

Crime Definitions

Last Updated: March 2020

Arkansas

	Definition	Crime Definition Statute
Rape		Ark. Code § 5-14-103 (rape); Ark. Code § 5-4-401 (incarceration); Ark. Code § 5-14-101 (definitions); Ark. Code § 9-10-121 (termination of certain parental rights for putative fathers convicted of rape); 2017 AR H.B. 1177 (proposed legislation).
Sexual Assault in the First Degree	<p>A person commits the crime of sexual assault in the first degree by either:</p> <ul style="list-style-type: none">• Engaging in sexual intercourse or deviate sexual activity with a minor who is not the offender's spouse and the offender is in a position of trust or authority over the victim.• Position of trust or authority includes, but is not limited to, any offender: employed by or contracted with any city or county jail, or juvenile detention facility where the victim is in the custody; employed by or contracted with a local law enforcement agency, court, or local government where the offender is supervising the minor while the minor is on probation or parole; that is a mandated reporter who engages in	Ark. Code § 5-14-124 (sexual assault in the first degree); Ark. Code § 5-4-401 (incarceration); Ark. Code § 5-14-101 (definitions); Ark. Code § 5-4-201 (imposition of fines).

sexual intercourse or deviate sexual activity; or that is an employee in the victim's school or school district, or a temporary caretaker.

- Engaging in sexual intercourse or deviate sexual activity with the victim, who is less than 21 years and enrolled in K12 public or private school where the offender is a teacher, principal, athletic coach, or counselor.

- **Note:** the Supreme Court of Arkansas held that a sexual assault statute, as applied to prosecute defendant, a teacher at a public high school, for consensual sexual relationship with 18-year old student enrolled at that school violated the defendant's fundamental privacy right to engage in private, consensual, noncommercial acts of sexual intimacy with an adult.

Paschal v. Arkansas, 388 S.W.3d 429 (Ark. 2012).

It is no defense that the victim consents to the conduct.

Sexual Assault in the Second Degree

A person commits the crime of sexual assault in the second degree if the offender:

- Engages in sexual contact with another person by forcible compulsion.
- Engages in sexual contact with another person who is incapable of consent because he or she is physically helpless, mentally defective, or mentally incapacitated.
- Being 18 years, engages in sexual contact with a person who is less than 14 and not the offender's spouse.
- Engages in sexual contact with a minor and the offender is in a position of trust or authority over the victim.
 - Position of trust or authority includes, but is not limited to, any offender: employed by or contracted with any city or county

Ark. Code §5-14-125 (sexual assault in the second degree); Ark. Code § 5-14-101 (definitions); Ark. Code § 5-4-201 (imposition of fines); Ark. Code § 5-4-401 (incarceration); *Paschal v. Arkansas*, 388 S.W.3d 429 (Ark. 2012) (holding prohibition of consensual sexual relations with an 18 year violates

jail, or juvenile detention facility where the victim is in the custody; employed by or contracted with a local law enforcement agency, court, or local government where the offender is supervising the minor while the minor is on probation or parole; that is a mandated reporter; or that is the minor's guardian, an employee in the victim's school or school district, or a temporary caretaker.

right to privacy).

- **Note:** Consent of the minor is not a defense.
- Being a minor, engages in sexual contact with another person who is less than 14 years, and not the person's spouse.
 - However, it is an affirmative defense that the offender was not more than 3 years than the victim if the victim is less than 12 years; or the offender is 4 years older than the victim if the victim is 12 years or older.
- Being a teacher, principal, athletic coach, or counselor of a K12 public or private school engages in sexual contact with a victim who is a student enrolled in the K12 public or private school, and is less than 21 years.
 - **Note** that the Supreme Court of Arkansas held that a sexual assault statute, as applied to prosecute defendant, a teacher at a public high school, for consensual sexual relationship with 18-year old student enrolled at that school violated the defendant's fundamental privacy right to engage in private, consensual, noncommercial acts of sexual intimacy with an adult. *Paschal v. Arkansas*, 388 S.W.3d 429 (Ark. 2012).

Sexual Assault
in the Third
Degree

A person commits the crime of sexual assault in the third degree if:

- The offender engages in sexual intercourse or deviate sexual activity with another person who is not the actor's spouse, and the offender is in a position of trust or authority over the victim.
 - Position of trust or authority includes, but is not limited to, any offender: employed by or contracted with any city or county jail, or juvenile detention facility where the victim is in the custody (includes those that provide services, or supervision to maintaining the detainees); employed by or contracted with a local law enforcement agency, court, or local government where the offender is supervising the minor while the minor is on probation or parole; that is a mandated reporter or a member of the clergy.
- Being a minor, the offender engages in sexual intercourse or deviate sexual activity with another person who is less than 14 years, and not the person's spouse.
 - However, it is an affirmative defense that the offender was not more than 3 years older than the victim.

It is no defense that the victim consented to the conduct.

Sexual Assault
in the Fourth
Degree

A person commits sexual assault in the fourth degree if the person:

- Being 20 years or older engages in sexual intercourse, deviate sexual activity, or sexual contact with another person who is less than 16 years, and not the person's spouse.
- Engages in sexual contact with another person who is not the offender's spouse, and the offender is employed with any

Ark. Code § 5-14-126 (sexual assault in the third degree); Ark. Code § 5-4-401 (incarceration); Ark. Code § 5-4-201 (imposition of fines); Ark. Code § 5-14-101 (definitions).

Ark. Code § 5-14-127 (sexual assault in the fourth degree); Ark. Code § 5-4-401 (incarceration); Ark. Code § 5-4-201 (imposition of fines); Ark. Code § 5-14-101 (definitions).

city or county jail or facility, and the victim is in the custody of such jail or facility.

Statutory Rape	<i>See Sexual Assault in the Third Degree and Sexual Assault in the Fourth Degree</i>	§5-14-126 ; §5-14-127
Sodomy	<ul style="list-style-type: none">•Arkansas does not appear to criminalize sodomy.•Any state laws that outright prohibit sodomy are unconstitutional under <i>Lawrence v. Texas</i>, 539 U.S. 588 (2003).	N/A
Sexual Indecency with a Child	<p>A person commits sexual indecency with a child if the person:</p> <ul style="list-style-type: none">•Being 18 years or older, the person solicits another person who is, or represented to be, less than 15 years to engage in sexual intercourse, deviate sexual activity, or sexual contact.•With the purpose to arouse or gratify a sexual desire of either himself or another person, the person purposely exposes his or her sex organs to another person who is less than 15 years.<ul style="list-style-type: none">•However, it is an affirmative defense if the person is within 3 years of age of the victim.•With the purpose to arouse or gratify a sexual desire of either himself or another person, the person purposely exposes his or her sex organs to a minor, and the offender is in a position of trust or authority over the minor.<ul style="list-style-type: none">•Trust or authority includes, but is not limited to, any offender: employed by any city or county jail, or any juvenile detention facility, which the minor is in custody; that is a mandated reporter; that is the minor's parent or guardian, an employee in the minor's school or school district, or a temporary caretaker.•With the purpose to arouse or gratify a sexual desire of either himself or another person, the person being 18 years of age or older, causes or coerces a minor to expose his or her sex organs to the actor or another person, and the	Ark. Code § 5-14-110 (sexual indecency with a child); Ark. Code § 5-4-401 (incarceration); Ark. Code § 5-4-201 (imposition of fines); and Ark. Code § 5-14-101 (definitions).

offender is in a position of trust or authority over the minor.

- Position of trust or authority includes, but is not limited to, an offender: employed by or contracted with any city or county jail, or juvenile detention facility where the victim is in the custody; employed by or contracted with a local law enforcement agency, court, or local government where the offender is supervising the minor while the minor is on probation or parole; that is a mandated reporter; that is the minor's guardian, an employee in the victim's school or school district, or a temporary caretaker.
- Being 18 years or older, the person causes or coerces another person who is less than 14 years to expose his or her sex organs or the breast of a female with the purpose to arouse or gratify a sexual desire of the actor or another person.

Note that the Court of Appeals of Arkansas held that the solicitation provision of the sexual indecency with a child statute (the first bullet above), as applied to prosecute defendant, was unconstitutionally overbroad in suppressing the defendant's fundamental right to engage in protected expression because the provision also prohibits the solicitation of legal sexual acts. The provision was not narrowly tailored to achieve the state's stated goal of protecting minors, where the prior version of the statute provided a clear example of a less restrictive alternative by which the state could achieve its goal (such prior version criminalized only solicitations of sexual conduct that would otherwise be illegal). *Worsham v. Arkansas*, 2019 Ark. App. 65 (Ark. 2019).

Sexual Extortion A person commits sexual extortion if the person:

- With the purpose to coerce another person to engage in sexual contact or sexually explicit conduct or to distribute a recording of a person in a state of nudity or engaged in sexually explicit conduct, the person communicates a threat to damage the property or harm the reputation of the other person, or produce or distribute a recording of the other person engaged in sexually explicit conduct or depicted in a state of nudity.

Ark. Code § 5-14-113 (sexual extortion); Ark. Code § 5-4-401 (incarceration); Ark. Code § 5-4-201 (imposition of fines); Ark. Code § 5-14-101 (definitions).

Alabama

	Definition	Crime Definition Statute
Rape in the First Degree	Sexual intercourse where either: <ul style="list-style-type: none">• The offender uses forcible compulsion;• The victim is incapable of consent by reason of being incapacitated; or• The offender is 16 years of age or older and the victim is less than 12 years old.	Ala. Code § 13A-6-60 and § 15-20A-4 (definitions); Ala. Code § 13A-6-61 (rape in the first degree); Ala. Code § 13A-5-6 (prison sentencing); Ala. Code § 13A-5-11 (fines); Ala. Code § 12-15-319 (termination of parental rights); Ala. Code § 15-20A-20 (electronic monitoring).

Rape in the Second Degree	Sexual intercourse where the offender is 16 years old or older and the victim is between 12-16 years old, provided that the victim is at least 2 years younger than the offender.	Ala. Code § 13A-6-60 and § 15-20A-4 (definitions); Ala. Code § 13A-6-62 (rape in the second degree); Ala. Code § 13A-5-6 (prison sentencing); Ala. Code § 13A-5-11 (fines); Ala. Code § 15-20A-20 (electronic monitoring).
Sexual Torture	<p>A person commits the crime of sexual torture by either:</p> <ul style="list-style-type: none"> • Penetrating the vagina, anus, or mouth of another person with an inanimate object by forcible compulsion, with the intent to sexually torture, sexually abuse or to gratify the sexual desire of either party; • Penetrating the vagina, anus, or mouth of a person who is incapable of consent by reason of being incapacitated, with an inanimate object, with the intent to sexually torture, sexually abuse or to gratify the sexual desire of either party; • Penetrating the vagina, anus, or mouth of a person who is less than 12 years old, with an inanimate object with the intent to sexually torture, sexually abuse or to gratify the sexual desire of either party, where the offender is 16 years old or older; or • Inflicting physical injury, including, but not limited to, burning, crushing, wounding, mutilating, or assaulting the sex organs or intimate parts of another person, with the intent to sexually torture, sexually abuse, or to gratify the sexual desire of either party. 	Ala. Code § 13A-6-60 and § 15-20A-4 (definitions); Ala. Code § 13A-6-65.1 (sexual torture); Ala. Code § 13A-5-6 (prison sentencing); Ala. Code § 13A-5-11 (fines); Ala. Code § 15-20A-20 (electronic monitoring).

Sodomy in the First Degree	<p>A person commits the crime of sodomy in the first degree by either:</p> <ul style="list-style-type: none"> •Engaging in sodomy by forcible compulsion; •Engaging in sodomy with a person who is incapable of consent by reason of being incapacitated; or •Engaging in sodomy with another person, where the victim is less than 12 years old and the offender is 16 years old or older. 	<p>Ala. Code § 13A-6-60 and § 15-20A-4 (definitions); Ala. Code § 13A-6-63 (sodomy in the first degree); Ala. Code § 13A-5-6 (prison sentencing); Ala. Code § 13A-5-11 (fines); Ala. Code § 15-20A-20 (electronic monitoring).</p>
Sodomy in the Second Degree	<p>A person commits the crime of sodomy in the second degree by engaging in sodomy with another person, where the offender is 16 years old or older and the victim is between 12-16 years old, provided that the victim is at least 2 years younger than the offender.</p>	<p>Ala. Code § 13A-6-60 and § 15-20A-4 (definitions); Ala. Code § 13A-6-64 (sodomy in the second degree); Ala. Code § 13A-5-6 (prison sentencing); Ala. Code § 13A-5-11 (fines); Ala. Code § 15-20A-20 (electronic monitoring).</p>
Sexual Abuse in the First Degree	<p>Sexual abuse in the first degree consists of either:</p> <ul style="list-style-type: none"> •Subjecting another person to sexual contact by forcible compulsion; or •Subjecting another person to sexual contact who is incapable of consent by reason of being incapacitated. 	<p>Ala. Code § 13A-6-60 and § 15-20A-4 (definitions); Ala. Code § 13A-6-66 (sexual abuse in the first degree); Ala. Code §</p>

		13A-5-6 (prison sentencing); Ala. Code § 13A-5-11 (fines); Ala. Code § 15-20A-20 (electronic monitoring).
Sexual Abuse in the Second Degree	<p>Sexual abuse in the second degree consists of either:</p> <ul style="list-style-type: none"> • Subjecting another person to sexual contact when the victim is incapable of consent by reason of some factor other than being less than 16 years old; or • Subjecting another person to sexual contact when the victim is between 12-16 years old, and the offender is 19 years old or older. 	Ala. Code § 13A-6-60 and § 15-20A-4 (definitions); Ala. Code § 13A-6-67 (sexual abuse in the second degree); Ala. Code § 13A-5-6 & Ala. Code § 13A-5-7 (prison sentencing); Ala. Code § 13A-5-11 & Ala. Code § 13A-5-12 (fines); Ala. Code § 15-20A-20 (electronic monitoring).
Sexual Misconduct	<p>A person commits the crime of sexual misconduct if:</p> <ul style="list-style-type: none"> • Engages in sexual intercourse with another person without his or her consent, under circumstances other than those constituting rape in the first or second degree, or with consent where consent was obtained by the use of any fraud or artifice; • Engages in sodomy with another person, without his or her consent, under circumstances other than those constituting sodomy in the first degree or sodomy in the second degree; or 	Ala. Code § 13A-6-60 and § 15-20A-4 (definitions); Ala. Code § 13A-6-65 (sexual misconduct); Ala. Code § 13A-5-7 (prison sentencing); Ala. Code § 13A-5-12

Engages in sexual intercourse with another person without his or her consent, other than those circumstances constituting sexual abuse in the first degree, sexual abuse in the second degree, or sexual abuse of a child less than 12 years old.

(fines); Ala. Code § 15-20A-20 (electronic monitoring).

Statutory Rape

Alabama no longer separately codifies the offense of “statutory rape.” Instead, statutory rape has been supplanted by Ala. Code § 13A-6-61(a)(3) (rape in the first degree) and Ala. Code § 13A-6-62(a)(1) (rape in the second degree).

Ala. Code §§ 13A-6-61 (rape in the first degree); 13A-6-62 (rape in the second degree); 13A-6-63 (sodomy in the first degree); 13A-6-64 (sodomy in the second degree); 13A-6-67 (sexual abuse in the second degree); and 13A-6-69.1 (sexual abuse of a child less than 12 years old); Ala. Code § 13A-5-6 & Ala. Code 13-A-5-7 (prison sentencing); Ala. Code § 13A-5-11 & Ala. Code § 13A-5-12 (fines).

Further, Ala. Code §§ 13A-6-63 and 13A-6-64 (sodomy in the first and second degrees) and Ala. Code § 13A-6-67 (sexual abuse in the second degree) contain language covering other offenses that constitute what is otherwise commonly called “statutory rape.” Finally, Ala. Code § 13A-6-69.1 (sexual abuse of a child less than 12 years old) contains additional prohibitions. The relevant laws are as follows:

- **Rape in the first degree:** Sexual intercourse with a member of the opposite sex between an offender who is 16 years old or older and a victim who is under 12 years old.
- **Rape in the second degree:** Sexual intercourse with a member of the opposite sex when (a) the offender is 16 years old or older, (b) the victim is between 12–16 years old, and (c) the offender is at least two years older than the victim.
- **Sodomy in the first degree:** Sodomy between an offender who is 16 years old or older and a victim who is under 12 years old.
- **Sodomy in the second degree:** Sodomy between an offender who is 16 years old or older and a victim who is more than 12 years old, and the offender is at least two years older than the victim.
- **Sexual abuse in the second degree:** Sexual contact between an offender who is 19 years old or older and a victim who between 12-16 years old.
- **Sexual abuse of a child less than 12 years old:** Sexual contact between an offender who is 16 years old or older and a victim who

less than 12 years old.

Alaska

	Definition	Crime Definition Statute
Sexual Assault in the First Degree	<p>An offender commits sexual assault in the first degree if:</p> <ul style="list-style-type: none">• The offender engages in sexual penetration with another person without that person's consent;• The offender attempts to engage in sexual penetration with another person without that person's consent and causes serious physical injury to that person;• The offender engages in sexual penetration with another person (a) who the offender knows is mentally incapable, and (b) is in the offender's care by either authority of law or in a state-licensed facility or program; or• 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.	<p>Alaska Stat. Ann. §§ 11.41.410 (sexual assault in the first degree); 11.41.470 & 11.81.900 (definitions); 12.55.035 (fines); and 12.55.125 (sentences of imprisonment for felonies).</p>
Sexual Assault in the Second Degree	<p>An offender commits sexual assault in the second degree if:</p> <ul style="list-style-type: none">• The offender engages in sexual contact with another person without that person's consent;• The offender engages in sexual contact with a person (a) who the offender knows is mentally incapable, and (b) is in the offender's care by either authority of law or in a state-licensed facility or program;• The offender engages in sexual penetration with a person who the offender knows is a person who is (a) mentally incapable; (b) incapacitated; or (c) unaware that a sexual act is being committed; or• The offender engages in sexual contact with a person who the offender knows is unaware that a sexual act is being committed and (a)	<p>Alaska Stat. Ann. §§ 11.41.420 (sexual assault in the second degree); 11.41.470 & 11.81.900 (definition); 12.55.035(b)(3) (fines); and 12.55.125(i)(3) (sentence of imprisonment for felonies).</p>

the offender is a health care worker, and (b) the offense takes place during the course of professional treatment of the victim.

Sexual Assault
in the Third
Degree

An offender commits sexual assault in the third degree if:

- The offender engages in sexual contact with a person who is (a) mentally incapable; (b) incapacitated; or (c) unaware that a sexual act is being committed;
- The offender, while employed in a state correctional facility or other corrections facility caring for 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;
- The offender engages in sexual penetration with a person who is 18 or 19 years of age, who the offender knows is committed to the custody of the Department of Health and Social Services, and the offender is the legal guardian of the person
- The offender, while employed by the state as a peace officer or while acting as a peace officer in the state, engages in sexual penetration with a person with reckless disregard that the person is in the custody or the apparent custody of the offender, or is committed to the custody of a law enforcement agency;
- The offender, while employed by the state or a municipality of the state as a probation or parole officer, or while acting as such, the offender engages in sexual penetration with a person with reckless disregard that the person is on probation or parole; or
- The offender, while employed as a juvenile probation officer or facility staff member, engages in sexual penetration with a person 18 or 19 years of age with reckless disregard that the victim is committed to the custody or probationary supervision of the Department of Health and Social Services.

Alaska Stat.
Ann. §§
11.41.425
(sexual assault
in the third
degree);
11.41.470
(fines);
12.55.035
(fines); and
12.55.125(i)(4).

Sexual Assault in the Fourth Degree	<p>An offender commits sexual assault in the fourth degree if:</p> <ul style="list-style-type: none"> • The offender, while employed in a state correctional facility or other corrections facility caring for prisoners, 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; • The offender engages in sexual contact with a person who is 18 or 19 years of age, who the offender knows is committed to the custody of the Department of Health and Social Services, and the offender is the legal guardian of the person; • The offender, while employed by the state as a peace officer or while acting as a peace officer in the state, engages in sexual contact with a person with reckless disregard that the person is in the custody or the apparent custody of the offender, or is committed to the custody of a law enforcement agency; • The offender, while employed by the state or a municipality of the state as a probation or parole officer, or while acting as such, the offender engages in sexual contact with a person with reckless disregard that the person is on probation or parole; or • The offender, while employed as a juvenile probation officer or facility staff member, engages in sexual contact with a person 18 or 19 years of age with reckless disregard that the victim is committed to the custody or probationary supervision of the Department of Health and Social Services. 	Alaska Stat. Ann. §§ 11.41.427 (sexual assault in the fourth degree); 11.41.470 (definitions); 12.55.035 (fines); and 12.55.135 (sentences of imprisonment).
Statutory Rape	<p>“Statutory rape” is commonly used to refer to sexual penetration that is illegal because it involves a youth and consent is immaterial. While Alaska does not expressly penalize “statutory rape,” the offenses of sexual abuse target this conduct.</p> <p>Sexual Abuse of a Minor in the First Degree</p> <p>An offender commits sexual abuse of a minor in the first degree by engaging in sexual penetration with a victim if:</p>	Alaska Stat. Ann. §§ 11.41.434 (sexual abuse of a minor, first degree); 11.41.436 (sexual abuse of a minor, second degree); 11.41.438

- The offender is 16 years old or older and the victim is under 13 years old, or the offender aids, induces, causes, or encourages a person who is under 13 years of age to engage in sexual penetration with another person; (sexual abuse of a minor, third degree); 11.41.440
- The offender is 18 years old or older, the victim is under 18 years old, and the offender is the victim's natural parent, stepparent, adopted parent, or legal guardian; or (sexual abuse of a minor, fourth degree); 12.55.035 (fines); 12.55.135 (sentences of imprisonment for misdemeanor); 12.55.125 (sentences of imprisonment for felonies).
- The offender is 18 years old or older, the victim is under 16 years old, and either (A) the victim is residing in the same household as the offender and the offender has authority over the victim or (B) the offender occupies a position of authority in relation to the victim.

Sexual Abuse of a Minor in the Second Degree

An offender commits sexual abuse of a minor in the second degree if:

- The offender is 17 years old or older and engages in sexual penetration with a victim who is 13, 14, or 15 years old and at least 4 years younger than the offender, or the offender aids, induces, causes, or encourages a person who is 13, 14, or 15 years old and at least 4 years younger than the offender to engage in sexual penetration with another person;
- The offender is 16 years old or older and engages in sexual contact with the victim who is under 13 years of age, or the offender aids, induces, causes, or encourages a person under 13 years of age to engage in sexual contact with another person;
- The offender is 18 years old or older and engages in sexual contact with a victim under 18 years old, and the offender is the victim's natural parent, stepparent, adopted parent, or legal guardian;
- The offender is 16 years old or older and aids, induces, causes, or encourages a victim under 16 years old to engage in child

pornography;

- The offender is 18 years old or older and engages in sexual conduct with a victim under 16 years old, and either (A) the victim is residing in the same household as the offender and the offender has authority over the victim or (B) the offender occupies a position of authority in relation to the victim;
- The offender is 18 years old or older and engages in sexual penetration with a victim who is 16 or 17 years old and at least 3 years younger than the offender, and the offender occupies a position of authority in relation to the victim; or
- The offender is under 16 years old and engages in sexual penetration with a victim under 13 years old and at least 3 years younger than the offender.

Sexual Abuse of a Minor in the Third Degree

An offender commits sexual abuse of a minor in the third degree if the offender, being 17 years old or older, engages in sexual contact with a person who is 13, 14, or 15 years old and at least 4 years younger than the offender.

Sexual Abuse of a Minor in the Fourth Degree

An offender commits sexual abuse of a minor in the fourth degree by engaging in sexual contact with a person if:

- The offender is under 16 years old, the victim is under 13 years old, and the victim is at least 3 years younger than the offender; or
- The offender is 18 years old or older, the victim is 16 or 17 years old, the victim is at least 3 years younger than the offender, and the offender occupies a position of authority in relation to the victim.

Sodomy

- Alaska does not outright prohibit sodomy N/A
- Any state laws that outright prohibit sodomy are unconstitutional under *Lawrence v. Texas*, 539 U.S. 588 (2003).

Test Crime 2

Test Crime 1

Arizona

	Definition	Crime Definition Statute
Sexual Assault	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.	Ariz. Rev. Stat. Ann. §§ 13-1401, 13-1406, 13-702–706, 13-1423.
Sexual Abuse	<p>A person commits sexual abuse by intentionally or knowingly engaging in sexual contact:</p> <ul style="list-style-type: none"> • With any person who is 15 or more years of age without consent of that person; or • With any person who is under 15 years of age if the sexual contact involves only the female breast. 	Ariz. Rev. Stat. Ann. §§ 13-1401, 13-1404, 13-702–706, 13-1423.
	<p>If the victim is 15, 16, or 17 years old, consent is immaterial (i.e., not a defense) if the offender was in a position of trust.</p>	
Unlawful Sexual Conduct; Adult Probation Department Employees; Juvenile Court Employees	<p>Unlawful sexual conduct of an adult probation department employee or juvenile court employee occurs if the offender knowingly coerces the victim to engage in sexual contact, oral sexual contact, or sexual intercourse by either:</p> <ul style="list-style-type: none"> • Threatening to negatively influence the victim’s supervision or release status; or • Offering to positively influence the victim’s supervision or release status. 	Ariz. Rev. Stat. Ann. §§ 13-1401, 13-1409, 13-702–706, 13-1423.
	<p>For the purposes of this law, a victim is defined as either (a) subject to conditions of release or supervision by a court or (b) a minor who was referred to the juvenile court.</p>	
Molestation of a Child	A person commits molestation of a child by intentionally or knowingly engaging in or causing a person to engage in sexual contact, (except sexual contact with the female breast) with a child who is under 15 years of age.	Ariz. Rev. Stat. Ann. §§ 13-1401, 13-1410, 13-702–706, 13-1423.

Statutory Rape	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 18 years of age.	Ariz. Rev. Stat. Ann. §§ §§ 13-1401, 13-1405, 13-1407, 13-702–706, 13-1423.
	<p>Valid defenses:</p> <ul style="list-style-type: none"> • If the victim is 15, 16 or 17 years old, an offender may defend himself or herself by showing that he or she did not know and could not reasonable have known the age of the victim. • If the victim is 15, 16, or 17 years old, an offender may defend himself or herself if he or she is under 19 years old or is attending high school, is no more than 24 months older than the victim, and the conduct was consensual. 	
Sodomy	<ul style="list-style-type: none"> • Arizona does not appear to criminalize sodomy. • Any state laws that outright prohibit sodomy are unconstitutional under <i>Lawrence v. Texas</i>, 539 U.S. 588 (2003). 	N/A
Unlawful sexual conduct; peace officers	<p>A peace officer commits unlawful sexual conduct by knowingly engaging in sexual contact, oral sexual contact or sexual intercourse with any person who is either:</p> <ul style="list-style-type: none"> • In the officer's custody; or • A person who the officer knows or has reason to know is the subject of an investigation. <p>This does apply to either: (1) direct or indirect touching or manipulating of the genitals, anus, or female breast that occurs during a lawful search; or (2) an officer who is married to or in a romantic or sexual relationship with the person at the time of the arrest or investigation.</p>	Ariz. Rev. Stat. Ann. §§ 13-1401, 13-1412, 1-215, 13-702–706, 13-1423.
Unlawful sexual conduct; correctional facilities	<p>A person commits unlawful sexual conduct by intentionally or knowingly engaging in any act of a sexual nature with an “offender” (i.e., “prisoner”) who is:</p> <ul style="list-style-type: none"> • 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 	Ariz. Rev. Stat. Ann. §§ 13-1401, 13-1419, 13-702–706, 13-1423.

- Under the supervision of either department or a city or county.

California

	Definition	Crime Definition Statute
Rape	<p>An offender commits the crime of rape by engaging in sexual intercourse with another person who is not the offender's spouse under any of the following circumstances:</p> <ul style="list-style-type: none"> • Where the victim is incapable of giving consent because of a mental disorder or developmental or physical disability, and this is known or reasonably should be known to the person committing the act; • Where the act is accomplished against a victim's will by means of force, violence, duress, menace or fear of immediate and unlawful bodily injury on the person or another; • Where the victim is unable to resist because of any intoxicating or anesthetic substance, or any controlled substance and the offender knew or reasonably should have known of the victim's condition; • Where the victim was unconscious of the nature of the act and this was known to the offender; • Where the victim submits under the belief that the offender is someone known to the victim other than the offender, and this false belief was intentionally induced by the offender's artifice, pretense or concealment; • 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 offender will execute the threat; or • 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 person, and the victim has a reasonable belief that the offender is a public official. 	Cal. Penal Code §§ 261, 261.6, 263, 263.1, 269, 288.7

In the context of the crime of rape, California law does not specifically define “sexual intercourse” (although the term “sexual intercourse” is defined in the specific contexts of certain other crimes). Instead, the legislature broadly construes what kinds of acts constitute rape. The statutes contain the following information:

- All forms of nonconsensual sexual assault may be considered rape.
- The essential determination of whether an offender is guilty of rape lies in the outrage to the victim’s person and the feelings of the victim of the rape.
- Any sexual penetration, however slight, is sufficient to constitute rape.

Rape of a Spouse

An offender commits rape of a spouse by engaging in sexual intercourse with the offender’s spouse under any of the following circumstances:

Cal. Penal Code §§ 261.6, 262, 263, 263.1, 269, 288.7

- Where 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 person or another;
- Where the victim is unable to resist because of any intoxicating or anesthetic substance, or any controlled substance and the offender knew or reasonably should have known of the victim’s condition;
- Where the victim was unconscious of the nature of the act and this was known to the offender;
- 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 offender will execute the threat; or
- 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 person, and the victim has a reasonable belief that the offender is a public official

In the context of the crime of rape, California law does not specifically define “sexual intercourse” (although the term “sexual intercourse” is

defined in the specific contexts of certain other crimes). Instead, the legislature broadly construes what kinds of acts constitute rape. The statutes contain the following information:

- All forms of nonconsensual sexual assault may be considered rape.
- The essential determination of whether an offender is guilty of rape lies in the outrage to the victim's person and the feelings of the victim of the rape.
- Any sexual penetration, however slight, is sufficient to constitute rape

Sodomy	The crime of sodomy is defined as 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.	Cal. Penal Code §§ 286, 269, 288.7, 1170
Forcible Acts of Sexual Penetration	An offender commits the crime of forcible acts of sexual penetration by committing an act of sexual penetration under any of the following circumstances: <ul style="list-style-type: none">• Where 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;• 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 offender will execute the threat;• Where the victim is incapable of giving consent because of a mental disorder or developmental or physical disability, and this is known or reasonably should be known to the person committing the act;• Where the victim is incapable of giving consent because of a mental disorder or developmental or physical disability, and both the victim and offender are confined in a state hospital for treatment of the mentally disordered;• Where the victim was unconscious of the nature of the act and this was known to the offender;• Where the victim is unable to resist because of any intoxicating or anesthetic substance,	Cal. Penal Code §§ 289, 269, 288.7, 1170

or any controlled substance and the offender knew or reasonably should have known of the victim's condition;

- Where the victim submits under the belief that the offender is someone known to the victim other than the offender, and this false belief was intentionally induced by the offender's artifice, pretense or concealment;
- 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 person, and the victim has a reasonable belief that the offender is a public official; or
- Where the act is accomplished against a victim who is under 18 years of age.

Oral Copulation The crime of oral copulation involves copulating the mouth of one person with the sexual organ or anus of another person. Cal. Penal Code §§ 287, 269, 288.7, 1170

Sexual Battery An offender commits the crime of sexual battery in the following circumstances: Cal. Penal Code §§ 243.4, 269, 288.7, 1170

- By touching an intimate part of another person while that person is unlawfully restrained by the accused or an accomplice, the touching is against the will of the person touched, and the touching is for the purpose of sexual arousal, sexual gratification, or sexual abuse;
- By touching an intimate part of another person who is institutionalized for medical treatment and who is seriously disabled or medically incapacitated, the touching is against the will of the person touched, and the touching is for the purpose of sexual arousal, sexual gratification, or sexual abuse;
- By touching 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;
- By causing a victim to masturbate or touch an intimate part of the offender, the victim, or a third person for the purpose of sexual arousal, sexual gratification, or sexual abuse, where the victim is either unlawfully

restrained by the offender or an accomplice or is institutionalized for medical treatment and is seriously disabled or medically incapacitated; and

- By touching an intimate part of another person where the touching is against the will of the victim and the touching is for the specific purpose of sexual arousal, sexual gratification, or sexual abuse.

Sexual battery does not include rape or forcible acts of sexual penetration; these are separate crimes.

Note: there is an amendment to this law currently pending in the California Senate. The amendment would criminalize the following acts: intentionally removing or tampering with a condom without consent, when there was an agreement to use a condom; providing a third party with a condom that the offender knew had been tampered with; and knowingly misrepresenting to the victim that a form of contraception other than a condom is being used. See 2017 California Assembly Bill No. 1033, California 2017-2018 Regular Session.

Unlawful Sexual Acts Procured By Fraud or False Pretenses	An offender unlawfully procures consent to sexual acts by false or fraudulent representation with intent to create fear under the following circumstances:	Cal. Penal Code §§ 266c, 269, 288.7, 1170
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- When the offender induces any other person to engage in sexual intercourse, sexual penetration, oral copulation, or sodomy;
- The victim's consent is procured through false or fraudulent representation or pretense that is made with the intent to create fear and which does induce fear;
- The fear would cause a reasonable person in similar circumstances to act contrary to the person's free will; and
- The victim does act contrary to his or her free will.

Aggravated Sexual Assault of a Child	An offender commits aggravated sexual assault of a child by committing the following crimes on a child under the age of 14 years old who is 7 or more years younger than the offender:	Cal. Penal Code § 269
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- Where the crime of rape, sodomy, oral copulation, or a forcible act of sexual

penetration is committed, 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;

- Where the crime of rape, sodomy, oral copulation, or a forcible act of sexual penetration is committed, 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 offender will execute the threat;
- Where the crime of rape, sodomy, or oral copulation is committed and the offender voluntarily acts in concert with another person and against the will of the victim by means of force or fear of immediate injury to the victim or another person.

Sexual Acts with a Child 10 Years or Younger	When the offender is at least 18 years old and the victim is 10 years old or younger, and the offender commits the crime of rape, sodomy, or oral copulation, the crimes are re-classified as sexual acts with a child 10 years or younger.	Cal. Penal Code § 288.7
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Unlawful Sexual Intercourse With a Person Under 18	The crime of "unlawful sexual intercourse with a person under 18" consists of an act of sexual intercourse accomplished with a victim who is not the spouse of the perpetrator, if the victim is a minor and the perpetrator is an "adult" person who is at least 18 years of age	Cal. Penal Code §§ 261.5, 269, 288.7, 1170
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There are also additional laws in California that criminalize other sexual acts with minors, including laws surrounding sodomy, sexual penetration, and oral copulation.

Colorado

	Definition	Crime Definition Statute
Sexual Assault	<ul style="list-style-type: none"> • Any actor who knowingly inflicts sexual intrusion or sexual penetration on a victim commits sexual assault if: <ul style="list-style-type: none"> • The actor causes submission of the victim by means of sufficient consequence reasonably calculated to cause submission against the victim's will; 	Colo. Rev. Stat. §§ 18-1.3-401, 18-3-401, and 18-3-402

- The actor knows that the victim is incapable of appraising the nature of the conduct;
- The actor knows that the victim submits erroneously, believing the actor to be the victim's spouse;
- 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;
- 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;
- 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;
- 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
- The victim is physically helpless and the actor knows the victim is physically helpless and the victim has not consented.

Unlawful Sexual Contact

- A defendant commits unlawful sexual contact when he knowingly touches “the victim’s intimate parts” with “the purposes of sexual arousal, gratification, or abuse,” [§ 18-3-401\(4\), C.R.S. \(2017\)](#), and “knows that the victim does not consent,” [§ 18-3-404\(1\)\(a\), C.R.S \(2017\)](#). *See Page v. People*, 2017 CO 88, ¶ 13, 402 P.3d 468 (Co. 2017).
- An actor who knowingly subjects a victim to any sexual contact commits unlawful sexual contact if:
 - The actor knows that the victim does

Colo. Rev. Stat. Ann. §§ 18-3-404 and 18-1.3-401

- not consent; or
- The actor knows that the victim is incapable of appraising the nature of the victim's conduct; or
- The victim is physically helpless and the actor knows that the victim is physically helpless and the victim has not consented; or
- 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
- 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
- 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.
- An actor also commits unlawful sexual conduct if, with or without sexual contact, the actor knowingly induces or coerces a person under the age of 18, using any of the means listed in §18-3-402 (See Sexual Assault above), 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.

Sexual Assault on a Child

An actor who knowingly subjects a person who is not the offender's spouse to sexual contact commits sexual assault on a child if the victim is less than fifteen years of age and the actor is at least four years older than the victim.

Colo. Rev. Stat. Ann. §§18-3-405, 18-1.3-406, and 18-1.3-401.

Note: Sexual assault on a child by a person in a position of trust is punishable under §18-3-405.3 and may carry a more severe punishment.

Statutory Rape

- **Sexual assault:** An offender violates §18-3-402 if the actor knowingly inflicts sexual intrusion or sexual penetration on a victim and:

Colo. Rev. Stat. §§ 18-3-402, 18-3-405, and 18-1.3-401

- 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
- 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.

- **Sexual assault on a child:** An actor who knowingly subjects a person who is not the offender's spouse to sexual contact commits sexual assault on a child if the victim is less than fifteen years of age and the actor is at least four years older than the victim

Sodomy

- Colorado does not prohibit sodomy between N/A consenting adults.
- Any state laws that outright prohibit sodomy are unconstitutional under *Lawrence v. Texas*, 539 U.S. 588 (2003).

Connecticut

	Definition	Crime Definition Statute
Sexual Assault in the First Degree	<p>A person commits sexual assault in the first degree when such person:</p> <ul style="list-style-type: none">• 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 (if the victim is under 16 this is a class A felony subject to a sentencing enhancement);• 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 (class A felony subject to a sentencing enhancement);• Commits sexual assault in the second degree (§	Conn. Gen. Stat. Ann. §§ 53a-65, 53a-70, and 53a-35a

53a-71) and in the commission of such offense is aided by two or more other persons actually present;
or

- 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 intercourse.

Aggravated Sexual Assault in the First Degree

- A person is guilty of aggravated sexual assault in the first degree when such person commits sexual assault in the first degree (§ 53a-70), and in the commission of such offense:
 - 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; or
 - With intent to disfigure the victim seriously or 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; or
 - 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
 - Such person is aided by two or more other persons actually present.

Conn. Gen. Stat. Ann. §§53a-65, 53a-70a

Sexual Assault in the Second Degree

A person commits sexual assault in the second degree when such person engages in sexual intercourse with another person and:

- 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;
- Such other person is impaired because of mental disability or disease to the extent that such other person is unable to consent to such sexual intercourse;
- Such other person is physically helpless;
- 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;
- 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;
- The actor is a psychotherapist and the victim is a patient or former patient and the act occurs during a

Conn. Gen. Stat. Ann. §§53a-65, 53a-71, and 53a-35a

psychotherapy session, while the patient is emotionally dependent on the actor, or by means of therapeutic deception;

- The actor accomplishes the sexual intercourse by means of false representation that the sexual intercourse is for a bona fide medical purpose by a healthcare professional;
- The actor is a school employee and the victim is a student enrolled in a school in which the actor works or a school under in the jurisdiction of the local or regional board of education which employs the actor;
- The actor is a coach in an athletic activity or a person who provides intensive, ongoing instruction and such other person is the recipient of such coaching or instruction and is either a secondary school student who receives such coaching or instruction at school, or is under eighteen years of age;
- The actor is twenty years of age or older and stands in a position of power, authority or supervision over such other person who 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; or
- Such other person is placed or receiving services under the direction of the Commissioner of Developmental Services in any public or private facility or program and the actor has supervisory or disciplinary authority over such other person.

Sexual Assault in the Third Degree

A person commits sexual assault in the third degree when such person:

- Compels another person to submit to sexual contact: (1) by the use of force against the other person or a third person, or (2) by the threat of use of force against such other person or against a third person which reasonably causes such other person to fear physical injury to him or herself or a third person;
- Subjects another person to sexual contact and such other person is mentally incapacitated or impaired because of mental disability or disease to the extent that such other person is unable to consent to such sexual contact; or
- Engages in sexual intercourse with another person whom the actor knows to be the actor's parent, grandparent, child, grandchild, sibling, parent's sibling, sibling's child, stepparent, or stepchild.

Conn. Gen. Stat. Ann. §§ 53a-65, 53a-72a, 53a-72b, and 53a-35a

Sexual
Assault in
the Fourth
Degree

- A person (the actor) commits sexual assault in the fourth degree when
 - the actor subjects another person to sexual contact who is
 - (1) under thirteen years of age and the actor is more than two years older than such other person; or
 - (2) thirteen years of age or older but under fifteen years of age and the actor is more than three years older than such other person; or
 - (3) physically helpless; or
 - (4) less than eighteen years old and the actor is the victim's guardian or otherwise responsible for the general supervision of the victim's welfare; or
 - (5) in custody of law or detained in a hospital or other institution and the actor has supervisory or disciplinary authority over such other person.
 - The actor subjects the victim to sexual contact without such other person's consent;
 - The actor engages in sexual contact with an animal or dead body;
 - The actor is a psychotherapist and subjects the victim to sexual contact and the victim is:
 - a patient of the actor and the sexual contact occurs during the psychotherapy session;
 - a patient or former patient of the actor and is emotionally dependent upon the actor; or
 - a patient or former patient of the actor and the sexual contact occurs by means of therapeutic deception.
 - The actor subjects the victim 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 healthcare professional;
 - The actor is a school employee and subjects the victim to sexual contact and the victim is a student enrolled in the school in which the actor works or a school under the jurisdiction of the local or regional board of education which employs the actor;
 - The actor is a coach in an athletic activity or a person who provides intensive, ongoing instruction and subjects the victim to sexual contact who is a recipient of coaching or

Conn.
Gen. Stat.
Ann. §§
53a-65,
§53a-72a,
53a-73a,
53a-35a,
and
53a-26

instruction from the actor and the victim: (1) is a secondary school student and receives such coaching or instruction at school, or (2) is under eighteen years of age;

- The actor subjects the victim to sexual contact where the victim is under 18 years of age and the actor is over 20 years of age and is in a position of power, authority or supervision over the victim by virtue of the actor's professional, legal, occupational or volunteer status and the victim's participation in a program or activity; or
- The actor subjects the victim to sexual contact and the victim is placed or receiving services under the direction of the Commissioner of Developmental Services in any public or private facility or program and the actor has supervisory or disciplinary authority over the victim.

Statutory
Rape

- ***Sexual assault in the first degree:*** A person violates §53a-70 by engaging in sexual intercourse with another person (victim) and victim is under thirteen years of age and the actor is more than two years older than such person. (A class A felony subject to a sentencing enhancement.) Conn. Gen. Stat. Ann. §§ 53a-65, 53a-70, 53a-71,
- ***Sexual assault in the second degree:*** A person violates §53a-71 by engaging in sexual intercourse with another person (victim) where the victim 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. (A class B felony punishable by 1-20 years imprisonment.) 53a-73a, 53a-35a
- ***Sexual assault in the third degree:*** A person violates §53a-72a by intentionally subjecting another person (victim) to sexual contact where: (1) the victim is under thirteen years of age and the actor is more than two years older than such other person; or (2) the victim is thirteen years of age or older but under fifteen years of age and the actor is more than three years older than the victim. (A class D felony punishable by 1-5 years imprisonment.)

Sodomy

- Connecticut does not prohibit sodomy between consenting adults. N/A
- Any state laws that prohibit sodomy are unconstitutional under *Lawrence v. Texas*, 539 U.S. 588 (2003).

Sexual Assault in Spousal or Cohabiting Relationship	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.	Conn. Gen. Stat. Ann. § 53a-70b
Aggravated Sexual Assault of a Minor	A person is guilty of aggravated sexual assault of a minor when such person commits a violation of subdivision (2) of subsection (a) of section 53-21 or section 53a-70, 53a-70a, 53a-71, 53a-86, 53a-87 or 53a-196a and the victim of such offense is under 13 years of age, and any of the following: <ol style="list-style-type: none"> (1) such person kidnapped or illegally restrained the victim, (2) such person stalked the victim, (3) such person used violence to commit such offense against the victim, (4) such person caused serious physical injury to or disfigurement of the victim, (5) there was more than one victim of such offense under thirteen years of age, (6) such person was not known to the victim, or (7) such person has previously been convicted of a violent sexual assault. 	Conn. Gen. Stat. Ann. § 53a-70c

Delaware

	Definition	Crime Definition Statute
Rape in the First Degree	<p>Intentionally engaging in sexual intercourse with another person and:</p> <ul style="list-style-type: none"> • The sexual intercourse occurs without the victim’s consent and during the commission of the crime, or during the immediate flight following the crime, or during an attempt to prevent the reporting of the crime, the defendant causes physical injury or serious mental or emotional injury to the victim; or • 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: <ul style="list-style-type: none"> • Any felony; or 	Del. Code Ann. tit. 11, §§ 761 (definitions), 773, 4205 (sentence for felonies).

- Any of certain misdemeanors – reckless endangerment (2d degree); assault (3d degree); terroristic threatening; unlawfully administering drugs; unlawful imprisonment (2d degree); coercion; or criminal trespass (1st, 2d, or 3d degree); or
- In the course of the commission of 2d, 3d, or 4th degree rape, or while in the immediate flight following the crime, the defendant displayed what appeared to be a deadly weapon or represents by word or conduct that defendant is in possession or control of a deadly weapon or dangerous instrument;
- The sexual intercourse occurs without the victim’s consent, and a principal-accomplice relationship (defined in Del. Code § 271) existed between the defendant and another person(s) with respect to commission of the crime; or
- The victim is not yet 12 years of age, and defendant is at least 18 years of age.

Rape in the
Second Degree

Intentionally engaging in sexual intercourse with another person, and the intercourse occurs without the victim’s consent; or

Intentionally engaging in sexual penetration with another person and:

- 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;
- The sexual penetration occurs without the victim’s consent and it was facilitated by or occurred during the course of the commission or attempted commission of:
 - Any felony; or
 - Any of certain misdemeanors – reckless endangerment (2d degree); assault (3d degree); terroristic threatening; unlawfully administering drugs; unlawful imprisonment (2d degree); coercion or criminal trespass (1st, 2d, or 3d degree);

Del. Code Ann.
tit. 11, §§ 761
(definitions),
772, and 4205.

- The victim is less than 16 years of age and the defendant inflicts serious physical injury to the victim during the commission of the crime, during immediate flight from the crime, or during an attempt to prevent reporting of the crime;
- The sexual penetration occurs without the victim's consent and during the commission of the crime, during immediate flight from the crime, or during an attempt to prevent reporting of the crime, the defendant displayed what appeared to be a deadly weapon or represents by word or conduct that defendant is in possession or control of a deadly weapon or dangerous instrument;
- The victim is less than 16 years of age and during the commission of the crime, during immediate flight from the crime, or during an attempt to prevent reporting of the crime, the defendant displayed what appeared to be a deadly weapon or represents by word or conduct that defendant is in possession or control of a deadly weapon or dangerous instrument;
- The sexual penetration occurs without the victim's consent, and a principal-accomplice relationship existed between the defendant and another person(s) with respect to commission of the crime; or
- The victim is not yet 12 years of age, and defendant is at least 18 years of age.

Rape in the Third Degree

- (1) Intentionally engaging in sexual intercourse with another person, and the victim is less than 16 years of age and defendant is at least 10 years older than the victim, or the victim is less than 14 years of age and defendant is at least 19 years of age and is not otherwise subject to prosecution under Rape in 2nd Degree (§772) or Rape in the 1st Degree (§773) of this title; or
- (2) Intentionally engaging in sexual penetration with another person and:
- The sexual penetration occurs without the victim's consent and during the commission of the crime, or during the immediate flight following the crime, or during an attempt to prevent the reporting of the crime, the defendant causes physical injury or serious

Del. Code Ann. tit. 11, §§ 771, and 4205.

- mental or emotional injury to the victim; or
- The victim is less than 16 years of age and the defendant causes serious physical injury or serious mental/emotional injury to the victim during the commission of the crime, during immediate flight from the crime, or during an attempt to prevent reporting of the crime.
- **Note:** 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

(1) Intentionally engaging in sexual intercourse with another person, and the victim is less than 16 years of age; or

(2) Intentionally engaging in sexual intercourse with another person, and the victim is less than 18 years of age, and defendant is at least 30 years of age; except that such intercourse shall not be unlawful if the victim and defendant are married at the time of such intercourse; or

(3) Intentionally engaging in sexual penetration with another person and:

- The sexual penetration occurs without the victim's consent; or
- The victim is less than 16 years of age.
- **Note:** 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.

Del. Code Ann. tit. 11, §§ 770, and 4205.

Unlawful Sexual Contact in the First Degree

(1) While engaging in unlawful sexual contact (2d or 3d degree), or during immediate flight or attempt to prevent the reporting of the crime, defendant causes physical injury to victim or defendant displays what appears to be a deadly weapon or dangerous instrument; or represents by word or conduct that defendant is in possession or control of a deadly weapon or dangerous instrument; or

(2) Defendant intentionally has sexual contact

Del. Code Ann. tit. 11, §§ 769 and 4205.

with another person who is less than 13 years of age or causes the victim to have sexual contact with the defendant or a 3d person.

Unlawful Sexual Contact in the Second Degree	Intentionally having sexual contact with another person who is less than 18 years of age or causing the victim to have sexual contact with defendant or a third person.	Del. Code Ann. tit. 11, §§ 768, and 4205.
Unlawful Sexual Contact in the Third Degree	Engaging in sexual contact with another person or causing the victim to have sexual contact with defendant or a 3d person and defendant knows that the contact is either offensive to the victim or occurs without the victim's consent.	Del. Code Ann. tit. 11, §§ 767 and 4206 (sentence for misdemeanors).
Statutory Rape	<p>“Statutory rape”: sexual penetration that is illegal because it involves a youth and consent is immaterial. While Delaware does not expressly penalize “statutory rape,” the offenses of rape in the first, second, third, and fourth degrees target this conduct.</p> <ul style="list-style-type: none">• Statutory rape is rape (1st degree) if defendant intentionally engages in sexual intercourse with another person and the victim is not yet 12 years of age, and defendant is at least 18 years of age.• Statutory rape is rape (2d degree) if defendant intentionally engages in sexual penetration and:<ul style="list-style-type: none">• The victim is less than 16 years of age at the time of the offense and the defendant inflicts serious physical injury to the victim during the commission of the crime, during immediate flight from the crime, or during an attempt to prevent reporting of the crime;• The victim is less than 16 years of age and the defendant displayed what appeared to be a deadly weapon or represents by word or conduct that defendant is in possession or control of a deadly weapon or dangerous instrument; or• The victim is not yet 12 years of age, and defendant is at least 18 years of age.• Statutory rape is rape (3d degree) if defendant:<ul style="list-style-type: none">• Intentionally engages in sexual	• Del. Code Ann. tit. 11, §§ 770-73 and 4205.

intercourse with another person, and the victim is less than 16 years of age and defendant is at least 10 years older than the victim, or the victim is less than 14 years of age and defendant is at least 19 years of age; or

- Intentionally engages in sexual penetration with another person, the victim is less than 16 years of age at the time of the offense, and the defendant inflicts serious physical injury or serious mental/emotional injury to the victim during the commission of the crime, during immediate flight from the crime, or during an attempt to prevent reporting of the crime.
- **Note:** 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.
- Statutory rape is rape (4th degree) if defendant:
 - Intentionally engages in sexual intercourse with another person, and the victim is less than 16 years of age;
 - Intentionally engages in sexual intercourse with another person, and the victim is less than 18 years of age, and defendant is at least 30 years of age; except that such intercourse shall not be unlawful if the victim and defendant are married at the time of such intercourse; or
 - Intentionally engages in sexual penetration with another person and the victim is less than 16 years of age.
 - **Note:** 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.

Sodomy

- Delaware does not prohibit sodomy between N/A consenting adults.
- Any state laws that prohibit sodomy are unconstitutional under *Lawrence v. Texas*, 539 U.S. 588 (2003).

District of Columbia

	Definition	Crime Definition Statute
First Degree Sexual Abuse	<p>Engaging in or causing another person to engage in or submit to a sexual act:</p> <ul style="list-style-type: none">• By using force against that person;• By threatening or placing that other person in reasonable fear that any person will be subjected to death, bodily injury, or kidnapping;• After rendering that person unconscious; or• 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.	D.C. Code §§ 22-3001, 22-3002, 22-3020 and 22-3571.01.
	<p>Note: Consent by the victim is a defense to a prosecution, prosecuted alone or in conjunction with charges under § 22-3018 (attempts to commit sexual offenses) or §§ 22-401 (assault with intent to kill, rob, poison, or to commit first degree sexual abuse, second degree sexual abuse, or child sexual abuse) and 22-403 (assault with intent to commit any other offense). (§ 22-3007).</p>	
	<p>Note: 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. (§22-3019).</p>	

Second Degree Sexual Abuse	Engaging in or causing another person to engage in or submit to sexual acts: <ul style="list-style-type: none"> • 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 • When the person knows or has reason to know that the other person is incapable of: <ul style="list-style-type: none"> • appraising the nature of the conduct, • declining participation in that sexual act, or • communicating unwillingness to engage in that sexual act. 	D.C. Code §§ 22-3001, 22-3003, 22-3020 and 22-3571.01.
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Note: Consent by the victim is a defense to a prosecution, prosecuted alone or in conjunction with charges under [§ 22-3018](#) or [§§ 22-401](#) and [22-403](#). (§ 22-3007).

Note: 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. (§22-3019).

Sexual Abuse in the Third Degree	Engaging in or causing sexual contact with or by another person: <ul style="list-style-type: none"> • By using force against that other person; • By threatening or placing that other person in reasonable fear that any person will be subjected to death, bodily injury, or kidnapping; • After rendering that person unconscious; or • 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 § 22-3001, 22-3004, 22-3020 and 22-3571.01.
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Note: Consent by the victim is a defense to a prosecution, prosecuted alone or in conjunction with charges under [§ 22-3018](#) or [§§ 22-401](#) and [22-403](#). (§ 22-3007).

Note: 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. (§22-3019).

Sexual Abuse in the Fourth Degree

Engaging in or causing sexual contact with or by another person:

- 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
- When the person knows or has reason to know that the other person is incapable of
 - appraising the nature of the conduct,
 - declining participation in that sexual contact, or
 - communicating unwillingness to engage in that sexual contact.

D.C. Code §§ 22-3001, 22-3005, 22-3020 and 22-3571.01.

Note: Consent by the victim is a defense to a prosecution, prosecuted alone or in conjunction with charges under [§ 22-3018](#) or [§§ 22-401](#) and [22-403](#). (§ 22-3007).

Note: 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. (§22-3019).

Misdemeanor
Sexual Abuse

Engaging in a sexual act or sexual contact with another person and knowing or having a reason to know that the act was committed without that other person's permission.

D.C. Code §§
22-3001,
22-3006, 22-3020
and 22-3571.01.

Note: Consent by the victim is a defense to a prosecution, prosecuted alone or in conjunction with charges under [§ 22-3018](#) or [§§ 22-401](#) and [22-403](#). (§ 22-3007).

Note: 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. (§22-3019).

Statutory Rape

- **First degree child sexual abuse:** engaging in a sexual act with a child under the age of 16 or causing a child under the age of 16 to engage in a sexual act when the person is at least 4 years older than the child. (§ 22-3008)
- **Second degree child sexual abuse:** engaging in sexual contact with a child (i.e. under the age of 16) or causing a child to engage in sexual contact when the person is at least 4 years older than the child. (§ 22-3009)
- **First degree sexual abuse of a minor:** engaging in a sexual act with a minor or causing a minor to engage in a sexual act when a person is over 18 years old and in a significant relationship (*see definition below*) with that minor. (§ 22-3009.01)
- **Second degree sexual abuse of a minor:** engaging in sexual contact with a minor or causing a minor to engage in a sexual contact when a person is over 18 years old and in a significant relationship (*see definition below*) with that minor. (§ 22-3009.02)
- **First degree sexual abuse of a secondary education student:** engaging in a sexual act with a student or causing a student to engage in a sexual act when the student is under the age of 20, is enrolled in a

D.C. Code §§
22-3008,
22-3009,
22-3009.01,
22-3009.02,
22-3009.03,
22-3009.04,
22-3010,
22-3010.01 and
22-3011.

secondary level school or school system, and where the person is a teacher, counselor, principal, coach, or other person of authority in that secondary school or school system. (§ 22-3009.03)

- **Second degree sexual abuse of a secondary education student:** engaging in a sexual conduct with a student or causing a student to engage in sexual conduct when the student is under the age of 20, is enrolled in a secondary level school system, and where the person is a teacher, counselor, principal, coach, or other person of authority in that secondary school or school system. (§ 22-3009.04)
- **Enticing a child:** an actor who is 4 years older than a child under the age of 16 or being in a significant relationship with a minor (or 4 years older than the purported age of a person who represents himself or herself to be a child under the age of 16):
 - Takes that child or minor to any place for the purpose of committing any sexual abuse offense; or
 - Attempts to or does seduce, entice, allure, convince, or persuade a child or minor to engage in a sexual act or contact (§ 22-3010)
- **Misdemeanor sexual abuse of a child or a minor:** Engaging in sexually suggestive conduct with a child or minor when the person is 18 years of age or older and more than 4 years older than the child or is over 18 years of age and in a significant relationship with the child. (§ 22-3010.01)

Note: Neither mistake of age nor consent is a defense to a prosecution under §§ 22-3008–22-3010.01, prosecuted alone or in conjunction with charges under § 22-3018 or § 22-403. (§ 22-3011).

Note: In a prosecution under §§ 22-3008 (first degree child sexual abuse) to 22-3010 (enticing a child), prosecuted alone or in conjunction with charges under §22-3018 or § 22-403, the government need not prove that

the defendant knew the child's age or the age difference between himself or herself and the child. (§22-3012).

Note: Marriage or domestic partnership between the defendant and the child or minor at the time of the offense is a defense, which the defendant must establish by a preponderance of the evidence, to a prosecution under §§ 22-3008–22-3010.01, prosecuted alone or in conjunction with charges under § 22-3018 or § 22-403, involving only the defendant and the child or minor. (§ 22-3011).

Note: 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. (§22-3019).

Note: No person shall be consecutively sentenced for enticing a child or minor to engage in a sexual act or sexual contact under § 22-3010 and engaging in that sexual act or sexual contact with that child or minor, provided, that the enticement occurred closely associated in time with the sexual act or sexual contact.

Sodomy

- Washington, D.C. does not prohibit sodomy between consenting adults.
- Any state law that outright prohibits sodomy is unconstitutional under *Lawrence v. Texas*, 539 U.S. 588 (2003).

N/A

Florida

	Definition	Crime Definition Statute
Sexual Battery	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.	Fla. Stat. § 794.011

Statutory Rape

- Sexual penetration involving a youth. Consent is immaterial. While Florida does not expressly penalize statutory rape, the offense of sexual battery targets this conduct.
 - (A) If defendant is 18 years of age or older and commits sexual battery upon, or during an attempt to commit sexual battery injures the sexual organs of, a person less than 12 years of age;
 - (B) If defendant is less than 18 years of age and commits sexual battery upon, or during an attempt to commit sexual battery injures the sexual organs of, a person less than 12 years of age;
 - (C) If defendant is in a position of familial or custodial authority to a person less than 18 years of age and who:
 - (1) Solicits that person to engage in any act which would constitute sexual battery; or
 - (2) Engages in any act of sexual battery with that person while the person is 12 years of age or older but less than 18 years of age; or
 - (3) Engages in any act of sexual battery with that person while the person is less than 12 years of age, or in an attempt to commit sexual battery injures the sexual organs of such person;
- Under § 794.05, a person 24 years of age or older who engages in sexual activity with a person 16 or 17 years of age.
 - **Note:** The victim's prior sexual conduct is not a relevant issue.
 - **Note:** If an offense under § 794.05 directly results in the victim giving birth to a child, paternity of that child shall be established as described in chapter 742. If it is determined that the offender is the father of the child, the offender must pay child support pursuant to the child support guidelines described in chapter 61.
 - **Note:** Under § 794.021, where the criminality of the conduct depends on

Fla. Stat. §
794.011 and
Fla. Stat. §
794.05

the victims age, ignorance of the age is not a defense. Neither is misrepresentation of age by such person, or a bona fide belief that such person is over the specified age.

Sodomy

A person who commits any unnatural and lascivious act with another person, requiring an intentional act of sexual indulgence or public indecency “when such act causes offense to one or more persons viewing it or otherwise intrudes upon the rights of others.” *See Conforti v. State*, 800 So.2d 350, 351 (Fla. 4th DCA 2001).

Fla. Stat. § 800.02

Note: Any state law that outright prohibits sodomy is unconstitutional under *Lawrence v. Texas*, 539 U.S. 588 (2003).

Georgia

	Definition	Crime Definition Statute
Rape	<ul style="list-style-type: none"> • Carnal knowledge of: <ul style="list-style-type: none"> • A female forcibly and against her will; or • A female who is less than 10 years of age. 	Ga. Code Ann. § 16-6-1
Statutory Rape	<ul style="list-style-type: none"> • Statutory Rape: Engaging in sexual intercourse with any person under the age of 16 years and not his or her spouse, provided that no conviction shall be had for this offense on the unsupported testimony of the victim. • Child Molestation: Defendant commits (or by means of an electronic device, transmits images of a person engaging in, inducing, or otherwise participating in) any immoral or indecent act to or in the presence of or with any child under the age of 16 years with the intent to arouse or satisfy the sexual desires of either the child or the person • Aggravated Child Molestation: Defendant commits child molestation which act leads to physical injuries to the child or involves an act of sodomy • Enticing a Child for Indecent Purposes: Defendant solicits, entices, or takes any child under the age of 16 years to any place whatsoever for the purpose of child 	Ga. Code Ann. §§ 16-6-3, 16-6-4, 16-6-5

Improper Sexual
Contact (Formerly
Sexual Assault)

molestation or indecent acts.

- An employee or agent commits the offense of improper sexual contact by employee or agent in the first degree when such employee or agent knowingly engages in sexually explicit conduct with another person whom such employee or agent knows or reasonably should have known is contemporaneously:
 - Enrolled as a student at a school of which he or she is an employee or agent;
 - Under probation, parole, accountability court, or pretrial diversion supervision of the office or court of which he or she is an employee or agent;
 - Being detained by or is in the custody of any law enforcement agency of which he or she is an employee or agent;
 - A patient in or at a hospital for which he or she is an employee or agent;
 - In the custody of a correctional facility, juvenile detention facility, facility providing services to a person with a disability, or a facility providing child welfare and youth services of which he or she is an employee or agent;
 - The subject of such employee or agent's actual or purported psychotherapy treatment or counseling; or
 - Admitted for care at a sensitive care facility of which he or she is an employee or agent.
- An employee or agent commits the offense of improper sexual contact by employee or agent in the second degree when such employee or agent knowingly engages in sexual contact, excluding sexually explicit conduct, with another person whom such employee or agent knows or reasonably should have known is contemporaneously:
 - Enrolled as a student at a school of which he or she is an employee or agent;
 - Under probation, parole, accountability court, or pretrial diversion supervision of the office or court of which he or she is an employee or agent;
 - Being detained by or is in the custody of any law enforcement agency of which he or she is an employee or agent;

Ga. Code
Ann. §
16-6-5.1

- A patient in or at a hospital for which he or she is an employee or agent;
 - In the custody of a correctional facility, juvenile detention facility, facility providing services to a person with a disability, or a facility providing child welfare and youth services of which he or she is an employee or agent;
 - The subject of such employee or agent's actual or purported psychotherapy treatment or counseling; or
 - Admitted for care at a sensitive care facility of which he or she is an employee or agent.
- A person who has supervisory or disciplinary authority over another individual and:
 - 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; or
 - 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 any such probation or parole office; or
 - 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; or
 - 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
 - Is an employee or agent of a correctional facility, juvenile detention facility, facility providing services to a person with a disability, or a facility

providing child welfare and youth services, who engages in sexual contact with such other individual who the actor knew or should have known is in the custody of such facility.

- 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.
- A person who is an employee, agent, or volunteer at any facility licensed or required to be licensed under § 31-7-3 (hospitals and healthcare facilities), § 31-7-12 (personal care facilities), or § 31-7-12.2 (assisted living communities) or who is required to be licensed pursuant to § 31-7-151 (home health agency) or § 31-7-173 (hospice) 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.

Note: Consent of the victim shall not be a defense.

Note: This Code section does not apply to sexually explicit conduct or sexual contact between individuals lawfully married to each other.

Note: This Code section does not apply to a student who is enrolled at the same school as the victim.

Sodomy/Aggravated Sodomy

- **Sodomy:** Performing or submitting to any sexual act involving the sex organs of one person and the mouth or anus of another.
- **Aggravated Sodomy:** Committing sodomy with force and against the will of the other person or the other person is less than 10 years of age.

Ga. Code Ann. § 16-6-2

Note: The fact that the person sodomized is the spouse of a defendant is not a defense to a charge of aggravated sodomy.

Note: Any state that outright prohibits private consensual sodomy between adults violates the Due Process Clause of the Federal Constitution, and is unconstitutional under *Lawrence v. Texas*, 539 U.S. 588 (2003). *See also Green v. Georgia*, 51 F. Supp. 3d 1304, 1307 (N.D. Ga. 2014) (noting that the United States Supreme Court overruled *Bowers v. Hardwick*, 478 U.S. 186 (1986) where O.C.G.A. § 16-6-2 had survived an attack). This section has also been held unconstitutional to the extent it criminalizes the performance of private, unforced, non-commercial acts of sexual intimacy between persons legally able to consent, *Powell v. State*, 270 G. 327, 510 (1998).

(Aggravated) Sexual Battery

- Sexual battery occurs when the defendant intentionally makes physical contact with the intimate parts of the body of another person without the consent of that person.
- Aggravated sexual battery occurs when the defendant intentionally penetrates the sexual organ or anus of another person with a foreign object without the consent of that person.

Ga. Code Ann., §§ 16-6-22.1, 16-6-22.2

Hawaii

	Definition	Crime Definition Statute
Sexual Assault in the First Degree	<ul style="list-style-type: none"> • Defendant knowingly subjects another person to an act of sexual penetration by strong compulsion; or • Defendant knowingly engages in sexual penetration with another person who is less than 14 years old; • Defendant knowingly engages in sexual penetration with a person who is at least 14 years old but less than 16 years old, and: • Defendant is not less than five years older than the minor; and • Defendant is not legally married to the minor; • Defendant knowingly subjects to sexual penetration another person who is mentally defective; or • Defendant knowingly subjects to sexual penetration another person who is mentally 	<ul style="list-style-type: none"> • Haw. Rev. Stat. § 707-730

Sexual Assault
in the Second
Degree

- incapacitated or physically helpless as a result of the influence of a substance that the defendant knowingly caused to be administered to the other person without such person's consent.
- Defendant knowingly subjects another person to an act of sexual penetration by compulsion; or
 - Defendant knowingly subjects to sexual penetration another person who is mentally incapacitated or physically helpless; or
 - Defendant, while employed:
 - In a state correctional facility;
 - By a private company providing services at a correctional facility;
 - 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;
 - By a private correctional facility operating in the State of Hawaii; or
 - As a law enforcement officer,
 - 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. (*Note:* This section does not prohibit medical personnel from performing any act within their respective practices; nor does it prohibit a law enforcement officer from performing a lawful search pursuant to a warrant or exception to the warrant clause.)
 - Defendant knowingly subjects to sexual penetration a minor who is at least sixteen years old while Defendant is contemporaneously acting in a professional capacity to instruct, advise, or supervise the minor, if Defendant is at least five years older than the minor and is not legally married to the minor.

•Haw. Rev.
Stat. §
707-731

Sexual Assault
in the Third
Degree

- Defendant recklessly subjects another person to an act of sexual penetration by compulsion; or
- Defendant 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;
- Defendant knowingly engages in sexual contact with a person who is at least 14 years old but less than 16 years old or causes the minor to have sexual contact with defendant; provided that:
 - Defendant is not less than 5 years older than the minor; and
 - Defendant is not legally married to the minor;
- Defendant 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;
- Defendant, while employed:
 - In a state correctional facility;
 - By a private company providing services at a correctional facility;
 - 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;
 - By a private correctional facility operating in the State of Hawaii; or
 - As a law enforcement officer,
- 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
- Defendant knowingly, by strong compulsion, has sexual contact with another person or causes another person to have sexual contact with the actor.

• Haw. Rev.
Stat. §
707-732

Note: This section does not prohibit medical personnel from performing any act within their

respective practices; nor does it prohibit a law enforcement officer from performing a lawful search pursuant to a warrant or exception to the warrant clause.

Sexual Assault
in the Fourth
Degree

- Defendant knowingly subjects another person, not married to Defendant, to sexual contact by compulsion or causes another person, not married to defendant, to have sexual contact with the actor by compulsion; or
- Defendant knowingly exposes Defendant'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
- Defendant knowingly trespasses on property for the purpose of subjecting another person to surreptitious surveillance for the sexual gratification of the defendant; or
- Defendant knowingly subjects to sexual contact a minor who is at least sixteen years old while Defendant is contemporaneously acting in a professional capacity to instruct, advise, or supervise the minor, if Defendant is at least five years older than the minor and is not legally married to the minor.

• Haw. Rev.
Stat. §
707-733

Statutory Rape

- "Statutory rape" is commonly used to refer to sexual penetration that is illegal because it involves a youth and consent is immaterial. While Hawaii does not expressly penalize statutory rape, the offense of sexual assault in the first degrees targets this conduct.
- Statutory rape is sexual assault (1st degree) if defendant:
 - Knowingly engages in sexual penetration with another person who is less than 14 years old; or
 - Knowingly engages in sexual penetration with a person who is at least 14 years old but less than 16 years old, and:
 - Defendant is not less than five years older than the minor; and
 - Defendant is not legally married to the minor.

• Haw. Rev.
Stat. §
707-730

Sodomy

- Hawaii does not penalize sodomy.
- Any state laws that outright prohibit sodomy are unconstitutional under *Lawrence v. Texas*, 539 U.S. 588 (2003).

• N/A

Idaho

	Definition	Crime Definition Statute
Rape	<p>The penetration, however slight, of the oral, anal or vaginal opening with a penis accomplished under any of the following circumstances:</p> <ul style="list-style-type: none">• Where the victim is under the age of 16 years and the perpetrator is 18 years of age or older;• Where the victim is 16 or 17 years and the perpetrator is three years or more older than the victim;• Where the victim is incapable, through any unsoundness of mind, due to any cause including, but not limited to, mental illness, mental disability or developmental disability (temporary or permanent), of giving legal consent;• Where the victim is prevented from resistance due to an objectively reasonable belief that resistance would be futile or that resistance would result in force or violence beyond that necessary to accomplish the prohibited contact;• Where the victim resists but the resistance is overcome by force or violence;• Where the victim is prevented from resistance by the infliction, attempted infliction, or threatened infliction of bodily harm; or is unable to resist due to any intoxicating, narcotic, or anesthetic substance;• Where the victim is at the time unconscious of the nature of the act;• Where the victim submits under the belief that the perpetrator is the victim's spouse, and the belief is induced by artifice, pretense, or concealment practiced by the perpetrator, with intent to induce such belief;• Where the victim submits under the belief that the perpetrator is someone other than	<ul style="list-style-type: none">• Idaho Code Ann. § 18-6101• The punishment for rape appears in Idaho Code Ann. § 18-6104

the accused, and the belief is induced by artifice, pretense, or concealment practiced by the accused, with the intent to induce such belief; or

- Where the victim submits under the belief, instilled by the perpetrator, that if the victim does not submit, the perpetrator 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 the victim; or expose a secret or publicize an asserted fact, whether true or false, tending to subject any person to hatred, contempt, or ridicule.

Rape of Spouse

No person shall be convicted of rape for any act or acts with that person's spouse, unless:

- Where the victim resists but the resistance is overcome by force or violence;
- Where the victim is prevented from resistance by the infliction, attempted infliction, or threatened infliction of bodily harm; or is unable to resist due to any intoxicating, narcotic, or anesthetic substance;
- Where the victim is prevented from resistance due to an objectively reasonable belief that resistance would be futile or that resistance would result in force or violence beyond that necessary to accomplish the prohibited contact; or
- Where the victim submits under the belief, instilled by the actor, that if the victim 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 the victim; or expose a secret or publicize an asserted fact, whether true or false, tending to subject any person to hatred, contempt or ridicule.

• Idaho Code
Ann. §
18-6107

Sexual Contact
With a Prisoner

- Engaging in sexual contact with a prisoner or juvenile offender (not his/her spouse), whether an in-state or out-of-state prisoner/juvenile offender, by any employee of the Idaho department of correction, the Idaho department of juvenile corrections, or

• Idaho Code
Ann. §
18-6110

- any officer, employee, or agent of a state, local, or private correctional facility; or
- Knowingly engaging in sexual contact with any parolee or probationer (not his/her spouse), by any supervising officer.

Statutory Rape

“Statutory rape” is commonly used to refer to sexual penetration that is illegal because it involves a youth and consent is immaterial. While Idaho does not expressly penalize statutory rape, the offense of rape targets this conduct.

- Idaho Code Ann. § 18-6101.

- Statutory rape is rape if defendant penetrates, however slight, the oral, anal or vaginal opening with a penis and:
 - The victim is under the age of 16 years and defendant is 18 years of age or older; or
 - The victim is 16 or 17 years and defendant is three years or more older than the victim.

Sodomy

- Idaho does not criminalize consensual sodomy.
- Any state laws that outright prohibit sodomy are unconstitutional under *Lawrence v. Texas*, 539 U.S. 588 (2003).

- N/A

Sexual Exploitation of a Vulnerable Adult

- Sexual abuse of a vulnerable adult: with the intent of arousing, appealing to, or gratifying the lust, passion, or sexual desires of a person, a vulnerable adult, or a third party to:
 - Commit any lewd or lascivious act or acts upon or with the body or any part or member thereof of a vulnerable adult including, but not limited to: genital-genital contact, oral-genital contact, anal-genital contact, oral-anal contact, manual-anal contact or manual-genital contact, whether between persons of the same or opposite sex;
 - Involve a vulnerable adult in any act of bestiality or sadomasochism; or
 - Cause or have sexual contact with a vulnerable adult, not amounting to lewd conduct as defined in the first sub-bullet above.
- Sexual exploitation of a vulnerable adult: if, for any commercial purpose, a person

- Idaho Code Ann. § 18-1505B

knowingly:

- Causes, induces, or permits a vulnerable adult to engage in or be used in any explicit sexual conduct; or
- Prepares, arranges for, publishes, produces, promotes, makes, sells, finances, offers, exhibits, advertises, deals in, possesses, or distributes sexually exploitive material.
- The possession by any person of 3 or more identical copies of any sexually exploitive material shall create a presumption that such possession is for a commercial purpose.

Sexual Abuse of a Child

- Any person 18 years of age or older, with the intent to gratify the lust, passions, or sexual desire of the actor, minor child, or third party:
 - Solicits a minor child under the age of 16 years to participate in a sexual act;
 - Causes or has sexual contact with such minor child, not amounting to lewd conduct (as defined in 18-1508);
 - Makes any photographic or electronic recording of such minor child; or
 - Induces, causes, or permits a minor child to witness an act of sexual conduct.

Idaho Code Ann. § 18-1506

Sexual Exploitation of a Child

- Knowingly and willfully:
 - Possessing or accessing through any means including, but not limited to, the internet, any sexually exploitive material;
 - Causing, inducing, or permitting a child to engage in, or be used for, any explicit sexual conduct for the purpose of producing or making sexually exploitive material;
 - Promoting, preparing, publishing, producing, making, financing, offering, exhibiting, or advertising any sexually exploitive material; or
 - Distributing through any means including, but not limited to, mail, physical delivery or exchange, use of a computer or any other electronic or digital method, any sexually exploitive material. Distribution of sexually exploitive material does not require a

• Idaho Code Ann. § 18-1507

pecuniary transaction or exchange of interests in order to complete the offense.

Lewd Conduct with a Minor Child

- With the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of a person, a minor child, or third party:
 - Committing any lewd or lascivious act or acts upon or with the body or any part or member thereof of a minor child under the age of 16 years, including but not limited to, genital-genital contact, oral-genital contact, anal-genital contact, oral-anal contact, manual-anal contact, or manual-genital contact, whether between persons of the same or opposite sex, or
 - Involving such minor child in any act of bestiality or sadomasochism.

Idaho Code Ann. § 18-1508

Sexual Battery of a Minor Child

- Any person who is at least 5 years of age older than a minor child who is 16 or 17 years of age, who, with the intent of arousing, appealing to, or gratifying the lust, passion, or sexual desires of such person, minor child, or third party, to:
 - Commit any lewd or lascivious act or acts upon or with the body or any part or any member thereof of such minor child including, but not limited to, genital-genital contact, oral-genital contact, anal-genital contact, oral-anal contact, manual-anal contact or manual-genital contact, whether between persons of the same or opposite sex, or who shall involve such minor child in any act of explicit sexual conduct;
 - Solicit such minor child to participate in a sexual act;
 - Cause or have sexual contact with such minor child, not amounting to lewd conduct as defined in the first sub-bullet above; or
 - Make any photographic or electronic recording of such minor child.

• Idaho Code Ann. § 18-1508A

Illinois

	Definition	Crime Definition Statute
Criminal Sexual Assault	<p>An act of sexual penetration and defendant:</p> <ul style="list-style-type: none">• Uses force or threat of force;• Knows that the victim is unable to understand the nature of the act or is unable to give knowing consent;• Is a family member of the victim, and the victim is under 18 years of age; or• 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.	• Ch. 720 Ill. Comp. Stat. 5/11-1.20
Aggravated Criminal Sexual Assault	<p>(A) Committing criminal sexual assault and any of the following aggravating circumstances exist during the commission of the offense or as part of the same course of conduct as the commission of the offense:</p> <ul style="list-style-type: none">• Defendant displays, threatens to use, or uses a dangerous weapon, other than a firearm, or any object fashioned or used in a manner that leads the victim, under the circumstances, reasonably to believe that the object is a dangerous weapon;• Defendant causes bodily harm to the victim;• Defendant acts in a manner that threatens or endangers the life of the victim or any other person;• Defendant commits the criminal sexual assault during the course of committing or attempting to commit any other felony;• The victim is 60 years of age or older;• The victim has a physical disability;• Defendant delivers (by injection, ingestion, or any other means) any controlled substance to the victim without the victim's consent or by threat/deception for other than medical purposes;• Defendant is armed with a firearm;• Defendant personally discharges a firearm during the commission of the offense; or	• Ch. 720 Ill. Comp. Stat. 5/11-1.30

- Defendant 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) If defendant is under the age of 17 years and:

- Commits an act of sexual penetration with a victim who is under 9 years of age; or
- Commits an act of sexual penetration with a victim who is at least 9 years of age but under 13 years of age and defendant uses force or threat of force to commit the act.

(C) An act of sexual penetration with a victim with a severe or profound intellectual disability.

Predatory
Criminal Sexual
Assault of a
Child

- Committing an act of contact, however slight, between the sex organ or anus of one person and the part of the body of another for the purpose of sexual gratification or arousal of the victim or the accused, or an act of sexual penetration, when defendant is 17 years of age or older, and:
 - The victim is under 13 years of age; or
 - The victim is under 13 years of age and defendant:
 - Is armed with a firearm;
 - Personally discharges a firearm during the commission of the offense;
 - Causes great bodily harm to the victim that results in permanent disability or is life threatening; or
 - Delivers (by injection, ingestion, or any other means) any controlled substance to the victim without the victim's consent or by threat/deception, for other than medical purposes.

• Ch. 720 Ill.
Comp.
Stat.
5/11-1.40

Sodomy

- Illinois does not penalize sodomy.
- Any state laws that outright prohibit sodomy are unconstitutional under *Lawrence v. Texas*, 539 U.S. 588 (2003).

• N/A

Indiana

	Definition	Crime Definition Statute
Rape	<ul style="list-style-type: none"> • Knowingly or intentionally having sexual intercourse with another person or knowingly or intentionally causing another person to perform or submit to other sexual conduct when: <ul style="list-style-type: none"> • The other person is compelled by force or imminent threat of force; • The other person is unaware that the sexual intercourse or other sexual contact is occurring; or • The other person is so mentally disabled or deficient that consent to sexual intercourse or other sexual contact cannot be given. 	<ul style="list-style-type: none"> • Ind. Code § 35-42-4-1.
Sexual Battery	<p>With intent to arouse or satisfy defendant's own sexual desires or the sexual desires of another person, defendant:</p> <ul style="list-style-type: none"> • Touches another person when that person is: • Compelled to submit to the touching by force or the imminent threat of force; or • So mentally disabled or deficient that consent to the touching cannot be given; or • Touches another person's genitals, pubic area, buttocks, or female breast when that person is unaware that the touching is occurring. 	<ul style="list-style-type: none"> • Ind. Code § 35-42-4-8.
Child Seduction	<ul style="list-style-type: none"> • If defendant is at least 18 years of age and is: <ul style="list-style-type: none"> • The guardian, adoptive parent or grandparent, custodian, or stepparent of; or • The child care worker for; • a child less than 18 years of age; and • engages with the child in sexual intercourse or other sexual conduct, or any fondling or touching with the intent to arouse or satisfy the sexual desires of either the child or the adult. • If defendant: <ul style="list-style-type: none"> • Has or had a professional relationship with a child less than 18 years of age whom defendant knows to be less than 18 years of age; • May exert undue influence on the child because of defendant's current or 	<ul style="list-style-type: none"> • Ind. Code § 35-42-4-7.

previous professional relationship with the child; and

- Uses or exerts defendant's professional relationship to engage in sexual intercourse, deviate sexual conduct, or any fondling or touching with the child with the intent to arouse or satisfy the sexual desires of the child or the person.
- **Note:** In determining whether defendant used or exerted defendant's professional relationship with the child to engage in the penalized behavior, the trier of fact may consider:
 - The age difference between defendant and the child;
 - Whether defendant was in a position of trust with respect to the child;
 - Whether defendant's conduct with the child violated any ethical obligations of defendant's profession or occupation;
 - The authority that defendant had over the child;
 - Whether defendant exploited any particular vulnerability of the child;
 - Any other evidence relevant to defendant's ability to exert undue influence over the child.
- If defendant:
 - is a law enforcement officer who is at least five years older than a child who is less than 18;
 - has contact with the child while acting within the scope of the law enforcement officer's official duties with respect to the child; and
 - uses or exerts the law enforcement officer's professional relationship with the child to engage with the child in sexual intercourse, other sexual conduct or any fondling or touching with the child with the intent to arouse or satisfy the sexual desires of the child or the law enforcement officer.

Sodomy	<ul style="list-style-type: none"> • Indiana does not criminalize sodomy. • Any state laws that outright prohibit sodomy are unconstitutional under <i>Lawrence v. Texas</i>, 539 U.S. 588 (2003). 	Ind. Code § 35-1.89-1, which criminalized sodomy, was repealed in 1976
Child Molesting	<ul style="list-style-type: none"> • Knowing or intentional performance of or submission to sexual intercourse or other sexual conduct with a child under 14 years of age (referred to below as child molesting (Type 1)) or • Performance of or submission to any fondling or touching, of either oneself or a child under 14 years of age, with intent to arouse or to satisfy the sexual desires of either oneself or the child (referred to below as child molesting (Type 2)). 	Ind. Code § 35-42-4-3
Sexual Misconduct with a Minor	<ul style="list-style-type: none"> • Knowing or intentional performance of or submission to, by a person who is at least 18 years of age, sexual intercourse or other sexual conduct with a child who is less than 16 years of age (referred to below as sexual misconduct with a minor (Type 1)) or • Knowing or intentional performance of or submission to, by a person who is at least 18 years of age, any fondling or touching of either such person or a child who is less than 16 years of age, with intent to arouse or to satisfy the sexual desires of either such person or the child (referred to below as sexual misconduct with a minor (Type 2)). 	Ind. Code § 35-42-4-9

Iowa

	Definition	Crime Definition Statute
Sexual Abuse in the First Degree	<ul style="list-style-type: none"> • In the course of committing sexual abuse, defendant causes another serious injury 	<ul style="list-style-type: none"> • Iowa Code § 709.2
Sexual Abuse in the Second Degree	<p>Committing sexual abuse under any of the following circumstances:</p> <ul style="list-style-type: none"> • During the commission of sexual abuse defendant displays in a threatening manner a dangerous weapon, or uses or threatens to use force creating a substantial risk of death 	<ul style="list-style-type: none"> • Iowa Code § 709.3

- or serious injury to any person;
- The other person is under the age of 12; or
- Defendant 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 Third Degree Performing a sex act under any of the following circumstances:

• Iowa Code § 709.4

- 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;
 - The other person is suffering from a mental defect or incapacity which precludes giving consent;
 - The other person is 12 or 13 years of age;
 - The other person is 14 or 15 years of age and:
 1. Defendant is a member of the same household as the other person;
 2. Defendant is related to the other person by blood or affinity to the fourth degree;
 3. Defendant is in a position of authority over the other person and uses that authority to coerce the other person to submit; or
 4. Defendant is four or more years older than the other person;
- The act is between persons who are not at the time cohabiting as husband and wife and;
- The act is performed while the other person is under the influence of a controlled substance, and:
 - The controlled substance prevents the other person from consenting to the act; and
 - Defendant knows or reasonably should have known that the other person was under the influence of the controlled substance; or
- The act is performed while the other person is mentally incapacitated, physically incapacitated, or physically helpless.

Assault with
Intent to
Commit Sexual
Abuse

- Committing an assault with the intent to commit sexual abuse.

• Iowa Code
§ 709.11

Statutory Rape

“**Statutory rape**” is commonly used to refer to sexual penetration that is illegal because it involves a youth and consent is immaterial. While Iowa does not expressly penalize statutory rape, sexual abuse in the 1st, 2d, and 3d degrees targets “statutory rape” under certain circumstances.

• Iowa Code
§§ 709.2
–.4

Statutory rape is Sexual Abuse (1st degree) if, in the course of the commission of the sex act, defendant causes another serious injury.

Statutory rape is Sexual Abuse (2d degree) if defendant performs any sex act and the victim is under the age of 12 years.

Statutory rape is Sexual Abuse (3d degree) if the defendant and victim are not cohabiting at the time of the sex act and:

- The other person is 12 or 13 years of age;
- The other person is 14 or 15 years of age and:
 - Defendant is a member of the same household as the other person;
 - Defendant is related to the other person by blood or affinity to the fourth degree;
 - Defendant is in a position of authority over the other person and uses that authority to coerce the other person to submit; or
 - Defendant is four or more years older than the other person.

Sodomy

- Iowa does not penalize sodomy.
- Any state laws that outright prohibit sodomy are unconstitutional under *Lawrence v. Texas*, 539 U.S. 588 (2003).

• N/A

Lascivious Acts
with a Child

- Performing, when 16 years of age or older, any of the following acts with a child to whom the person is not married, for the purpose of arousing or satisfying the sexual desires of either of them:
 - Fondle or touch the pubes or genitals

• Iowa Code
§ 709.8.

- of the child.
- Permit or cause the child to fondle or touch the person's genitals or pubes.
- Cause the touching of the person's genitals to any part of the body of the child.
- Solicit the child to engage in a sex act or solicit a person to arrange a sex act with the child.
- Inflict pain or discomfort upon the child or permit the child to inflict pain or discomfort on the person.

Kansas

	Definition	Crime Definition Statute
Rape	<ul style="list-style-type: none"> • Knowingly engaging in sexual intercourse with another person who does not consent when: <ul style="list-style-type: none"> • The victim is overcome by force or fear • The victim is unconscious or physically powerless; or • Knowingly engaging in sexual intercourse with another person when that person 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; or • Engaging in sexual intercourse with a child under 14 years of age; or • Engaging in 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 • Engaging in 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. 	<ul style="list-style-type: none"> • KAN. STAT. ANN. § 21-5503

Sexual Battery;
Aggravated
Sexual Battery

- Sexual battery is the touching of a victim who is not the spouse of the offender, who does not consent and is older than 16, with the intent to arouse or satisfy the sexual desires of the offender or another.
- Aggravated sexual battery is the touching of a nonconsenting victim who is 16 or more years of age with the intent to arouse or satisfy the sexual desires of the offender or another when:
 - The victim is overcome by force or fear;
 - The victim is unconscious or physically powerless; or
 - 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

• KAN. STAT.
ANN. §
21-5505

Indecent
Liberties with a
Child

Indecent liberties with a child is engaging in any of the following acts with a child who is 14 or more years of age but less than 16 years of age:

• KAN. STAT.
ANN.
21-5506(a)

- Any lewd fondling or touching of the person of either the child or the offender, done or submitted to with the intent to arouse or to satisfy the sexual desires of either the child or the offender, or both; or
- Soliciting the child to engage in any lewd fondling or touching of the person of another with the intent to arouse or satisfy the sexual desires of the child, the offender or another.

Aggravated
Indecent
Liberties with a
Child

Aggravated indecent liberties with a child is:

• KAN. STAT.
ANN. §§
21-5506(b);
21-5501
(definitions)

- Any lewd fondling or touching of the person of either the child or the offender, done or submitted to with the intent to arouse or to satisfy the sexual desires of either the child or the offender, or both; or
- Causing the child to engage in any lewd fondling or touching of the person of another with the intent to arouse or satisfy the sexual desires of the child, the offender or another; or
- Engaging in any of the following acts with a child who is 14-16 years of age and who does

not consent:

- Sexual intercourse with a child who is 14-16 years of age;
- Engaging in any of the following acts with a child who is under 14:
 - Any lewd fondling or touching of the person of either the child or the offender, done or submitted to with the intent to arouse or to satisfy the sexual desires of either the child or the offender, or both; or
 - Soliciting the child to engage in any lewd fondling or touching of the person of another with the intent to arouse or satisfy the sexual desires of the child, the offender or another

Statutory Rape

Kansas does not explicitly refer to a crime of “statutory rape.” But several of the relevant statutes specifically penalize sex acts with minors:

- Sexual intercourse with a minor under 14 is a severity level 1, person felony
- Sexual intercourse with a child between 14-16 years is a severity level 3, person felony
- Engaging in lewd acts (see description of “Aggravated Indecent Liberties with a Child”) with a 14-16 year old is a severity level 4, person felony
- Engaging in lewd acts with a child younger than 14 is a severity level 3, person felony

• KAN. STAT. ANN. §§ 21-5503 et sequential; 21-5501 (definitions)

Sodomy (Criminal Sodomy and Aggravated Criminal Sodomy)

Criminal sodomy is:

- Sodomy between persons who are 16 or more years of age and members of the same sex;
- Sodomy between a person and an animal;
- Sodomy with a child who is 14 or more years of age but less than 16 years of age; or
- 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.

• KAN. STAT. ANN. § 21-5504

Aggravated criminal sodomy is:

- Sodomy with a child who is under 14 years of age;
- Causing a child under 14 years of age to engage in sodomy with any person or an animal; or
- 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:

- When the victim is overcome by force or fear;
- When the victim is unconscious or physically powerless; or
- 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.

Unlawful Voluntary Sexual Relations

Unlawful voluntary sexual relations is engaging in any of the following acts with a child who is 14 or more years of age but less than 16 years of age:

- (A) voluntary sexual intercourse;
- (B) voluntary sodomy; or
- (C) voluntary lewd fondling or touching,

where all of the following factors are present:

- The defendant is less than 19 years of age;
- The defendant is less than four years of age older than the child;
- the child and the offender are the only parties involved; and
- the child and the offender are members of the opposite sex.

Unlawful Sexual Relations

Unlawful sexual relations is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy with a person who is 16 years of age or older and who is not married to the offender (referred to below as the "victim") where the offender is:

- an employee or volunteer of the department of corrections, or of a contractor who is under contract to provide services for a correctional institution, and the victim is an inmate;
- 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

• KAN. STAT. ANN. §§ 21-5507; 21-5501 (definitions)

• KAN. STAT. ANN. § 21-5512

parole, conditional release or post-release supervision and the victim is, and the offender knows the victim is, an inmate who has been released on parole, conditional release or post-release supervision;

- 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 victim is confined to such jail;
- 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 victim is confined to such facility or sanctions house;
- an employee of the department of corrections or the employee of a contractor who is under contract to provide services in a juvenile correctional facility and the victim is confined to such facility;
- an employee of the department of corrections or the employee of a contractor who is under contract to provide direct supervision and offender control services to the department of corrections and the victim has either been released on conditional release from a juvenile correctional facility under the supervision and control of the department of corrections or juvenile community supervision agency or been placed in the custody of the department of corrections under the supervision and control of the department of corrections or juvenile community supervision agency, and the offender knows of such release or placement;
- an employee of the Kansas department for aging and disability services or the Kansas department for children and families or the employee of a contractor who is under contract to provide services in an aging and disability or children and families institution or to the Kansas department for aging and disability services or the Kansas department for children and families and victim is a patient in such institution or in the custody of the secretary for aging and disability services or the secretary for children and families;

- a worker, volunteer or other person in a position of authority in a family foster home licensed by the department of health and environment and the victim is a foster child placed in the care of such family foster home;
- a teacher or other person in a position of authority and the victim is a student enrolled at the school where the offender is employed;
- 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 victim has been, and the offender knows the victim has been, placed on probation under the supervision and control of court services;
- 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 victim has been, and the offender knows the victim has been, assigned to a community correctional services program under the supervision and control of community corrections;
- a surety or an employee of a surety and the victim is, and the offender knows the victim is, the subject of a surety or bail bond agreement with such surety; or
- a law enforcement officer and the victim is interacting with such law enforcement officer during the course of a traffic stop, a custodial interrogation, an interview in connection with an investigation, or while the law enforcement officer has such person detained.

Kentucky

	Definition	Crime Definition Statute
Rape in the First Degree	<ul style="list-style-type: none"> • Sexual intercourse with someone who cannot consent because: • Sexual intercourse by forcible compulsion; or <ul style="list-style-type: none"> • That person is physically helpless; or • That person is younger than 12. 	<ul style="list-style-type: none"> • KY. REV. STAT. ANN. § 510.040

Rape in the Second Degree	Occurs when someone who is 18 or older: <ul style="list-style-type: none"> • Has intercourse with someone younger than 14; or • Has intercourse with someone who is mentally incapacitated or who is incapable of consent because he or she is an individual with an intellectual disability. 	• KY. REV. STAT. ANN. § 510.050
Rape in the Third Degree	Occurs when: <ul style="list-style-type: none"> • A person is 21 or older and has intercourse with someone younger than 16; • A person is 21 or older and has intercourse with someone younger than 18 for whom he or she provides a foster home; • A person is in a position of authority or special trust and has intercourse with a minor under the age of 18 whom that person met through the position of authority or trust; or • A person is employed by or otherwise related to the Kentucky correctional system and subjects another person the offender knows to be incarcerated, supervised, evaluated, or treated by the correctional system to sexual intercourse. 	• KY. REV. STAT. ANN. § 510.060
Sodomy in the First Degree	<ul style="list-style-type: none"> • Deviate sexual intercourse with another person by forcible compulsion; or • Deviate sexual intercourse with another person who cannot consent because: <ul style="list-style-type: none"> • The victim is physically helpless; or • The victim is under 12 years old. 	• KY. REV. STAT. ANN. § 510.070
Sodomy in the Second Degree	<ul style="list-style-type: none"> • Deviate sexual intercourse by someone 18 or older with someone younger than 14; or • Deviate sexual intercourse with someone who is mentally incapacitated or who is incapable of consent because he or she is an individual with an intellectual disability 	• KY. REV. STAT. ANN. § 510.080
Sodomy in the Third Degree	Occurs when: <ul style="list-style-type: none"> • A person is 21 or older and has deviate sexual intercourse with someone younger than 16; • A person is 21 or older and has deviate sexual intercourse with someone younger than 18 for whom he or she provides a foster home; • A person is in a position of authority or special trust and has deviate sexual 	• KY. REV. STAT. ANN. § 510.090

intercourse with a minor whom that person met through their position of authority or trust; or

- A person is employed by or otherwise related to the Kentucky correctional system and subjects another person the offender knows to be incarcerated, supervised, evaluated, or treated by the correctional system to deviate sexual intercourse.

Sexual Abuse in Occurs when:
the First Degree

- Is physically helpless;
 - Is younger than 12 years old; or
 - Is mentally incapacitated; or
 - Has an intellectual disability
- Subjects another person to sexual contact who is incapable of consent because he or she:
 - A person subjects another person to sexual contact by forcible compulsion; or
 - Being 21 or older, he or she:
 - Subjects another person who is younger than 16 to sexual contact;
 - Engages in masturbation in the presence of another person who is less than 16 years old and knows or has reason to know the other person 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 16 years old, and the minor can see or hear the person masturbate; or
 - Being a person in a position of authority or position of special trust he or she, regardless of his or her age, subjects a minor younger than 18, 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 16 years old, and the minor can see or hear the person

• KY. REV.
STAT.
ANN. §
510.110

masturbate.

Sexual Abuse in the Second Degree	Occurs when: <ul style="list-style-type: none">• The offender is at least 18 but younger than 21 and subjects another person who younger than 16 years old to sexual contact; or• A person is employed by or otherwise related to the Kentucky correctional system and subjects a person who is at least 18 and who he or she knows is incarcerated, supervised, evaluated, or treated by correctional system to sexual contact.	• KY. REV. STAT. ANN. § 510.120
Sexual Abuse in the Third Degree	<ul style="list-style-type: none">• Subjecting another person to sexual contact without the latter's consent.• It is a defense that:<ul style="list-style-type: none">• The other person's lack of consent was due solely to incapacity to consent by reason of being younger than 16; and• The other person was at least 14 years old; and• The actor was less than eighteen 18 years old.	• KY. REV. STAT. ANN. § 510.130
Sexual Misconduct	<ul style="list-style-type: none">• Engaging in sexual intercourse or deviate sexual intercourse with another person without the latter's consent.	• KY. REV. STAT. ANN. § 510.140
Statutory Rape	Statutory rape is not specifically penalized in Kentucky. But several statutes criminalize specific sex acts with minors: <ul style="list-style-type: none">• Sex with persons under 12 is first degree rape;• Sex with someone older than 12 but younger than 14 is second degree rape;• A 21 year old who has sexual intercourse with someone younger than 16 commits rape in the third degree;• Deviate sexual intercourse with someone younger than 12 is sodomy in the first degree;• Deviate sexual intercourse between an 18 year old and someone younger than 14 constitutes sodomy in the second degree;• Deviate sexual intercourse between a 21 year old and someone younger than 16 is sodomy in the third degree;• Sexual contact with someone younger than	• KY. REV. STAT. ANN. § 510.040 et sequential

- 12, or between someone 21 years old and someone younger than 16, constitutes sexual abuse in the first degree; and
- Sexual contact between someone older than 18 but younger than 21 with someone younger than 16 is sexual abuse in the second degree.

Louisiana

	Definition	Crime Definition Statute
First Degree Rape	<p>First degree rape is a rape committed upon a person 65 or older or where the anal, oral, or vaginal sexual intercourse is deemed to be without lawful consent of the victim because it is committed under any one or more of the following circumstances:</p> <ul style="list-style-type: none"> • When the victim resists the act to the utmost, but the resistance is overcome by force; • When the victim is prevented from resisting the act by threats of great and immediate bodily harm, accompanied by apparent power of execution; • When the victim is prevented from resisting the act because the offender is armed with a dangerous weapon; • When the victim is under 13. Lack of knowledge of the victim's age is not a defense; • When two or more offenders participate in the act; or • When the victim is prevented from resisting the act because the victim suffers from a physical or mental infirmity preventing such resistance. 	<ul style="list-style-type: none"> • LA. REV. STAT. ANN. §§ 14.41, 14:42
Second Degree Rape	<p>Anal, oral, or vaginal sexual intercourse without the lawful consent of the victim because:</p> <ul style="list-style-type: none"> • 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; and/or • The victim is incapable of resisting or of 	<ul style="list-style-type: none"> • LA. REV. STAT. ANN. § 14:42.1

understanding the nature of the act by reason of intoxication 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

Third Degree Rape

Anal, oral, or vaginal sexual intercourse without the lawful consent of a victim because it is committed under any one or more of the following circumstances:

LA. REV. STAT. ANN. § 14:43

- 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;
- The victim, through unsoundness of mind, is temporarily or permanently incapable of understanding the nature of the act and the offender knew or should have known of the victim's incapacity; or
- 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.

Sexual Battery

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, or 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, when any of the following occur:

LA. REV. STAT. ANN. § 14:43.1

- The offender acts without the consent of the victim;
- The act is consensual but the other person, who is not the spouse of the offender, has not yet turned 15 and is at least three years younger than the offender;
- The offender is 17 or older and any of the following exist:
 - The act is without consent of the victim, and the victim is prevented from resisting the act because either of the following conditions exist:

- The victim has paraplegia, quadriplegia, or is otherwise physically incapable of preventing the act due to a physical disability; or
- The victim is incapable, through unsoundness of mind, of understanding the nature of the act, and the offender knew or should have known of the victim's incapacity; or
- The act is without consent of the victim, and the victim is sixty-five years of age or older.

Lack of knowledge of the victim's age shall not be a defense. However, normal medical treatment or normal sanitary care shall not be construed as an offense under the provisions of this Section.

Second Degree Sexual Battery

Intentionally engaging in any of the following acts with another person when the offender intentionally inflicts serious bodily injury on the victim:

LA. REV. STAT. ANN. § 14:43.2

- 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
- 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.

Oral Sexual Battery

Intentional touching of the anus or genitals of the victim by the offender using the mouth or tongue of the offender, or the touching of the anus or genitals of the offender by the victim using the mouth or tongue of the victim, when any of the following occur:

LA. REV. STAT. ANN. § 14:43.3

- The victim, who is not the spouse of the offender, is under 15 and is at least three years younger than the offender;
- The offender is 17 or older and any of the following exist:
 - The act is without the consent of the victim, and the victim is prevented from resisting the act because either of the following conditions exist:
 - The victim has paraplegia, quadriplegia, or is otherwise

physically incapable of preventing the act due to a physical disability.

- The victim is incapable, through unsoundness of mind, of understanding the nature of the act, and the offender knew or should have known of the victim's incapacity; or

- The act is without the consent of the victim, and the victim is sixty-five years of age or older.

Lack of knowledge of the victim's age shall not be a defense

Statutory Rape

Statutory rape is not specifically penalized in Louisiana. But several statutes criminalize specific sex acts with minors:

- LA. REV. STAT. ANN. § 14:42 et sequential

- Aggravated rape punishes sexual intercourse with someone under 13;
- Sexual battery when, though the sex act is consensual, the victim is younger than 15 and at least three years younger than the offender; and
- Oral sexual battery when the victim is younger than 15 and at least three years younger than the offender.

Sodomy

- Louisiana seemingly does not criminalize sodomy.
- Any state laws that outright prohibit sodomy are unconstitutional under *Lawrence v. Texas*, 539 U.S. 588 (2003).

- N/A

Misdemeanor Sexual Battery

Intentional touching of the breasts or buttocks of the victim by the offender using any instrumentality or any part of the body of the offender, directly or through clothing, or the intentional touching of the breasts or buttocks of the offender by the victim using any instrumentality or any part of the body of the victim, directly or through clothing, when the offender acts without the consent of the victim.

- LA. REV. STAT. ANN. § 14:43.1.1

Maine

	Definition	Crime Definition Statute
Gross Sexual Assault	<ul style="list-style-type: none"> • Sexual act with another person and: <ul style="list-style-type: none"> • The other person submits as a result of compulsion; • The other person, not the actor's spouse, is under 14; or • The other person, not the actor's spouse, is under 12 (in all cases a class A crime). • Sexual act with another person and: <ul style="list-style-type: none"> • The actor has substantially impaired the other person's power to appraise or control the other person's sexual acts by furnishing, administering or employing drugs, intoxicants or other similar means (a class B crime); • The actor compels or induces the other person to engage in the sexual act by any threat (a class B crime); • 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 (a class B crime); • The other person is unconscious or otherwise physically incapable of resisting and has not consented to the sexual act (a class B crime); • 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 (a class B crime); • The other person, not the actor's spouse, is under 18 and is a student enrolled in a private or public 	<ul style="list-style-type: none"> • ME. REV. STAT. tit. 17A, §§ 251, 253

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 (a class C crime);

- 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, child care facility, facility operated by a family child care provider, children's residential care facility, drug treatment center, licensed youth camp 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 (a class C crime);
- The other person is under 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 (a class B crime);
- 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 current patient or client of the actor (a class C crime);
- 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 an intellectual disability or autism (a class C crime);
- 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 suffers from a mental disability that is reasonably apparent or known to the actor (a class C crime);

- The other person has not expressly or impliedly acquiesced to the sexual act (a class C crime);
- The actor is employed to provide care to a dependent person, who is not the actor's spouse or domestic partner and who is unable to perform self-care because of advanced age or physical or mental disease, disorder or defect (a class C crime); or
- The actor is a law enforcement officer acting in performance of official duties and the other person, not the actor's spouse, is under arrest, in custody or being interrogated or temporarily detained, including during a traffic stop or questioning pursuant to an investigation of a crime (a class B crime).

Sodomy

- Maine does not appear to criminalize sodomy.
- Any state laws that outright prohibit sodomy are unconstitutional under *Lawrence v. Texas*, 539 U.S. 588 (2003).

N/A

Statutory Rape

- Maine does not specifically penalize statutory rape, but it does punish several crimes related to sexual acts with minors.

• ME. REV. STAT. tit. 17A, §§ 251, 253, 254, 255-A

Unlawful Sexual Contact

- Intentionally subjecting another person to any sexual contact and:
- The other person has not expressly or impliedly acquiesced in the sexual contact (a Class D crime);
 - The other person has not expressly or impliedly acquiesced in the sexual contact and the sexual contact includes penetration

• ME. REV. STAT. tit. 17A, §§ 255-A, 1602 and 1704.

(a Class C crime);

- The other person is unconscious or otherwise physically incapable of resisting and has not consented to the sexual contact (a Class D crime unless the contact includes penetration, in which case the offense is a class C crime);
- The other person, not the actor's spouse, is less than 14 years of age and the actor is at least 3 years older (a Class C crime unless the contact includes penetration, in which case the offense is a Class B crime);
- The other person, not the actor's spouse, is less than 12 years of age and the actor is at least 3 years older (a Class B crime unless the contact includes penetration, in which case the offense is a Class A crime);
- The other person, not the actor's spouse, is either 14 or 15 years of age and the actor is at least 10 years older than the other person (a Class D crime);
- 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 (a Class D crime unless the contact includes penetration, in which case the offense is a Class C crime);
- 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 (a Class D crime unless the contact includes penetration, in which case the offense is a Class C crime);
- The other person, not the actor's spouse, 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 (a Class D crime unless the contact includes penetration, in which case the offense is a Class C crime);
- The other person is 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 (a Class C crime unless the contact includes penetration, in which case the offense is a Class B crime);
 - The other person submits as a result of compulsion (a Class C crime unless the contact includes penetration, in which case the offense is a Class B crime);
 - 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 an intellectual disability or autism (a Class D crime unless the contact includes penetration, in which case the offense is a Class C crime);
 - 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 suffers from a mental disability that is reasonably apparent or known to the actor (a Class D crime unless the contact includes penetration, in which case the offense is a Class C crime);
 - The other person, not the actor's spouse, is 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 (a Class E crime unless the contact includes penetration, in which case the offense is a Class D crime);

- The actor is a psychiatrist, a psychologist or licensed as a social worker or counseling professional or purports to be a psychiatrist, a psychologist or licensed as a social worker or counseling professional to the other person and the other person, not the actor's spouse, is a current patient or client of the actor (a Class D crime unless the contact includes penetration, in which case the offense is a Class C crime); or
- The actor is employed to provide care to a dependent person, who is not the actor's spouse or domestic partner and who is unable to perform self-care because of advanced age or physical or mental disease, disorder or defect (a Class D crime unless the contact includes penetration, in which case the offense is a Class C crime).

Maryland

	Definition	Crime Definition Statute
Rape in the First Degree	<p>Vaginal intercourse, or a sexual act, with another by force or threat of force, without the consent of the other, and defendant:</p> <ul style="list-style-type: none"> • Employs/displays a dangerous weapon, or a physical object the victim reasonably believes is a dangerous weapon; • Inflicts serious physical injury on the victim or another in the course of committing the crime; • Threatens or places the victim in fear that the victim, or a 3rd person known to the victim, imminently will be subject to death, suffocation, etc.; • Commits the crime while aided and abetted by another; or • Commits the crime in connection with a burglary in the 1st, 2nd, or 3rd degree. 	<ul style="list-style-type: none"> • Md. Code Ann., Criminal Law § 3-303

Rape in the
Second Degree

Vaginal intercourse or a sexual act with another:

- By force, or the threat of force, without the consent of the other;
- If the victim is a substantially cognitively impaired 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 substantially cognitively impaired individual, etc.; or
- If the victim is under the age of 14 years, and the defendant is at least 4 years older than the victim.

•Md. Code
Ann.,
Criminal
Law §
3-304

Sexual Offense
in the Third
Degree

- (1) Engaging in sexual contact with another without the consent of the other; and:
 - Employing/displaying a dangerous weapon, or a physical object the victim reasonably believes is a dangerous weapon;
 - Suffocating, strangling, disfiguring, or inflicting serious physical injury on the victim or another in the course of committing the crime;
 - Threatening or placing the victim in fear that the victim, or a 3rd person known to the victim, imminently will be subject to death, suffocation, strangulation, disfigurement, serious physical injury, or kidnapping; or
 - Committing the crime while aided and abetted by another;
- (2) Engaging in sexual contact with another if the victim is a substantially cognitively impaired 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 substantially cognitively impaired individual, a mentally incapacitated individual, or a physically helpless individual;
- (3) Engaging 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) Engaging in a sexual act with another if

•Md. Code
Ann.,
Criminal
Law §
3-307

the victim is 14 or 15 years old, and the person performing the sexual act is at least 21 years old; or

- (5) Engaging 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.

Sexual Offense
in the Fourth
Degree

- Engaging in:
 - Sexual contact with another without the consent of the other;
 - 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
 - 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.
- 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 position of authority is employed.
- 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 position of authority is employed.

• Md. Code
Ann.,
Criminal
Law §
3-308

Sexual Conduct
Between
Correctional or
Juvenile Justice
Employee and
Inmate or
Confined Child

- **Correctional employee with inmate:**
 - A correctional employee or any other individual working in a correctional facility, or an employee of a contractor providing goods or services to the Department of Public Safety and Correctional Services or a correctional facility, may not engage in sexual contact, vaginal intercourse, or a sexual act with an inmate.
- **Juvenile Services employee with confined child:**
 - A person may not engage in sexual contact, vaginal intercourse, or a sexual act with an individual confined to a child care institution licensed by the Department, a detention center for juveniles, or a facility for juveniles.
- **Court-ordered services provider:**

• Md. Code
Ann.,
Criminal
Law §
3-314

	<ul style="list-style-type: none"> • A court-ordered services provider may not engage in sexual contact, vaginal intercourse, or a sexual act with an individual ordered to obtain services while the order is in effect. 	
Continuing Course of Conduct Against Child	<ul style="list-style-type: none"> • Engaging in a continuing course of conduct which includes three or more acts that would constitute rape (1st or 2d degree) or sexual offense (1st, 2d, or 3d degree) over a period of 90 days or more, with a victim who is under the age of 14 years at any time during the course of conduct. 	<ul style="list-style-type: none"> • Md. Code Ann., Criminal Law § 3-315
Sodomy	<ul style="list-style-type: none"> • Sodomy is not defined in the Maryland Code. 	<ul style="list-style-type: none"> • Md. Code Ann., Criminal Law § 3-321

Massachusetts

	Definition	Crime Definition Statute
Rape	<ul style="list-style-type: none"> • Sexual intercourse or unnatural sexual intercourse with a person, by force and against his will, or by threat of bodily injury. 	<ul style="list-style-type: none"> • Mass. Gen. Laws. Ann. ch. 265, § 22
Forcible Rape of a Child	<ul style="list-style-type: none"> • Sexual intercourse or unnatural sexual intercourse with a child under 16 by force and against child's will or by threat of bodily injury. 	<ul style="list-style-type: none"> • Mass. Gen. Laws. Ann. ch. 265, § 22A
Sodomy	<ul style="list-style-type: none"> • Abominable and detestable crime against nature, either with mankind or with a beast. 	<ul style="list-style-type: none"> • Mass. Gen. Laws. Ann. ch. 272, § 34
Inducement	<ul style="list-style-type: none"> • Inducement of a person under 18 of chaste life to have unlawful sexual intercourse. 	<ul style="list-style-type: none"> • Mass. Gen. Laws. Ann. Ch. 272 §4
Rape of a Child During Commission of Certain Offenses and:	<p>Sexual intercourse or unnatural sexual intercourse with a child under 16 by force and against child's will or by threat of bodily injury</p> <ul style="list-style-type: none"> • The sexual intercourse or unnatural sexual intercourse is committed during the commission or attempted commission of any of the following offenses: (1) armed 	<ul style="list-style-type: none"> • Mass. Gen. Laws. Ann. ch. 265, § 22B

burglary; (2) unarmed burglary; (3) breaking and entering; (4) entering without breaking; (5) breaking and entering into a dwelling house; (6) kidnapping; (7) armed robbery; (8) unarmed robbery; (9) assault and battery with a dangerous weapon or assault with a dangerous weapon; (10) home invasion; or (11) posing or exhibiting child in state of nudity or sexual conduct;

- The sexual intercourse or unnatural sexual intercourse results in, or is committed by means of an act or acts resulting in, substantial bodily injury;
- The sexual intercourse or unnatural sexual intercourse is committed while the victim is tied, bound or gagged;
- The sexual intercourse or unnatural sexual intercourse is committed after the defendant administered, or caused to be administered, alcohol or a controlled substance by injection, inhalation, ingestion, or any other means to the victim without the victim's consent;
- The sexual intercourse or unnatural sexual intercourse is committed by a joint enterprise; or
- The sexual intercourse or unnatural sexual intercourse was committed in a manner in which the victim could contract a sexually transmitted disease or infection of which the defendant knew or should have known he was a carrier.

Rape of a Child
by Previously
Convicted
Offenders

Sexual intercourse or unnatural sexual intercourse with a child under 16 by force and against child's will or by threat of bodily injury, by someone who has been previously convicted of or adjudicated delinquent or as a youthful offender for:

- indecent assault and battery on a child under 14;
- aggravated indecent assault and battery on a child under 14;
- indecent assault and battery on a person 14 or older;
- assault of a child with intent to commit rape;
- rape of a child with force;
- aggravated rape of a child with force;
- rape and abuse of a child;

• Mass. Gen.
Laws. Ann.
ch. 265, §
22C

Statutory Rape	<ul style="list-style-type: none"> • aggravated rape and abuse of a child; • rape; or • a like violation of the laws of another state, the United States or a military, territorial or Indian tribal authority. • Unlawful sexual intercourse or unnatural sexual intercourse, and abuse of, a child, under 16. 	<ul style="list-style-type: none"> • Mass. Gen. Laws. Ann. ch. 265, § 23
Aggravated Statutory Rape of a Child	<p>Unlawful sexual intercourse or unnatural sexual intercourse with, and abuse of, a child under 16 and:</p> <ul style="list-style-type: none"> • there exists more than a 5 year age difference between the defendant and victim and the victim under 12; • there exists more than a 10 year age difference between the defendant and the victim and the victim is between 12 and 16; or • at the time of the intercourse, the defendant was a mandated reporter (i.e., doctor, teacher, other child advocate, etc.). 	<ul style="list-style-type: none"> • Mass. Gen. Laws. Ann. ch. 265, § 23A
Statutory Rape of a Child by Previously Convicted Offenders	<p>Unlawful sexual intercourse or unnatural sexual intercourse with, and abuse of, a child under 16, by someone who has been previously convicted of or adjudicated delinquent or as a youthful offender for:</p> <ol style="list-style-type: none"> 1. indecent assault and battery on a child under 14; 2. aggravated indecent assault and battery on a child under 14; 3. indecent assault and battery on a person 14 or older; 4. assault of a child with intent to commit rape; 5. rape of a child with force; 6. aggravated rape of a child with force; 7. rape and abuse of a child; 8. aggravated rape and abuse of a child; 9. rape; or 10. a like violation of the laws of another state, the United States or a military, territorial or Indian tribal authority. 	<ul style="list-style-type: none"> • Mass. Gen. Laws. Ann. ch. 265, § 23B
Indecent Assault and Battery on Child Under 14	<p>Indecent assault and battery on a child under 14.</p>	<ul style="list-style-type: none"> • Mass. Gen. Laws. Ann. ch. 265, § 13B

Indecent Assault and Battery on Person 14 or Older

• Indecent assault and battery on person 14 years or older.

• Mass. Gen. Laws. Ann. ch. 265, § 13H

Michigan

	Definition	Crime Definition Statute
Criminal Sexual Conduct in the First Degree	<ul style="list-style-type: none">• Sexual penetration with another person and if any of the following circumstances exists:<ul style="list-style-type: none">• That other person is under 13 years of age;• That other person is at least 13 but less than 16 years of age and any of the following:<ul style="list-style-type: none">• 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;• The actor is in a position of authority over the victim and used this authority to coerce the victim to submit;• 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;• 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,	• Mich. Comp. Laws Ann. § 750.520b

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; or

- The actor is an employee, contractual service provider, or volunteer of a child care organization, or a person licensed to operate a foster family home or a foster family group home in which that other person is a resident, and the sexual penetration occurs during the period of that other person's residency;
- Sexual penetration occurs under circumstances involving the commission of any other felony;
- The actor is aided or abetted by 1 or more other persons and either of the following circumstances exists:
 - The actor knows or has reason to know that the victim is mentally incapable, mentally incapacitated, or physically helpless;
 - The actor uses force or coercion to accomplish the sexual penetration;
- 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;
- The actor causes personal injury to the victim and force or coercion is used to accomplish the sexual penetration.
- 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; or
- That other person is mentally incapable, mentally disabled, mentally incapacitated, or physically helpless, and any of the following:
 - The actor is related to the victim by blood or affinity to the fourth degree; or
 - The actor is in a position of

authority over the victim and used this authority to coerce the victim to submit.

Criminal Sexual
Conduct in the
Second Degree

Sexual contact with another person when any of the following circumstances exists:

- That other person is under 13 years of age;
- That other person is at least 13 but less than 16 years of age and any of the following:
 - The actor is a member of the same household as the victim;
 - The actor is related by blood or affinity to the fourth degree to the victim;
 - The actor is in a position of authority over the victim and the actor used this authority to coerce the victim to submit;
 - 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;
 - 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; or
 - The actor is an employee, contractual service provider, or volunteer of a child care organization, or a person licensed to operate a foster family home or a foster family group home in which that other person is a resident and the sexual contact occurs during the period of that other person's residency;
- Sexual contact occurs under circumstances

- Mich.
Comp.
Laws Ann.
§ 750.520c

involving the commission of any other felony;

- The actor is aided or abetted by 1 or more other persons and either of the following circumstances exists:
 - The actor knows or has reason to know that the victim is mentally incapable, mentally incapacitated, or physically helpless; or
 - The actor uses force or coercion to accomplish the sexual contact;
- 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;
- The actor causes personal injury to the victim and force or coercion is used to accomplish the sexual contact;
- 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;
- That other person is mentally incapable, mentally disabled, mentally incapacitated, or physically helpless, and any of the following:
 - The actor is related to the victim by blood or affinity to the fourth degree; or
 - The actor is in a position of authority over the victim and used this authority to coerce the victim to submit;
- 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;
- 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, who knows that the other person is under the jurisdiction of the department of corrections;
- 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; or

- 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.

Sodomy

- Any person who shall commit the abominable and detestable crime against nature either with mankind or with any animal.

- Mich. Comp. Laws Ann. § 750.158

Criminal Sexual Conduct in the Third Degree

- Sexual penetration with another person when any of the following circumstances exist:
 - That other person is at least 13 years of age and under 16 years of age;
 - Force or coercion is used to accomplish the sexual penetration;
 - The actor knows or has reason to know that the victim is mentally incapable, mentally incapacitated, or physically helpless;
 - 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. 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

- Mich. Comp. Laws Ann. § 750.520d

persons are lawfully married to each other at the time of the alleged violation;

- 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:
 - 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; or
 - 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;
- 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:
 - 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; or

- 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; or

- The actor is an employee, contractual service provider, or volunteer of a child care organization, or a person licensed to operate a foster family home or a foster family group home, in which that other person is a resident, that other person is at least 16 years of age, and the sexual penetration occurs during that other person's residency.

Criminal Sexual Conduct in the Fourth Degree

- Sexual contact with another person when any of the following circumstances exist:
 - 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;
 - Force or coercion is used to accomplish the sexual contact. Force or coercion includes, but is not limited to, any of the following circumstances:
 - When the actor overcomes the victim through the actual application of physical force or physical violence;
 - 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

- Mich. Comp. Laws Ann. § 750.520e

execute that threat;

- 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;
- 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
- When the actor achieves the sexual contact through concealment or by the element of surprise;
- The actor knows or has reason to know that the victim is mentally incapable, mentally incapacitated, or physically helpless;
- 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. 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;
- 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;

- 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:
 - 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; or
 - 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;
- 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:
 - 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; or

- 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; or

- The actor is an employee, contractual service provider, or volunteer of a child care organization, or a person licensed to operate a foster family home or a foster family group home, in which that other person is a resident, that other person is at least 16 years of age, and the sexual contact occurs during that other person's residency.

Statutory Rape

- Michigan does not use the term “statutory rape.” But it does penalize various sex acts with minors.

- Mich. Comp. Laws Ann. § 750.520b-e

Minnesota

	Definition	Crime Definition Statute
Criminal Sexual Conduct in the First Degree	<ul style="list-style-type: none"> • Sexual penetration with a person or sexual contact with a person under 13, <i>and</i> • Circumstances existing at the time cause the complainant to have a 	Minn. Stat. § 609.342

- reasonable fear of imminent great bodily harm to complainant or another;
- Actor is armed with a dangerous weapon (or item used to lead the complainant to reasonably believe it is a dangerous weapon) and uses or threatens use of the weapon to cause the complainant to submit;
 - Actor causes personal injury to the complainant and any of the following circumstances exist:
 - Actor uses force or coercion to accomplish sexual penetration; or
 - Actor knows or has reason to know complainant was mentally impaired, mentally incapacitated, or physically helpless;
 - Actor is aided and abetted by one or more accomplices and one of the following circumstances exist:
 - Accomplice uses force or coercion to cause complainant to submit; or
 - Accomplice is armed with a dangerous weapon (or item used to lead the complainant to reasonably believe it is a dangerous weapon) and uses or threatens to use such weapon to cause complainant to submit;
 - Complainant is under 13 years of age, and 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);
- Complainant is at least 13 years of age but less than 16 years of age, and actor is more than 48 months older than the complainant, and in a current or recent 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);
- 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
- 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, and:
 - The actor or an accomplice used force or coercion to accomplish the penetration
 - The complainant suffered personal injury; or
 - 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.

Criminal Sexual
Conduct in the
Second Degree

Minn. Stat. § 609.343

- Sexual contact, *and* any of the following circumstances exist:
 - Circumstances existing at the time of the act cause the complainant to have a reasonable fear of imminent great bodily harm to complainant or another;
 - Actor is armed with a dangerous weapon (or item used to lead the complainant to reasonably believe it is a dangerous weapon) and uses or threatens use of the weapon to cause the complainant to submit;
 - Actor causes personal injury and any of the following circumstances exist:
 - Actor uses force or coercion to accomplish the sexual contact; or
 - Actor knows or has reason to know complainant was mentally impaired, mentally incapacitated, or physically helpless;
 - Actor is aided or abetted by one or more accomplices and one of the following circumstances exist:
 - Accomplice uses force or coercion to cause complainant to submit; or
 - Accomplice is armed with a dangerous weapon, (or item used to lead the complainant to reasonably believe it is a dangerous weapon) and uses or threatens to use such weapon to cause complainant to submit; or
 - Complainant is under 13 years of age, and 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;

- Complainant is at least 13 but less than 16 years of age, and actor is more than 48 months older than the complainant and in a current or recent 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;
- 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
- 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, and:
 - The actor or an accomplice used force or coercion to accomplish the penetration;
 - The complainant suffered personal injury; or
 - 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.

Criminal Sexual
Conduct in the Third
Degree

- Sexual penetration, *and*
 - 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);
 - Complainant is at least 13 but less than 16 years of age and the actor is more than 24 months older than the complainant.
 - 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 age shall not be a defense. Consent is not a defense.
 - The actor uses force or coercion;
 - The actor knows or has reason to know that the complainant is mentally impaired, mentally incapacitated, or physically helpless;
 - Complainant is at least 16 but less than 18 years of age and the actor is more than 48 months older than the

Minn. Stat. § 609.344

complainant and in a current or recent position of authority over the complainant. Neither mistake as to the complainant's age nor consent to the act by the complainant shall be a defense;

- The actor has a significant relationship to the complainant and the complainant was at least 16 but less than 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 shall be a defense;
- The actor has a significant relationship to the complainant and the complainant was at least 16 but less than 18 years of age at the time of the sexual penetration, and one of the following: (i) the actor or 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 shall be a defense;
- 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;

- 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;
- 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;
- 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;
- 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;

- 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;
- 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; or
- The actor is a peace officer, and the officer physically or constructively restrains the complainant or the complainant does not reasonably feel free to leave the officer's presence. Consent by the complainant is not a defense. This paragraph does not apply to any penetration of the mouth, genitals, or anus

Criminal Sexual
Conduct in the
Fourth Degree

during a lawful search.

Minn. Stat. § 609.345

- Sexual contact, *and*
 - 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);
 - 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 current or recent position of authority over the complainant.
 - Consent is not a defense. 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 age shall not be a defense;
 - The actor uses force or coercion;
 - The actor knows or has reason to know that the complainant is mentally impaired, mentally incapacitated, or physically helpless;
 - 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 current

or recent position of authority over the complainant. Neither mistake as to the complainant's age nor consent to the act by the complainant shall be a defense;

- The actor has a significant relationship to the complainant and the complainant was at least 16 but less than 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 shall be a defense;
- The actor has a significant relationship to the complainant and the complainant was at least 16 but less than 18 years of age at the time of the sexual contact, and:
 - The actor or accomplice used force or coercion to accomplish the contact; or
 - The complainant suffered personal injury; or
 - 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 shall be a defense;
- The actor is a psychotherapist and the complainant is a patient of the psychotherapist and the sexual penetration occurred:
 - During the

psychotherapy session;
or

- Outside the psychotherapy session if an ongoing psychotherapist-patient relationship exists.
- Consent by the complainant is not a defense;
- 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;
- 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;
- 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;
- The actor is or purports to be a member of the clergy, the complainant is not married to the actor, and:
 - 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
 - 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;

- 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;
- 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;
- 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; or

- The actor is a peace officer, and the officer physically or constructively restrains the complainant or the complainant does not reasonably feel free to leave the officer's presence. Consent by the complainant is not a defense.

Criminal Sexual Conduct in the Fifth Degree

- Person engages in nonconsensual sexual contact, or
- 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.

• Minn. Stat. § 609.3451

Statutory Rape

- “Statutory rape” is commonly used to refer to sexual penetration that is illegal because it involves a youth.
- Minnesota has no specific statutory rape statute, but criminal sexual conduct involving minors is captured under *Minn. Stat. §§ 609.342-609.345*.
- **For example**, sexual penetration is a crime of the first degree if:
 - Complainant is under 13 years of age, and actor is more than 36 months older than the complainant;
 - Complainant is between the age of 13 and 16, and actor is more than 48 months older than the complainant, and in a position of authority over the

• Minn. Stat. §§ 609.342-609.345

- complainant; or
- 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, and the actor or an accomplice used force or coercion to accomplish the penetration, the complainant suffered personal injury, or the sexual abuse involved multiple acts committed over an extended period of time.

Sodomy (Criminal Sodomy and Aggravated Criminal Sodomy)

- Carnally knowing any person by the anus, or by or with the mouth.

•Minn. Stat. 609.293

Mississippi

	Definition	Crime Definition Statute
Rape; Assault with Intent to Ravish	<ul style="list-style-type: none"> • Any person who assaults with intent to forcibly ravish any female of previous chaste character. 	<ul style="list-style-type: none"> • Miss. Code Ann. § 97-3-71
Sexual Battery	<p>A person is guilty of sexual battery if he or she engages in sexual penetration with:</p> <ul style="list-style-type: none"> • Another person without his or her consent; • A mentally defective, mentally incapacitated or physically helpless person; • A child at least 14 but under 16 years of age, if the person is 36 or more months older than the child; • A child under 14 years of age, if the person is 24 or more months older than the child; or • A child under 18 years of age 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. 	<ul style="list-style-type: none"> • Miss. Code Ann. § 97-3-95

Statutory Rape

- The crime of statutory rape is committed when:
 - Any person 17 years of age or older has sexual intercourse with a child who
 - Is at least 14 but under 16 years of age, and
 - Is 36 months or more younger than the person, and
 - Is not the person's spouse; or
 - A person of any age has sexual intercourse with a child who
 - Is under the age of fourteen years of age, and
 - Is 24 or more months younger than the person, and
 - Is not the person's spouse.

• Miss. Code Ann. § 97-3-65

"Unnatural Intercourse"

- The detestable and abominable crime against nature committed with mankind or with a beast.

• Miss. Code Ann. § 97-29-59

Rape; Drugging

- 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.

• Miss. Code Ann. § 97-3-65(4)

Missouri

	Definition	Crime Definition Statute
First Degree Rape	<p>A person commits the crime of rape in the first degree if:</p> <ul style="list-style-type: none">• Such person has sexual intercourse with another person who is incapacitated, incapable of consent or lacks the capacity to consent or by the use of forcible compulsion.	• Mo. Rev. Stat. § 566.030
Statutory Rape in the First Degree	<ul style="list-style-type: none">• A person commits the crime of statutory rape in the first degree if:<ul style="list-style-type: none">• He has sexual intercourse with another person who is less than 14 years of age.	• Mo. Rev. Stat. § 566.032

Second Degree Rape	<p>A person commits the crime of rape in the second degree if:</p> <ul style="list-style-type: none"> • Such person has sexual intercourse with another person knowing that he or she does so without that person's consent. 	<ul style="list-style-type: none"> • Mo. Rev. Stat. § 566.031
Statutory Rape in the Second Degree	<p>A person commits the crime of statutory rape in the second degree if:</p> <ul style="list-style-type: none"> • Being 21 years of age or older, • He or she has sexual intercourse with another person who is less than 17 years of age. 	<ul style="list-style-type: none"> • Mo. Rev. Stat. § 566.034
Sodomy (First and Second Degree)	<ul style="list-style-type: none"> • A person commits the crime of sodomy in the first degree if: <ul style="list-style-type: none"> • Such person has deviate sexual intercourse with another person who is incapacitated, incapable of consent or lacks the capacity to consent, or by the use of forcible compulsion. • A person commits the crime of sodomy in the second degree if: <ul style="list-style-type: none"> • Such person has deviate sexual intercourse with another person knowing that he or she does so without that person's consent. 	<ul style="list-style-type: none"> • Mo. Rev. Stat. § 566.060; § 566.061
Child Molestation (First and Second Degree)	<ul style="list-style-type: none"> • A person commits the crime of child molestation in the first degree if: <ul style="list-style-type: none"> • Such person subjects another person who is less than 14 to sexual contact and the offense is an aggravated sexual offense. • A person commits the crime of child molestation in the second degree if: <ul style="list-style-type: none"> • Such person subjects a child who is less than 12 years of age to sexual contact; or • Being more than 4 years older than a child who is less than 17 years of age, subjects the child to sexual contact and the offense is an aggravated sexual offense. 	<ul style="list-style-type: none"> • Mo. Rev. Stat. § 566.067; § 566.068
Sexual Misconduct Involving a Child	<p>A person commits the crime of sexual misconduct involving a child if such person:</p> <ul style="list-style-type: none"> • Knowingly exposes his or her genitals to a child less than fifteen under circumstances in which he or she knows that his or her conduct is likely to cause affront or alarm to 	<ul style="list-style-type: none"> • Mo. Rev. Stat. § 566.083

the child;

- Knowingly exposes his or her genitals to a child less than fifteen years of age for the purpose of arousing or gratifying the sexual desire of any person, including the child;
- Knowingly coerces or induces a child less than fifteen years of age to expose the child's genitals for the purpose of arousing or gratifying the sexual desire of any person, including the child; or
- Knowingly coerces or induces a child who is known by such person to be less than fifteen years of age to expose the breasts of a female child through the Internet or other electronic means for the purpose of arousing or gratifying the sexual desire of any person, including the child.
- These provisions apply regardless of whether the person violates the provisions in person or through the Internet or other electronic means.

Sexual Contact with a Student

A person commits the crime of sexual contact with a student if he or she has sexual contact with a student of a school and is:

• Mo. Rev. Stat. § 566.086

- a teacher;
- a student teacher;
- an employee of the school;
- 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 school;
- an elected or appointed official of the school district; or
- a person employed by an entity that contracts with the school or school district to provide services.

Sexual Misconduct (First and Second Degree)

- A person commits the crime of sexual misconduct in the first degree if such person:
 - 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,
 - 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

• Mo. Rev. Stat. § 566.093;
Mo. Rev. Stat. § 566.095

- cause affront or alarm, or
- Has sexual intercourse or deviate sexual intercourse in a public place in the presence of a third person.
- A person commits the crime of sexual misconduct in the second degree if:
 - He or she solicits or requests another person to engage in sexual conduct under circumstances in which he or she knows that his or her conduct is likely to cause affront or alarm.

Statutory Sodomy (First and Second Degree)

- **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 14 years old.
- **A person commits the crime of statutory sodomy in the second degree if:**
 - He is 21 years of age and
 - Has deviate sexual intercourse with another person who is less than 17 years of age.

• Mo. Rev. Stat. §§ 566.062 & 566.064

Sexual Abuse (First and Second Degree)

- **A person commits the offense of sexual abuse in the first degree if** he or she subjects another person to sexual contact when that person is incapacitated, incapable of consent, or lacks the capacity to consent, or by the use of forcible compulsion.
- **A person commits the offense of sexual abuse in the second degree if** he or she purposely subjects another person to sexual contact without that person's consent.

• Mo. Rev. Stat. §§ 566.100; 566.101

Montana

	Definition	Crime Definition Statute
Sexual Intercourse Without Consent	<ul style="list-style-type: none"> • A person who knowingly has sexual intercourse without consent or with another person who is incapable of consent 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. 	<ul style="list-style-type: none"> • Mt. Code Ann. § 45-5-503

Sexual Assault

- A person who knowingly subjects another person to any sexual contact without consent.
- Consent is ineffective if the victim is:
 - 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;
 - less than 14 years old and the offender is 3 or more years older than the victim;
 - receiving services from a youth care facility, and the perpetrator:
 - has supervisory or disciplinary authority over the victim or is providing treatment to the victim; and
 - is an employee, contractor, or volunteer of the youth care facility;
 - admitted to a mental health facility, is admitted to a community-based facility or a residential facility, or is receiving community-based services, and the perpetrator:
 - has supervisory or disciplinary authority over the victim or is providing treatment to the victim; and
 - is an employee, contractor, or volunteer of the facility or community-based service;
 - a program participant in a private alternative adolescent residential or outdoor program, and the perpetrator is a worker affiliated with the program;
 - a student of an elementary, middle, junior high, or high school, whether public or nonpublic, and the perpetrator is not a student of an elementary, middle, junior high, or high school and is an employee, contractor, or volunteer of any school who has ever had instructional, supervisory, disciplinary, or other authority over the

• Mt. Code
Ann. §
45-5-502

- student in a school setting; or
- the victim is a client receiving psychotherapy services and the perpetrator:
 - is providing or purporting to provide psychotherapy services to the victim; or
 - is an employee, contractor, or volunteer of a facility that provides or purports to provide psychotherapy services to the victim and the perpetrator has supervisory or disciplinary authority over the victim.

Statutory Rape

- “Statutory rape” is commonly used to refer to sexual penetration that is illegal because it involves a youth.
- Montana has no specific statutory rape statute, but “statutory rape” is captured under *Mt. Code Ann. § 45-5-503*:
 - If the victim is less than 16 years old and the offender is 4 or more years older than the victim, or
 - 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.

• Mt. Code
Ann. §
45-5-503

Indecent Exposure

A person commits the offense of indecent exposure if:

- The person knowingly or purposely exposes the person’s genitals or intimate parts by any means, including electronic communication, under circumstances in which the person knows the conduct is likely to cause affront or alarm in order to:
 - Abuse, humiliate, harass, or degrade another, or
 - Arouse or gratify the person’s own sexual response or desire or the sexual response or desire of any person.
- A person commits the offense of indecent exposure to a minor if the person knows the conduct will be observed by a person who is under 16 years of age and the offender is more than 4 years older than the victim.

• Mont.
Code
Anno. §
45-5-504

“Deviate Sexual Conduct” (including Sodomy)
Incest

- A person who knowingly engages in deviate sexual relations, or
 - Who causes another to engage in deviate sexual relations.
- A person commits the offense of incest if:
- The person knowingly marries, cohabits with, or has sexual intercourse with, or has sexual contact with an:
 - Ancestor, descendant, brother or sister of the whole or half blood, or any stepson or stepdaughter.

- Mt. Code Ann. § 45-8-218
- Mt. Code Ann. § 45-5-507

Nebraska

	Definition	Crime Definition Statute
Sexual Assault in the First Degree	<ul style="list-style-type: none"> • Any person who subjects another person to sexual penetration: <ul style="list-style-type: none"> • Without the consent of the victim, or • 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 • When the actor is 19 years of age or older and the victim is at least 12 but less than 16 years of age. 	<ul style="list-style-type: none"> • NE St § 28-319
Sexual Assault in the Second or Third Degree	<ul style="list-style-type: none"> • Any person who subjects another person to sexual contact <ul style="list-style-type: none"> • Without consent of the victim, or • Who knew that the victim was physically or mentally incapable of resisting or appraising the nature of his or her conduct. 	<ul style="list-style-type: none"> • NE St § 28-320
Sexual Assault of a Child	<ul style="list-style-type: none"> • “Statutory rape” is commonly used to refer to sexual penetration that is illegal because it involves a youth. <ul style="list-style-type: none"> • Nebraska has no specific statutory rape statute, but this concern is captured under <i>NE St § 28-319.01</i> “Sexual Assault of a Child.” • In the first degree: <ul style="list-style-type: none"> • He or she subjects another person under 12 years of age to sexual penetration and the actor is at least 19 years of age or older, or 	<ul style="list-style-type: none"> • NE St §§ 28-319.01, 28-320.01

- When he or she subjects another person who is at least 12 years of age but less than 16 years of age to sexual penetration and the actor is 25 years of age or older.
- The age of the actor shall be an essential element of the offense that must be proved beyond a reasonable doubt.

• **In the second degree:**

- He or she subjects another person 14 years of age or younger to sexual contact and the actor is at least 19 years of age or older, and
- Actor causes serious personal injury to the victim.

• **In the third degree:**

- He or she subjects another person 14 years of age or younger to sexual contact and the actor is at least 19 years of age or older, and
- Actor does not cause serious personal injury to the victim.

Sexual Assault of an Inmate or Parolee

- A person commits the offense of sexual abuse of an inmate or parolee if:
 - Such person subjects an inmate or parolee to sexual penetration (first degree), or
 - Such person subjects an inmate or parolee to sexual contact (second degree).
- It is not a defense to a charge under this section that the inmate or parolee consented to such sexual penetration or sexual contact.
- An otherwise lawful pat-down or body cavity search by a person is not a violation of this section.

• NE St §§
28-322.01
-
28-322.03

Incest

- Any person who shall knowingly intermarry or engage in sexual penetration with any person who falls within the degrees of the below consanguinity or any person who engages in sexual penetration with his or her stepchild who is under 19 years of age commits incest.
 - Consanguinity: between parents and children, grandparents and grandchildren of every degree, between brothers and sisters of the half as well

• NE St §
28-703

as the whole blood, and between uncles and nieces, and aunts and nephews

Sodomy

- Nebraska does not have an anti-sodomy law on the books.

• N/A

Nevada

	Definition	Crime Definition Statute
Sexual Assault	<p>A person is guilty of sexual assault if:</p> <ul style="list-style-type: none">• The person subjects another person to sexual penetration, or forces another person to make a sexual penetration on himself or herself 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 or her conduct; or• The person commits a sexual penetration upon a child under the age of 14 years or causes a child under the age of 14 years to make a sexual penetration on himself or herself or another, or on a beast. <p>The provisions of this section do not apply to a person who is less than 18 years of age and who commits a sexual penetration upon a child under the age of 14 years or causes a child under the age of 14 years to make a sexual penetration on himself or herself or another, or on a beast, if the person is not more than 2 years older than the person upon whom the act was committed unless:</p> <ul style="list-style-type: none">• The person committing the act uses force or threatens the use of force; or• The person committing the act knows or should know that the victim is mentally or physically incapable of resisting or understanding the nature of his or her conduct.	<ul style="list-style-type: none">• Nev. Rev. Stat. Ann. § 200.366

Statutory Sexual Seduction	<ul style="list-style-type: none"> • Ordinary sexual intercourse, anal intercourse, or sexual penetration committed by a person 18 years of age or older with a person who is 14 or 15 years of age and who is at least 4 years younger than the perpetrator. 	Nev. Rev. Stat. Ann. §§ 200.364, 200.368
Incest	<ul style="list-style-type: none"> • Persons being with 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. 	• Nev. Rev. Stat. Ann. § 201.180
Statutory Rape	<ul style="list-style-type: none"> • “Statutory rape” is commonly used to refer to sexual penetration that is illegal because it involves a youth. <ul style="list-style-type: none"> • Nevada has no specific statutory rape statute, but addresses similar concerns under <i>Nev. Rev. Stat. Ann. § 200.366</i>, “Sexual Assault,” and <i>Nev. Rev. Stat. Ann. § 200.368</i>, “Statutory Sexual Seduction.” 	• Nev. Rev. Stat. Ann. § 200.366 & Nev. Rev. Stat. Ann. § 200.368
Sodomy	<ul style="list-style-type: none"> • Nevada no longer has an anti-sodomy law. 	N/A

New Hampshire

	Definition	Crime Definition Statute
Aggravated Felonious Sexual Assault	<p>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:</p> <ul style="list-style-type: none"> • When the actor overcomes the victim through the actual application of physical force, physical violence or superior physical strength, or • When the victim is physically helpless to resist, or • 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 those threats, or • 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 	• N.H. Rev. Stat. 632-A:2

- threats in the future, or
- When the victim submits under circumstances involving false imprisonment, kidnapping or extortion, or
 - When the actor, without the prior knowledge or consent of the victim, administers or has knowledge of another person administering the victim any intoxicating substance which mentally incapacitates the victim, or
 - 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, acts in a manner or for purposes which are not professionally recognized as ethical or acceptable, or uses this position as such provider to coerce the victim to submit, or
 - When, except as between legally married spouses, the victim has a disability that renders him or her incapable of freely arriving at an independent choice as to whether or not to engage in sexual conduct, and the actor knows or has reason to know that the victim has such a disability, or
 - 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, or
 - When, except as between legally married spouses, the victim is 13 years of age or older and under 16 years of age and: the actor is a member of the same household as the victim, or the actor is related by blood or affinity to the victim, or
 - 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, or
 - When the victim is less than 13 years of age, or
 - 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, or
- When the actor is in a position of authority over the victim and uses this authority to coerce the victim to submit (i.e. disciplinary authority, or probation or parole officer).
- Consent of the victim under any of these circumstances shall not be considered a defense.

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.

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.

A person is guilty of aggravated felonious sexual assault when such person engages in sexual penetration 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.

Felonious
Sexual Assault

A person is guilty of a class B felony if such person:

- Subjects a person to sexual contact and causes serious personal injury to the victim under any of the circumstances in N.H. Rev. Stat. 632-A:2 (Aggravated Felonious Sexual Assault), or
- 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
- Engages in sexual contact with a person other

• N.H. Rev.
Stat.
632-A:3

than his legal spouse who is under 13 years of age, or

- Engages in sexual contact with a person, or causes the person to engage in sexual contact on himself 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 (i.e. disciplinary authority, or probation or parole officer)
 - Consent of the victim under any of the circumstances set forth in this paragraph shall not be considered a defense.

Sexual Assault

A person is guilty of a class A misdemeanor under any of the following circumstances:

- When the actor subjects another person who is 13 years of age or older to sexual contact under any circumstances named in RSA 632-A:2 (Aggravated Felonious Sexual Assault), or
- 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, or
- In the absence of the circumstances set forth in RSA 632-A:2 (Aggravated Felonious Sexual Assault), 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.

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 (i.e. disciplinary authority, or probation or parole officer).

- Consent of the victim under any of the circumstances set forth in this paragraph shall not be considered a defense.

• N.H. Rev. Stat. 632-A:4

Incest

- New Hampshire has no specific statutory rape statute, but this concept is captured under *N.H. Rev. Stat. 632-A:2*, “Aggravated Felonious Sexual Assault.”
- A person is guilty of aggravated felonious sexual assault when such person engages in sexual penetration 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.

- Please see *N.H. Rev. Stat. 632-A:2*, “Aggravated Felonious Sexual Assault”

Statutory Rape

- “Statutory rape” is commonly used to refer to sexual penetration that is illegal because it involves a youth.
 - New Hampshire has no specific statutory rape statute, but this concept is captured under *N.H. Rev. Stat. 632-A:2*, “Aggravated Felonious Sexual Assault”, *N.H. Rev. Stat. 632-A:3*, “Felonious Sexual Assault”, and *N.H. Rev. Stat. 632-A:4*, “Sexual Assault.”

- *N.H. Rev. Stat. 632-A:2 – A:4*

Sodomy

- New Hampshire does not have an anti-sodomy statute on the books.

- N/A

New Jersey

	Definition	Crime Definition Statute
Aggravated Sexual Assault in the First Degree	Committing an act of sexual penetration with another person under any one of the following circumstances: <ul style="list-style-type: none"> • The victim is less than 13 years old; • The victim is at least 13 but less than 16 years old; and <ul style="list-style-type: none"> • The actor is related to the victim by blood or affinity to the third degree, or • The actor has supervisory or disciplinary power over the victim by virtue of the actor's legal, professional, or occupational status, or • The actor is a resource family parent, 	<ul style="list-style-type: none"> • NJ St 2C:14-2(a),(d)

a guardian, or stands in loco parentis within the household;

- 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;
- 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;
- The actor is aided or abetted by one or more other persons and the actor uses physical force or coercion;
- The actor uses physical force or coercion and severe personal injury is sustained by the victim;
- The victim is one whom the actor knew or should have known was physically helpless or incapacitated, intellectually or mentally incapacitated, or had a mental disease or defect which rendered the victim temporarily or permanently incapable of understanding the nature of his conduct, including, but not limited to, being incapable of providing consent.
- 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 4 years older than the victim.
- Committing an act of sexual penetration with another person under any one of the following circumstances:
 - The actor uses physical force or coercion, but the victim does not sustain severe personal injury;
 - 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;
 - The victim is at least 16 but less than 18 years old and:

Sexual Assault
in the Second
Degree

• NJ St
2C:14-2(b-c)

- The actor is related to the victim by blood or affinity to the third degree; or
- The actor has supervisory or disciplinary power of any nature or in any capacity over the victim; or
- The actor is a resource family parent, a guardian, or stands in loco parentis within the household; or
- The victim is at least 13 but less than 16 years old and the actor is at least four years older than the victim; or
- The victim is a pupil at least 18 but less than 22 years old and has not received a high school diploma and the actor is a teaching staff member or substitute teacher, school bus driver, other school employee, contracted service provider, or volunteer and the actor has supervisory or disciplinary power of any nature or in any capacity over the victim.

Aggravated
Criminal Sexual
Assault in the
Third Degree

- Actor commits an act of sexual contact with another person under any one of the following circumstances:
 - The victim is at least 13 but less than 16 years old; and
 - The actor is related to the victim by blood or affinity to the third degree, or
 - The actor has supervisory or disciplinary power over the victim by virtue of the actor's legal, professional, or occupational status, or
 - The actor is a resource family parent, a guardian, or stands in loco parentis within the household;
 - 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,

• NJ St
2C:14-3(a)

burglary, arson or criminal escape;

- 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;
- The actor is aided or abetted by one or more other persons and the actor uses physical force or coercion;
- The actor uses physical force or coercion and severe personal injury is sustained by the victim;
- The victim is one whom the actor knew or should have known was physically helpless or incapacitated, intellectually or mentally incapacitated, or had a mental disease or defect which rendered the victim temporarily or permanently incapable of understanding the nature of his conduct, including, but not limited to, being incapable of providing consent.

Criminal Sexual
Contact in the
Fourth Degree

Committing an act of sexual contact under any of the following circumstances:

- The actor uses physical force or coercion, but the victim does not sustain severe personal injury;
- 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; or
- The victim is at least 16 but less than 18 years old and:
 - The actor is related to the victim by blood or affinity to the third degree; or
 - The actor has supervisory or disciplinary power of any nature or in any capacity over the victim; or
 - The actor is a resource family parent, a guardian, or stands in loco parentis within the household; or

• NJ St
2C:14-3(b)

- The victim is at least 13 but less than 16 years old and the actor is at least 4 years older than the victim;
- The victim is a pupil at least 18 but less than 22 years old and has not received a high school diploma and the actor is a teaching staff member or substitute teacher, school bus driver, other school employee, contracted service provider, or volunteer and the actor has supervisory or disciplinary power of any nature or in any capacity over the victim.

New Mexico

	Definition	Crime Definition Statute
Criminal Sexual Penetration in the First Degree	<p>All criminal sexual penetration perpetrated:</p> <ul style="list-style-type: none"> • on a child under thirteen years of age; or • by the use of force or coercion that results in great bodily harm or great mental anguish to the victim. 	<ul style="list-style-type: none"> • N.M. Stat. Ann. § 30-9-11(D); <i>see also</i> § 30-9-10 (definitions) <i>see also</i> § 31-18-15 (penalties)
Criminal Sexual Penetration in the Second Degree	<p>All criminal sexual penetration perpetrated:</p> <ul style="list-style-type: none"> • by the use of force or coercion on a child thirteen to eighteen years of age; • on an inmate confined in a correctional facility or jail when the perpetrator is in a position of authority over the inmate; • by the use of force or coercion that results in personal injury to the victim; • by the use of force or coercion when the perpetrator is aided or abetted by one or more persons; • in the commission of any other felony; or • when the perpetrator is armed with a deadly weapon. 	<ul style="list-style-type: none"> • N.M. Stat. Ann. § 30-9-11(E); <i>see also</i> § 30-9-10 (definitions) <i>see also</i> § 31-18-15 (penalties)
Criminal Sexual Penetration in the Third Degree	<ul style="list-style-type: none"> • All criminal sexual penetration perpetrated through the use of force or coercion not otherwise specified in § 30-9-11. 	<ul style="list-style-type: none"> • N.M. Stat. Ann. § N.M. Stat. Ann. § 30-9-11(F); <i>see also</i> § 30-9-10

Criminal Sexual Penetration in the Fourth Degree	<p>All criminal sexual penetration:</p> <ul style="list-style-type: none"> • Which is not defined as Criminal Sexual Penetration in the 1st, 2nd or 3rd degree which is 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 • 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. 	<p>(definitions) <i>see also</i> § 31-18-15 (penalties)</p> <ul style="list-style-type: none"> • N.M. Stat. Ann. § 30-9-11(G); <i>see also</i> § 30-9-10 (definitions) <i>see also</i> § 31-18-15 (penalties)
Aggravated Criminal Sexual Penetration in the First Degree	<ul style="list-style-type: none"> • 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. 	<p>N.M. Stat. Ann. §§ 30-9-10, 30-9-11(C); <i>see also</i> § 30-9-10 (definitions); <i>see also</i> § 31-18-15 (penalties)</p>
Criminal Sexual Contact in the Fourth Degree	<ul style="list-style-type: none"> • All criminal sexual contact that is perpetrated: <ul style="list-style-type: none"> • by the use of force or coercion that results in personal injury to the victim; • by the use of force or coercion when the perpetrator is aided or abetted by one or more persons; or • when the perpetrator is armed with a deadly weapon. 	<ul style="list-style-type: none"> • N.M. Stat. Ann. § 30-9-12; <i>see also</i> § 30-9-10 (definitions) <i>see also</i> § 31-18-15 (penalties)
Criminal Sexual Contact - Misdemeanor	<ul style="list-style-type: none"> • Criminal sexual contact that is perpetrated with the use of force or coercion. 	<ul style="list-style-type: none"> • N.M. Stat. Ann. § 30-9-12 (D); <i>see also</i> § 31-18-15 (penalties)

Criminal Sexual Contact of a Minor in the Second Degree

- Criminal sexual contact of a minor when perpetrated:
 - on a child under thirteen years of age; or
 - on a child thirteen to eighteen years of age when:
 - the perpetrator is in a position of authority over the child and uses that authority to coerce the child to submit;
 - the perpetrator uses force or coercion that results in personal injury to the child;
 - the perpetrator uses force or coercion and is aided or abetted by one or more persons; or
 - the perpetrator is armed with a deadly weapon.

N.M. Stat. Ann. § 30-9-13 (B); *see also* § 31-18-15 (penalties)

Criminal Sexual Contact of a Minor in the Third Degree

- Criminal sexual contact of a minor when perpetrated:
 - on a child under thirteen years of age; or
 - on a child thirteen to eighteen years of age when:
 - the perpetrator is in a position of authority over the child and uses that authority to coerce the child to submit;
 - the perpetrator uses force or coercion that results in personal injury to the child;
 - the perpetrator uses force or coercion and is aided or abetted by one or more persons; or
 - the perpetrator is armed with a deadly weapon.

N.M. Stat. Ann. § 30-9-13 (C); *see also* § 31-18-15 (penalties)

Criminal Sexual Contact of a Minor in the Fourth Degree

- All criminal sexual contact:
 - not defined as Criminal Sexual Contact of a Minor in the 3rd degree, perpetrated with force or coercion, on a child thirteen to eighteen years of age; or
 - of a minor 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

N.M. Stat. Ann. § 30-9-13 (D); *see also* § 31-18-15 (penalties)

spouse of that child, learns while performing services in or for a school that the child is a student in a school.

New York

	Definition	Crime Definition Statute
Rape in the First Degree	<ul style="list-style-type: none">• Engaging in sexual intercourse with another person:<ul style="list-style-type: none">• By forcible compulsion; or• Who is incapable of consent by reason of being physically helpless; or• Who is less than eleven years old; or• Who is less than thirteen years old and the actor is eighteen years old or more.	<ul style="list-style-type: none">• N.Y. Penal Law § 130.35; <i>see also id.</i> § 130.00 (definitions); <i>id.</i> § 70.80 (penalty).
Rape in the Second Degree	<ul style="list-style-type: none">• Being eighteen years old or more, he or she engages in sexual intercourse with another person less than fifteen years old; or<ul style="list-style-type: none">• It shall be an affirmative defense to this crime if the defendant was less than four years older than the victim at the time of the act.• Engaging in sexual intercourse with another person who is incapable of	<ul style="list-style-type: none">• N.Y. Penal Law § 130.30; <i>see also id.</i> § 130.00 (definitions); <i>id.</i> § 70.80 (penalty).

consent by reason of being mentally disabled or mentally incapacitated.

Rape in the Third Degree

- Engaging in sexual intercourse with another person who is incapable of consent by reason of some factor other than being less than seventeen years old;
- Being twenty-one years old or more, he or she engages in sexual intercourse with another person less than seventeen years old; or
- Engaging 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.

- N.Y. Penal Law § 130.25; *id.* § 130.05 (consent); *id.* § 70.80 (penalty).

Sexual Misconduct

- Engaging in sexual intercourse with another person without such person's consent; or
- Engaging in oral sexual conduct or anal sexual conduct with another person without such person's consent; or
- Engaging in sexual conduct with an animal or a dead human body.

- N.Y. Penal Law § 130.20; *id.* § 70.15 (penalty).

Criminal Sexual Act in the First Degree

- Engaging in oral sexual conduct or anal sexual conduct with another person:
 - By forcible compulsion; or
 - Who is incapable of consent by reason of being physically helpless; or
 - Who is less than eleven years old; or
 - Who is less than thirteen years old and the actor is eighteen years old or more.

- N.Y. Penal Law § 130.50; *id.* § 70.80 (penalty).

Criminal Sexual Act in the Second Degree

- 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
 - It shall be an affirmative defense to this crime if the defendant was less than four years older than the victim at the time of the act.
- Engaging 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.

- N.Y. Penal Law § 130.45; *see also id.* § 70.80 (penalty).

Criminal Sexual Act in the Third Degree

- Engaging 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;
- 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
- 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.

- N.Y. Penal Law § 130.40; *see also id.* § 70.80 (penalty).

Forcible Touching - Misdemeanor

- Intentionally, and for no legitimate purpose: (1) forcibly touching 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; or (2) subjecting another person to sexual contact for the purpose gratifying the actor's sexual desire and with

- N.Y. Penal Law § 130.52; *see id.* § 70.15 (penalty)

intent to degrade or abuse such other person while such other person is passenger on a vehicle public accommodation authorized by New York State.

- For the purposes of this section, forcible touching includes squeezing, grabbing or pinching.

Predatory Sexual Assault

- Committing 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:

- In the course of the commission of the crime or the immediate flight therefrom, he or she:

- Causes serious physical injury to the victim of such crime; or
- Uses or threatens the immediate use of a dangerous

- N.Y. Penal Law §130.95; *see also id.* §§ 70.80, 70.00, 70.06, 70.08 (penalty).

instrument;

or

- 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
- He or she has previously been subjected to a conviction for a felony defined in this article, incest as or use of a child in a sexual performance.

Predatory Sexual Assault
Against a Child

- Committing 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 the victim is less than 13 years old, when the

- N.Y. Penal Law §130.96; *see also id.* §§ 70.80, 70.00, 70.06, 70.08 (penalty).

Course of Sexual Conduct
Against a Child in the First
Degree

person is eighteen
years old or more.

- When, over a period of time not less than three months in duration, a person:
 - engages in two or more acts of sexual conduct, which includes at least one act of sexual intercourse, oral sexual conduct, anal sexual conduct or aggravated sexual contact, with a child less than eleven years old; or
 - who is 18 years old or more, engages in two or more acts of sexual conduct, which include at least one act of sexual intercourse, oral sexual conduct, anal sexual conduct or aggravated sexual contact, with a child less than thirteen years old.
- A person may not be subsequently prosecuted for any other sexual offense involving the same victim unless the other charged offense occurred outside the time period charged under

- N.Y. Penal Law §130.75; *see also id.* § 70.80 (penalty).

Course of Sexual Conduct
Against a Child in the
Second Degree

this section.

- When, over a period of time not less than three months in duration, a person:
 - engages in two or more acts of sexual conduct with a child less than 11 years old; or
 - who is eighteen years old or more, engages in two or more acts of sexual conduct with a child less than 13 years old.
- A person may not be subsequently prosecuted for any other sexual offense involving the same victim unless the other charged offense occurred outside the time period charged under this section.

- N.Y. Penal Law §130.80; *see also id.* § 70.80 (penalty).

Sexual Abuse in the First
Degree

When a person subjects another person to sexual contact:

- By forcible compulsion;
- When the other person is incapable of consent by reason of being physically helpless;
- When the other person is less than eleven years old; or
- When the other person is less than thirteen years old and the actor is

- N.Y. Penal Law §130.65; *see also id.* §§ 130.00, 130.05 (definitions); *id.* § 70.80 (penalty).

Sexual Abuse in the
Second Degree

twenty-one years old
or older.

- When a person subjects another person to sexual contact and when such other person is:
 - incapable of consent by reason of some factor other than being less than seventeen years old; or
 - less than fourteen years old.

- N.Y. Penal Law §130.60; *see also id.* § 130.00 (definitions); *id.* § 70.50 (penalty).

Sexual Abuse in the Third
Degree

- When a person 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.

- N.Y. Penal Law §130.55; *see also id.* § 130.00 (definitions); *id.* § 70.15 (penalty).

Persistent Sexual Abuse

- A person is guilty of persistent sexual abuse when he or she commits the crime of forcible touching, sexual abuse in the third

- N.Y. Penal Law § 130.53; *see also id.* § 130.00 (definitions); *id.* § 70.80 (penalty).

degree, or sexual abuse in the second degree, and, within the previous ten year period, excluding any time during which such person was incarcerated for any reason, has been convicted two or more times, in separate criminal transactions for which sentence was imposed on separate occasions, of forcible touching, sexual abuse in the third degree, sexual abuse in the second degree, or any offense defined in this article, of which the commission or attempted commission thereof is a felony.

Aggravated Sexual Abuse in the First Degree

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:

- By forcible compulsion;
- When the other person is incapable of consent by reason of being physically helpless; or
- When the other person is less than eleven years old.

Conduct performed for a

- N.Y. Penal Law §130.70; *see also id.* § 130.00 (definitions); *id.* § 70.80 (penalty).

Aggravated Sexual Abuse
in the Second Degree

valid medical purpose
does not violate the
provisions of this section.

A person is guilty of
aggravated sexual abuse
in the first 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:

- By forcible
compulsion;
- When the other
person is incapable
of consent by reason
of being physically
helpless; or
- When the other
person is less than
eleven years old.

- N.Y. Penal Law §130.67;
see also id. § 130.00
(definitions); *id.* § 70.80
(penalty).

Aggravated Sexual Abuse
in the Third Degree

Conduct performed for a
valid medical purpose
does not violate the
provisions of this section.

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:
 - By forcible
compulsion;
 - When the other
person is
incapable of
consent by
reason of being
physically
helpless; or
 - When the other
person is less

- N.Y. Penal Law §130.66;
see also id. § 130.00
(definitions); *id.* § 70.80
(penalty).

than eleven
years old; or

- 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.

Conduct performed for a valid medical purpose does not violate the provisions of this section.

Aggravated Sexual Abuse
in the Fourth Degree

A person is guilty of aggravated sexual abuse in the fourth degree when he or she:

- N.Y. Penal Law § 130.65-a.; *see also id.* § 130.00 (definitions); *id.* § 70.80 (penalty).

- 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

- 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.

Conduct performed for a
valid medical purpose
does not violate the
provisions of this section.

North Carolina

	Definition	Crime Definition Statute
First Degree Forcible Rape	<p>Engaging in vaginal intercourse with another person by force and against the will of the other person, and:</p> <ul style="list-style-type: none">• Uses, threatens to use or displays a dangerous or deadly weapon or an article which the other person reasonably believes to be a dangerous or deadly weapon; or• Inflicts serious personal injury upon the victim or another person; or• Commits the offense aided and abetted by one or more other persons. <p>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.</p>	<ul style="list-style-type: none">• N.C. Gen. Stat. Ann. § 14-27.21; <i>see also id.</i> § 14-27.20 (definitions); <i>id.</i> § 14-27.36 (evidence required); <i>id.</i> § 15A-1340.17 (punishment).
Second Degree Forcible Rape	<p>Engaging in vaginal intercourse with another person:</p> <ul style="list-style-type: none">• By force and against the will of the other person; or• 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. <p>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.</p>	<ul style="list-style-type: none">• N.C. Gen. Stat. Ann. § 14-27.22; <i>see also id.</i> § 14-27.20 (definitions); <i>id.</i> § 15A-1340.17 (punishment).

Statutory Rape
of a Child by an
Adult

- When a person is at least 18 years of age and engages in vaginal intercourse with a victim who is a child under the age of 13 years.
- 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.

- N.C. Gen. Stat. Ann. § 14-27.23; *see also id.* § 14-27.20 (definitions); *id.* § 15A-1340.17 (punishment).

First Degree
Statutory Rape

- When a person engages in vaginal intercourse 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.
- 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.

- N.C. Gen. Stat. Ann. § 14-27.24; *see also id.* § 14-27.20 (definitions); *id.* § 15A-1340.17 (punishment).

Statutory Rape
of a Person Who
Is 15 Years of
Age or Younger

- A person is guilty of a Class B1 felony if the defendant engages in vaginal intercourse with another person who is 15 years of age or younger and the defendant is at least 12 years old and at least six years older than the person, except when the defendant is lawfully married to the person.
- Unless the conduct is covered under some other provision of law providing greater punishment, a defendant is guilty of a Class C felony if the defendant engages in vaginal intercourse with another person who is 15 years of age or younger and the defendant is at least 12 years old and more than four but less than six years older than the person, except when the defendant is lawfully married to the person.

- N.C. Gen. Stat. Ann. § 14-27.25; *see also id.* § 14-27.20 (definitions); *id.* § 15A-1340.17 (punishment).

First-Degree
Forcible Sexual
Offense

Engaging in a sexual act with another person by force and against the will of the other person, and does any one of the following:

- Uses, threatens to use or displays a dangerous or deadly weapon or an article which the other person reasonably believes to be a dangerous or deadly

- N.C. Gen. Stat. Ann. § 14-27.26; *see also id.* § 14-27.20 (definitions); *id.* § 15A-1340.17

Second-Degree Forcible Sexual Offense	<p>weapon; or</p> <ul style="list-style-type: none"> • Inflicts serious personal injury upon the victim or another person; or • The person commits the offense aided and abetted by one or more other persons. • Engaging in a sexual act with another person: <ul style="list-style-type: none"> • By force and against the will of the other person; or • 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. 	<p>(punishment).</p> <ul style="list-style-type: none"> • N.C. Gen. Stat. Ann. § 14-27.27; <i>see also id.</i> § 14-27.20 (definitions); <i>id.</i> § 15A-1340.17 (punishment).
Statutory Sexual Offense with a Child by an Adult	<ul style="list-style-type: none"> • When a person of at least 18 years of age engages in a sexual act with a victim who is a child under the age of 13 years. 	<ul style="list-style-type: none"> • N.C. Gen. Stat. Ann. § 14-27.28; <i>see also id.</i> § 14-27.20 (definitions); <i>id.</i> § 15A-1340.17 (punishment).
First-Degree Statutory Sexual Offense	<ul style="list-style-type: none"> • When a person engages in a sexual act 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. 	<ul style="list-style-type: none"> • N.C. Gen. Stat. Ann. § 14-27.29; <i>see also id.</i> § 14-27.20 (definitions); <i>id.</i> § 15A-1340.17 (punishment).
Statutory Sexual Offense with a Person Who Is 15 or Younger	<ul style="list-style-type: none"> • (a) A defendant is guilty of a Class B1 felony if the defendant engages in a sexual act with another person who is 15 years of age or younger and the defendant is at least 12 years old and at least six years older than the person, except when the defendant is lawfully married to the person. • (b) Unless the conduct is covered under some other provision of law providing greater punishment, a defendant is guilty of a Class C felony if the defendant engages in a sexual act with another person who is 15 years of age or younger 	<ul style="list-style-type: none"> • N.C. Gen. Stat. Ann. § 14-27.30; <i>see also id.</i> § 14-27.20 (definitions); <i>id.</i> § 15A-1340.17 (punishment).

and the defendant is at least 12 years old and more than four but less than six years older than the person, except when the defendant is lawfully married to the person.

Sexual Battery

- If, for the purpose of sexual arousal, sexual gratification, or sexual abuse, a person engages in sexual contact with another person:
 - By force and against the will of the other person; or
 - 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.
- N.C. Gen. Stat. Ann. § 14-27.33; *see also id.* § 14-27.20 (definitions); *id.* § 15A-1340.23 (punishment).

Sexual Activity by a Substitute Parent of Custodian

- If a person 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.
- 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.
- N.C. Gen. Stat. Ann. § 14-27.31; *see also id.* § 14-27.20 (definitions); *id.* § 15A-1340.17 (punishment).

Sexual Activity with a Student

- When a person 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.
- N.C. Gen. Stat. Ann. § 14-27.32; *see also id.* § 14-27.20 (definitions); *id.* § 15A-1340.17 (punishment).

Crime Against Nature (Sodomy)

- The crime against nature, with mankind or beast.
- Note: Any state laws that outright prohibit sodomy are unconstitutional under *Lawrence v. Texas*.

- N.C. Gen. Stat. Ann. § 14-177.

North Dakota

	Definition	Crime Definition Statute
Gross Sexual Imposition	<p>Engaging in a sexual act with another, or causing another to engage in a sexual act, if:</p> <ul style="list-style-type: none"> • 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; • 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; • 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; • The victim is less than fifteen years old; or • 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. <p>Engaging in sexual contact with another, or causing another to engage in sexual contact, if:</p> <ul style="list-style-type: none"> • The victim is less than fifteen years old; • That person compels the victim to submit by force or by threat of imminent 	<ul style="list-style-type: none"> • N.D. Cent. Code Ann. § 12.1-20-03; <i>see also id.</i> § 12.1-20-01; <i>id.</i> § 12.1-20-02 (definitions).

death, serious bodily injury, or kidnapping, to be inflicted on any human being; or

- That person knows or has reasonable cause to believe that the victim is unaware that sexual contact is being committed on the victim.
- Engaging in any combination of three or more sexual acts or sexual contacts with a minor under the age of fifteen years during a period of three or more months.

Continuous Sexual Abuse of a Child

- N.D. Cent. Code Ann. § 12.1-20-03.1; N.D. Cent. Code Ann. § 12.1-20-03; *see also id.* § 12.1-20-01; *id.* § 12.1-20-02 (definitions);

Sexual Imposition

- Engaging in a sexual act or sexual contact with another, or causing another to engage in a sexual act or sexual contact, if the actor:
 - Compels the other person to submit by any threat or coercion that would render a person reasonably incapable of resisting; or
 - 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

- N.D. Cent. Code Ann. § 12.1-20-04

Corruption or Solicitation of Minors

- (1) Engaging in, soliciting with the intent to engage in, or causing another to engage in a sexual act with a minor, when the actor is an adult.
- (2) Soliciting with the intent to engage in a sexual act with a minor under age fifteen or engages in or causing another to engage in a sexual act when the adult is at least twenty-two years of age and the victim is a minor fifteen years of age or older, when the actor is an adult.

- N.D. Cent. Code Ann. § 12.1-20-05; N.D. Cent. Code Ann. § 12.1-20-03.1; N.D. Cent. Code Ann. § 12.1-20-03; *see also id.* § 12.1-20-01; *id.* § 12.1-20-02 (definitions).

Sexual Abuse of Wards	<ul style="list-style-type: none"> • Engaging in a sexual act with another person, or causing another to engage in a sexual act if 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 the other person. 	<ul style="list-style-type: none"> • N.D. Cent. Code Ann. § 12.1-20-06
Sexual Exploitation by Therapist	<ul style="list-style-type: none"> • When a person who holds oneself out to be a therapist and intentionally has sexual contact with a patient or client during any treatment, consultation, interview, or examination 	<ul style="list-style-type: none"> • N.D. Cent. Code Ann. § 12.1-20-06.1
Sexual Assault	<p>Knowingly having sexual contact with another person, or causing another person to have sexual contact with that person, if:</p> <ul style="list-style-type: none"> • (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. 	<ul style="list-style-type: none"> • N.D. Cent. Code Ann. § 12.1-20-07; N.D. Cent. Code Ann. § 12.1-20-03.1; N.D. Cent. Code Ann. § 12.1-20-03; <i>see also id.</i> § 12.1-20-01; <i>id.</i> § 12.1-20-02 (definitions).

Ohio

	Definition	Crime Definition Statute
Rape in the First Degree	<ul style="list-style-type: none"> • (1) Engaging 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: <ul style="list-style-type: none"> • (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; or • (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. • Engaging in sexual conduct with another when the offender purposely compels the other person to submit by force or threat of force. 	<ul style="list-style-type: none"> • Ohio Rev. Code Ann. § 2907.02; <i>see also id.</i> § 2907.01 (definitions); <i>id.</i> §§ 2929.14, 2971.03, 2929.18 (punishments).
Sexual Battery	<p>Engaging in sexual conduct with another, not the spouse of the offender, when any of the following apply:</p> <ul style="list-style-type: none"> • The offender knowingly coerces the other person to submit by any means that would prevent resistance by a person of ordinary resolution; • The offender knows that the other person's ability to appraise the nature of 	<ul style="list-style-type: none"> • Ohio Rev. Code Ann. § 2907.03; <i>see also id.</i> § 2907.01 (definitions); <i>id.</i> §§ 2929.14, 2971.03, 2929.18

- or control the other person's own conduct is substantially impaired;
- The offender knows that the other person submits because the other person is unaware that the act is being committed;
- The offender knows that the other person submits because the other person mistakenly identifies the offender as the other person's spouse;
- 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;
- 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;
- 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;
- 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;
- 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;
- 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;

- The other person is confined in a detention facility, and the offender is an employee of that detention facility;
- 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; or
- 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.

Unlawful Sexual Conduct with a Minor

- Engaging in sexual conduct with another, who is not the spouse of the offender, when the offender knows the other person is 13 years old or older but less than sixteen years of age, or the offender is reckless in that regard, and the offender is at least eighteen years old.

• Ohio Rev. Code Ann. § 2907.04; *see also id.* § 2907.01 (definitions); *id.* §§ 2929.14, 2971.03, 2929.18 (punishments).

Gross Sexual Imposition

- (A) Having sexual contact with another, not the spouse of the offender; causing another, not the spouse of the offender, to have sexual contact with the offender; or causing 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

• Ohio Rev. Code Ann. § 2907.05; *see also id.* § 2907.01 (definitions); *id.* §§ 2929.14, 2971.03, 2929.18 (punishments).

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; or
- (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.

- Knowingly touching 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.

Sexual Imposition

(A) Having sexual contact with another, not the spouse of the offender; causing another, not the spouse of the offender, to have sexual contact with the offender; or causing 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

- Ohio Rev. Code Ann. § 2907.06; *see also id.* § 2901.01 (definitions); *id.* §§ 2929.14, 2971.03, 2929.24 (punishments).

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; or
- (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.

Importuning

- (A) Soliciting a person who is less than thirteen years of age to engage in sexual activity with the offender, whether or not the offender knows the age of such person.
- (B)
 - (1) Soliciting another, not the spouse of the offender, to engage in sexual conduct with the offender, when the offender is eighteen years of age or older and four or more years older than the other person, and the other person is thirteen years of age or older but less than sixteen years of age, whether or not the offender knows the age of the other person.
 - (2) Soliciting another, not the spouse of the offender, to engage in sexual conduct with the offender, when the offender is eighteen years of age or older and four or more years older than the other person, the other person is sixteen or seventeen years

•Ohio Rev. Code Ann. § 2907.07; *see also id.* § 2907.01 (definitions); *id.* §§ 2929.14, 2971.03, 2929.18 (punishments).

of age and a victim trafficking, and the offender knows or has reckless disregard of the age of the other person.

- (C) Soliciting another by means of a telecommunications device, to engage in sexual activity with the offender when the offender is eighteen years of age or older and either of the following applies:
 - (1) The other person is less than thirteen years of age, and the offender knows that the other person is less than thirteen years of age or is reckless in that regard; or
 - (2) The other person is a law enforcement officer posing as a person who is less than thirteen years of age, and the offender believes that the other person is less than thirteen years of age or is reckless in that regard.

- (D) Soliciting another by means of a telecommunications device, to engage in sexual activity with the offender when the offender is eighteen years of age or older and either of the following applies:
 - (1) The other person is thirteen years of age or older but less than sixteen years of age, the offender knows that the other person is thirteen years of age or older but less than sixteen years of age or is reckless in that regard, and the offender is four or more years older than the other person; or
 - (2) The other person is a law enforcement officer posing as a person who is thirteen years of age or older but less than sixteen years of age, the offender believes that the other person is thirteen years of age or older but less than sixteen years of age or is reckless in that regard, and the offender is four or more years older than the age the law enforcement officer assumes in posing as the person who is thirteen

years of age or older but less than sixteen years of age.

Oklahoma

	Definition	Crime Definition Statute
Rape in the First Degree	<p>Rape or rape by instrumentation in the first degree shall include:</p> <ul style="list-style-type: none">•rape committed by a person over eighteen (18) years of age upon a person under fourteen (14) years of age; or•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•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•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•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•rape by instrumentation regardless of the age of the victim or the age of the person committing the crime.	<ul style="list-style-type: none">•Okla. Stat. Ann. tit. 21, §§ 1114, 1112; <i>see also id.</i> § 1111 (rape defined); <i>id.</i> 1111.1 (rape by instrumentation defined); <i>id.</i> § 111 (force defined); <i>id.</i> § 1113 (consent defined); <i>id.</i> § 1115 (punishment); <i>id.</i> § 51.1a (punishment).
Rape in the Second Degree	<ul style="list-style-type: none">•In all other cases not listed under “Rape-1st Degree,” rape or rape by instrumentation is rape in the second degree.	<ul style="list-style-type: none">•Okla. Stat. Ann. tit. 21, § 1114; 1112; <i>see also id.</i> § 1111 (rape defined); 1111.1 (rape by instrumentation defined).

Lewd or
Indecent
Proposals or
Acts as to Child
Under 16 or
Person Believed
to be Under 16
- Sexual Battery

(A) Knowingly and intentionally:

- Make any oral, written or electronically or computer-generated lewd or indecent proposal to any child under sixteen (16) years of age, or other individual the person believes to be a child under sixteen (16) years of age, for the child to have unlawful sexual relations or sexual intercourse with any person; or
- Look upon, touch, maul, or feel the body or private parts of any child under sixteen (16) years of age in any lewd or lascivious manner by any acts against public decency and morality, as defined by law; or
- Ask, invite, entice, or persuade any child under sixteen (16) years of age, or other individual the person believes to be a child under sixteen (16) years of age, to go alone with any person to a secluded, remote, or secret place, with the unlawful and willful intent and purpose then and there to commit any crime against public decency and morality, as defined by law, with the child; or
- In any manner lewdly or lasciviously look upon, touch, maul, or feel the body or private parts of any child under sixteen (16) years of age in any indecent manner or in any manner relating to sexual matters or sexual interest; or
- In a lewd and lascivious manner and for the purpose of sexual gratification:
 - urinate or defecate upon a child under sixteen (16) years of age, or force or require a child to defecate or urinate upon the body or private parts of another, or for the purpose of sexual gratification,
 - ejaculate upon or in the presence of a child,
 - cause, expose, force or require a child to look upon the body or private parts of another person,
 - force or require any child under

• Okla. Stat. Ann.
tit. 21, §
1123(A, B, C)

sixteen (16) years of age or other individual the person believes to be a child under sixteen (16) years of age, to view any obscene materials, child pornography or materials deemed harmful to minors as such terms are defined by Sections 1024.1 and 1040.75 of this title,

- cause, expose, force or require a child to look upon sexual acts performed in the presence of the child, or
- force or require a child to touch or feel the body or private parts of said child or another person.

The provisions of (A) shall not apply unless the accused is at least three (3) years older than the victim, except when accomplished by the use of force or fear.

(B) No person shall commit sexual battery on any other person.

(C) No person shall in any manner lewdly or lasciviously:

- (1) Look upon, touch, maul, or feel the body or private parts of any human corpse in any indecent manner relating to sexual matters or sexual interest; or
- (2) Urinate, defecate or ejaculate upon any human corpse.

Crime Against Nature (Sodomy)

- The detestable and abominable crime against nature, committed with mankind or with a beast.
- Any sexual penetration, however slight, is sufficient to complete the crime against nature.
- **Note:** Any state laws that outright prohibit sodomy are unconstitutional under *Lawrence v. Texas*.

• Okla. Stat. Ann. tit. 21, §§ 886–887.

Forcible Sodomy Any person who forces another to engage in sodomy is guilty of forcible sodomy.

• Okla. Stat. Ann. tit. 21, § 888

The crime of forcible sodomy shall include:

- Sodomy committed by a person over 18 years of age upon a person under

- 16 years of age; or
- Sodomy 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
- Sodomy 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 victim or the person committing the crime; or
- Sodomy committed by a state, county, municipal or political subdivision employee or a contractor or an employee of a contractor of the state, a county, a municipality or political subdivision of this state upon a person who is under the legal custody, supervision or authority of a state agency, a county, a municipality or a political subdivision of this state, or the subcontractor or employee of a subcontractor of the state or federal government, a county, a municipality, or a political subdivision of this state; or
- Sodomy committed upon a person who is at least sixteen (16) years of age but less than twenty (20) years of age and is a student of any public or private secondary school, junior high or high school, or public vocational school, with a person who is eighteen (18) years of age or older and is employed by the same school system; or
- Sodomy committed upon a person who is at the time unconscious of the nature of the act, and this fact should be known to the accused; or
- Sodomy committed upon a person where the person is intoxicated by a narcotic or anesthetic agent administered by or with the privity of the accused as a means of forcing the person to submit; or
- Sodomy committed upon a person who is at least sixteen (16) years of age but less than eighteen (18) years of age by

a person responsible for the child's health, safety or welfare.

Any sexual penetration, however slight, is sufficient to complete the crime against nature.

Oregon

	Definition	Crime Definition Statute
Rape in the First Degree	<ul style="list-style-type: none">• Engaging in sexual intercourse with another person if:<ul style="list-style-type: none">• The victim is subjected to forcible compulsion by the person;• The victim is under 12 years of age;• The victim is under 16 years of age and is the person's whole- or half-sibling, the person's child, or the person's spouse's child; or• The victim is incapable of consent by reason of mental defect, mental incapacitation or physical helplessness.• 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 as a result of being under a certain age over the age of 16, mentally defective, mentally incapacitated or physically helpless.• If the crime depends on the victim 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.	<ul style="list-style-type: none">• Or. Rev. Stat. § 163.375; <i>see id.</i> § 163.305 (definitions) <i>id.</i> § 163.315 (capability to consent); <i>id.</i> §§ 137.690, 137.700, 161.605, 161.625 (penalties).
Rape in the Second Degree	<ul style="list-style-type: none">• Engaging in sexual intercourse with another person who is under 14 years of age.	<ul style="list-style-type: none">• Or. Rev. Stat. § 163.365; <i>see id.</i> § 163.305 (definitions) <i>id.</i> §§ 137.700, 161.605, 161.625 (penalties).

Rape in the
Third Degree

- Engaging in sexual intercourse with a person under 16 years of age.

• Or. Rev. Stat. § 163.355; *see id.* § 163.305 (definitions) *id.* §§ 137.690, 137.700, 161.605, 161.625 (penalties).

Sodomy in the
First Degree

- Engaging in oral or anal sexual intercourse with another person or causing another to engage in oral or anal sexual intercourse if:
 - The victim is subjected to forcible compulsion by the actor;
 - The victim is under 12 years of age;
 - The victim is under 16 years of age and is the person's whole- or half-sibling, the actor's child, or the actor's spouse's child; or
 - The victim is incapable of consent by reason of mental defect, mental incapacitation or physical helplessness.
- 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 as a result of being mentally defective, mentally incapacitated or physically helpless.

• Or. Rev. Stat. § 163.405; *see id.* § 163.305 (definitions) *id.* § 163.315 (capability to consent); *id.* §§ 137.690, 137.700, 161.605, 161.625 (penalties).

Sodomy in the
Second Degree

- Engaging in oral or anal sexual intercourse with another person or causing another to engage in oral or anal sexual intercourse with a victim who is under 14 years of age.

• Or. Rev. Stat. § 163.395; *see id.* § 163.305 (definitions) *id.* § 163.315 (capability to consent); *id.* §§ 137.690, 137.700, 161.605, 161.625 (penalties).

Sodomy in the Third Degree

Engaging in oral or anal sexual intercourse with a person under 16 years of age.

• Or. Rev. Stat. § 163.385; *see id.* § 163.305 (definitions) *id.* §§ 161.605, 161.625 (penalties).

Unlawful Sexual Penetration in the First Degree

- Penetration of the vagina, anus or penis of another with any object other than the penis or mouth of the actor and:
 - The victim is subjected to forcible compulsion by the actor;
 - The victim is under 12 years of age; or
 - The victim is incapable of consent by reason of mental defect, mental incapacitation or physical helplessness.
- Unless the penetration is part of a medically recognized treatment or diagnostic procedure or 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 a crime.
- 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 as a result of being mentally defective, mentally incapacitated or physically helpless.

• Or. Rev. Stat. §§ 163.411, 163.412; *see id.* § 163.305 (definitions) *id.* § 163.315 (capability to consent); *id.* §§ 137.690, 137.700, 161.605, 161.625 (penalties).

Unlawful Sexual Penetration in the Second Degree

- Penetration of the vagina, anus or penis of another with any object other than the penis or mouth of the actor if the victim is under 14 years of age.
- Unless the penetration is part of a medically recognized treatment or diagnostic procedure or 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 a crime.
- When the object used to penetrate is the hand or any part thereof of the actor and in

• Or. Rev. Stat. §§ 163.408, 163.412; *see id.* § 163.305 (definitions) *id.* §§ 137.700, 161.605, 161.625 (penalties).

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 an affirmative defense that the actor was less than three years older than the victim at the time of the alleged offense.

Sexual Abuse in the First Degree

- Subjecting another person to sexual contact and:
 - The victim is less than 14 years of age;
 - The victim is subjected to forcible compulsion by the actor;
 - The victim is incapable of consent by reason of being mentally defective, mentally incapacitated or physically helpless; or
 - Intentionally causing 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.
- 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 as a result of being mentally defective, mentally incapacitated or physically helpless.

- Or. Rev. Stat. § 163.427; *see also id.* § 163.305 (definitions) *see id.* § 163.305 (definitions) *id.* § 163.315 (capability to consent); *id.* §§ 137.700, 161.605, 161.625 (penalties).

Sexual Abuse in the Second Degree

- Subjecting another person to sexual intercourse, oral or anal sexual intercourse, or 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 the person commits Sexual Abuse in the Third Degree and the person is 21 years of age or older and at any time before the commission of the offense, the person was the victim's coach.
- Unless the penetration is part of a medically recognized treatment or diagnostic procedure or 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 a crime.

- Or. Rev. Stat. § 163.425; *see also id.* § 163.405 (definitions) *id.* § 163.426; *see id.* § 163.305 (definitions) *id.* § 163.315 (capability to consent); *id.* §§ 137.700, 161.605, 161.625 (penalties).

Sexual Abuse in the Third Degree	<p>Subjecting another person to sexual contact and:</p> <ul style="list-style-type: none"> • The victim does not consent to the sexual contact; • The victim is incapable of consent by reason of being under 18 years of age; or • 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. 	<ul style="list-style-type: none"> • Or. Rev. Stat. § 163.415; <i>see also id.</i> § 163.405 (definitions) <i>id.</i> §§ 161.615, 161.635 (penalties).
Sexual Misconduct	<p>Engaging in sexual intercourse or oral or anal sexual intercourse with an unmarried person under 18 years of age.</p> <p>In any prosecution of this crime 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.</p>	<ul style="list-style-type: none"> • Or. Rev. Stat. § 163.445; <i>see also id.</i> § 163.405 (definitions) <i>see also id.</i> § 163.405 (definitions) <i>id.</i> §§ 161.615, 161.635 (penalties).
Custodial Sexual Misconduct in the First Degree	<p>Engaging in sexual intercourse or oral or anal sexual intercourse with another person or penetrating the vagina, anus or penis of another person with any object other than the penis or mouth of the actor knowing that the other person is:</p> <ul style="list-style-type: none"> • In the custody of a law enforcement agency following arrest; • Confined or detained in a correctional facility; • Participating in an adult in custody or offender work crew or work release program; or • On probation, parole, post-prison supervision or other form of conditional or supervised release; <p><u>and</u></p> <ul style="list-style-type: none"> • The actor is employed by or under contract with the state or local agency that: <ul style="list-style-type: none"> • Employs the officer who arrested the other person; • Operates the correctional facility in which the other person is confined or detained; 	<ul style="list-style-type: none"> • Or. Rev. Stat. § 163.452; <i>see also id.</i> § 163.405 (definitions)

- Is responsible for supervising the other person in a work crew or work release program or on probation, parole, post-prison supervision or other form of conditional or supervised release; or
- Engages the other person in work or on-the-job training pursuant to ORS 421.354 (1).

Consent of the other person to sexual intercourse, oral or anal sexual intercourse or the sexual penetration is not a defense to a prosecution under this section.

Lack of supervisory authority over the other person is an affirmative defense to a prosecution under this section when the other person is on probation, parole, post-prison supervision or other form of conditional or supervised release.

Custodial
Misconduct in
the Second
Degree

Engaging in sexual contact with another person or penetrating the vagina, anus or penis of another person with any object other than the penis or mouth of the actor knowing that the other person is:

- In the custody of a law enforcement agency following arrest;
- Confined or detained in a correctional facility;
- Participating in an adult in custody or offender work crew or work release program; or
- On probation, parole, post-prison supervision or other form of conditional or supervised release;

• Or. Rev. Stat. § 163.454; *see also id.* § 163.405 (definitions) *id.* § 163.405 (definitions) *id.* §§ 161.615, 161.635 (penalties).

and

- The actor is employed by or under contract with the state or local agency that:
 - Employs the officer who arrested the other person;
 - Operates the correctional facility in which the other person is confined or detained;
 - Is responsible for supervising the other person in a work crew or work release program or on probation, parole, post-prison supervision or other form of conditional or supervised release; or
 - Engages the other person in work or

on-the-job training pursuant to ORS 421.354 (1).

Consent of the other person to sexual intercourse, oral or anal sexual intercourse or the sexual penetration is not a defense to a prosecution under this section.

Lack of supervisory authority over the other person is an affirmative defense to a prosecution under this section when the other person is on probation, parole, post-prison supervision or other form of conditional or supervised release.

Pennsylvania

	Definition	Crime Definition Statute
Rape	<ul style="list-style-type: none">• Sexual Intercourse:<ul style="list-style-type: none">• by forcible compulsion;• by threat of forcible compulsion that would prevent resistance by a person of reasonable resolution;• with a person who is unconscious or where the person knows that the complainant is unaware that sexual intercourse is occurring;• where the person has substantially impaired the complainant's power to appraise or control her conduct by administering or employing, without the knowledge of the complainant, drugs, intoxicants or other means for the purpose of preventing resistance;• with a person who suffers from a mental disability which renders the complainant incapable of consent; or• with a person who is less than 13 years of age.• Rape of a child with serious bodily injury: Raping a child who is under 13 years old and suffers serious bodily injury in the course of the offense.• Except as otherwise provided, whenever the criminality of conduct depends on a child being below the age of 14 years, it is no defense that the defendant did not know the age of the child or reasonably believed the	<ul style="list-style-type: none">• 18 Pa. Cons. Stat. § 3121 <i>see also id.</i> § 3101 (definitions) <i>id.</i> § 3102 (mistake as to age); <i>id.</i> §§ 1101, 1103, 9718 (penalties).

child to be the age of 14 years or older. When criminality depends on the child's being below a critical age older than 14 years, it is a defense for the defendant to prove by a preponderance of the evidence that he or she reasonably believed the child to be above the critical age.

Involuntary
Deviate Sexual
Intercourse

- **Deviate sexual intercourse:**
 - by forcible compulsion;
 - by threat of forcible compulsion that would prevent resistance by a person of reasonable resolution;
 - with a person who is unconscious or where the person knows that the complainant is unaware that sexual intercourse is occurring;
 - where the person has substantially impaired the complainant's power to appraise or control her conduct by administering or employing, without the knowledge of the complainant, drugs, intoxicants or other means for the purpose of preventing resistance
 - who suffers from a mental disability which renders the complainant incapable of consent;
 - is less than 16 years of age and the person is more than four years older than the complainant and the complainant and the person are not married to each other.
- **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.
- **Involuntary deviate sexual intercourse with a child with serious bodily injury:** Committing involuntary deviate sexual intercourse with a child who is under 13 years old and suffers serious bodily injury in the course of the offense.
- Except as otherwise provided, whenever the criminality of conduct depends on a child being below the age of 14 years, it is no defense that the defendant did not know the age of the child or reasonably believed the

- 18 Pa. Cons. Stat. § 3123
see also id. § 3101
(definitions)
id. § 3102
(mistake as to age); *id.* §§ 1101, 1103, 9718
(penalties).

child to be the age of 14 years or older. When criminality depends on the child's being below a critical age older than 14 years, it is a defense for the defendant to prove by a preponderance of the evidence that he or she reasonably believed the child to be above the critical age.

Sexual Assault

- Sexual intercourse or deviate sexual intercourse without the complainant's consent.

- 18 Pa. Cons. Stat. § 3124.1; *see also id.* § 3101 (definitions) *id.* § 3102 (mistake as to age); *id.* §§ 1101, 1103, 9718 (penalties).

Aggravated Indecent Assault

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 if:

- the person does so without the complainant's consent;
- the person does so by forcible compulsion;
- the person does so by threat of forcible compulsion that would prevent resistance by a person of reasonable resolution;
- the complainant is unconscious or the person knows that the complainant is unaware that the indecent contact is occurring;
- 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;
- the complainant suffers from a mental disability which renders the complainant incapable of consent;
- the complainant is less than 13 years of age; or
- the complainant is less than 16 years of age and the person is four or more years older

- 18 Pa. Cons. Stat. § 3125 *see also id.* § 3101 (definitions) *id.* § 3102 (mistake as to age); *id.* §§ 1101, 1103, 9718 (penalties).

than the complainant and the person and the complainant are not married to each other.

Indecent Assault Indecent contact causing the complainant to have indecent contact with the person or intentionally causing the complainant to come in contact with seminal fluid, urine, or feces for the purpose of arousing sexual desire in the person or the complainant and:

- the person does so without the complainant's consent (second degree misdemeanor);
- the person does so by forcible compulsion (first degree misdemeanor);
- the person does so by threat of forcible compulsion that would prevent resistance by a person of reasonable resolution (first degree misdemeanor);
- the complainant is unconscious or the person knows that the complainant is unaware that the indecent contact is occurring (first degree misdemeanor);
- 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 (first degree misdemeanor);
- the complainant suffers from a mental disability which renders the complainant incapable of consent (first degree misdemeanor);
- the complainant is less than 13 years of age (see below of sentencing); or
- the complainant is less than 16 years of age and the person is four or more years older than the complainant and the person and the complainant are not married to each other. (second degree misdemeanor).

Institutional Sexual 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

• 18 Pa. Cons. Stat. § 3126 *see also id.* § 3101 (definitions) *id.* § 3102 (mistake as to age); *id.* §§ 1101-1104 (penalties).

• 18 Pa. Cons. Stat. § 3124.2; *see also id.* § 3101 (definitions) *id.* § 3102 (mistake as to age); *id.*

engages in sexual intercourse, deviate sexual intercourse or indecent contact with an inmate, detainee, patient or resident.

§§ 1101, 1103, 9718 (penalties).

- **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.
- **Schools:** 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.
- **Child care:** 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.
- A person who serves as a sports official in a sports program of a nonprofit association or a for-profit association commits a felony of the third degree when that person engages in sexual intercourse, deviate sexual intercourse or indecent contact with a child under 18 years of age who is participating in a sports program of the nonprofit association or for-profit association.
- A volunteer or an employee of a nonprofit association having direct contact with a child under 18 years of age who participates in a program or activity of the nonprofit association commits a felony of the third degree if the volunteer or employee engages in sexual intercourse, deviate sexual intercourse or indecent contact with that child.

Sexual Assault
by Sports
Official,
Volunteer, or
Employee of
Nonprofit
Association

• 18 Pa. Cons. Stat. § 3124.2; *see also id.* § 3101 (definitions) *id.* § 3102 (mistake as to age); *id.* §§ 1101, 1103, 9718 (penalties).

Sodomy

- Pennsylvania does not prohibit sodomy. Anal sex is included in the definition of “deviate sexual intercourse”.
- **Note:** Any state laws that outright prohibit sodomy are unconstitutional under *Lawrence v. Texas*.

• N/A

Statutory Sexual Assault

- (a) Except as provided in Rape, a person commits a second degree felony 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) 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.

• 18 Pa. Cons. Stat. § 3122.1; *see also id.* § 3101 (definitions) *id.* § 3102 (mistake as to age); *id.* §§ 1101, 1103, 9718 (penalties).

Rhode Island

	Definition	Crime Definition Statute
Sexual Assault in the First Degree	<p>Sexual penetration with another person if:</p> <ul style="list-style-type: none">• The accused is not the spouse of the victim and knows or has reason to know that the victim is mentally incapacitated, mentally disabled, or physically helpless;• The accused uses force or coercion;• The accused, through concealment or by the element of surprise, is able to overcome the victim; or• The accused engages in the medical treatment or examination of the victim for the purpose of sexual arousal, gratification, or stimulation.	<ul style="list-style-type: none">• R.I. Gen. Laws § 11-37-2; <i>see also id.</i> § 11-37-1 (definitions); § 11-37-3 (penalty).

Sexual Assault in the Second Degree

Engaging in sexual contact with another person if:

- The accused knows or has reason to know that the victim is mentally incapacitated, mentally disabled, or physically helpless;
- The accused uses force, element of surprise, or coercion; or
- 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 § 11-37-4; *see also id.* § 11-37-1 (definitions); § 11-37-5 (penalty).

Statutory Rape

- Sexual assault in the third degree: sexual penetration when the actor is over 18 and the victim is over fourteen and under sixteen.
- Child molestation sexual assault in the first degree: sexual penetration with a person 14 years old or younger.
- Child molestation sexual assault in the second degree: sexual contact with a person 14 years old or younger.

- R.I. Gen. Laws §§ 11-37-6 (Sexual Assault in the Third Degree); *id.* § 11-37-8.1 (First Degree Child Molestation Sexual Assault); *id.* § 11-37-8.3 (Second Degree Child Molestation Sexual Assault); *see also id.* §§ 11-37-7–11-37-8.2.1, 11-37-8.4, 11-37-8.6 (penalties).

Sodomy

- Rhode Island does not prohibit sodomy. Anal sex is included in the definition of “sexual penetration”.
- Any state laws that outright prohibit sodomy are unconstitutional under *Lawrence v. Texas*.

- N/A

South Carolina

	Definition	Crime Definition Statute
Criminal Sexual Conduct in the First Degree	Engaging in sexual battery with the victim and if: <ul style="list-style-type: none">• The actor used aggravated force to accomplish sexual battery;• The victim submits to sexual battery by the	• S.C. Code Ann. § 16-3-652; <i>see also id.</i> §§

	<p>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; or</p> <ul style="list-style-type: none"> • 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. 	<p>16-3-600, 16-3-651 (definitions)</p>
Criminal Sexual Conduct in the Second Degree	<ul style="list-style-type: none"> • Using aggravated coercion to accomplish sexual battery. 	<ul style="list-style-type: none"> • S.C. Code Ann. § 16-3-653; <i>see also id.</i> §§ 16-3-600, 16-3-651 (definitions)
Criminal Sexual Conduct in the Third Degree	<ul style="list-style-type: none"> • Engaging in sexual battery with the victim and if: <ul style="list-style-type: none"> • The actor uses force or coercion to accomplish the sexual battery in the absence of aggravating circumstances; or • 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. • A person cannot be guilty of this crime if the victim is the legal spouse of the person unless the couple is living apart or if the purported marriage includes a male under the age of 16 or a female under the age of 14. 	<ul style="list-style-type: none"> • S.C. Code Ann. § 16-3-654; <i>see also id.</i> §§ 16-3-600, 16-3-651 (definitions)
Spousal Sexual Battery	<ul style="list-style-type: none"> • Sexual battery when accomplished through use of aggravated force by one spouse of the other spouse if they are living together. • 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. • 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 	<ul style="list-style-type: none"> • S.C. Code Ann. §§ 16-3-615, 16-3-658; <i>see also id.</i> §§ 16-3-600, 16-3-651 (definitions)

fourteen.

Felony Sexual
Battery with a
Student

- A person affiliated with a public or private secondary school in an official capacity engaging in sexual battery with a student enrolled in the school who is 16-17 years old and aggravated coercion or aggravated force is not used to accomplish the sexual battery is guilty of a felony.
- If a person affiliated with a public or private secondary school in an official capacity has direct supervisory authority over a student enrolled in the school who is eighteen years of age or older, and the person affiliated with the public or private secondary school in an official capacity engages in sexual battery with the student, and aggravated coercion or aggravated force is not used to accomplish the sexual battery, the person affiliated with the public or private secondary school in an official capacity is guilty of a felony and, upon conviction, must be imprisoned for not more than five years.
- This section does not apply if the person affiliated with a public or private secondary school in an official capacity is lawfully married to the student at the time of the act.

• S.C. Code
Ann. §
16-3-755.

Misdemeanor
Sexual Battery
with a Student

- A person affiliated with a public or private secondary school in an official capacity engaging in sexual battery with a student enrolled in the school who is 18 years of age or older, and aggravated coercion or aggravated force is not used to accomplish the sexual battery.
- This section does not apply if the person affiliated with a public or private secondary school in an official capacity is lawfully married to the student at the time of the act.

• S.C. Code
Ann. §
16-3-755.

Statutory Rape

- **Criminal sexual conduct with a minor in the first degree:**
 - Sexual battery when the victim is less than 11 years old; or
 - Sexual battery when the victim is less than 16 years old and the actor is a previous sex offender.
- **Criminal sexual conduct with a minor in the second degree:**
 - Sexual battery when the victim 11-14 years old; or

• S.C. Code
Ann. §
16-3-655
(Criminal
Sexual
Conduct
with a
Minor); *see
also id.* §§
16-3-600,
16-3-651

- Sexual battery when the victim who is 14-15 years old and the actor is in a position of familial, custodial, or official authority to coerce the victim to submit or is older than the victim. A person may not be convicted of a violation of the provisions of this item if he is eighteen years of age or less when he engages in consensual sexual conduct with another person who is at least fourteen years of age.
- **Criminal sexual conduct with a minor in the third degree:**
 - The actor is over 14 years old and the actor willfully and lewdly commits or attempts to commit a lewd or lascivious act upon or with the body of a child under 16 years old, with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desire of the actor or child. A person may not be convicted of a violation of the provisions of this subsection if the person is eighteen years of age or less when the person engages in consensual lewd or lascivious conduct with another person who is at least fourteen years of age.
 - Men under the age of 14 may commit rape. A person cannot be guilty of this crime if the victim is the legal spouse of the person unless the couple is living apart or if the purported marriage includes a male under the age of 16 or a female under the age of 14.

Sodomy

- South Carolina does not prohibit sodomy. Anal sex is included in the definition of “sexual battery”.
- Any state laws that outright prohibit sodomy are unconstitutional under *Lawrence v. Texas*.

• N/A

South Dakota

	Definition	Crime Definition Statute
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Rape in the First Degree	<ul style="list-style-type: none"> • An act of sexual penetration if the victim is under 13 years old. 	<ul style="list-style-type: none"> • S.D. Codified Laws § 22-22-1(1)
Rape in the Second Degree	<ul style="list-style-type: none"> • An act of sexual penetration 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. 	<ul style="list-style-type: none"> • S.D. Codified Laws § 22-22-1(2).
Rape in the Third Degree	<ul style="list-style-type: none"> • An act of sexual penetration if: <ul style="list-style-type: none"> • the victim is incapable, because of physical or mental incapacity, of giving consent to such act; or • the victim is incapable of giving consent because of any intoxicating, narcotic, or anesthetic agent or hypnosis. 	<ul style="list-style-type: none"> • S.D. Codified Laws § 22-22-1(3) & (4).
Rape in the Fourth Degree	<ul style="list-style-type: none"> • An act of sexual penetration if the victim is 13-15 years old and the perpetrator is at least three years older than the victim. 	<ul style="list-style-type: none"> • S.D. Codified Laws § 22-22-1(5).
Sexual Contact with a Person Incapable of Consenting	<ul style="list-style-type: none"> • Knowingly engaging in sexual contact with a person who is 16 or older who is incapable because of physical or mental incapacity of consenting to sexual contact, where the actor is 15 or older. 	<ul style="list-style-type: none"> • S.D. Codified Laws § 22-22-7.2
Sexual Contact Without Consent With Person Capable of Consenting Statutory Rape	<ul style="list-style-type: none"> • Knowingly engaging in sexual contact with a person, other than the actor's spouse, who is capable of consenting but has not consented to such contact, where the actor is 15 or older. • Rape in the first degree: Engaging in an act of sexual penetration if the victim is under 13 years old. • Rape in the fourth degree: Engaging in an act of sexual penetration if the victim is 13-15 years old and the perpetrator is at least three years older than the victim. • Felony sexual contact with a child under sixteen: Knowingly, engaging in sexual contact with a person, other than the actor's spouse, under the age of 16 if the actor is 16 or older. The act of pressing an erect penis against a child's buttocks amounts to "sexual contact", even if both defendant and child are fully clothed. <i>State v. Bariteau</i>, 2016 S.D. 57, 884 N.W.2d 169. • Misdemeanor sexual conduct with a child 	<ul style="list-style-type: none"> • S.D. Codified Laws § 22-22-7.4 • S.D. Codified Laws §§ 22-22-1, 22-22-7, 22-22-7.3, 22-22-7.5, 22-22-7.7, 22-22-24.3, 22-22-28, 22-22-29

under sixteen: Knowingly, engaging in sexual contact with a person 13-15 years old and the actor is less than five years older. The act of pressing an erect penis against a child's buttocks amounts to “sexual contact”, even if both defendant and child are fully clothed. *State v. Bariteau*, 2016 S.D. 57, 884 N.W.2d 169.

- **Sexual contact with child under sixteen years of age:** Knowingly, engaging in sexual contact when both parties are under 16 years old and not each other’s spouse.
- **Sexual exploitation of a minor:** Causing or knowingly permitting a minor to engage in an activity or the simulation of an activity that is harmful to minors, involves nudity or is obscene.
- **Sexual contact or sexual penetration by a psychotherapist:** Knowingly engage in sexual contact or sexual penetration by a psychotherapist 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 or penetration.

Sodomy

- South Dakota does not prohibit sodomy. Anal sex is included in the definition of “sexual penetration”.
- South Dakota defines sodomy as an act, however slight, of 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.
- Any state laws that outright prohibit sodomy are unconstitutional under *Lawrence v. Texas*, 539 U.S. 588 (2003).

• N/A

Tennessee

	Definition	Crime Definition Statute
Aggravated Rape	<ul style="list-style-type: none"> • Sexual penetration and any of the following: <ul style="list-style-type: none"> • Force or coercion is used and the defendant is armed with a weapon or something the victim would reasonably believe is a weapon; 	<ul style="list-style-type: none"> • Tenn. Code Ann. § 39-13-502

Rape	<ul style="list-style-type: none"> •The defendant causes bodily injury to the victim; •The defendant is helped by one or more people and force or coercion is used; or •The defendant is helped by one or more people and knows or has reason to know that the victim is mentally defective, mentally incapacitated or physically helpless. •Sexual penetration and any of the following: <ul style="list-style-type: none"> •Force or coercion is used; •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; •The defendant knows or has reason to know that the victim is mentally defective, mentally incapacitated or physically helpless; or •The sexual penetration is accomplished by fraud. 	<ul style="list-style-type: none"> •Tenn. Code Ann. § 39-13-503
Aggravated Sexual Battery	<ul style="list-style-type: none"> •Sexual contact and any of the following: <ul style="list-style-type: none"> •Force or coercion is used and the defendant is armed with a weapon or something the victim would reasonably believe is a weapon; •The defendant causes bodily injury to the victim; •The defendant is helped by one or more people and force or coercion is used; •The defendant is helped by one or more people and knows or has reason to know that the victim is mentally defective, mentally incapacitated or physically helpless; or •The victim is less than 13 years old. 	<ul style="list-style-type: none"> •Tenn. Code Ann. § 39-13-504
Sexual Battery	<ul style="list-style-type: none"> •Sexual contact and any of the following: <ul style="list-style-type: none"> •Force or coercion is used; •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; •The defendant knows or has reason to know that the victim is mentally defective, mentally incapacitated or physically helpless; or 	<ul style="list-style-type: none"> •Tenn. Code Ann. § 39-13-505

Statutory Rape

- The sexual contact is accomplished by fraud.
- **Rape of a child** is sexual penetration if the victim is 4-12 years old.
- **Aggravated rape of a child** is sexual penetration if the victim is 3 years old or under.
- **Mitigated statutory rape** is sexual penetration when the victim is 15-17 years old and the defendant is at least 4 years but not more than 5 years older than the victim.
- **Statutory rape** is sexual penetration when:
 - The victim is 13-14 years old and the defendant is 4-9 years older than the victim; or
 - The victim is 15-17 years old and the defendant is 5-9 years older than the victim.
- **Aggravated statutory rape** is sexual penetration when the victim is 13-17 years old and the defendant is at least 10 years older than the victim.
- **Aggravated sexual battery** is unlawful sexual contact when the victim is under 13 years old.
- **Sexual contact with a minor by an authority figure** is when a defendant intentionally touches or kisses a minor's lips with the defendant's lips for the purpose of sexual arousal or gratification, and the victim is less than 18 years old, the defendant is at least 4 years older than the victim, and the defendant was in a position of trust or had a supervisory or disciplinary power over the minor by virtue of the defendant's legal, professional, or occupational status or the defendant had parental or custodial authority over the minor and used such authority to accomplish the sexual contact.
- **Sexual battery by an authority figure** is when an authority figure has sexual contact with a victim and any of the following:
 - The victim is 13-17 years old and the defendant was in a position of trust or had a supervisory or disciplinary power over the minor by virtue of the defendant's legal, professional, or occupational status and used the position to accomplish the sexual act or

- Tenn. Code Ann. §§ 39-13-506, 39-13-504, 39-13-509, 39-13-522, 39-13-524, 39-13-527, 39-13-531, 39-13-532

the defendant had parental or custodial authority over the minor and used the authority to accomplish the sexual act; or

- The victim was mentally defective, mentally incapacitated, or physically helpless regardless of age and the defendant was in a position of trust or had a supervisory or disciplinary power over the minor by virtue of the defendant’s legal, professional, or occupational status and used the position to accomplish the sexual act or the defendant had parental or custodial authority over the minor and used the authority to accomplish the sexual act.
- **Statutory rape by an authority figure** is unlawful sexual penetration and:
 - The victim is 13-17 years old; and
 - The defendant is at least 4 years older than the victim; and
 - The defendant was in a position of trust, had a supervisory or disciplinary power over the minor, or had parental or custodial authority by virtue of the defendant’s legal, professional, or occupational status and used the position to accomplish the sexual act over the minor and used the authority to accomplish the sexual act.

Sodomy

- Tennessee does not prohibit sodomy. Anal sex is included in the definition of “sexual penetration”.
- Any state laws that outright prohibit sodomy are unconstitutional under *Lawrence v. Texas*, 539 U.S. 588 (2003).

• N/A

Texas

	Definition	Crime Definition Statute
Sexual Assault	<ul style="list-style-type: none"> • Intentionally or knowingly causing any of the following: <ul style="list-style-type: none"> • Penetration of the anus or sexual organ of another by any means without that person’s consent; • Penetration of the mouth of another 	<ul style="list-style-type: none"> • Tex. Penal Code Ann. § 22.011

person by the sexual organ of the actor without that person's consent; or

- 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.
- ***“Against a child”***
 - Intentionally or knowingly causing any of the following:
 - Penetration of the anus or sexual organ of a child by any means;
 - Penetration of the mouth of a child by the sexual organ of the actor;
 - The sexual organ of a child to contact or penetrate the mouth, anus, or sexual organ of another person, including the actor;
 - The anus of a child to contact the mouth, anus, or sexual organ of another person including the actor; or
 - The mouth of a child to contact the anus or sexual organ of another person including the actor
 - Unless:
 - 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;
 - The actor was the spouse of the child; and
 - The child is over 13 years of age and the actor was not more than 3 years older than the child, not a registered sex offender, not a repeat offender, not prohibited from marrying or purporting to marry the child, and not prohibited from living under the appearance of marriage with the child.

Aggravated
Sexual Assault

- Intentionally or knowingly causing any of the following or acts in concert with one who intentionally or knowingly causes:
 - Penetration of the anus or sexual organ of another by any means without that person's consent;
 - Penetration of the mouth of another person by the sexual organ of the actor without the person's consent; or
 - 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; and
 - The person caused serious bodily injury or attempts to cause the death of the victim or another person;
 - The person threatens that or puts the victim in fear that any person will be forced into prostitution or trafficked, or that death, serious bodily injury, or kidnapping will be imminently inflicted on any person;
 - The person uses or exhibits a deadly weapon;
 - The person administers or provides to the victim of the offense any substance capable of impairing the victim's ability to appraise the nature of the act or to resist the act;
 - The victim is under 14 years of age; or
 - The victim is an elderly or disabled individual.
- ***“Against a child”***
 - Intentionally or knowingly causing any of the following:
 - Penetration of the anus or sexual organ of a child by any means;
 - Penetration of the mouth of a child by the sexual organ of the actor;
 - The sexual organ of a child to contact or penetrate the mouth, anus, or sexual organ of another person, including the actor;
 - The anus of a child to contact the mouth, anus, or sexual organ of another person including the

• Tex. Penal
Code Ann.
§ 22.021

actor; or

- The mouth of a child to contact the anus or sexual organ of another person including the actor; and
- The person caused serious bodily injury or attempts to cause the death of the victim or another person;
- The person threatens that or puts the victim in fear that any person will be forced into prostitution or trafficked, or that death, serious bodily injury, or kidnapping will be imminently inflicted on any person;
- The person uses or exhibits a deadly weapon;
- The person administers to the victim of the offense any substance capable of impairing the victim's ability to appraise the nature of the act or to resist the act;
- The victim is under 14 years of age; or
- The victim is disabled;
- Unless:
 - 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.

Statutory Rape

- “Statutory rape” is commonly used to refer to sexual penetration that is illegal because it involves a youth.
 - Texas has no specific statutory rape statute, but this sentiment is captured under § 22.011 (Sexual Assault “*Against a child*”), § 22.021 (Aggravated Sexual Assault “*Against a child*”) and Indecency with a Child § 22.11.
- **Indecency with a Child**
 - Engaging in sexual contact with a child younger than 17 or causing the child to engage in sexual contact (second degree felony);
 - Exposing the person’s anus or any part of the person’s genitals, knowing a child under 17 is present, with the

- Tex. Penal Code Ann. §§ 21.11

intent to arouse or gratify the sexual desires of any person (third degree felony); or

- Causing a child under 17 to expose his or her anus or any part of his or her genitals, with the intent to arouse or gratify the sexual desires of any person (third degree felony); unless
- the actor is no more than 3 years older than the victim and is of the opposite sex, did not use duress, force, or a threat against the victim and is not a registered sex offender nor a repeat offender; or
- actor was the spouse of the child.

Sodomy

- A person commits an offense if he engages in deviate sexual intercourse with another individual of the same sex.
- This law was held unconstitutional in *Lawrence v. Texas* 539 U.S. 588 (2003) but has not been officially repealed.

• Tex. Penal Code Ann. § 21.06.

Utah

	Definition	Crime Definition Statute
Unlawful Sexual Activity with a Minor	<ul style="list-style-type: none"> • A person 18 years or older who commits unlawful sexual activity with a minor if, under circumstances not amounting to rape, object rape, forcible sodomy or aggravated sexual assault, the actor: <ul style="list-style-type: none"> • Has <u>sexual intercourse</u> with a minor, or • Engages in any sexual act with the minor involving the genitals of one person and the mouth or anus of another person, regardless of the sex of either participant, or • Causes the penetration, however slight, of the genital or anal opening of the minor by any foreign object, substance, instrument, or device, including a part of the human body, with the intent to cause substantial emotional or bodily pain to any 	<ul style="list-style-type: none"> • Utah Code Ann. § 76-5-401

person or with the intent to arouse or gratify the sexual desire of any person, regardless of the sex of any participant.

Sexual Abuse of a Minor

- A person commits sexual abuse of a minor if the person is 4 years or more older than the minor, and, under circumstances not amounting to rape, object rape, forcible sodomy, aggravated sexual assault, unlawful sexual activity with a minor, or an attempt to commit any of those offenses:
 - The person touches the anus, buttocks, or any part of the genitals of the minor, or
 - Touches the breast of a female minor, or
 - Otherwise takes indecent liberties with the minor, or
 - with the 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 regardless of the sex of any participant.

• Utah Code Ann. § 76-5-401.1

Unlawful Sexual Conduct with a 16-or-17-Year-Old

- A person commits unlawful sexual conduct with a minor if, 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, if, the person engages in sexual conduct with a minor and:
 - The person is 7 or more years older but less than 10 years older than the minor at the time of the sexual conduct, and the person knew or reasonably should have known the age of the minor, or
 - 10 or more years older than the minor at the time of the sexual conduct.
- **Sexual conduct:**
 - (i) Sexual intercourse with the minor, or
 - (ii) Any sexual act with the minor involving the genitals of one person and the mouth or anus of

• Utah Code Ann. § 76-5-401.2

- another person, regardless of the sex of either participant, or
- (iii) Penetration, however slight, of the genital or anal opening of the minor by a foreign object, substance, instrument, or device, including a part of the human body, with the 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, regardless of the sex of any participant, or
- (iv) Touching the anus, buttocks, or any part of the genitals of a minor or breast of a female minor, or otherwise taking indecent liberties with the minor, with the 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, regardless of the sex of any participant.

Rape

- When the actor has sexual intercourse with another person without the victim’s consent.
- Without consent** means (whether or not the victim is married to the actor):
 - The victim expresses lack of consent through words or conduct; or
 - The actor overcomes the victim through the actual application of physical force or violence; or
 - The actor is able to overcome the victim through concealment or by the element of surprise; or
 - The actor coerces the victim to submit by threatening to retaliate (including through threats of physical force, kidnapping or extortion) in the future or 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

- Utah Code Ann. § 76-5-402, 76-5-406

threat; or

- The actor knows the victim is unconscious, unaware that the act is occurring, or physically unable to resist; or
- 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, understanding the possible consequences to the victim's health or safety; or appraising the nature of the relationship between the actor and the victim; or
- the actor knows that the victim submits or participates because the victim erroneously believes that the actor is the victim's spouse; or
- 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; or
- the victim is younger than 14 years of age; or
- 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; or
- 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 above; or
- the actor is a health professional or religious counselor, 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.

Rape of a Child

- A person commits rape of a child when the person has sexual intercourse with a child who is under the age of 14.

- Utah Code Ann. §76-5-402.1

Object Rape

- 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.

- Utah Code Ann. § 76-5-402.2

- **Without consent** means (whether or not the victim is married to the actor):
 - The victim expresses lack of consent through words or conduct; or
 - The actor overcomes the victim through the actual application of physical force or violence; or
 - The actor is able to overcome the victim through concealment or by the element of surprise; or
 - The actor coerces the victim to submit by threatening to retaliate (including through threats of physical force, kidnapping or extortion) in the future or 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
 - The actor knows the victim is unconscious, unaware that the act is occurring, or physically unable to resist; or
 - 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, understanding the possible consequences to the victim's health or safety; or appraising the nature of the relationship between the actor and the victim; or

- the actor knows that the victim submits or participates because the victim erroneously believes that the actor is the victim's spouse; or
- 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; or
- the victim is younger than 14 years of age; or
- 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; or
- 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 above; or
- the actor is a health professional or religious counselor, 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.

Object Rape of a Child	<ul style="list-style-type: none">• Other provisions apply. See § 76-5-406 (“Sexual offenses against the victim without consent of victim – Circumstances”).• A person who causes the penetration or touching, however slight, of the genital or anal opening of a child who is under 14, by any foreign object, substance, instrument, or device, not including a part of the human body, with intent to cause substantial emotional or bodily pain to the child or with the intent to arouse or gratify sexual desire of any person	Utah Code Ann. § 76-5-402.3
Statutory Rape	<ul style="list-style-type: none">• “Statutory rape” is commonly used to refer to sexual penetration that is illegal because it involves a youth.• Utah has no specific statutory rape statute, but this sentiment is captured under § 76-5-401 (Unlawful Sexual Activity with a Minor), § 76-5-401.1 (Sexual abuse of a Minor), § 76-5-401.2 (Unlawful Sexual Conduct with a 16- or 17-Year-Old), and § 76-5-402.1 (Rape of a Child). § 76-5-402.3 (Object Rape of a Child) and § 76-5-403.1 (Sodomy of a Child).	• N/A
Forcible Sodomy	<ul style="list-style-type: none">• A person commits sodomy when:<ul style="list-style-type: none">• 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.• A person commits forcible sodomy when:<ul style="list-style-type: none">• The actor commits sodomy upon another without the other’s consent.	• Utah Code Ann. § 76-5-403
Sodomy on a Child	<ul style="list-style-type: none">• A person commits sodomy upon a child when:<ul style="list-style-type: none">• The actor engages in any sexual act upon or with a child who is under the age of 14, involving the genitals or anus of the actor or the child and the mouth or anus of either person, regardless of the sex of either participant.	• Utah Code Ann. § 76-5-403.1

Forcible Sexual Abuse

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, pubic area, or any part of the genitals of another, or touches the breast of a female, or otherwise takes indecent liberties with 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, and
- Without the consent of the other, regardless of the sex of any participant.

• Utah Code Ann. § 76-5-404

Sexual Abuse of a Child

- A person commits sexual abuse of a child if:
 - Under circumstances not amounting to rape of a child, object rape of a child, sodomy on a child, or attempt of any of the aforementioned offenses, the actor touches the anus, buttocks, or genitalia of any child, or touches the breast of a female child, or otherwise takes indecent liberties with a child,
 - 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, regardless of the sex of any participant.
- A person commits aggravated sexual abuse of a child when in conjunction with the offenses described above the actor:
 - Uses a dangerous weapon, force, duress or violence, intimidation, coercion, menace or threat of harm, or committed during a kidnapping; or
 - Caused bodily injury or severe psychological injury during or as a result of the offense;
 - Was a stranger to the victim and

• Utah Code Ann. §76-5-404.1

made friends with the victim for the purpose of committing the offense;

- Used, showed or displayed pornography, photographed the victim in a lewd condition during the course of the offense; or
- Actor was previously convicted of any sexual offense; or
- The accused committed the same or similar sexual act upon two or more victims at the same time or during the same course of conduct; or
- The accused committed more than five separate acts at the same time, during the same course of conduct or before or after the instant offense; or
- The actor was in a position of special trust in relation to the victim; or
- The accused encouraged, aided, allowed or benefited from acts of prostitution or sexual acts by the victim with any other person, or sexual performance by the victim before any other person, human smuggling or human trafficking; or
- The accused caused penetration, however slight, of the genital or anal opening of the child by any part or parts of the human body other than the genitals or mouth.

Aggravated Sexual Assault

- A person commits aggravated sexual assault if:
 - In the course of rape, object rape, forcible sodomy, or forcible sexual abuse, the actor:
 - Uses or threatens the victim with the use of a dangerous weapon, or
 - 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

• Utah Code Ann. § 76-5-405

- to be inflicted imminently on any person, or
 - Is aided or abetted by one or more persons.
- In the course of attempted rape, attempted object rape, or attempted forcible sodomy, the actor:
 - Causes serious bodily injury, or
 - Uses or threatens the victim with the use of a dangerous weapon, or
 - Attempts to compel the victim to submit to rape, object rape, forcible sodomy, by threat of kidnaping, death, or serious bodily injury to be inflicted imminently on any person or
 - Is aided or abetted by one or more persons.
- In the course of attempted forcible sexual abuse, the actor:
 - Causes serious bodily injury, or
 - Uses or threatens the victim with the use of a dangerous weapon, or
 - 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
 - Is aided or abetted by one or more persons.

Vermont

	Definition	Crime Definition Statute
Sexual Assault	<ul style="list-style-type: none"> • No person shall engage in a sexual act with another person and compel the other person to participate in the sexual act: <ul style="list-style-type: none"> • Without the consent of the other person, or • By threatening or coercing the other 	<ul style="list-style-type: none"> • 13 V.S.A. §§ 3252 & 3254

person, or

- By placing the other person in fear that any person will suffer imminent bodily injury.
- 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.
- No person shall engage in a sexual act with a child who is under the age of 16 (“Statutory Rape”), except:
 - Where the persons are married to each other and the sexual act is consensual, or
 - Where the person is less than 19 years old, the child is at least 15 years old, and the sexual act is consensual.
- 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.
- No person shall engage in a sexual act with a child under the age of 16 if:
 - 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
 - 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.

Aggravated Sexual Assault

A person commits the crime of aggravated sexual assault if the person commits sexual assault under any of the following circumstances:

- At the time of the sexual assault, the actor causes serious bodily injury to the victim or to another;
- The actor is joined or assisted by one or more persons in physically restraining, assaulting, or sexually assaulting the victim;
- The actor commits the sexual act under

• 13 V.S.A. § 3253

circumstances which constitute the crime of kidnapping;

- The actor has previously been convicted in this state of sexual assault under § 3252(a) or (b) or aggravated sexual assault or has been convicted in any jurisdiction in the U.S. of an offense which would constitute sexual assault under § 3252(a) or (b) or aggravated sexual assault if committed in this state;
- 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;
- 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;
- At the time of the sexual assault, the actor applies deadly force to the victim;
- The victim is under the age of 13 and the actor is at least 18 years of age; or
- 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.

Aggravated Sexual Assault of a Child

A person commits the crime of aggravated sexual assault of a child if the actor is at least 18 years of age and commits sexual assault against a child under the age of 16 in violation of § 3252 and at least one of the following circumstances exists:

- At the time of the sexual assault, the actor causes serious bodily injury to the victim or to another;
- The actor is joined or assisted by one or more persons in physically restraining, assaulting, or sexually assaulting the victim;
- The actor commits the sexual act under circumstances which constitute the crime of kidnapping;
- The actor has previously been convicted in this state of sexual assault under § 3252(a) or (b), aggravated sexual assault under § 3253 or aggravated sexual assault of a child or has been convicted in any jurisdiction in the U.S. of an offense which would

• 13 V.S.A. § 3253(a)

constitute sexual assault under § 3252(a) or (b), or aggravated sexual assault under § 3253 or aggravated sexual assault of a child if committed in this state;

- 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;
- 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;
- At the time of the sexual assault, the actor applies deadly force to the victim; or
- 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.

Sexual
Exploitation of
an Inmate

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:

• 13 V.S.A. §
3257

- Is confined to a correctional facility; or
- 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.

A person is engaged in a direct supervisory relationship with a supervisee if the supervisee is assigned to the caseload of that person.

Sexual
Exploitation of
a Minor

No person shall engage in a sexual act with a minor if:

• 13 V.S.A. §
3258

- The actor is at least 48 months older than the minor, and
- The actor is in a position of power, authority, or supervision over the minor by

virtue of the actor’s undertaking the responsibility, professionally or voluntarily, to provide for the health or welfare of minors, or guidance, leadership, instruction, or organized recreational activities for minors. A high school employee who is between employment contracts during summer break is not in position of authority over a student. *State v. Graham*, 2016 VT 48 (Vt. Apr. 29, 2016).

Statutory Rape

- “**Statutory rape**” is commonly used to refer to sexual penetration that is illegal because it involves a youth.
- Vermont has no specific statutory rape statute, but this concept is captured by section (c) of 13 V.S.A. § 3252, “Sexual Assault”, 13 V.S.A. § 3253a “Aggravated Sexual Assault of a Child” and 13 V.S.A. § 3258 “Sexual Exploitation of a Minor”

• 13 V.S.A. § 3252

Sodomy

- Vermont does not appear to have an anti-sodomy law on the books.
- Any state laws that outright prohibit sodomy are unconstitutional under *Lawrence v. Texas*, 539 U.S. 588 (2003).
- Vermont’s reporting statutes for abuse in children includes sodomy within the definition of “sexual abuse” requiring reporting.

• Vt. Stat. Ann. tit. 33, § 4912.

Virginia

	Definition	Crime Definition Statute
Rape	<ul style="list-style-type: none"> • Engaging in sexual intercourse with a victim, whether or not his/her spouse, or causing a victim, whether or not his/her spouse, to engage in sexual intercourse with any other person and such act is: <ul style="list-style-type: none"> • Against the victim’s will, by force, threat, or intimidation of or against the victim or another person; • Through the use of the victim’s mental incapacity or physical helplessness; or • With a child under the age of 13 years as the victim. 	<ul style="list-style-type: none"> • Va. Code Ann. § 18.2-61

Carnal
Knowledge of a
Child Between
13-15 Years of
Age

- **Note:** There is a rebuttable presumption that a juvenile over the age of 10 years but less than 12 years does not possess the physical capacity to commit rape.
- A) Carnally knowing, without the use of force, a child at least 13 but less than 15 years of age; or
- B) Carnally knowing, without the use of force, a child at least 13 but less than 15 years of age, who consents to sexual intercourse, and defendant is a minor but at least 3 years the child's senior; or
- C) Carnally knowing, without the use of force, a child at least 13 but less than 15 years of age, who consents to sexual intercourse, and defendant is a minor but less than 3 years the child's senior.
- **Note:** A child under the age of 13 years shall not be considered a consenting child.

• Va. Code
Ann. §
18.2-63

Carnal
Knowledge of
an Inmate,
Parolee,
Probationer

- (A) Defendant is:
 - An employee or contractual employee of, or a volunteer with, a state or local correctional facility or regional jail, the Department of Corrections, the Department of Juvenile Justice, or other like detention or pretrial/probation services; and
 - In a position of authority over the inmate, parolee, probationer, detainee, etc.; and
 - Knows that the victim is under the jurisdiction of the state or local facility or service; and
 - Carnally knows, without the use of force, threat, or intimidation, the victim in question.
- (B) Defendant is:
 - An owner or employee of the bail bond company that posted the victim's pre-trial or post-trial bond; and
 - Has the authority to revoke the victim's bond; and
 - Carnally knows, without the use of force, threat, or intimidation, the victim in question.

• Va. Code
Ann. §
18.2-64.2

Forcible Sodomy

- Engaging in cunnilingus, fellatio, anilingus, or anal intercourse with a victim, whether or not his/her spouse, or causing a victim, whether or not his/her spouse, to engage in such acts with any other person, and:
 - The complaining witness is less than 13 years of age; or
 - The act is accomplished against the will of the victim, by force, threat or intimidation of or against the victim or another person, or through the use of the victim's mental incapacity or physical helplessness.

• Va. Code Ann. § 18.2-67.1

Object Sexual Penetration

- 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
 - The complaining witness is less than 13 years of age; or
 - 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.

• Va. Code Ann. § 18.2-67.2.

Statutory Rape

- “Statutory rape” is commonly used to refer to sexual penetration that is illegal because it involves a youth and consent is immaterial. While Virginia expressly penalizes carnal knowledge of a child between 13 and 15 years of age, the offenses of rape and forcible sodomy also targets “statutory rape” under certain circumstances.
- Statutory rape is rape if defendant engages in sexual intercourse with the victim, and the victim is under the age of 13 years; or causes the victim to engage in sexual intercourse with another person, and the

• Va. Code Ann. §§ 18.2-61, 63, and 67.1

victim is under the age of 13 years. It is immaterial whether or not the victim is defendant's spouse.

- Statutory rape is forcible sodomy if defendant engages in cunnilingus, fellatio, anilingus, or anal intercourse with a victim, and the victim is under the age of 13 years; or causes the victim to engage in the acts in question with another person, and the victim is under the age of 13 years. It is immaterial whether or not the victim is defendant's spouse.

Washington

	Definition	Crime Definition Statute
Rape in the First Degree	<ul style="list-style-type: none"> • Engaging in sexual intercourse with another person by forcible compulsion and the defendant or an accessory: <ul style="list-style-type: none"> • Uses or threatens to use a deadly weapon or what appears to be a deadly weapon; or • Kidnaps the victim; or • Inflicts serious physical injury, including but not limited to physical injury which renders the victim unconscious; or • Feloniously enters into the building or vehicle where the victim is situated. 	<ul style="list-style-type: none"> • Wash. Rev. Code § 9a.44.040
Rape in the Second Degree	<ul style="list-style-type: none"> • Under circumstances not constituting rape in the first degree, defendant engages in sexual intercourse with another person: <ul style="list-style-type: none"> • By forcible compulsion; • When the victim is incapable of consent by reason of being physically helpless or mentally incapacitated; • When the victim is a person with a developmental disability and the defendant is a person who is not married to the victim and who: <ul style="list-style-type: none"> • Has supervisory authority over the victim; or • Was providing transportation, within the course of his or her employment, to the victim at the time of the offense; 	<ul style="list-style-type: none"> • Wash. Rev. Code § 9a.44.050

- When the defendant 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.
 - Exception if the defendant can 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;
- When the victim is a resident of a facility for persons with a mental disorder or chemical dependency and the defendant is a person who is not married to the victim and has supervisory authority over the victim; or
- When the victim is a frail elder or vulnerable adult and the defendant is a person who is not married to the victim and who:
 - Has a significant relationship with the victim; or
 - Was providing transportation, within the course of his or her employment, to the victim at the time of the offense.

Rape in the Third Degree

Under circumstances not constituting rape in the first or second degrees, defendant engages in sexual intercourse with another person:

• Wash. Rev. Code. § 9A.44.060

- Where the victim did not consent to sexual intercourse with defendant and such lack of consent was clearly expressed by the victim's words or conduct, or
- Where there is a threat of substantial unlawful harm to property rights of the victim.

Rape of a Child in the First Degree

- Engaging in sexual intercourse with another who is less than 12 years old, not married to the defendant, and the defendant is at least 24 months older than the victim.

• Wash. Rev. Code. § 9A.44.073

Rape of a Child in the Second Degree

- Engaging in sexual intercourse with another who is at least 12 years old but less than 14 years old, not married to the defendant, and the defendant is at least 36 months older than the victim.

• Wash. Rev. Code. § 9A.44.076

Rape of a Child in the Third Degree	<ul style="list-style-type: none"> ● Engaging in sexual intercourse with another who is at least 14 years old but less than 16 years old, not married to the defendant, and the defendant is at least 48 months older than the victim. 	<ul style="list-style-type: none"> ● Wash. Rev. Code. § 9A.44.079
Child Molestation in the First Degree	<ul style="list-style-type: none"> ● When defendant has, or knowingly causes, another person under the age of 18 to have sexual contact with another who is less than 12 years old, not married to the defendant, and the defendant is at last 36 months older than the victim. 	<ul style="list-style-type: none"> ● Wash. Rev. Code. § 9A.20.021, § 9A.44.083.
Child Molestation in the Second Degree	<ul style="list-style-type: none"> ● When defendant has, or knowingly causes, another person under the age of 18 to have sexual contact with another who is at least 12 years old but less than 14 years old, not married to the defendant, and the defendant is at last 36 months older than the victim. 	<ul style="list-style-type: none"> ● Wash. Rev. Code. § 9A.20.021, § 9A.44.086.
Child Molestation in the Third Degree	<ul style="list-style-type: none"> ● When defendant has, or knowingly causes, another person under the age of 18 to have sexual contact with another who is at least 14 years old but less than 16 years old, not married to the defendant, and the defendant is at last 48 months older than the victim. 	<ul style="list-style-type: none"> ● Wash. Rev. Code. § 9A.20.021, § 9A.44.089.
Sexual Misconduct with a Minor in the First Degree	<ul style="list-style-type: none"> ● Engaging, or knowingly causing another person under the age of 18 years to engage, in sexual intercourse with another person who is at least 16 years but less than 18 years and not married to the defendant; and defendant is: <ul style="list-style-type: none"> ● At least 60 months older than the victim; ● In a significant relationship to the victim; and ● Abuses a supervisory position within that relationship in order to engage, in or cause another person under the age of 18 to engage in, sexual intercourse with the victim; ● Defendant is a school employee who has, or knowingly causes another person under the age of eighteen to have, sexual intercourse with an enrolled student of the school who is at least 16 years old and not more than 21 years old and not married to the employee, if the employee is at least 60 months older than the student; or ● Defendant is a foster parent who has, or knowingly causes another person under the 	<ul style="list-style-type: none"> ● Wash. Rev. Code. § 9A.44.093

Sexual
Misconduct
with a Minor in
the Second
Degree

- age of 18 to have, sexual intercourse with his or her foster child who is at least 16.
- Engaging, or knowingly causing another person under the age of 18 years to engage, in sexual contact with another person who is at least 16 years but less than 18 years and not married to the defendant; and defendant is:
 - At least 60 months older than the victim;
 - In a significant relationship to the victim; and
 - Abuses a supervisory position within that relationship in order to engage, in or cause another person under the age of 18 to engage in, sexual contact with the victim;
 - Defendant is a school employee who has, or knowingly causes another person under the age of eighteen to have, sexual contact with an enrolled student of the school who is at least 16 years old and not more than 21 years old and not married to the employee, if the employee is at least 60 months older than the student; or
 - Defendant is a foster parent who has, or knowingly causes another person under the age of 18 to have, sexual contact with his or her foster child who is at least 16.

• Wash. Rev. Code. § 9A.44.096

Indecent
Liberties

- A person is guilty of indecent liberties when he or she knowingly causes another person to have sexual contact with him or her or another:
 - By forcible compulsion;
 - When the other person is incapable of consent by reason of being mentally defective, mentally incapacitated, or physically helpless;
 - 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;

• Wash. Rev. Code. § 9A.44.106, § 9A.20.021.

- 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;
- 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
- 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:
 - Has a significant relationship with the victim; or
 - Was providing transportation, within the course of his or her employment, to the victim at the time of the offense.

Sodomy

- Washington does not penalize sodomy.
- Any state laws that outright prohibit sodomy are unconstitutional under *Lawrence v. Texas*, 539 U.S. 588 (2003).

• N/A

West Virginia

	Definition	Crime Definition Statute
Sexual Assault in the First Degree	<p>A person is guilty of sexual assault in the first degree when:</p> <ul style="list-style-type: none"> • The person engages in sexual intercourse or sexual intrusion with another person and in so doing inflicts serious bodily injury upon anyone or employs a deadly weapon in the commission of the act, or • The person, being 14 years old or more, 	<ul style="list-style-type: none"> • W. Va. Code § 61-8B-3

engages in sexual intercourse or sexual intrusion with another person who is younger than 12 years old and is not married to that person.

Sexual Assault in the Second Degree

A person is guilty of sexual assault in the second degree when:

- 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
- Such person engages in sexual intercourse or sexual intrusion with another person who is physically helpless.

• W. Va. Code § 61-8B-4

Sexual Assault in the Third Degree

A person is guilty of sexual assault in the third degree when:

- The person engages in sexual intercourse or sexual intrusion with another person who is mentally defective or mentally incapacitated, or
- The person, being 16 years old or more, engages in sexual intercourse or sexual intrusion with another person who is less than 16 years old and who is at least 4 years younger than the defendant and is not married to the defendant.

• W. Va. Code § 61-8B-5

Statutory Rape

- "Statutory rape" is commonly used to refer to sexual penetration that is illegal because it involves a youth. West Virginia has no specific statutory rape statute, but this concern is captured under *W. Va. Code § 61-8B-5*:
- A person is guilty of sexual assault in the third degree when:
 - The person, being 16 years old or more, engages in sexual intercourse or sexual intrusion with another person who is less than 16 years old and who is at least 4 years younger than the defendant and is not married to the defendant.

• W. Va. Code § 61-8B-5

Sodomy

- West Virginia does not have an anti-sodomy law on the books.
- Any state laws that outright prohibit sodomy are unconstitutional under *Lawrence v. Texas*, 539 U.S. 588

• N/A

(2003).

Sexual Abuse in the Third Degree

- A person is guilty of sexual abuse in the second 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.

• W. Va. Code § 61-8B-9.

Sexual Abuse in the First Degree

A person is guilty of sexual abuse in the first degree when the person:

- subjects another person to sexual contact without their consent, and the lack of consent results from forcible compulsion,
- subjects another person to sexual contact who is physically helpless, or
- being 14 years old or more, subjects another person to sexual contact who is younger than 12 years old.

• W. Va. Code § 61-8B-7

Sexual Abuse in the Second Degree

- 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.

• W. Va. Code § 61-8B-8.

Wisconsin

	Definition	Crime Definition Statute
Sexual Assault in the First Degree	<p>Whoever:</p> <ul style="list-style-type: none">• Has sexual contact or sexual intercourse with another person without consent of that person and causes pregnancy or great bodily harm to that person, or• 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, or• 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.	<ul style="list-style-type: none">• Wis. Stat. § 940.225(1)

Sexual Assault
in the Second
Degree

Whoever:

• Wis. Stat. §
940.225(2)

- (a) Has sexual contact or sexual intercourse with another person without consent of that person by use or threat of force or violence.
- (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 persons 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 an adult family home, community-based residential facility, inpatient health care facility, or state treatment facility 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 agents 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 non-client resident of a child welfare agency, a hospital, a home health agency, a temporary employment agency that provides caregivers to another entity, or the board on aging and long-term care, and has sexual contact or sexual intercourse with a client of the entity.
- Sexual intercourse with a person without the consent of that person.
- Sexual contact in the manner described below with a person without the consent of that person:
 - 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.
 - 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

Sexual Assault
in the Third
Degree

•Wis. Stat. §
940.225(3)

part of the defendant's body, whether clothed or unclothed.

Sexual Assault
in the Fourth
Degree

Sexual Assault
of a Child

- Except as provided in Sexual Assault in the Third Degree, having sexual contact with a person without the consent of that person.
- **First degree:**
 - Whoever has sexual contact or sexual intercourse with a person who has not attained the age of 13 years and causes great bodily harm to the person is guilty of a Class A felony and subject to a 25 year mandatory minimum;
 - Whoever has sexual intercourse with a person who has not attained the age of 12 years is guilty of a Class B felony and subject to a 25 year mandatory minimum;
 - Whoever has sexual intercourse with a person who has not attained the age of 16 years by use of threat of force or violence is guilty of a Class B felony and subject to a 25 year mandatory minimum;
 - Whoever has sexual contact with a person who has not attained the age of 16 years by use or threat of force or violence is guilty of a Class B felony if the actor is at least 18 years of age when the sexual contact occurs and is subject to a 5 year mandatory minimum; or
 - Whoever has sexual contact with a person who has not attained the age of 13 years is guilty of a Class B felony.
- **Second degree:**
 - Whoever has sexual contact or sexual intercourse with a person who has not attained the age of 16 years is guilty of a Class C felony.
 - Whoever has sexual contact with a child who has attained the age of 15 years but has not attained the age of 16 years, or whoever has sexual intercourse with a child who has attained the age of 15 years, is guilty of a Class A misdemeanor if the actor has not attained the age of 19 years when the violation occurs. This section does not apply

• Wis. Stat. §
940.225(3m)

• Wis. Stat. §
948.02; and
Wis. Stat.
Ann. §
948.093

if the actor is the child's spouse.

• **Failure to act:**

- A person responsible for the welfare of a child under 16 is guilty of a Class F felony if that person has knowledge that another person intends to have, is having or has had sexual intercourse or sexual contact with the child, is physically and emotionally capable of taking action which will prevent the intercourse or contact from taking place or being repeated, fails to take that action and the failure to act exposes the child to an unreasonable risk that intercourse or contact may occur between the child and the other person or facilitates the intercourse or contact that does occur between the child and the other person.

Sexual
Exploitation of a
Therapist

- Any person who is or who holds himself or herself out to be a therapist and who intentionally has sexual contact with a patient or client during any ongoing therapist-patient or therapist-client relationship, regardless of whether it occurs during any treatment, consultation, interview or examination, is guilty of a Class F felony.
 - Consent is not relevant under this subsection.

• Wis. Stat. §
940.22

Sexual Assault
of a Child
Placed in
Substitute Care

- Whoever does any of the following is guilty of a Class C felony:
 - Has sexual contact or sexual intercourse with a child for whom the actor is a foster parent; or
 - Has sexual contact or sexual intercourse with a child who is placed in any of the following facilities if the actor works or volunteers at the facility or is directly or indirectly responsible for managing it:
 - A shelter care facility;
 - A group home; or
 - A residential care center for children and youth operated by a child welfare agency.

• Wis. Stat. §
948.085

Sexual Assault of a Child by a School Staff Person or Person Who Works or Volunteers with Children

- Whoever has sexual contact or sexual intercourse with a child who has attained the age of 16 years and who is not the defendant's spouse is guilty of a Class H felony if all of the following apply:
 - The child is enrolled as a student in a school or a school district, and
 - The defendant is a member of the school staff of the school or school district in which the child is enrolled.
- A person who has attained the age of 21 and engages in an occupation or participates in a volunteer position that requires him to work or interact directly with children (including, teaching, child care, coaching, counselor, youth organization, parks or playground recreation, or school bus driving) may not have sexual contact or sexual intercourse with a child who has attained the age of 16, who is not the person's spouse and with whom the person works or interacts through that occupation or volunteer position.

• Wis. Stat. § 948.095

Statutory Rape

- "Statutory rape" is commonly used to refer to sexual penetration that is illegal because it involves a youth.
- Wisconsin has no specific statutory rape statute, but this concept is captured under "Sexual Intercourse with a Child Age 16 or Older":
 - Whoever has sexual intercourse with a child who is not the defendant's spouse and who has attained the age of 16 years is guilty of a Class A misdemeanor if the defendant has attained the age of 19 years when the violation occurs.
 - **Child:**
 - A person who has not attained the age of 18 years, except that for purposes of prosecuting a person who is alleged to have violated a state or federal criminal law, "child" does not include a person who has attained the age of 17.
- Also, see "Sexual Assault of a Child":
 - Whoever has sexual intercourse with a person who has not attained the age of 12 years is guilty of a Class B felony.
- Also, see "Underage sexual activity":

• Wis. Stat. § 948.09

- Whoever has sexual contact with a child who has attained the age of 15 years but has not attained the age of 16 years, or whoever has sexual intercourse with a child who has attained the age of 15 years, is guilty of a Class A misdemeanor if the actor has not attained the age of 19 years when the violation occurs. This section does not apply if the actor is the child's spouse.

Sodomy

- Wisconsin does not have an anti-sodomy law on the books.
- Any state laws that outright prohibit sodomy are unconstitutional under *Lawrence v. Texas*, 539 U.S. 588 (2003).

• N/A

Sexual
Exploitation of a
Child

- Whoever does any of the following with knowledge of the character and content of the sexually explicit conduct involving the child:
 - Employs, uses, persuades, induces, entices, or coerces any child to engage in sexually explicit conduct for the purpose of recording or displaying in any way the conduct; or
 - Records or displays in any way a child engaged in sexually explicit conduct.
- Whoever produces, performs in, profits from, promotes, imports into the state, reproduces, advertises, sells, distributes, or possesses with intent to sell or distribute, any recording of a child engaging in sexually explicit conduct if the person knows the character and content of the sexually explicit conduct involving the child and if the person knows or reasonably should know that the child engaging in the sexually explicit conduct has not attained the age of 18 years.
- A person responsible for a child's welfare who knowingly permits, allows or encourages the child to engage in sexually explicit conduct.

• Wis. Stat. § 948.05

Wyoming

	Definition	Crime Definition Statute
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Sexual Assault
in the First
Degree

- Inflicting sexual intrusion on a victim and:
 - The actor causes submission of the victim through the actual application, reasonably calculated to cause submission of the victim, physical force or forcible confinement;
 - 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 the actor has the present ability to execute these threats;
 - The victim is physically helpless, and the actor knows or reasonably should know that the victim is physically helpless and has not consented; or
 - 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. §
6-2-302

Sexual Assault
in the Second
Degree

- Inflicting sexual intrusion on a victim not constituting sexual assault in the first degree and:
 - 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;
 - The actor causes submission of the victim by any means that would prevent resistance by a victim of ordinary resolution;
 - 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;
 - The actor knows or reasonably should know that the victim submits

• Wyo. Stat.
Ann. §
6-2-303

erroneously believing that the actor is the victim's spouse;

- The actor is in a position of authority over the victim and uses this position of authority to cause the victim to submit;
- 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, or secure treatment 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. Consent of the victim is not a defense; or
- The actor is an employee or volunteer of an elementary or secondary public or private school who, by virtue of the actor's employment or volunteer relationship with the school, has interaction with the victim who is a student or participant in the activities of the school and is more than four (4) years older than the victim.
- Subjecting another person to sexual contact or sexual intrusion in the person's capacity as a health care provider in the course of providing care, treatment, services or procedures to maintain, diagnose or otherwise treat a patient's physical or mental condition.
- Submitting another person to sexual contact, causing serious bodily injury to the victim, and:
 - The actor causes submission of the victim through physical force or forcible confinement;
 - 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 the

actor has the present ability to execute these threats;

- The victim is physically helpless, and the actor knows or reasonably should know that the victim is physically helpless and has not consented;
- 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;
- 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;
- The actor causes submission of the victim by any means that would prevent resistance by a victim of ordinary resolution;
- 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;
- The actor knows or reasonably should know that the victim submits erroneously believing that the actor is the victim's spouse; or
- The actor is in a position of authority over the victim and uses this position of authority to cause the victim to submit;
- 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, or secure treatment 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. Consent of the victim is not a defense; or

- The actor is an employee or volunteer of an elementary or secondary public or private school who, by virtue of the actor's employment or volunteer relationship with the school, has interaction with the victim who is a student or participant in the activities of the school and is more than four (4) years older than the victim

Sexual Assault
in the Third
Degree

- Subjecting a victim to sexual contact, without inflicting sexual intrusion on the victim and without causing serious bodily injury to the victim and not constituting sexual assault in the first degree or sexual assault in the second degree if:

- 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;
- 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 the actor has the present ability to execute these threats;
- The victim is physically helpless, and the actor knows or reasonably should know that the victim is physically helpless and has not consented;
- 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;
- 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

- Wyo. Stat. Ann. § 6-2-304

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;

- The actor causes submission of the victim by any means that would prevent resistance by a victim of ordinary resolution;
- 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; or
- The actor knows or reasonably should know that the victim submits erroneously believing that the actor is the victim's spouse;
- The actor is in a position of authority over the victim and uses this position of authority to cause the victim to submit;
- 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, or secure treatment 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. Consent of the victim is not a defense; or
- The actor is an employee or volunteer of an elementary or secondary public or private school who, by virtue of the actor's employment or volunteer relationship with the school, has interaction with the victim who is a student or participant in the activities of the school and is more than four (4) years older than the victim

Sexual abuse of a minor in the first degree

• Wyo. Stat.
Ann. §§
6-2-314,
6-2-315,
6-2-316,
6-2-317

- Sexual intrusion when the actor is 16 or older and the victim is under 13 years old;
- Sexual intrusion when the actor is over 18, the victim is under 18, and the actor is the victim's legal guardian, ancestor, descendent, or sibling of half- or full-blood, including adoption and step-parental relationships; or
- Sexual intrusion when the actor is over 18, the victim is under 16, and the actor occupies a position of authority in relation to the victim.

Sexual abuse of a minor in the second degree – not constituting sexual abuse of a minor in the first degree and:

- Sexual intrusion when the actor is 17 or older, the victim is 13-15, and the victim is at least 4 years younger than the actor;
- Sexual contact when the actor is 16 or older and the victim is less than 13 years old;
- Sexual contact when the actor is 18 or older, the victim is less than 18 years old, and the actor is the victim's legal guardian ancestor, descendent, or sibling of half- or full-blood, including adoption and step-parental relationships; or
- Sexual contact when the actor is 18 or older, the victim is less than 16 years old, and the actor occupies a position of authority in relation to the victim.

Sexual abuse of a minor in the third degree – not constituting sexual abuse of a minor in the first or second degree and:

- Sexual contact when the actor is 17 or older, the victim is 13-15, and the victim is at least 4 years younger than the actor;
- Sexual intrusion when the actor is 20 or older, the victim is 16-17, the victim is at least 4 years younger than the actor, and the actor occupies a position of authority in relation to the victim;
- Sexual intrusion when the actor is less than 16 years old, the victim is less than 13 years old, and the victim is at least 3 years

- younger than the actor; or
- Knowingly taking immodest, immoral, or indecent liberties with a victim when the actor is 17 or older, the victim is less than 17 years old, and the victim is at least 4 years younger than the actor.

Sexual abuse of a minor in the fourth degree – not constituting sexual abuse of a minor in the first, second or third degree and:

- Sexual contact when the actor is under 16, the victim is under 13, and the victim is at least 3 years younger than the actor; or
- Sexual contact when the actor is 20 years old or older, the victim is 16-17, the victim is at least 4 years younger than the actor, and the actor occupies a position of authority in relation to the victim.

Sodomy

- Wyoming does not prohibit sodomy. Anal sex is included in the definition of “sexual intrusion”.
- Any state laws that outright prohibit sodomy are unconstitutional under *Lawrence v. Texas*, 539 U.S. 588 (2003).

• N/A

Guam

	Definition	Crime Definition Statute
First Degree Criminal Sexual Conduct	<ul style="list-style-type: none"> • Engaging in sexual penetration with the victim and if any of the following circumstances exists: <ul style="list-style-type: none"> • the victim is under 14 years of age; • the victim is at least 14 but less than 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; • sexual penetration occurs under circumstances involving the commission of any other felony; 	<ul style="list-style-type: none"> • 9 GCA Ch. 25, §25.15 • Evidentiary provisions appear in 9 GCA Ch. 25, §25.40 & .45 • Definitions appear in 9 GCA Ch. 25, §25.10

- the actor is aided or abetted by one or more other persons and either (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;
- 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;
- the actor causes personal injury to the victim and force or coercion is used to accomplish sexual penetration; or
- 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.

Second Degree
Criminal Sexual
Conduct

- Sexual contact with another person where any of the
- following circumstances exists:
 - that other person is under 14 years of age;
 - that other person is at least 14 but less than 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 the authority to coerce the victim to submit;
 - sexual contact occurs under circumstances involving the commission of any other felony;
 - the actor is aided or abetted by one or more other persons and either (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.
 - 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;

- 9 GCA Ch. 25, §25.20
- Evidentiary provisions appear in 9 GCA Ch. 25, §25.40 & .45

Third Degree
Criminal Sexual
Conduct

- the actor causes personal injury to the victim and force or coercion is used to accomplish the sexual contact; or
- 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.
- Engaging in sexual penetration with another person where any of the following circumstances exists:
 - that other person is at least 14 years of age and is under 16 years of age;
 - force or coercion is used to accomplish the sexual penetration; or
 - the actor knows or has reason to know that the victim is mentally defective, mentally incapacitated or physically helpless.

• 9 GCA Ch. 25, §25.25

Fourth Degree
Criminal Sexual
Conduct

- Engaging in sexual contact with another person where either of the following circumstances exists:
 - force or coercion is used to accomplish the sexual contact;
 - the actor knows or has reason to know that the victim is mentally defective, mentally incapacitated or physically helpless.

• 9 GCA Ch. 25, §25.35

Virgin Islands

	Definition	Crime Definition Statute
Aggravated Rape in the First Degree	<ul style="list-style-type: none"> • Perpetrating an act of sexual intercourse or sodomy with a person not the perpetrator's spouse: <ul style="list-style-type: none"> • Who is under 13; or • Who is under 16 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. • Causing personal injury to a victim as a result of an act of rape in the first degree. • Using a deadly weapon during the commission of an act of rape in the first 	<ul style="list-style-type: none"> • 14 V.I.C. §1700

Aggravated Rape in the Second Degree	<p>degree.</p> <ul style="list-style-type: none"> • Perpetrating an act of sexual intercourse or sodomy with a person who is under 18, but 13 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. 	• 14 V.I.C. §1700a
Rape in the First Degree	<ul style="list-style-type: none"> • Perpetrating an act of sexual intercourse or sodomy with a person not the perpetrator's spouse: <ul style="list-style-type: none"> • 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; • when the person's resistance is forcibly overcome; • 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; • 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 • when the person is, at the time, unconscious of the nature of the act and this is known to the defendant. 	• 14 V.I.C. §1701
Rape in the Second Degree	<ul style="list-style-type: none"> • Any person over 18 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 but less than 18 and the perpetrator is 5 years older than the victim, is guilty of second degree rape. 	• 14 V.I.C. §1702
Rape in the Third Degree	<ul style="list-style-type: none"> • Any person under 18 but over 16 who perpetrates an act of sexual intercourse or sodomy with a person not the perpetrator's spouse who is under 16 but over 13, under circumstances not amounting to rape in the first degree, is guilty of rape in the third degree. 	• 14 V.I.C. §1703

Unlawful Sexual Conduct in the First Degree

- Engaging in sexual contact with a person not the perpetrator's spouse:
 - when force or coercion is used to accomplish the sexual contact;
 - when the other person is under 13;
 - when the other person is under 16 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;
 - when the other person is threatened or placed in fear of imminent and serious bodily injury;
 - 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
 - when the other person is unconscious or physically helpless, or that person's mental defect or incapacity is known to the perpetrator.

• 14 V.I.C. §1708

Unlawful Sexual Conduct in the Second Degree

- A person over 18 who engages in sexual conduct with a person not the perpetrator's spouse who is over 13 but under 16 is guilty of unlawful sexual conduct in the second degree.

• 14 V.I.C. §1709

Puerto Rico

	Definition	Crime Definition Statute
Sexual Assault	<ul style="list-style-type: none"> • 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: <ul style="list-style-type: none"> • If the victim has not yet reached the age of 16 at the time of the event; • 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; • If the victim has been compelled into the 	<ul style="list-style-type: none"> • 33 L.P.R.A. §§ 4770–4771; <i>see also id.</i> §§ 4694–4695 (penalties).

act by means of physical force, violence, intimidation or the threat of serious and immediate bodily harm;

- 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;
- 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;
- 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;
- 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;
- 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; or
- 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.
- 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.

Lewd Acts

- Any person who without the intention to consummate the crime of sexual assault submits another person to an act that tends to awaken, excite or satisfy the sexual passion or desire of the accused, under any of the following circumstances, shall incur a third degree felony:
 - When the victim has not attained the age of 16 years at the time of the commission of the crime;
 - When the victim was compelled to the act by means of physical force, violence, the threat of serious and immediate bodily harm or intimidation, or by means of hypnotics, narcotics, depressants or stimulants, or otherwise similar means or substances;
 - When the victim, due to mental disease or a temporary or permanent disability was unable to understand the nature of the act;
 - When the victim was compelled to the act through the use of deceptive means that substantially annulled or impaired his/her capacity to consent;
 - If the accused has kinship with the victim, by reason of being an ascendant or descendant relative, by consanguinity, adoption or affinity, or collateral by consanguinity or adoption up to the third degree; or
 - When the accused takes advantage of the trust placed upon him/her by the victim because there is a relationship of superiority due to having the victim under his/her custody, guardianship, or primary, middle school or special education, or medical or psychotherapeutic treatment, or any type of counseling, or because there is a religious belief leadership relationship with the victim.

- 33 L.P.R.A. § 4772; *see also id.* §§ 4694–4695 (penalties).

Conjugal Sexual
Assault

Any person that commits a non-consensual sexual act against a current spouse or former spouse, or of the person with whom he/she cohabitates or has cohabited or of the person he/she has or has had a consensual relationship, or of the person with whom he/she shares a child in common, regardless of the sex, civil status, sexual orientation, gender identity, or immigrant status under any of the following circumstances:

• 8 L.P.R.A. § 635; *see also id.* §§ 4694–4695 (penalties).

- If the person has been compelled to engage in sexual conduct through the use of force, violence, intimidation or threat of grave or immediate bodily harm; or
- if the person's capacity to resist has been substantially annulled or reduced, without the person's knowledge or the person's consent through the use of hypnotic methods, narcotics, depressants, stimulants or similar means or substances; or
- if due to an illness or temporary or permanent mental disability, the person were unable to understand the nature of the act at the time it is carried out; or
- if the person is forced or induced by the use of abuse, physical or psychological violence to participate or become involved in an undesired sexual relation with third parties.

The penalty to be imposed for this crime, with the exception of the modality referred to in subsection (a) of this section, shall be that of a second degree felony.

The penalty to be imposed for this crime in all its modalities shall correspond to a felony in the second degree.

The court may impose the penalty of restitution besides the established penalty of imprisonment in any of the modalities indicated above.