(5) the actor is armed with a weapon or any article used or fashioned in a manner to lead a person to reasonably believe it to be a weapon;

(6) the actor causes personal injury to the victim and force or coercion is used to accomplish the sexual contact; and

(7) the actor causes personal injury to the victim and the actor knows or has reason to know that the victim is mentally defective, mentally incapacitated or physically helpless.

(b) Criminal sexual conduct in the second degree is a felony in the first degree but a person convicted of criminal sexual conduct in the second degree who receives a sentence of imprisonment shall not be eligible for work release or educational programs outside the confines of prison.

9 GUAM CODE ANN. § 25.25 (2010). THIRD DEGREE CRIMINAL SEXUAL CONDUCT

(a) A person is guilty of criminal sexual conduct in the third degree if the person engages in sexual penetration with another person and if any of the following circumstances exists:

(1) that other person is at least fourteen (14) years of age and under sixteen (16) years of age;

(2) force or coercion is used to accomplish the sexual penetration; and

(3) the actor knows or has reason to know that the victim is mentally defective, mentally incapacitated or physically helpless.

(b) Criminal sexual conduct in the third degree is a felony of the second degree.

9 GUAM CODE ANN. § 25.30 (2010). FOURTH DEGREE CRIMINAL SEXUAL CONDUCT

(a) A person is guilty of criminal sexual conduct in the fourth degree if he or she engages in sexual contact with another person and if either of the following circumstances exists:

(1) force or coercion is used to accomplish the sexual contact;

(2) the actor knows or has reason to know that the victim is mentally defective, mentally incapacitated or physically helpless.

(b) Criminal sexual conduct in the fourth degree is a felony of the third degree, except for first time offenders it is a misdemeanor.

9 GUAM CODE ANN. § 25.35 (2010). ASSAULT WITH INTENT TO COMMIT CRIMINAL SEXUAL CONDUCT

Assault with intent to commit criminal sexual conduct involving penetration is a felony in a third degree.

9 GUAM CODE ANN. § 25.40 (2010). VICTIM'S TESTIMONY NEED NOT BE CORROBORATED

The testimony of a victim need not be corroborated in prosecutions under §§ 25.15 through 25.35.

9 GUAM CODE ANN. § 25.45 (2010). RESISTANCE NOT REQUIRED

A victim need not resist the actor for a proper prosecution under §§ 25.15 through 25.35.

9 GUAM CODE ANN. § 28.65 (2010). INDECENT EXPOSURE; DEFINED & PUNISHED

A person commits a petty misdemeanor if he exposes his genitals or performs any other lewd act under circumstances in which his conduct is likely to be observed by any person who would be offended or alarmed.

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*Statute truncated due to size.

NORTHERN MARIANA ISLANDS

CHARTS	PENETRATION	FORCE	CAPACITY TO CONSENT	VICTIM PERPETRATOR RELATIONSHIP	OTHER SEX CRIMES
CONSENT ANALYSIS	ALCOHOL/DRUG FACILITATED SEXUAL ASSAULT	MARITAL RAPE	SAME SEX PERPETRATOR	STATUTORY RAPE	CONSTRUCTIVE FORCE

6 N. MAR. I. CODE § 1301 (2013). SEXUAL ASSAULT IN THE FIRST DEGREE

(a) An offender commits the crime of sexual assault in the first degree if

(1) the offender engages in sexual penetration with another person without consent of that person;

(2) the offender attempts to engage in sexual penetration with another per-son without consent of that person and causes serious bodily injury to that person;

(3) the offender engages in sexual penetration with another person

(A) who the offender knows is mentally incapable; and

(B) who is in the offender's care

(i) by authority of law; or

(ii) in a facility or program that is required by law to be licensed by the Commonwealth; or

(4) the offender engages in sexual penetration with a person who the of-fender knows is unaware that a sexual act is being committed and

(A) the offender is a health care worker; and

(B) the offense takes place during the course of professional treatment of the victim.

(b) Sexual assault in the first degree is punishable by imprisonment for not more than 30 years, a fine of not more than $50,000, or both, and the mandatory sentencing provisions of 6 CMC § 4102.

6 N. MAR. I. CODE § 1302 (2013). SEXUAL ASSAULT IN THE SECOND DEGREE

(a) An offender commits the crime of sexual assault in the second degree if

(1) the offender engages in sexual contact with another person without con-sent of that person;

(2) the offender engages in sexual contact with a person

(A) who the offender knows is mentally incapable; and

(B) who is in the offender's care

(i) by authority of law; or

(ii) in a facility or program that is required by law to be licensed by the Commonwealth;

*Statute truncated due to size.

(3) the offender engages in sexual penetration with a person who the of-fender knows is

(A) mentally incapable;

(B) incapacitated; or

(C) unaware that a sexual act is being committed; or

(4) the offender engages in sexual contact with a person who the offender knows is unaware that a sexual act is being committed and

(A) the offender is a health care worker; and

(B) the offense takes place during the course of professional treatment of the victim.

(b) Sexual Assault in the second degree is punishable by imprisonment of not less than two years and not more than fifteen years, a fine of not more than $10,000, or both. Notwithstanding any other provision of law, a person sentenced under this provision and 6 CMC section 4252 shall not be eligible for parole, if at all, until two-thirds of this minimum sentence (487 days) has been served.

6 N. MAR. I. CODE § 1303 (2013). SEXUAL ASSAULT IN THE THIRD DEGREE

(a) An offender commits the crime of sexual assault in the third degree if the offender

(1) engages in sexual contact with a person who the offender knows is

(A) mentally incapable;

(B) incapacitated; or

(C) unaware that a sexual act is being committed.

(2) while employed in a Commonwealth correctional facility or other placement designated by the commissioner of corrections for the custody and care of prisoners, engages in sexual penetration with a person who the offender knows is committed to the custody of the Department of Corrections to serve a term of imprisonment or period of temporary commitment; or

(3) engages in sexual penetration with a person 18 or 19 years of age who the offender knows is committed to the custody of the Department of Public Health and Environmental Services under the Commonwealth's civil or criminal laws, and the offender is the legal guardian of the person.

(b) Sexual Assault in the third degree is punishable by imprisonment of not less than one year and not more than five years, a fine of not more than $2,000, or both. Notwithstanding any other provision of law, a person sentenced under this provision or 6 CMC section 4252 shall not be eligible for parole, if at all, until two-thirds of this minimum sentence (244 days) has been served.

6 N. MAR. I. CODE § 1304 (2013). SEXUAL ASSAULT IN THE FOURTH DEGREE.

(a) An offender commits the crime of sexual assault in the fourth degree if

(1) while employed in the Commonwealth correctional facility or other placement designated by the commissioner

of corrections for the custody and care of prisoners, the offender engages in sexual contact with a person who the offender knows is committed to the custody of the Department of Corrections to serve a term of imprisonment or period of temporary commitment; or

(2) the offender engages in sexual contact with a person 18 or 19 years of age who the offender knows is committed to the custody of the Department of Public Health and Environmental Services under the civil or criminal commitment laws, and the offender is the legal guardian of the person.

(b) Sexual Assault in the fourth degree is punishable by imprisonment for not less than forty-five days and not more than one year, a fine of $1,000, or both. Notwithstanding any other provision of law, a person sentenced under this provision and 6 CMC section 4252 shall not be eligible for parole, if at all, until two-thirds of this minimum sentence (30 days) has been served.

6 N. MAR. I. CODE § 1305 (2013). DEFENSES

(a) It is a defense to the crime charged under 6 CMC § 1301(a)(3), 6 CMC § 1302(a)(2) or (a)(3), or 6 CMC § 1303(a)(1) that the offender is

(1) mentally incapable; or

(2) married to the person and neither party has filed with the court for a separation, divorce, or dissolution of the marriage.

(b) Except as provided in (a) of this section, in a prosecution under 6 CMC § 1301 or 6 CMC § 1302, it is not a defense that the victim was, at the time of the alleged offense, the legal spouse of the defendant.

6 N. MAR. I. CODE § 1310 (2013). GENERAL PROVISIONS

(a) In a prosecution under 6 CMC §§ 1306-1309 it is an affirmative defense that, at the time of the alleged offense, the victim was the legal spouse of the defendant, unless the offense was committed without the consent of the victim.

(b) In a prosecution under 6 CMC §§ 1303-1309, whenever a provision of law defining an offense depends upon a victim being under a certain age, it is an affirmative defense that, at the time of the alleged offense, the defendant reason-ably believed the victim to be that age or older, unless the victim was under 13 years of age at the time of the alleged offense.

6 N. MAR. I. CODE § 1311 (2013). INCEST

(a) A person commits the crime of incest if, being 18 years of age or older, that person engages in sexual penetration with another who is related either legitimately or illegitimately, as

(1) an ancestor or descendant of the whole or half blood;

(2) a brother or sister of the whole or half blood; or

(3) an uncle, aunt, nephew, or niece by blood.

(b) Incest is punishable by imprisonment for not more than five years, a fine of not more than $2,000, or both.

*Statute truncated due to size.

6 N. MAR. I. CODE § 1315 (2013). INDECENT EXPOSURE IN THE FIRST DEGREE

(a) An offender commits the crime of indecent exposure in the first degree if

(1) the offender violates 6 CMC § 1316;

(2) while committing the act constituting the offense, the offender knowingly masturbates; and

(3) the offense occurs within the observation of a person under 16 years of age.

(b) Indecent exposure in the first degree is punishable by imprisonment for not more than five years, a fine of not more than $2,000, or both.

6 N. MAR. I. CODE § 1316 (2013). INDECENT EXPOSURE IN THE SECOND DEGREE

(a) An offender commits the crime of indecent exposure in the second degree if the offender knowingly exposes the offender's genitals in the presence of another person with reckless disregard for the offensive, insulting, or frightening effect the act may have.

(b) Indecent exposure in the second degree before a person under 16 years of age is punishable by imprisonment for not more than one year, a fine of not more than $1,000, or both, and the mandatory sentencing provisions of 6 CMC § 4102. Indecent exposure in the second degree before a person 16 years of age or older is punishable by imprisonment for not more than six months, a fine of not more than $500, or both.

6 N. MAR. I. CODE § 1317 (2013). DEFINITIONS

For purposes of this chapter, unless the context requires otherwise,

(1) "Health care worker" includes a person who is or purports to be an anesthesiologist, acupuncturist, chiropractor, dentist, health aide, hypnotist, massage therapist, mental health counselor, midwife, nurse, nurse practitioner, osteopath, naturopath, physical therapist, physical therapy assistant, physician, physician assistant, psychiatrist, psychologist, psychological associate, radiologist, religious healing practitioner, surgeon, x-ray technician, or a substantially similar position;

(2) "Incapacitated" means temporarily incapable of appraising the nature of one's own conduct or physically unable to express unwillingness to act;

(3) "Legal guardian" means a person who is under a duty to exercise general supervision over a minor or other person committed to the custody of the Department of Public Health and Environmental Services under the civil or criminal commitment laws of the Commonwealth as a result of a court order, statute, or regulation, and includes Department of Public Health and Environ-mental Services employees, foster parents, and staff members and other employees of group homes or youth facilities where the minor or other person is placed as a result of a court order or the action of the Department of Public Health and Environmental Services, and police officers, probation officers, and social workers when those persons are exercising custodial control over a minor or other person;

(4) "Mentally incapable" means suffering from a mental disease or defect that renders the person incapable of understanding the nature or consequences of the person's conduct, including the potential for harm to that person;

*Statute truncated due to size.

(5) "Position of authority" means an employer, youth leader, scout leader, coach, teacher, counselor, school administrator, religious leader, doctor, nurse, psychologist, guardian ad litem, babysitter, or a substantially similar position, and a police officer or probation officer other than when the officer is exercising custodial control over a minor;

(6) "Sexual act" means sexual penetration or sexual contact;

(7) "Sexual Contact" is the intentional touching of the victim's or actor's intimate parts which include but are not limited to the primary genital area, groin, inner thigh, anus, buttock, or breast of a human being or the intentional touching of the clothing covering the immediate area of the victim's or actor's intimate parts, if that intentional touching can reasonably be construed as being for the purpose of sexual arousal or gratification.

(8) "Sexual penetration" means

(A) genital intercourse, cunnilingus, fellatio, anal intercourse, or an intrusion, however slight, of an object or any part of a person's body into the genital or anal opening of another person's body;

(B) but "sexual penetration" does not include acts performed for the purpose of administering a recognized and lawful form of treatment that is reasonably adapted to promoting the physical or mental health of the person being treated;

(C) each party to any of the acts defined as "sexual penetration" is considered to be engaged in sexual penetration;

(9) "Victim" means the person alleged to have been subjected to sexual assault in any degree or sexual abuse of a minor in any degree;

(10) "Without consent" means that a person

(A) with or without resisting, is coerced by the use of force against a person or property, or by the express or implied threat of death, imminent physical injury, or kidnaping to be inflicted on anyone; or

(B) is incapacitated as a result of an act of the defendant.

6 N. MAR. I. CODE § 1320 (2013). ADMISSION OF PRIOR ACT EVIDENCE

(a) In a prosecution for a crime involving a physical or sexual assault or abuse of a minor, evidence of other acts by the defendant toward the same or another child is admissible if the prior conduct

(i) occurred within the 10 years preceding the date of the offense charged;

(ii) is similar to the offense charged; and

(iii) was committed upon persons similar to the prosecuting witness.

(b) In a prosecution for a crime of sexual assault in any degree, evidence of other sexual assaults or attempted sexual assaults by the defendant against the same or another person is admissible if the defendant relies on a defense of consent. In a prosecution for a crime of attempt to commit sexual assault in any degree, evidence of other sexual assaults or attempted sexual assaults by the defendant against the same or another person is admissible.

(c) For purposes of this section, the prior conduct referred to in subsections (a) and (b) need not have resulted in any criminal charge or conviction in order to be admissible.

(d) In a prosecution for a crime involving domestic violence or of interfering with a report of a crime involving domestic violence, evidence of other crimes involving domestic violence by the defendant against the same or another person is admissible.

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PUERTO RICO

CHARTS	PENETRATION	FORCE	CAPACITY TO CONSENT	VICTIM PERPETRATOR RELATIONSHIP	OTHER SEX CRIMES
CONSENT ANALYSIS	ALCOHOL/DRUG FACILITATED SEXUAL ASSAULT	MARITAL RAPE	SAME SEX PERPETRATOR	STATUTORY RAPE	CONSTRUCTIVE FORCE

33 LAWS OF PUERTO RICO ANN. § 4770 (2011) SEXUAL ASSAULT

Any person who performs sexual penetration, whether vaginal, anal, oral-genital, digital or instrumental under any of the following circumstances shall incur a severe second degree felony:

(a) If the victim has not yet reached the age of sixteen (16) at the time of the event.

(b) If due to mental disability or illness, whether temporary or permanent, the victim is unable to understand the nature of the act at the time of its commission.

(c) If the victim has been compelled into the act by means of physical force, violence, intimidation or the threat of serious and immediate bodily harm.

(d) If the victim's capability to consent has been annulled or diminished substantially without his/her knowledge or without his/her consent by means of hypnosis, narcotics, depressants or stimulants, or similar means or substances.

(e) When at the time of the commission of the act the victim is not conscious of its nature and this circumstance is known to the person accused.

(f) If the victim submits to the act by means of deception, trickery, simulation or cover up with respect to the identity of the person accused.

(g) If the victim is forced or induced by means of abuse or physical or psychological violence into participating or becoming involved in unwanted sexual relations with third parties.

(h) If the accused person is a relative of the victim, by ascendancy or descendancy, or consanguinity, adoption or affinity, or collateral by consanguinity or adoption up to the third degree.

(i) When the accused person takes advantage of the trust deposited in him/her by the victim because there is a relationship of superiority because the victim is under his/her custody, guardianship, or primary, secondary or special education, medical or psychotherapeutic treatment, or any type of counseling, or because there is a relationship with the victim as the leader of his/her religious belief.

If the conduct typified in subsection (a) of this section is committed by a minor who has not yet reached the age of eighteen (18), the offender shall incur a third degree felony if prosecuted as an adult.

*Statute truncated due to size.

33 LAWS OF PUERTO RICO ANN. § 4771 (2011). ESSENTIAL CIRCUMSTANCES OF SEXUAL ASSAULT CRIMES

The crime of sexual assault essentially consists of battery against the bodily or psycho-emotional integrity and dignity of the person.

When considering the circumstances of the crime, the point of view of a person of equal age and gender as the victim shall be taken into consideration.

Ejaculation is not necessary and any sexual penetration, whether vaginal, anal, oral-genital, digital or instrumental, regardless of how slight, shall be sufficient for the consummation of the crime.

33 LAWS OF PUERTO RICO ANNOTATED § 4775 (2009). INDECENT EXPOSURE

Any person who exposes any intimate part of his/her body in any place in which another person is present, including law enforcement officers, who can be offended or upset by such exposure, shall incur a misdemeanor.

This conduct does not include the act of breastfeeding an infant.

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VIRGIN ISLANDS

CHARTS	PENETRATION	FORCE	CAPACITY TO CONSENT	VICTIM PERPETRATOR RELATIONSHIP	OTHER SEX CRIMES
CONSENT ANALYSIS	ALCOHOL/DRUG FACILITATED SEXUAL ASSAULT	MARITAL RAPE	SAME SEX PERPETRATOR	STATUTORY RAPE	CONSTRUCTIVE FORCE

14 VIRGIN ISLANDS CODE § 1699 (2010). DEFINITIONS

As used in this chapter, unless the context clearly indicates otherwise:

(a) “perpetrator” means a person accused of rape or unlawful sexual contact

(b) “personal injury” means serious bodily injury, disfigurement, chronic pain, disease, or loss or impairment of a sexual or reproductive organ.

(c) “sexual contact” means the intentional touching of a person's intimate parts, whether directly or through clothing, to arouse or to gratify the sexual desires of any person. The term “intimate parts” means the primary genital area, groin, inner thighs, buttocks, or breasts of a person.

(d) “sexual intercourse” means vaginal intercourse or any insertion, however slight, of a hand, finger or object into the vagina, vulva, or labia, excluding such insertion for medical treatment or examination.

(e) “sodomy” means carnal knowledge of any person by the mouth, i.e., cunnilingus or fellatio; or by the anus; or by submission to the same; or by any insertion, however slight, of any object into a person's anus, excluding such insertion for medical treatment or examination.

(f) "victim" means the person alleging to have been subjected to rape or unlawful sexual contact.

14 VIRGIN ISLANDS CODE § 1700 (2010). AGGRAVATED RAPE IN THE FIRST DEGREE

(a) Whoever perpetrates an act of sexual intercourse or sodomy with a person not the perpetrator's spouse:

(1) Who is under the age of thirteen, or…

(2) who is under sixteen years of age residing in the same household as the perpetrator, and force, intimidation, or the perpetrator's position of authority over the victim is used to accomplish the sexual act; or

(b) Whoever causes personal injury to a victim as the result of an act of rape as set forth in section 1701 of this title; or

(c) Whoever uses a deadly weapon during the commission of an act of rape as set forth in section 1701—is guilty of aggravated rape in the first degree and shall be imprisoned for life or for any term of years, but not less than 15 years. Notwithstanding the provisions of Title 5, chapters 313, 405 and 407, Virgin Islands Code, or any other provisions of law, imposition or execution of the fifteen-year minimum period of incarceration shall not be suspended; neither shall probation, parole, or any other form of release be granted for this minimum period of incarceration.

Whoever is convicted of a second or subsequent offense of aggravated rape in the first degree shall be punished by imprisonment for life or for any term of years, but not less than 25 years. Notwithstanding the provisions of Title 5, chapters 313, 405 and 407, Virgin Islands Code, or any other provision of law, imposition or execution of the twenty-five year minimum period of incarceration shall not be suspended; neither shall probation, parole, or any other form of release be granted for this minimum period of incarceration.

(d) Whoever is convicted of attempted aggravated rape in the first degree shall be punished by imprisonment for not more than 25 years, but not less than 7 years. Notwithstanding the provisions of Title 5, chapters 313, 405 and 407, or any other provision of law, imposition or execution of the seven-year period of incarceration shall not be suspended, nor shall probation, parole or another form of release be granted for this minimum period of incarceration.

(e) Whoever is found guilty of an offense in this section shall receive a psychiatric evaluation and participate in psychosocial counseling.

14 VIRGIN ISLANDS CODE § 1700A (2010). AGGRAVATED RAPE IN THE SECOND DEGREE

(a) Whoever perpetrates an act of sexual intercourse or sodomy with a person who is under eighteen years but thirteen years or older and not the perpetrator's spouse, or by force, intimidation, or the perpetrator's position of authority over the victim is used to accomplish the sexual act, is guilty of aggravated rape in the second degree and shall be imprisoned for life or for any term in years, but not less than 10 years. "Position of authority" shall include, but not be exclusive to the following: an employer, youth leader, scout leader, coach, teacher, counselor, school administrator, religious leader, doctor, nurse, psychologist, guardian ad litem, baby sitter, or substantially similar position, and a police officer or probation officer other than when the officer is exercising custodial control over a minor.

(b) Whoever is convicted of a second or subsequent offense of aggravated rape in the second degree shall be punished by imprisonment for life or for any term of years, but not less than 20 years. Notwithstanding the

provisions of title 5, chapters 313, 405 and 407 of this Code, or of any other law, imposition or execution of the twenty-year minimum period of incarceration shall not be suspended; nor shall probation, parole, or any other form of release be granted for the minimum period of incarceration prescribed in this section.

(c) Whoever is convicted of attempted aggravated rape in the second degree shall be punished by imprisonment for not more than 25 years, but not less than 5 years. Notwithstanding the provisions of title 5, chapters 313, 405 and 407, or any other provision of law, imposition or execution of the five-year minimum period of incarceration shall not be suspended, nor shall probation, parole or any other form of release be granted for this minimum period of incarceration.

(d) Whoever is convicted of an offense under this section shall receive a psychiatric evaluation and participate in psychosocial counseling.

14 VIRGIN ISLANDS CODE § 1701 (2010). RAPE IN THE FIRST DEGREE

Whoever perpetrates an act of sexual intercourse or sodomy with a person –

(1) when through idiocy, imbecility or any unsoundness of mind, either temporary or permanent, the person is incapable of giving consent, or, by reason of mental or physical weakness or immaturity or any bodily ailment, the person does not offer resistance;

(2) when the person's resistance is forcibly overcome

(3) when the person's resistance is prevented by fear of immediate and great bodily harm which the person has reasonable cause to believe will be inflicted upon the person

(4) when the person's resistance is prevented by stupor or weakness of mind produced by an intoxicating, narcotic or anesthetic agent, or when the person is known by the defendant to be in such state of stupor or weakness of mind from any cause; or

(5) when the person is, at the time, unconscious of the nature of the act and this is known to the defendant—

is guilty of rape in the first degree and shall be imprisoned not less than 10 years nor more than 30 years. Notwithstanding the provisions of Title 5, chapters 313, 405 and 407, Virgin Islands Code, or any other provision of law, imposition or execution of this ten-year minimum period of incarceration shall not be suspended; neither shall probation, parole, or any other form of release be granted for this minimum period of incarceration.

Whoever is convicted of a second or subsequent offense of rape in the first degree shall be punished by imprisonment for life or for any term of years, but not less than 10 years. Notwithstanding the provisions of Title 5, chapters 313, 405 and 407, Virgin Islands Code, or any other provision of law, imposition or execution of the ten-year minimum period of incarceration shall not be suspended; neither shall probation, parole, or any other form of release be granted for this minimum period of incarceration.

14 VIRGIN ISLANDS CODE § 1702 (2010). RAPE IN THE SECOND DEGREE

(a) Any person over 18 years of age who perpetrates under circumstances not amounting to rape in the first degree, an act of sexual intercourse or sodomy with a person not the perpetrator's spouse who is at least 16 years but less than 18 years of age, and the perpetrator is 5 years or older than the victim, is guilty of rape in the second degree and shall be imprisoned not more than 10 years.

*Statute truncated due to size.

(b) Whoever is convicted of any offense under this section shall receive a psychiatric evaluation and participate in psychosocial counseling.

14 VIRGIN ISLANDS CODE § 1703 (2010). RAPE IN THE THIRD DEGREE

Any person under 18 years of age but over 16 years of age who perpetrates an act of sexual intercourse or sodomy with a person not the perpetrator's spouse who is under 16 years of age but over 13 years of age, under circumstances not amounting to rape in the first degree, is guilty of rape in the third degree and shall be subject to the jurisdiction of the Family Division of the Superior Court pursuant to Title 4, Chapter 11, Virgin Islands Code. In lieu of a term of detention, the court, in its discretion, may recommend appropriate treatment, counseling or family planning.

14 VIRGIN ISLANDS CODE § 1704 (2010). PENETRATION NECESSARY TO CONSTITUTE RAPE

Any sexual penetration, however slight, is sufficient to complete the crime.

14 VIRGIN ISLANDS CODE § 1708 (2010). UNLAWFUL SEXUAL CONTACT IN THE FIRST DEGREE

A person who engages in sexual contact with a person not the perpetrator's spouse

(1) when force or coercion is used to accomplish the sexual contact

(2) when the other person is under thirteen years of age

(3) when the other person is under sixteen years of age residing in the same household as the perpetrator, and force, intimidation or the perpetrator's position of authority over the victim is used to accomplish the sexual contact

(4) when the other person is threatened or placed in fear of imminent and serious bodily injury;

(5) when the other person's ability to consent to or resist the contact has been substantially impaired by an intoxicating, narcotic or anesthetic agent; or

(6) when the other person is unconscious or physically helpless, or that person's mental defect or incapacity is known to the perpetrator—is guilty of unlawful sexual contact and shall be imprisoned not more than 15 years.

14 VIRGIN ISLANDS CODE § 1709 (2010). UNLAWFUL SEXUAL CONTACT IN THE SECOND DEGREE

A person over eighteen years of age who engages in sexual contact with a person not the perpetrator's spouse who is over thirteen but under sixteen years of age is guilty of unlawful sexual contact in the second degree and shall be imprisoned not more than 1 year.

14 VIRGIN ISLANDS CODE § 1022 (2012). OBSCENE AND INDECENT CONTACT

Whoever-

(a)

(1) exposes his person or the private parts thereof in any public place, or in any place where there are present other persons to be offended or annoyed thereby, or who exposes himself or takes part in any model artist exhibition, or makes any other exhibition of himself to public view or to the view of any number of persons, such as is offensive to decency, or is adapted to excite lewd or vicious thoughts or acts; or who shall appear upon any public street or thoroughfare within town limits of any town in the Virgin Islands in bathing costume or any similarly abbreviated attire such as to offend public decency;

(2) procures, counsels, or assists any person so to expose himself, or to take part in any model artist exhibition, or to make any other exhibition of himself to public view or to the view of any number of persons, such as is offensive to decency, or is adapted to excite to lewd or vicious thoughts or acts;

(3) writes, composes, stereotypes, prints, publishes, sells, distributes, keeps for sale, or exhibits any obscene or indecent writing, paper or books; or designs, copies, draws, engraves, paints, or otherwise prepares any obscene or indecent picture or print; or molds, cuts, casts, or likewise makes any obscene or indecent figure;

(4) writes, composes, or publishes any notice or advertisement of any such writing, paper, book, picture, print, or figure;

(5) sings any lewd or obscene song, ballad, or uses any lewd or obscene words over any radio station located in or operating within the Virgin Islands, or in any public place, or in any place where there are present other persons to be offended or annoyed thereby;

(6) uses vile and obscene language in public streets or places or in private places so as to seriously disturb the peace; or

(7) urinates or defecates in public places-
shall be fined not more than $100 or imprisoned not more than 90 days, or both.

(b) For purposes of this section, a woman's breast-feeding a child in any public or private location where the woman's presence is otherwise authorized does not under any circumstance constitute obscene or indecent conduct.

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FEDERAL

CHARTS	PENETRATION	FORCE	CAPACITY TO CONSENT	VICTIM PERPETRATOR RELATIONSHIP	OTHER SEX CRIMES
CONSENT ANALYSIS	ALCOHOL/DRUG FACILITATED SEXUAL ASSAULT	MARITAL RAPE	SAME SEX PERPETRATOR	STATUTORY RAPE	CONSTRUCTIVE FORCE

18 U.S.C.A. § 2241 (WEST 2011). AGGRAVATED SEXUAL ABUSE

(a) By Force or Threat. - Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, knowingly causes another person to engage in a sexual act -

(1) by using force against that other person; or
(2) by threatening or placing that other person in fear that any person will be subjected to death, serious bodily injury, or kidnapping; or attempts to do so, shall be fined under this title, imprisoned for any term of years or life, or both.

(b) By Other Means. - Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, knowingly -

(1) renders another person unconscious and thereby engages in a sexual act with that other person; or

(2) administers to another person by force or threat of force, or without the knowledge or permission of that person, a drug, intoxicant, or other similar substance and thereby -

(A) substantially impairs the ability of that other person to appraise or control conduct; and

(B) engages in a sexual act with that other person; or attempts to do so, shall be fined under this title, imprisoned for any term of years or life, or both.

(c) With Children. - Whoever crosses a State line with intent to engage in a sexual act with a person who has not attained the age of 12 years, or in the special maritime and territorial jurisdiction of the United States or in a Federal prison, knowingly engages in a sexual act with another person who has not attained the age of 12 years, or knowingly engages in a sexual act under the circumstances described in subsections (a) and (b) with another person who has attained the age of 12 years but has not attained the age of 16 years (and is at least 4 years younger than the person so engaging), or attempts to do so, shall be fined under this title, imprisoned for any term of years or life, or both. If the defendant has previously been convicted of another Federal offense under this subsection, or of a State offense that would have been an offense under either such provision had the offense occurred in a Federal prison, unless the death penalty is imposed, the defendant shall be sentenced to life in prison.

(d) State of Mind Proof Requirement. - In a prosecution under subsection (c) of this section, the Government need not prove that the defendant knew that the other person engaging in the sexual act had not attained the age of 12 years.

18 U.S.C.A. § 2242 (West 2011). Sexual abuse

Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, knowingly - (1) causes another person to engage in a sexual act by threatening or placing that other person in fear (other than by threatening or placing that other person in fear that any person will be subjected to death, serious bodily injury, or kidnapping); or

(2) engages in a sexual act with another person if that other person is -

(A) incapable of appraising the nature of the conduct; or

(B) physically incapable of declining participation in, or communicating unwillingness to engage in, that sexual act; or attempts to do so, shall be fined under this title, imprisoned not more than 20 years, or both.

18 U.S.C.A. § 2243 (West 2011). Sexual abuse of a minor or ward

(a) Of a Minor. - Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, knowingly engages in a sexual act with another person who -

(1) has attained the age of 12 years but has not attained the age of 16 years; and

(2) is at least four years younger than the person so engaging; or attempts to do so, shall be fined under this title, imprisoned not more than 15 years, or both.

(b) Of a Ward. - Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, knowingly engages in a sexual act with another person who is -

(1) in official detention; and

(2) under the custodial, supervisory, or disciplinary authority of the person so engaging; or attempts to do so, shall be fined under this title, imprisoned not more than one year, or both.

(c) Defenses. - (1) In a prosecution under subsection (a) of this section, it is a defense, which the defendant must establish by a preponderance of the evidence, that the defendant reasonably believed that the other person had attained the age of 16 years. (2) In a prosecution under this section, it is a defense, which the defendant must establish by a preponderance of the evidence, that the persons engaging in the sexual act were at that time married to each other.

(d) State of Mind Proof Requirement. - In a prosecution under subsection (a) of this section, the Government need not prove that the defendant knew-

(1) the age of the other person engaging in the sexual act; or

(2) that the requisite age difference existed between the persons so engaging.

18 U.S.C.A. § 2244 (West 2011). Abusive sexual contact

(a) Sexual Conduct in Circumstances Where Sexual Acts Are Punished by This Chapter. - Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, knowingly engages in or causes sexual contact with or by another person, if so to do would violate -

(1) section 2241 of this title had the sexual contact been a sexual act, shall be fined under this title, imprisoned not more than ten years, or both;

(2) section 2242 of this title had the sexual contact been a sexual act, shall be fined under this title, imprisoned not more than three years, or both;

(3) subsection (a) of section 2243 of this title had the sexual contact been a sexual act, shall be fined under this title, imprisoned not more than two years, or both; or

(4) subsection (b) of section 2243 of this title had the sexual contact been a sexual act, shall be fined under this title, imprisoned not more than six months, or both.

(b) In Other Circumstances. - Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, knowingly engages in sexual contact with another person without that other person's permission shall be fined under this title, imprisoned not more than six months, or both.

(c) Offenses Involving Young Children. - If the sexual contact that violates this section is with an individual who has not attained the age of 12 years, the maximum term of imprisonment that may be imposed for the offense shall be twice that otherwise provided in this section.

18 U.S.C.A. § 2245 (West 2011). Sexual abuse resulting in death

A person who, in the course of an offense under this chapter, engages in conduct that results in the death of a person, shall be punished by death or imprisoned for any term of years or for life.

*Statute truncated due to size.

18 U.S.C.A. § 2246 (WEST 2011). DEFINITIONS FOR CHAPTER

As used in this chapter -

(1) the term "prison" means a correctional, detention, or penal facility;

(2) the term "sexual act" means -

(A) contact between the penis and the vulva or the penis and the anus, and for purposes of this subparagraph contact involving the penis occurs upon penetration, however slight;

(B) contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus;

(C) the penetration, however slight, of the anal or genital opening of another by a hand or finger or by any object, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person; or

(D) the intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person;

(3) the term "sexual contact" means the intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person;

(4) the term "serious bodily injury" means bodily injury that involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty;

(5) the term "official detention" means -

(A) detention by a Federal officer or employee, or under the direction of a Federal officer or employee, following arrest for an offense; following surrender in lieu of arrest for an offense; following a charge or conviction of an offense, or an allegation or finding of juvenile delinquency; following commitment as a material witness; following civil commitment in lieu of criminal proceedings or pending resumption of criminal proceedings that are being held in abeyance, or pending extradition, deportation, or exclusion; or

(B) custody by a Federal officer or employee, or under the direction of a Federal officer or employee, for purposes incident to any detention described in subparagraph (A) of this paragraph, including transportation, medical diagnosis or treatment, court appearance, work, and recreation; but does not include supervision or other control (other than custody during specified hours or days) after release on bail, probation, or parole, or after release following a finding of juvenile delinquency.

(6) the term ''State'' means a State of the United States, the District of Columbia, and any commonwealth, possession, or territory of the United States.

18 U.S.C.A. § 2247 (WEST 2011). REPEAT OFFENDERS

(a) Maximum Term of Imprisonment. - The maximum term of imprisonment for a violation of this chapter after a prior sex offense conviction shall be twice the term otherwise provided by this chapter.

*Statute truncated due to size.

(b) Prior Sex Offense Conviction Defined. - In this section, the term ''prior sex offense conviction'' has the meaning given that term in section 2426(b).

18 U.S.C.A. § 2248 (WEST 2011). MANDATORY RESTITUTION

(a) In General. - Notwithstanding section 3663 or 3663A, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.

(b) Scope and Nature of Order. -

(1) Directions. - The order of restitution under this section shall direct the defendant to pay to the victim (through the appropriate court mechanism) the full amount of the victim's losses as determined by the court pursuant to paragraph

(2) Enforcement. - An order of restitution under this section shall be issued and enforced in accordance with section 3664 in the same manner as an order under section 3663A.

(3) Definition. - For purposes of this subsection, the term ''full amount of the victim's losses'' includes any costs incurred by the victim for -

(A) medical services relating to physical, psychiatric, or psychological care;

(B) physical and occupational therapy or rehabilitation;

(C) necessary transportation, temporary housing, and child care expenses;

(D) lost income;

(E) attorneys' fees, plus any costs incurred in obtaining a civil protection order; and

(F) any other losses suffered by the victim as a proximate result of the offense.

(4) Order mandatory. -

(A) The issuance of a restitution order under this section is mandatory.

(B) A court may not decline to issue an order under this section because of -

(i) the economic circumstances of the defendant; or

(ii) the fact that a victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance or any other source.

(c) Definition. - For purposes of this section, the term ''victim'' means the individual harmed as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court, but in no event shall the defendant be named as such representative or guardian.

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*Statute truncated due to size.

MILITARY

UCMJ § 920 ART. 120 (2012). RAPE AND SEXUAL ASSAULT GENERALLY

(a) Rape.--Any person subject to this chapter who commits a sexual act upon another person by--

(1) using unlawful force against that other person;

(2) using force causing or likely to cause death or grievous bodily harm to any person;

(3) threatening or placing that other person in fear that any person will be subjected to death, grievous bodily harm, or kidnapping;

(4) first rendering that other person unconscious; or

(5) administering to that other person by force or threat of force, or without the knowledge or consent of that person, a drug, intoxicant, or other similar substance and thereby substantially impairing the ability of that other person to appraise or control conduct;
is guilty of rape and shall be punished as a court-martial may direct.

(b) Sexual assault.--Any person subject to this chapter who--

(1) commits a sexual act upon another person by--

(A) threatening or placing that other person in fear;

(B) causing bodily harm to that other person;

(C) making a fraudulent representation that the sexual act serves a professional purpose; or

(D) inducing a belief by any artifice, pretense, or concealment that the person is another person;

(2) commits a sexual act upon another person when the person knows or reasonably should know that the other person is asleep, unconscious, or otherwise unaware that the sexual act is occurring; or

(3) commits a sexual act upon another person when the other person is incapable of consenting to the sexual act due to--

(A) impairment by any drug, intoxicant, or other similar substance, and that condition is known or reasonably should be known by the person; or

(B) a mental disease or defect, or physical disability, and that condition is known or reasonably should be known by the person;
is guilty of sexual assault and shall be punished as a court-martial may direct.

(c) Aggravated sexual contact.--Any person subject to this chapter who commits or causes sexual contact upon or by another person, if to do so would violate subsection (a) (rape) had the sexual contact been a sexual act, is guilty of aggravated sexual contact and shall be punished as a court-martial may direct.

(d) Abusive sexual contact.--Any person subject to this chapter who commits or causes sexual contact upon or by another person, if to do so would violate subsection (b) (sexual assault) had the sexual contact been a sexual act, is guilty of abusive sexual contact and shall be punished as a court-martial may direct.

(e) Proof of threat.--In a prosecution under this section, in proving that a person made a threat, it need not be proven that the person actually intended to carry out the threat or had the ability to carry out the threat.

(f) Defenses.--An accused may raise any applicable defenses available under this chapter or the Rules for Court-Martial. Marriage is not a defense for any conduct in issue in any prosecution under this section.

(g) Definitions.--In this section:

(1) Sexual act.--The term "sexual act" means--

(A) contact between the penis and the vulva or anus or mouth, and for purposes of this subparagraph contact involving the penis occurs upon penetration, however slight; or

(B) the penetration, however slight, of the vulva or anus or mouth, of another by any part of the body or by any object, with an intent to abuse, humiliate, harass, or degrade any person or to arouse or gratify the sexual desire of any person.

(2) Sexual contact.--The term "sexual contact" means--

(A) touching, or causing another person to touch, either directly or through the clothing, the genitalia, anus, groin, breast, inner thigh, or buttocks of any person, with an intent to abuse, humiliate, or degrade any person; or

(B) any touching, or causing another person to touch, either directly or through the clothing, any body part of any person, if done with an intent to arouse or gratify the sexual desire of any person.
Touching may be accomplished by any part of the body.

(3) Bodily harm.--The term "bodily harm" means any offensive touching of another, however slight, including any nonconsensual sexual act or nonconsensual sexual contact.

(4) Grievous bodily harm.--The term "grievous bodily harm" means serious bodily injury. It includes fractured or dislocated bones, deep cuts, torn members of the body, serious damage to internal organs, and other severe bodily injuries. It does not include minor injuries such as a black eye or a bloody nose.

(5) Force.--The term "force" means--

(A) the use of a weapon;

(B) the use of such physical strength or violence as is sufficient to overcome, restrain, or injure a person; or

(C) inflicting physical harm sufficient to coerce or compel submission by the victim.

(6) Unlawful force.--The term "unlawful force" means an act of force done without legal justification or excuse.

(7) Threatening or placing that other person in fear.--The term "threatening or placing that other person in fear" means a communication or action that is of sufficient consequence to cause a reasonable fear that non-compliance will result in the victim or another person being subjected to the wrongful action contemplated by the communication or action..1

(8) Consent.--

(A) The term "consent" means a freely given agreement to the conduct at issue by a competent person. An expression of lack of consent through words or conduct means there is no consent. Lack of verbal or physical resistance or submission resulting from the use of force, threat of force, or placing another person in fear does not constitute consent. A current or previous dating or social or sexual relationship by itself or the manner of dress of the person involved with the accused in the conduct at issue shall not constitute consent.

(B) A sleeping, unconscious, or incompetent person cannot consent. A person cannot consent to force causing or likely to cause death or grievous bodily harm or to being rendered unconscious. A person cannot consent while under threat or in fear or under the circumstances described in subparagraph (C) or (D) of subsection (b)(1).

(C) Lack of consent may be inferred based on the circumstances of the offense. All the surrounding circumstances are to be considered in determining whether a person gave consent, or whether a person did not resist or ceased to resist only because of another person's actions.

[(h) Redesignated (d)]

[(i), (j) Repealed. Pub.L. 112-81, Div. A, Title V, § 541(a)(2), Dec. 31, 2011, 125 Stat. 1405]

[(k) to (n) Repealed. Pub.L. 112-81, Div. A, Title V, § 541(a)(6), Dec. 31, 2011, 125 Stat. 1406]

[(o) Repealed. Pub.L. 112-81, Div. A, Title V, § 541(a)(2), Dec. 31, 2011, 125 Stat. 1405]

[(p), (q) Redesignated (e), (f)]

[(r), (s) Repealed. Pub.L. 112-81, Div. A, Title V, § 541(a)(9), Dec. 31, 2011, 125 Stat. 1406]

[(t) Redesignated (g)]

UCMJ § 920c. Art. 120c (2012). Other sexual misconduct

(a) Indecent viewing, visual recording, or broadcasting.--Any person subject to this chapter who, without legal justification or lawful authorization--

(1) knowingly and wrongfully views the private area of another person, without that other person's consent and under circumstances in which that other person has a reasonable expectation of privacy;

(2) knowingly photographs, videotapes, films, or records by any means the private area of another person, without that other person's consent and under circumstances in which that other person has a reasonable expectation of privacy; or

(3) knowingly broadcasts or distributes any such recording that the person knew or reasonably should have known was made under the circumstances proscribed in paragraphs (1) and (2);
is guilty of an offense under this section and shall be punished as a court-martial may direct.

(b) Forcible pandering.--Any person subject to this chapter who compels another person to engage in an act of prostitution with any person is guilty of forcible pandering and shall be punished as a court-martial may direct.

(c) Indecent exposure.--Any person subject to this chapter who intentionally exposes, in an indecent manner, the genitalia, anus, buttocks, or female areola or nipple is guilty of indecent exposure and shall by punished as a court-martial may direct.

(d) Definitions.--In this section:

(1) Act of prostitution.--The term "act of prostitution" means a sexual act or sexual contact (as defined in section 920(g) of this title (article 120(g))) on account of which anything of value is given to, or received by, any person.

(2) Private area.--The term "private area" means the naked or underwear-clad genitalia, anus, buttocks, or female areola or nipple.

(3) Reasonable expectation of privacy.--The term "under circumstances in which that other person has a reasonable expectation of privacy" means--

(A) circumstances in which a reasonable person would believe that he or she could disrobe in privacy, without being concerned that an image of a private area of the person was being captured; or

(B) circumstances in which a reasonable person would believe that a private area of the person would not be visible to the public.

(4) Broadcast.--The term "broadcast" means to electronically transmit a visual image with the intent that it be viewed by a person or persons.

(5) Distribute.--The term "distribute" means delivering to the actual or constructive possession of another, including transmission by electronic means.

(6) Indecent manner.--The term "indecent manner" means conduct that amounts to a form of immorality relating to sexual impurity which is grossly vulgar, obscene, and repugnant to common propriety, and tends to excite sexual desire or deprave morals with respect to sexual relations.

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