

# Sex Crimes: Definitions and Penalties

## Maine

*Last Updated: April 2023*

### Gross Sexual Assault

Question	Answer
How is it defined?	<ul style="list-style-type: none"><li>• Sexual act with another person and:<ul style="list-style-type: none"><li>• The other person submits as a result of compulsion;</li><li>• The other person, not the actor's spouse, is under 14; or</li><li>• The other person, not the actor's spouse, is under 12</li></ul></li></ul> <p>(in all cases a Class A crime).</p> <ul style="list-style-type: none"><li>• Sexual act with another person and:<ul style="list-style-type: none"><li>• 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);</li><li>• The actor compels or induces the other person to engage in the sexual act by any threat (a Class B crime);</li><li>• 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);</li><li>• The other person is unconscious or otherwise physically incapable of resisting and has not consented to the sexual act (a Class B crime);</li><li>• 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);</li><li>• 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 C crime);</li><li>• 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</li></ul></li></ul>

	<p>person (a Class C crime);</p> <ul style="list-style-type: none"> <li>• 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);</li> <li>• 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);</li> <li>• 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). It is an affirmative defense to prosecution under this paragraph that the actor receives services for an intellectual disability or autism or is a person with an intellectual disability, as defined in Title 34-B, § 5001, subsection 3, or autism, as defined in Title 34-B, § 6002;</li> <li>• 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);</li> <li>• The other person has not consented to the sexual act and the actor is criminally negligent with regard to whether the other person has consented (a Class C crime);</li> <li>• 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</li> <li>• 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).</li> </ul>
<p>What are the punishments for this crime?</p>	<ul style="list-style-type: none"> <li>• A Class A crime is punishable by imprisonment for up to 30 years and a fine of up to \$50,000.</li> <li>• A Class B crime is punishable by imprisonment for up to 10 years and a fine of up to \$20,000.</li> <li>• A Class C crime is punishable by imprisonment for up to five years and a fine of up to \$5,000.</li> <li>• If the State pleads and proves that the defendant is a repeat sexual assault offender, the court may impose a definite term of imprisonment for any term of years. The court also may impose as part of the sentence either a period of probation of any term of years pursuant to § 1804, subsection 4 or a period of supervised release of any term of years pursuant to § 1881, subsection 2, paragraph A.</li> </ul>
<p>Anything else I should know?</p>	<p>The following definitions are relevant to this crime:</p> <ul style="list-style-type: none"> <li>• <b>“Sexual act”</b> means:</li> <li>• Any act between 2 persons involving direct physical contact between the genitals of one and the mouth or</li> </ul>

	<p>anus of the other, or direct physical contact between the genitals of one and the genitals of the other;</p> <ul style="list-style-type: none"> <li>• Any act between a person and an animal being used by another person which act involves direct physical contact between the genitals of one and the mouth or anus of the other, or direct physical contact between the genitals of one and the genitals of the other; or</li> <li>• Any act involving direct physical contact between the genitals or anus of one and an instrument or device manipulated by another person when that act is done for the purpose of arousing or gratifying sexual desire or for the purpose of causing bodily injury or offensive physical contact.</li> <li>• Sexual act may be proved without allegation or proof of penetration.</li> </ul> <ul style="list-style-type: none"> <li>• <b>“Sexual contact”</b> means any touching of the genitals or anus, directly or through clothing, other than as would constitute a sexual act, for the purpose of arousing or gratifying sexual desire or for the purpose of causing bodily injury or offensive physical contact.</li> <li>• <b>“Compulsion”</b> means the use of physical force, a threat to use physical force or a combination thereof that makes a person unable to physically repel the actor or produces in that person a reasonable fear that death, serious bodily injury or kidnapping might be imminently inflicted upon that person or another human being. “Compulsion” as defined in this paragraph places no duty upon the victim to resist the actor.</li> <li>• <b>“Consent”</b> means a word or action by a person that indicates a freely given agreement.</li> <li>• <b>“Domestic partners”</b> means 2 unmarried adults who are domiciled together under a long-term arrangement that evidences a commitment to remain responsible indefinitely for each other's welfare.</li> <li>• <b>“Law enforcement officer”</b> means a person who by virtue of public employment is vested by law with the power to make arrests for crimes or serve criminal process, whether that power extends to all crimes or is limited to specific crimes and who possesses a current and valid certificate issued pursuant to Me. Rev. Stat. § 2803-A.</li> </ul>
Statutory citation(s):	<ul style="list-style-type: none"> <li>• ME. REV. STAT. tit. 17A, § 253</li> <li>• Definitions, ME. REV. STAT. tit. 17A, § 251</li> <li>• Sentencing, Me. Rev. Stat. tit. 17-A, §§ 1604, 1804</li> <li>• Fines, Me. Rev. Stat. tit. 17-A, § 1704</li> </ul>

## Unlawful Sexual Contact

Question	Answer
How is it defined?	<p>Intentionally subjecting another person to any sexual contact and:</p> <ul style="list-style-type: none"> <li>• The other person has not consented to the sexual contact and the actor is criminally negligent with regard to whether the other person has consented (a Class D crime);</li> <li>• The other person has not consented to the sexual contact, the actor is criminally negligent with regard to whether the other person has consented, and the sexual contact includes penetration (a Class C crime);</li> </ul>

- 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). It is an affirmative defense to prosecution under this paragraph that the actor receives services for an intellectual disability or autism or is a person with an intellectual disability, as defined in Title 34-B, § 5001, subsection 3, or autism, as defined in Title 34-B, § 6002;
- 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);

	<ul style="list-style-type: none"> <li>• 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);</li> <li>• 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</li> <li>• 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).</li> </ul>
What are the punishments for this crime?	<p>Unlawful sexual contact may be a Class A, Class B, Class C, Class D or Class E crime, as indicated in the preceding section. Punishment for each class of crime may consist of:</p> <ul style="list-style-type: none"> <li>• In the case of a Class A crime, imprisonment for up to 30 years and a fine of up to \$50,000;</li> <li>• In the case of a Class B crime, imprisonment for up to 10 years and a fine of up to \$20,000;</li> <li>• In the case of a Class C crime, imprisonment for up to five years and a fine of up to \$5,000;</li> <li>• In the case of a Class D crime, imprisonment for up to one year and a fine of up to \$2,000; and</li> <li>• In the case of a Class E crime, imprisonment for up to six months and a fine of up to \$1,000.</li> </ul>
Anything else I should know?	<ul style="list-style-type: none"> <li>• For relevant definitions, see "Gross Sexual Assault."</li> <li>• If a person intentionally subjects another person to "sexual touching" in the specified circumstances rather than "sexual contact," the person is guilty of "unlawful Sexual Touching" under ME. REV. STAT. tit. 17A, § 260.</li> </ul>
Statutory citation(s):	<ul style="list-style-type: none"> <li>• ME. REV. STAT. tit. 17A, § 255-A,</li> <li>• ME. REV. STAT. tit. 17A, § 1604</li> <li>• ME. REV. STAT. tit. 17A, § 1704</li> </ul>

## Sexual Abuse of Minors

Question	Answer
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How is it defined?	<p>A person is guilty of sexual abuse of a minor if:</p> <ul style="list-style-type: none"> <li>• The person engages in a sexual act with another person, not the actor’s spouse, who is either 14 or 15 years of age and the actor is at least 5 years older than the other person (a Class D crime); <ul style="list-style-type: none"> <li>• The person violates paragraph A and the actor knows that the other person is related to the actor within the 2nd degree of consanguinity (a Class C crime);</li> <li>• The person violates paragraph A and the actor is at least 10 years older than the other person (a Class C crime);</li> </ul> </li> <li>• The person is at least 21 years of age and engages in a sexual act with another person, not the actor’s spouse, who is either 16 or 17 years of age and is a student enrolled in a private or public elementary, secondary or special education school, facility or institution and the actor is a teacher, employee or other official in the school district, school union, educational unit, school, facility or institution in which the student is enrolled (a Class E crime); <ul style="list-style-type: none"> <li>• The person violates paragraph C and the actor knows that the student is related to the actor within the 2nd degree of consanguinity (a Class D crime); or</li> <li>• The person violates paragraph C and the actor is at least 10 years older than the student (a Class D crime).</li> </ul> </li> </ul>
What are the punishments for this crime?	<p>Punishment for each class of crime may consist of:</p> <ul style="list-style-type: none"> <li>• In the case of a Class C crime, imprisonment for up to five years and a fine of up to \$5,000;</li> <li>• In the case of a Class D crime, imprisonment for up to one year and a fine of up to \$2,000; and</li> <li>• In the case of a Class E crime, imprisonment for up to six months and a fine of up to \$1,000.</li> </ul>
Anything else I should know?	<ul style="list-style-type: none"> <li>• For relevant definitions, see “Gross Sexual Assault.”</li> </ul>
Statutory citation(s):	<ul style="list-style-type: none"> <li>• ME. REV. STAT. tit. 17A, § 254</li> <li>• ME. REV. STAT. tit. 17A, § 1604</li> <li>• ME. REV. STAT. tit. 17A, § 1704</li> </ul>

## Sodomy

Question	Answer
How is it defined?	<ul style="list-style-type: none"> <li>• Maine does not appear to criminalize sodomy.</li> <li>• Any state laws that outright prohibit sodomy are unconstitutional under <i>Lawrence v. Texas</i>, 539 U.S. 588 (2003).</li> </ul>

What are the punishments for this crime?	• N/A
Anything else I should know?	• N/A
Statutory citation(s):	• N/A

## Statutory Rape

Question	Answer
How is it defined?	<ul style="list-style-type: none"> <li>• Maine does not specifically penalize statutory rape, but it does punish several crimes related to sexual acts with minors. As set forth above, for example: <ul style="list-style-type: none"> <li>• A sexual act with someone under 14 is a crime.</li> <li>• A sexual act with someone who is 14 or 15, by a person who is at least five years older than the victim, is a crime.</li> <li>• A sexual act with a student under 18 when the offender is 21 or older and has instructional, supervisory, or disciplinary authority over the victim is a crime.</li> <li>• A sexual act with a minor by someone in charge of the long-term care and welfare of that minor is a crime.</li> </ul> </li> </ul>
What are the punishments for this crime?	<ul style="list-style-type: none"> <li>• Maine does not specifically penalize statutory rape, but it does punish several crimes related to sexual acts with minors. As set forth above, for example: <ul style="list-style-type: none"> <li>• A sexual act with someone under 14 is a crime punishable by 30 years and a fine of up to \$50,000.</li> <li>• A sexual act with someone who is 14 or 15, by a person who is at least five years older than the victim, is a crime punishable by imprisonment for up to one year and a fine of up to \$2,000.</li> <li>• A sexual act with a student under 18 when the offender is 21 or older and has instructional, supervisory, or disciplinary authority over the victim is a crime punishable by imprisonment for up to one year and a fine of up to \$2,000.</li> <li>• A sexual act with a minor by someone in charge of the long-term care and welfare of that minor is a crime punishable by imprisonment for up to 10 years and a fine of up to \$20,000.</li> </ul> </li> </ul>
Anything else I should know?	<ul style="list-style-type: none"> <li>• <b>“Sexual act”</b> means: <ul style="list-style-type: none"> <li>• Any act between 2 persons involving direct physical contact between the genitals of one and the mouth or anus of the other, or direct physical contact between the genitals of one and the genitals of the other;</li> <li>• Any act between a person and an animal being used by another person which act involves direct physical contact between the genitals of one and the mouth or anus of the other, or direct physical contact between the genitals of one and the genitals of the other; or</li> </ul> </li> </ul>

- Any act involving direct physical contact between the genitals or anus of one and an instrument or device manipulated by another person when that act is done for the purpose of arousing or gratifying sexual desire or for the purpose of causing bodily injury or offensive physical contact.
- Sexual act may be proved without allegation or proof of penetration.

Statutory citation(s):

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