

Sex Crimes: Definitions and Penalties Minnesota

Last Updated: March 2020

Criminal Sexual Conduct in the First Degree

Question	Answer
How is it defined?	<ul style="list-style-type: none">• Sexual penetration with a person or sexual contact with a person under 13, <i>and</i><ul style="list-style-type: none">• Circumstances existing at the time 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 to the complainant and any of the following circumstances exist:<ul style="list-style-type: none">• 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:<ul style="list-style-type: none">• 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:<ul style="list-style-type: none">• 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

	<ul style="list-style-type: none"> • Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense.
<p>What are the punishments for this crime?</p>	<ul style="list-style-type: none"> • Imprisonment for not more than 30 years, or payment of a fine of not more than \$40,000, or both.
<p>Anything else I should know?</p>	<ul style="list-style-type: none"> • Sexual Penetration: Any of the following acts committed without the complainant's consent, except in those cases where consent is not a defense, whether or not emission of semen occurs: <ul style="list-style-type: none"> • sexual intercourse, cunnilingus, fellatio, or anal intercourse; or • any intrusion however slight into the genital or anal openings: <ul style="list-style-type: none"> • of the complainant's body by any part of the actor's body or any object used by the actor for this purpose; • of the complainant's body by any part of the body of the complainant, by any part of the body of another person, or by any object used by the complainant or other person for this purpose, when effected by a person in a current or recent position of authority, or by coercion, or by inducement if the child is under 13 years or mentally impaired; or • of the body of the actor or another person by any part of the body of the complainant or by any object used by the complainant for this purpose, when effected by a person in a current or recent position of authority, or by coercion, or by inducement if the child is under 13 years of age or mentally impaired. • Sexual Contact: Any of the following acts committed without the complainant's consent, except in those cases where consent is not a defense, and committed with sexual or aggressive intent: <ul style="list-style-type: none"> • the intentional touching by the actor of the complainant's intimate parts (primary genital area, groin, inner thigh, buttocks, or breast); • the touching by the complainant of the actor's, the complainant's, or another's intimate parts; • the touching by another of the complainant's intimate parts; • in any of the cases above, the touching of the clothing covering the immediate area of the intimate parts; or • the intentional touching with seminal fluid or sperm by the actor of the complainant's body or the clothing covering the complainant's body. • Force: <ul style="list-style-type: none"> • The infliction, attempted infliction, or threatened infliction of bodily harm or commission or threat of any other crime by the actor against the complainant or another, which: <ul style="list-style-type: none"> • (a) causes the complainant to reasonably believe that the actor has the present ability to execute the threat; and • (b) if the actor does not have a significant relationship to the complainant, also causes the complainant to submit. • Mentally impaired:

- A person, as a result of inadequately developed or impaired intelligence or a substantial psychiatric disorder of thought or mood, lacks the judgment to give reasoned consent to sexual contact or to sexual penetration.

- **Coercion:**

- The use by the actor of words or circumstances that cause the complainant reasonably to fear that the actor will inflict bodily harm upon the complainant or another, or the use by the actor of confinement, or superior size or strength, against the complainant that causes the complainant to submit to sexual penetration or contact against the complainant's will.
- Proof of coercion does not require proof of a specific act or threat.

- **Significant relationship:**

- A situation in which the actor is:
 - the complainant's parent, stepparent, or guardian;
 - any of the following persons related to the complainant by blood, marriage, or adoption: brother, sister, stepbrother, stepsister, first cousin, aunt, uncle, nephew, niece, grandparent, great-grandparent, great-uncle, great-aunt; or
 - an adult who jointly resides intermittently or regularly in the same dwelling as the complainant and who is not the complainant's spouse.

- **Sexual contact with a person under 13:**

- The intentional touching of the complainant's bare genitals or anal opening by the actor's bare genitals or anal opening with sexual or aggressive intent or the touching by the complainant's bare genitals or anal opening of the actor's or another's bare genitals or anal opening with sexual or aggressive intent.

- **Current or recent position of authority:**

- Includes but is not limited to any person who is a parent or acting in the place of a parent and charged with or assumes any of a parent's rights, duties or responsibilities to a child, or a person who is charged with or assumes any duty or responsibility for the health, welfare, or supervision of a child, either independently or through another, no matter how brief, at the time of or within 120 days immediately preceding the act.

- **Mentally incapacitated:**

- A person under the influence of alcohol, a narcotic, anesthetic, or any other substance, administered to that person without the person's agreement, lacks the judgment to give a reasoned consent to sexual contact or sexual penetration.

- **Physically helpless:**

- A person is (a) asleep or not conscious, (b) unable to withhold consent or to withdraw consent because of a physical condition, or (c) unable to communicate nonconsent and the condition is

	<p>known or reasonably should have been known to the actor.</p> <ul style="list-style-type: none"> • Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense.
Statutory citation(s):	Minn. Stat. § 609.342

Criminal Sexual Conduct in the Second Degree

Question	Answer
How is it defined?	<ul style="list-style-type: none"> • Sexual contact, <i>and</i> any of the following circumstances exist: <ul style="list-style-type: none"> • 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: <ul style="list-style-type: none"> • 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: <ul style="list-style-type: none"> • 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: <ul style="list-style-type: none"> • The actor or an accomplice used force or coercion to accomplish the penetration;

	<ul style="list-style-type: none"> • 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.
What are the punishments for this crime?	<ul style="list-style-type: none"> • Imprisonment for not more than 25 years, or payment of a fine of not more than \$35,000, or both.
Anything else I should know?	<ul style="list-style-type: none"> • Sexual Penetration: Any of the following acts committed without the complainant's consent, except in those cases where consent is not a defense, whether or not emission of semen occurs: <ul style="list-style-type: none"> • Sexual intercourse, cunnilingus, fellatio, or anal intercourse, or • Any intrusion however slight into the genital or anal openings: <ul style="list-style-type: none"> • Of the complainant's body by any part of the actor's body or any object used by the actor for this purpose, • Of the complainant's body by any part of the body of the complainant, by any part of the body of another person, or by any object used by the complainant or other person for this purpose, when effected by a person in a current or recent position of authority, or by coercion, or by inducement if the child is under 13 years or mentally impaired, or • Of the body of the actor or another person by any part of the body of the complainant or by any object used by the complainant for this purpose, when effected by a person in a current or recent position of authority, or by coercion, or by inducement if the child is under 13 years of age or mentally impaired. • Sexual Contact: Any of the following acts committed without the complainant's consent, except in those cases where consent is not a defense, and committed with sexual or aggressive intent: <ul style="list-style-type: none"> • The intentional touching by the actor of the complainant's intimate parts (primary genital area, groin, inner thigh, buttocks, or breast), • The touching by the complainant of the actor's, the complainant's, or another's intimate parts, • The touching by another of the complainant's intimate parts, • In any of the cases above, the touching of the clothing covering the immediate area of the intimate parts, or • The intentional touching with seminal fluid or sperm by the actor of the complainant's body or the clothing covering the complainant's body. • Force: <ul style="list-style-type: none"> • The infliction, attempted infliction, or threatened infliction of bodily harm or commission or threat of any other crime by the actor against the complainant or another, which <ul style="list-style-type: none"> • (a) causes the complainant to reasonably believe that the actor has the present ability to execute the threat, and • (b) if the actor does not have a significant relationship to the complainant, also causes the complainant to submit. • Mentally impaired: <ul style="list-style-type: none"> • A person, as a result of inadequately developed or impaired intelligence or a substantial psychiatric disorder of thought or mood, lacks the judgment to give reasoned consent to sexual

contact or to sexual penetration.

• **Coercion:**

- The actor of words or circumstances that cause the complainant reasonably to fear that the actor will inflict bodily harm upon the complainant or another, or the use by the actor of confinement, or superior size or strength, against the complainant that causes the complainant to submit to sexual penetration or contact against the complainant's will.
- Proof of coercion does not require proof of a specific act or threat.

• **Significant relationship:**

- A situation in which the actor is:
 - The complainant's parent, stepparent, or guardian; or
 - Any of the following persons related to the complainant by blood, marriage, or adoption: brother, sister, stepbrother, stepsister, first cousin, aunt, uncle, nephew, niece, grandparent, great-grandparent, great-uncle, great-aunt; or
 - An adult who jointly resides intermittently or regularly in the same dwelling as the complainant and who is not the complainant's spouse.

• **Sexual contact with a person under 13:**

- the intentional touching of the complainant's bare genitals or anal opening by the actor's bare genitals or anal opening with sexual or aggressive intent or the touching by the complainant's bare genitals or anal opening of the actor's or another's bare genitals or anal opening with sexual or aggressive intent.

• **Current or recent position of authority:**

- Includes but is not limited to any person who is a parent or acting in the place of a parent and charged with or assumes any of a parent's rights, duties or responsibilities to a child, or a person who is charged with or assumes any duty or responsibility for the health, welfare, or supervision of a child, either independently or through another, no matter how brief, at the time of or within 120 days immediately preceding the act.

• **Mentally incapacitated:**

- A person under the influence of alcohol, a narcotic, anesthetic, or any other substance, administered to that person without the person's agreement, lacks the judgment to give a reasoned consent to sexual contact or sexual penetration.

• **Physically helpless:**

- A person is (a) asleep or not conscious, (b) unable to withhold consent or to withdraw consent because of a physical condition, or (c) unable to communicate nonconsent and the condition is known or reasonably should have been known to the actor.

Statutory
citation(s):

Minn. Stat. § 609.343

Criminal Sexual Conduct in the Third Degree

Question	Answer
How is it defined?	<ul style="list-style-type: none">• Sexual penetration, <i>and</i><ul style="list-style-type: none">• 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.<ul style="list-style-type: none">• 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 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

	<p>private. Consent by the complainant is not a defense;</p> <ul style="list-style-type: none"> • 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 during a lawful search.
<p>What are the punishments for this crime?</p>	<ul style="list-style-type: none"> • Imprisonment for not more than 15 years, or payment of a fine of not more than \$30,000, or both. • If the complainant is at least 13 but less than 16 years of age, and if the actor was no more than 48 months but more than 24 months older than the complainant, imprisonment for not more than five years or a fine of not more than \$30,000, or both.
<p>Anything else I should know?</p>	<ul style="list-style-type: none"> • Sexual Penetration: Any of the following acts committed without the complainant's consent, except in those cases where consent is not a defense, whether or not emission of semen occurs: <ul style="list-style-type: none"> • Sexual intercourse, cunnilingus, fellatio, or anal intercourse, or • Any intrusion however slight into the genital or anal openings: <ul style="list-style-type: none"> • of the complainant's body by any part of the actor's body or any object used by the actor for this purpose, • The complainant's body by any part of the body of the complainant, by any part of the body of another person, or by any object used by the complainant or other person for this purpose, when effected by a person in a current or recent position of authority, or by coercion, or by inducement if the child is under 13 years or mentally impaired; or • Of the body of the actor or another person by any part of the body of the complainant or by any object used by the complainant for this purpose, when effected by a person in a current or recent position of authority, or by coercion, or by inducement if the child is under 13 years of age or mentally impaired. • Sexual Contact: Any of the following acts committed without the complainant's consent, except in those cases where consent is not a defense, and committed with sexual or aggressive intent: <ul style="list-style-type: none"> • The intentional touching by the actor of the complainant's intimate parts (primary genital area, groin, inner thigh, buttocks, or breast);

- The touching by the complainant of the actor's, the complainant's, or another's intimate parts;
 - The touching by another of the complainant's intimate parts;
 - In any of the cases above, the touching of the clothing covering the immediate area of the intimate parts; or
 - The intentional touching with seminal fluid or sperm by the actor of the complainant's body or the clothing covering the complainant's body.
- **Force:**
 - The infliction, attempted infliction, or threatened infliction of bodily harm or commission or threat of any other crime by the actor against the complainant or another, which:
 - (a) causes the complainant to reasonably believe that the actor has the present ability to execute the threat, and
 - (b) if the actor does not have a significant relationship to the complainant, also causes the complainant to submit.
- **Mentally impaired:**
 - A person, as a result of inadequately developed or impaired intelligence or a substantial psychiatric disorder of thought or mood, lacks the judgment to give reasoned consent to sexual contact or to sexual penetration.
- **Coercion:**
 - The actor of words or circumstances that cause the complainant reasonably to fear that the actor will inflict bodily harm upon the complainant or another, or the use by the actor of confinement, or superior size or strength, against the complainant that causes the complainant to submit to sexual penetration or contact against the complainant's will.
 - Proof of coercion does not require proof of a specific act or threat.
- **Significant relationship:**
 - A situation in which the actor is:
 - The complainant's parent, stepparent, or guardian; or
 - Any of the following persons related to the complainant by blood, marriage, or adoption: brother, sister, stepbrother, stepsister, first cousin, aunt, uncle, nephew, niece, grandparent, great-grandparent, great-uncle, great-aunt; or
 - An adult who jointly resides intermittently or regularly in the same dwelling as the complainant and who is not the complainant's spouse.
- **Sexual contact with a person under 13:**
 - the intentional touching of the complainant's bare genitals or anal opening by the actor's bare genitals or anal opening with sexual or aggressive intent or the touching by the complainant's bare genitals or anal opening of the actor's or another's bare genitals or anal opening with sexual or aggressive intent.
- **Current or recent position of authority:**
 - Includes but is not limited to any person who is a parent or acting in the place of a parent and charged with or assumes any of a parent's rights, duties or responsibilities to a child, or a person who is charged with or assumes any duty or responsibility for the health, welfare, or supervision of a child, either independently or through another, no matter how brief, at the time of or within 120

	<p>days immediately preceding the act.</p> <ul style="list-style-type: none"> • Mentally incapacitated: <ul style="list-style-type: none"> • A person under the influence of alcohol, a narcotic, anesthetic, or any other substance, administered to that person without the person's agreement, lacks the judgment to give a reasoned consent to sexual contact or sexual penetration. • Physically helpless: <ul style="list-style-type: none"> • A person is (a) asleep or not conscious, (b) unable to withhold consent or to withdraw consent because of a physical condition, or (c) unable to communicate nonconsent and the condition is known or reasonably should have been known to the actor.
Statutory citation(s):	Minn. Stat. § 609.344

Criminal Sexual Conduct in the Fourth Degree

Question	Answer
How is it defined?	<ul style="list-style-type: none"> • Sexual contact, <i>and</i> <ul style="list-style-type: none"> • 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. <ul style="list-style-type: none"> • 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.

<p>What are the punishments for this crime?</p>	<ul style="list-style-type: none"> • Imprisonment for not more than 10 years, or payment of a fine of not more than \$20,000, or both.
<p>Anything else I should know?</p>	<ul style="list-style-type: none"> • Sexual Penetration: Any of the following acts committed without the complainant's consent, except in those cases where consent is not a defense, whether or not emission of semen occurs: <ul style="list-style-type: none"> • Sexual intercourse, cunnilingus, fellatio, or anal intercourse, or • Any intrusion however slight into the genital or anal openings: <ul style="list-style-type: none"> • of the complainant's body by any part of the actor's body or any object used by the actor for this purpose, • The complainant's body by any part of the body of the complainant, by any part of the body of another person, or by any object used by the complainant or other person for this purpose, when effected by a person in a current or recent position of authority, or by coercion, or by inducement if the child is under 13 years or mentally impaired; or • Of the body of the actor or another person by any part of the body of the complainant or by any object used by the complainant for this purpose, when effected by a person in a current or recent position of authority, or by coercion, or by inducement if the child is under 13 years of age or mentally impaired. • Sexual Contact: Any of the following acts committed without the complainant's consent, except in those cases where consent is not a defense, and committed with sexual or aggressive intent: <ul style="list-style-type: none"> • The intentional touching by the actor of the complainant's intimate parts (primary genital area, groin, inner thigh, buttocks, or breast); • The touching by the complainant of the actor's, the complainant's, or another's intimate parts; • The touching by another of the complainant's intimate parts; • In any of the cases above, the touching of the clothing covering the immediate area of the intimate parts; or • The intentional touching with seminal fluid or sperm by the actor of the complainant's body or the clothing covering the complainant's body. • Force: <ul style="list-style-type: none"> • The infliction, attempted infliction, or threatened infliction of bodily harm or commission or threat of any other crime by the actor against the complainant or another, which: <ul style="list-style-type: none"> • (a) causes the complainant to reasonably believe that the actor has the present ability to execute the threat, and • (b) if the actor does not have a significant relationship to the complainant, also causes the complainant to submit. • Mentally impaired: <ul style="list-style-type: none"> • A person, as a result of inadequately developed or impaired intelligence or a substantial psychiatric disorder of thought or mood, lacks the judgment to give reasoned consent to sexual contact or to sexual penetration. • Coercion: <ul style="list-style-type: none"> • The actor of words or circumstances that cause the complainant reasonably to fear that the actor will inflict bodily harm upon the complainant or another, or the use by the actor of confinement, or

superior size or strength, against the complainant that causes the complainant to submit to sexual penetration or contact against the complainant's will.

- Proof of coercion does not require proof of a specific act or threat.

- **Significant relationship:**

- A situation in which the actor is:
 - The complainant's parent, stepparent, or guardian; or
 - Any of the following persons related to the complainant by blood, marriage, or adoption: brother, sister, stepbrother, stepsister, first cousin, aunt, uncle, nephew, niece, grandparent, great-grandparent, great-uncle, great-aunt; or
 - An adult who jointly resides intermittently or regularly in the same dwelling as the complainant and who is not the complainant's spouse.

- **Sexual contact with a person under 13:**

- the intentional touching of the complainant's bare genitals or anal opening by the actor's bare genitals or anal opening with sexual or aggressive intent or the touching by the complainant's bare genitals or anal opening of the actor's or another's bare genitals or anal opening with sexual or aggressive intent.

- **Current or recent position of authority:**

- Includes but is not limited to any person who is a parent or acting in the place of a parent and charged with or assumes any of a parent's rights, duties or responsibilities to a child, or a person who is charged with or assumes any duty or responsibility for the health, welfare, or supervision of a child, either independently or through another, no matter how brief, at the time of or within 120 days immediately preceding the act.

- **Mentally incapacitated:**

- A person under the influence of alcohol, a narcotic, anesthetic, or any other substance, administered to that person without the person's agreement, lacks the judgment to give a reasoned consent to sexual contact or sexual penetration.

- **Physically helpless:**

- A person is (a) asleep or not conscious, (b) unable to withhold consent or to withdraw consent because of a physical condition, or (c) unable to communicate nonconsent and the condition is known or reasonably should have been known to the actor.

Statutory
citation(s):

Minn. Stat. § 609.345

Criminal Sexual Conduct in the Fifth Degree

Question

Answer

How is it defined?	<ul style="list-style-type: none"> • 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.
What are the punishments for this crime?	<ul style="list-style-type: none"> • First offense under this section: <ul style="list-style-type: none"> • Imprisonment for not more than 1 year, or payment of a fine of not more than \$3,000, or both. • If previously convicted of a similar crime within 7 years: <ul style="list-style-type: none"> • Imprisonment for not more than 7 years, or payment of a fine of not more than \$14,000, or both.
Anything else I should know?	<ul style="list-style-type: none"> • Sexual Contact: Any of the following acts committed without the complainant's consent, except in those cases where consent is not a defense, and committed with sexual or aggressive intent: <ul style="list-style-type: none"> • the intentional touching by the actor of the complainant's intimate parts; • in any of the cases above, the touching of the clothing covering the immediate area of the intimate parts; or • the intentional touching with seminal fluid or sperm by the actor of the complainant's body or the clothing covering the complainant's body. • Sexual contact also includes the intentional removal or attempted removal of clothing covering the complainant's intimate parts or undergarments, and the nonconsensual touching by the complainant of the actor's intimate parts, effected by the actor, if the action is performed with sexual or aggressive intent.
Statutory citation(s):	<ul style="list-style-type: none"> • Minn. Stat. § 609.3451

Statutory Rape

Question	Answer
How is it defined?	<ul style="list-style-type: none"> • “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 <i>Minn. Stat. §§ 609.342-609.345</i>. • For example, sexual penetration is a crime of the first degree if: <ul style="list-style-type: none"> • 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 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.
What are the punishments for this crime?	<ul style="list-style-type: none"> • The punishments range from imprisonment for not more than 10 years, or payment of a fine of not more than \$20,000, or both, to imprisonment for not more than 30 years, or payment of a fine of not more than \$40,000, or both.
Anything else I should know?	<ul style="list-style-type: none"> • Sexual Contact: The following acts committed without the complainant's consent, except in those cases where consent is not a defense, and committed with sexual or aggressive intent: <ul style="list-style-type: none"> • The intentional touching by the actor of the complainant's intimate parts (primary genital area, groin, inner thigh, buttocks, or breast); • The touching by the complainant of the actor's, the complainant's, or another's intimate parts effected by a person in a position of authority, or by coercion, or by inducement if the complainant is under 13 years of age or mentally impaired; or • The touching by another of the complainant's intimate parts. • For certain provisions, sexual contact also includes: <ul style="list-style-type: none"> • Touching of the clothing covering the immediate area of the intimate parts, or • The intentional touching with seminal fluid or sperm by the actor of the complainant's body or the clothing covering the complainant's body.
Statutory citation(s):	<ul style="list-style-type: none"> • Minn. Stat. §§ 609.342-609.345

Sodomy (Criminal Sodomy and Aggravated Criminal Sodomy)

Question	Answer
How is it defined?	<ul style="list-style-type: none"> • Carnally knowing any person by the anus, or by or with the mouth.
What are the punishments for this crime?	<ul style="list-style-type: none"> • Whoever voluntarily engages in or submits to an act of sodomy with another may be sentenced to imprisonment for not more than one year, or to payment of a fine of not more than \$3,000, or both. • However, following the Supreme Court of the United States' decision in <i>Lawrence v. Texas</i>, it is unconstitutional to prohibit private sexual conduct between consenting adults. <i>Lawrence v. Texas</i> (2003) 539 U.S. 558. See also In re Proposed Petition to Recall Hatch, 628 N.W.2d 125 (Minn. 2001). • The Hennepin County District Court found this Section 609.293 unconstitutional as applied to private, noncommercial acts by consenting adults in <i>Doe v. Ventura</i>, No. 01-489 (4th Dist. Ct. Hennepin County, May 15, 2001). In <i>Devescovi v. Ventura</i>, 195 F. Supp. 2d 1146 (D. Minn. 2002), the United States District Court found that, since the decision was not appealed, the Hennepin County District Court decision is binding state law.

Anything else I should know?	• N/A
Statutory citation(s):	• Minn. Stat. 609.293