

# Sex Crimes: Definitions and Penalties

## Guam

*Last Updated: March 2020*

### First Degree Criminal Sexual Conduct

Question	Answer
How is it defined?	<ul style="list-style-type: none"> <li>• Engaging in sexual penetration with the victim and if any of the following circumstances exists:             <ul style="list-style-type: none"> <li>• the victim is under 14 years of age;</li> <li>• 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;</li> <li>• sexual penetration occurs under circumstances involving the commission of any other felony;</li> <li>• 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;</li> <li>• 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;</li> <li>• the actor causes personal injury to the victim and force or coercion is used to accomplish sexual penetration; or</li> <li>• 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.</li> </ul> </li> </ul>
What are the punishments for this crime?	<ul style="list-style-type: none"> <li>• First degree criminal sexual conduct is a felony in the first degree. If convicted, the defendant shall be sentenced to a minimum of 15 years imprisonment and a maximum of life without the possibility of parole. A defendant sentenced to imprisonment is not eligible for work release or education programs outside the prison. A subsequent conviction for first degree sexual conduct is punishable by a minimum of 25 years imprisonment and a maximum of life imprisonment without the possibility of parole.</li> </ul>
Anything else I should know?	<ul style="list-style-type: none"> <li>• <b>“Force or coercion”</b> includes but is not limited to any of the following circumstances:             <ul style="list-style-type: none"> <li>• the actor overcomes the victim through the actual application of physical force or physical violence;</li> <li>• the actor coerces the victim to submit by threatening to use force or violence on the victim and the victim believes that the actor has the present ability to execute the threats;</li> <li>• 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 the threat. (“Retaliate” includes threats of physical punishment, kidnapping or extortion.);</li> <li>• 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</li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>• the actor, through concealment or by the element of surprise, is able to overcome the victim.</li> <li>• <b>“Intimate parts”</b> includes the primary genital area, groin, inner thigh, buttock or breast of a human being.</li> <li>• <b>“Mentally defective”</b> means that a person suffers from a mental disease or defect which renders that person temporary [sic] or permanently incapable of appraising the nature of his or her conduct.</li> <li>• <b>“Mentally incapacitated”</b> means that a person is rendered temporarily incapable of appraising or controlling his or her conduct due to the influence of a narcotic, anesthetic or other substance administered to that person without his or her consent, or due to any other act committed upon that person without his or her consent.</li> <li>• <b>“Physically helpless”</b> means that a person is unconscious, asleep or for any other reason is physically unable to communicate unwillingness to an act.</li> <li>• <b>“Personal injury”</b> means bodily injury, disfigurement, mental anguish, chronic pain, pregnancy, disease or loss or impairment of a sexual or reproductive organ.</li> <li>• <b>“Sexual penetration”</b> means sexual intercourse, cunnilingus, fellatio, anal intercourse or any other intrusion, however slight, of any part of a person's body or of any object into the genital or anal openings of another person's body, but emission of semen is not required.</li> <li>• A prosecution for this offense does not require that the victim's testimony be corroborated or that the victim have resisted the defendant's conduct.</li> </ul>
Statutory Citation(s):	<ul style="list-style-type: none"> <li>• 9 GCA Ch. 25, §25.15</li> <li>• Evidentiary provisions appear in 9 GCA Ch. 25, §25.40 &amp; .45</li> <li>• Definitions appear in 9 GCA Ch. 25, §25.10</li> </ul>

## Second Degree Criminal Sexual Conduct

Question	Answer
How is it defined?	<ul style="list-style-type: none"> <li>• Sexual contact with another person where any of the following circumstances exists: <ul style="list-style-type: none"> <li>• that other person is under 14 years of age;</li> <li>• 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;</li> <li>• sexual contact occurs under circumstances involving the commission of any other felony;</li> <li>• 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.</li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>• 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;</li> <li>• the actor causes personal injury to the victim and force or coercion is used to accomplish the sexual contact; or</li> <li>• 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.</li> </ul>
What are the punishments for this crime?	<ul style="list-style-type: none"> <li>• Second degree sexual conduct is a felony in the first degree, for which the court shall impose a sentence of not less than 5 years and not more than 20 years. A defendant sentenced to imprisonment is not eligible for work release or education programs outside the prison. A subsequent conviction for second degree sexual conduct is punishable by a minimum of 25 years imprisonment and a maximum of life imprisonment without the possibility of parole.</li> </ul>
Anything else I should know?	<ul style="list-style-type: none"> <li>• <b>“Sexual contact”</b> includes the intentional touching of the</li> <li>• victim's or actor's intimate parts or the intentional touching of the clothing covering the immediate area of the victim's or actor's intimate parts, if that intentional touching can reasonably be construed as being for the purpose of sexual arousal or gratification.</li> <li>• See First Degree Criminal Sexual Conduct for other relevant definitions.</li> <li>• A prosecution for this offense does not require that the victim's testimony be corroborated or that the victim have resisted the defendant's conduct.</li> </ul>
Statutory Citation(s):	<ul style="list-style-type: none"> <li>• 9 GCA Ch. 25, §25.20</li> <li>• Evidentiary provisions appear in 9 GCA Ch. 25, §25.40 &amp; .45</li> </ul>

## Third Degree Criminal Sexual Conduct

Question	Answer
How is it defined?	<ul style="list-style-type: none"> <li>• Engaging in sexual penetration with another person where any of the following circumstances exists: <ul style="list-style-type: none"> <li>• that other person is at least 14 years of age and is under 16 years of age;</li> <li>• force or coercion is used to accomplish the sexual penetration; or</li> <li>• the actor knows or has reason to know that the victim is mentally defective, mentally incapacitated or physically helpless.</li> </ul> </li> </ul>
What are the punishments for this crime?	<ul style="list-style-type: none"> <li>• Third degree criminal sexual conduct is a felony of the second degree, punishable by imprisonment for not less than three years and not more than ten years.</li> </ul>
Anything else I should know?	<ul style="list-style-type: none"> <li>• See First Degree Criminal Sexual Conduct for relevant definitions and evidentiary provisions.</li> </ul>

Statutory Citation(s):	• 9 GCA Ch. 25, §25.25
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## Fourth Degree Criminal Sexual Conduct

Question	Answer
How is it defined?	<ul style="list-style-type: none"> <li>Engaging in sexual contact with another person where either of the following circumstances exists:             <ul style="list-style-type: none"> <li>force or coercion is used to accomplish the sexual contact;</li> <li>the actor knows or has reason to know that the victim is mentally defective, mentally incapacitated or physically helpless.</li> </ul> </li> </ul>
What are the punishments for this crime?	<ul style="list-style-type: none"> <li>Fourth degree criminal sexual conduct is a felony of the third degree, for which the court may impose a sentence of not less than five years. For first offenders, however, criminal sexual conduct in the fourth degree is a misdemeanor.</li> </ul>
Anything else I should know?	<ul style="list-style-type: none"> <li>See First Degree Criminal Sexual Conduct and Second Degree Criminal Sexual Conduct for relevant definitions and evidentiary provisions.</li> </ul>
Statutory Citation(s):	• 9 GCA Ch. 25, §25.35