

Sex Crimes: Definitions and Penalties Indiana

Last Updated: March 2020

Rape

Question	Answer
How is it defined?	<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.
What are the punishments for this crime?	<ul style="list-style-type: none"> • Rape is a Level 3 felony, which has a minimum term of imprisonment of 3 years. • If defendant commits the offense of rape and: <ul style="list-style-type: none"> • Uses or threatens the use of deadly force; • Is armed with a deadly weapon; • The offense results in serious bodily injury to a person other than defendant; or • The commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug or a controlled substance, or knowing that the victim was furnished with a drug or controlled substance without the victim's knowledge, then the offense is a Level 1 felony, which has a minimum term of imprisonment of 20 years.
Anything else I should know?	<p>The following definitions are relevant to this crime:</p> <ul style="list-style-type: none"> • “Deadly force” means force that creates a substantial risk of serious bodily injury. • “Other sexual conduct” means an act involving (1) a sex organ of one person and the mouth or anus of another person; or (2) the penetration of the sex organ or anus of a person by an object. • “Serious bodily injury” means bodily injury that creates a substantial risk of death or that causes: Serious permanent disfigurement; Unconsciousness; Extreme pain; Permanent or protracted loss or impairment of the function of a bodily member or organ; or Loss of a fetus. • “Sexual intercourse” means an act that includes any penetration of the female sex organ by the male sex organ.
Statutory citation(s):	<ul style="list-style-type: none"> • Ind. Code § 35-42-4-1.

Sexual Battery

Question	Answer
How is it defined?	<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.
What are the punishments for this crime?	<p>Sexual battery is a Level 6 felony, which has a minimum term of imprisonment of 1/2 year.</p> <p>If defendant commits the offense of sexual battery and:</p> <ul style="list-style-type: none"> • Uses or threatens the use of deadly force; • Is armed with a deadly weapon; • The commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug or a controlled substance, or knowing that the victim was furnished with a drug or controlled substance without the victim's knowledge, then the offense is a Level 4 felony, which has a minimum term of imprisonment of 2 years.
Anything else I should know?	<p>The following definitions are relevant to this crime:</p> <ul style="list-style-type: none"> • See Rape for relevant definitions.
Statutory citation(s):	<ul style="list-style-type: none"> • Ind. Code § 35-42-4-8.

Child Seduction

Question	Answer
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How is it defined?

- If defendant is at least 18 years of age and is:
 - 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:
 - 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 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.

What are the punishments for this crime?

- Child seduction is a Level 6 felony if the child is at least 16 but is less than 18 and the defendant engaged in any fondling or touching with the intent to arouse or satisfy the sexual desires of the child or defendant.
- Child seduction is a Level 5 felony if the child is at least 14 but is less than 16 and the defendant engaged in any fondling or touching with the intent to arouse or satisfy the sexual desires of the child or the defendant.
- Child seduction is a Level 4 felony if the child is at least 14 but is less than 16 and the defendant engaged in sexual intercourse or other sexual conduct with the child.
- Child seduction is a Level 3 felony if the child is 13 years of age or under and the defendant engaged in any fondling or touching with the intent to arouse or satisfy the sexual desires of the child or the defendant.

	<ul style="list-style-type: none"> • Child seduction is a Level 2 felony if the child is 13 years of age or under and the defendant engaged in sexual intercourse or other sexual conduct with the child.
Anything else I should know?	<p>The following definitions are relevant to this crime:</p> <ul style="list-style-type: none"> • “Adoptive parent” means an adult who has become a parent of a child through adoption. • “Adoptive grandparent” means the parent of an adoptive parent. • “Child care worker” means a person who: Provides care, supervision, or instruction to a child within the scope of the person's employment in a shelter care facility; Is employed by a school corporation; charter school; nonpublic school; or special education cooperative attended by a child who is the victim of this offense; or Is: Affiliated with a school corporation; charter school; nonpublic school; or special education cooperative attended by a child who is the victim of this offense; In a position of trust in relation to a child who attends the school or cooperative; Engaged in the provision of care or supervision to a child who attends the school or cooperative; and At least 4 years older than the child who is the victim of this offense.Note: The term does not include a student who attends the school or cooperative. • “Custodian” means any person who resides with a child and is responsible for the child's welfare. • “Deviate sexual conduct” means an act involving: Sex organ of one person and the mouth or anus of another person; or the penetration of the sex organ or anus of a person by an object. • A person has a “professional relationship” with a child if the person: Has a license issued by the state or a political subdivision on the basis of the person's training and experience that authorizes the person to carry out a particular occupation; or Is employed in a position in which counseling, supervising, instructing, or recruiting children forms a significant part of the employment; and The person has a relationship with a child that is based on the person's employment or licensed status. The term includes a relationship between a child and a mental health professional or military recruiter. The term does not include a coworker relationship between a child and a person described in the second bullet above. • “Stepparent” means an individual who is married to a child's custodial or noncustodial parent and is not the child's adoptive parent. • See Rape for additional relevant definitions.
Statutory citation(s):	<ul style="list-style-type: none"> • Ind. Code § 35-42-4-7.

Child Molesting

Question	Answer
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How is it defined?	<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)).
What are the punishments for this crime?	<ul style="list-style-type: none"> • Child molesting (Type 1) is a Level 3 felony, but is a Level 1 felony if it is committed by a person at least twenty-one (21) years of age and; <ul style="list-style-type: none"> • it is committed by using or threatening the use of deadly force or while armed with a deadly weapon; • it results in serious bodily injury; • the commission of the offense is facilitated by furnishing the child, without the child's knowledge, with a drug or a controlled substance, or knowing that the child was furnished with the drug or controlled substance without the child's knowledge; or • it results in the transmission of a dangerous sexually transmitted disease and the perpetrator knew that the perpetrator was infected with the disease. • Child molesting (Type 2) is a Level 4 felony, but is a Level 2 felony if: <ul style="list-style-type: none"> • it is committed by using or threatening the use of deadly force; • it is committed while armed with a deadly weapon; or • the commission of the offense is facilitated by furnishing the child, without the child's knowledge, with a drug or a controlled substance, or knowing that the child was furnished with the drug or controlled substance without the child's knowledge.
Anything else I should know?	<p>The following definitions are relevant to this crime:</p> <ul style="list-style-type: none"> • “Other sexual conduct” means an act involving: <ul style="list-style-type: none"> • a sex organ of one person and the mouth or anus of another person; or • or the penetration of the sex organ or anus of a person by an object. • “Drug” is defined in Ind. Code § 16-42-19-2 • “Controlled substance” is defined in Ind. Code § 35-48-1-9. <p>It is a defense to a prosecution for child molesting that the accused person reasonably believed that the child was 16 years of age or older at the time of the conduct, unless:</p> <ul style="list-style-type: none"> • the offense was committed by using or threatening the use of deadly force or while armed with a deadly weapon; • the offense resulted in serious bodily injury; or • the commission of the offense was facilitated by furnishing the child, without the child's knowledge, with a drug or a controlled substance, or knowing that the child was furnished with the drug or controlled substance without the child's knowledge.

Statutory citation(s):	Ind. Code § 35-42-4-3
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Sexual Misconduct with a Minor

Question	Answer
How is it defined?	<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)).
What are the punishments for this crime?	<p>Sexual misconduct with a minor (Type 1) is a Level 5 felony, but is:</p> <ul style="list-style-type: none">• a Level 4 felony if committed by a person at least twenty-one (21) years of age; and• a Level 1 felony if:<ul style="list-style-type: none">• it was committed by using or threatening the use of deadly force or while armed with a deadly weapon;• it resulted in serious bodily injury;• the commission of the offense was facilitated by furnishing the child, without the child's knowledge, with a drug or a controlled substance, or knowing that the child was furnished with the drug or controlled substance without the child's knowledge. <p>Sexual misconduct with a minor (Type 2) is a Level 6 felony, but is:</p> <ul style="list-style-type: none">• a Level 5 felony if committed by a person at least twenty-one (21) years of age; and• a Level 2 felony if:<ul style="list-style-type: none">• it was committed by using or threatening the use of deadly force;• it was committed while armed with a deadly weapon; or• the commission of the offense was facilitated by furnishing the child, without the child's knowledge, with a drug or a controlled substance, or knowing that the child was furnished with the drug or controlled substance without the child's knowledge.
Anything else I should know?	<p>See "Child Molesting" above for definitions relevant to this crime.</p> <p>It is a defense to a prosecution for sexual misconduct with a minor if all the following apply:</p> <ul style="list-style-type: none">• The person is not more than four (4) years older than the victim;

	<ul style="list-style-type: none"> • The relationship between the person and the victim was a dating relationship or an ongoing personal relationship. (not including a family relationship); • The crime: <ul style="list-style-type: none"> • was not committed by a person who is at least twenty-one (21) years of age; • was not committed by using or threatening the use of deadly force; • was not committed while armed with a deadly weapon; • did not result in serious bodily injury; • was not facilitated by furnishing the victim, without the victim's knowledge, with a drug or a controlled substance, or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge; and • was not committed by a person having a position of authority or substantial influence over the victim. • The person has not committed another sex offense against any other person.
Statutory citation(s):	Ind. Code § 35-42-4-9

Sodomy

Question	Answer
How is it defined?	<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).
What are the punishments for this crime?	<ul style="list-style-type: none"> • N/A
Anything else I should know?	<ul style="list-style-type: none"> • N/A
Statutory citation(s):	Ind. Code § 35-1.89-1, which criminalized sodomy, was repealed in 1976