

# Sex Crimes: Definitions and Penalties Missouri

*Last Updated: March 2020*

## First Degree Rape

Question	Answer
How is it defined?	<p>A person commits the crime of rape in the first degree if:</p> <ul style="list-style-type: none"> <li>• 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.</li> </ul>
What are the punishments for this crime?	<p>Rape in the first degree, or attempt to commit rape in the first degree, is a felony for which the authorized term of imprisonment is life imprisonment or a term of years not less than 5 years, unless:</p> <ul style="list-style-type: none"> <li>• In the course thereof, the actor commits an aggravated sexual offense, in which case, the authorized term of imprisonment is life imprisonment or a term of years not less than 15;</li> <li>• The actor is a persistent or predatory sexual offender and subject to an extended term of imprisonment as such;</li> <li>• The victim is a child less than 12 years of age, in which case the required term of imprisonment is life imprisonment without eligibility for probation or parole until the defendant has served not less than 30 years, or has reached the age of 75 and has served at least 15 years, unless; or</li> <li>• The victim is a child less than 12 years of age and such rape in the first degree was outrageously or wantonly vile, horrible or inhumane, in that it involved torture or depravity of mind, in which case the required term of imprisonment is life imprisonment without eligibility of probation, parole or conditional release.</li> </ul> <p>No person found guilty of rape in the first degree or an attempt to commit rape in the first degree shall be granted a suspended sentence.</p>
Anything else I should know?	<ul style="list-style-type: none"> <li>• <b>Aggravated sexual offense:</b> Any sexual offense, in the course of which, the actor:             <ul style="list-style-type: none"> <li>• Inflicts serious physical injury on the victim;</li> <li>• Displays a deadly weapon or dangerous instrument in a threatening manner;</li> <li>• Subjects the victim to sexual intercourse or deviate sexual intercourse with more than one person;</li> <li>• Had previously been found guilty of certain other crimes involving minors;</li> <li>• Commits the offense as part of an act or series of acts performed by two or more persons as part of an established or prescribed pattern of activity; or</li> <li>• Engages in the act that constitutes the offense with a person the actor knows to be, without regard to legitimacy, the actor's:                 <ul style="list-style-type: none"> <li>• Ancestor or descendant by blood or adoption;</li> </ul> </li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>• Stepchild while the marriage creating that relationship exists;</li> <li>• Brother or sister of the whole or half blood; or</li> <li>• Uncle, aunt, nephew, or niece of the whole blood.</li> </ul> <ul style="list-style-type: none"> <li>• <b>Sexual intercourse:</b> <ul style="list-style-type: none"> <li>• Any penetration, however slight, of the female sex organ by the male sex organ, whether or not an emission results.</li> </ul> </li> <li>• <b>Forcible compulsion:</b> <ul style="list-style-type: none"> <li>• Physical force that overcomes reasonable resistance; or a threat, express or implied, that places a person in reasonable fear of death, serious physical injury or kidnapping of such person or another person;</li> <li>• Includes the use of a substance administered without a victim's knowledge or consent which renders the victim physically or mentally impaired so as to be incapable of making an informed consent to sexual intercourse.</li> </ul> </li> <li>• <b>Incapacitated:</b> <ul style="list-style-type: none"> <li>• that physical or mental condition, temporary or permanent, in which a person is unconscious, unable to appraise the nature of such person's conduct, or unable to communicate unwillingness to an act</li> </ul> </li> <li>• <b>Consent:</b> Consent or lack of consent may be expressed or implied. Assent does not constitute consent if: <ul style="list-style-type: none"> <li>• It is given by a person who lacks the mental capacity to authorize the conduct charged to constitute the offense and such mental incapacity is manifest or known to the actor;</li> <li>• It is given by a person who by reason of youth, mental disease or defect, intoxication, a drug-induced state, or any other reason is manifestly unable or known by the actor to be unable to make a reasonable judgment as to the nature or harmfulness of the conduct charged to constitute the offense; or</li> <li>• It is induced by force, duress or deception.</li> </ul> </li> <li>• <b>Deviate sexual intercourse:</b> Any act involving the genitals of one person and the hand, mouth, tongue, or anus of another person or a sexual act involving the penetration, however slight, of the penis, female genitalia, or the anus by a finger, instrument or object done for the purpose of arousing or gratifying the sexual desire of any person or for the purpose of terrorizing the victim.</li> </ul>
Statutory citation(s):	<ul style="list-style-type: none"> <li>• Mo. Rev. Stat. § 566.030</li> </ul>

## Statutory Rape in the First Degree

Question	Answer
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How is it defined?	<ul style="list-style-type: none"> <li>• A person commits the crime of statutory rape in the first degree if: <ul style="list-style-type: none"> <li>• He has sexual intercourse with another person who is less than 14 years of age.</li> </ul> </li> </ul>
What are the punishments for this crime?	<ul style="list-style-type: none"> <li>• Statutory rape in the first degree, or an attempt to commit statutory rape in the first degree, is a felony for which the authorized term of imprisonment is life imprisonment or a term of years not less than 5, unless: <ul style="list-style-type: none"> <li>• In the course thereof the actor commits an aggravated sexual offense, or the victim is less than twelve years of age in which case the authorized term of imprisonment is life imprisonment or a term of years not less than 10; or</li> <li>• The actor is a persistent or predatory sexual offender and subjected to an extended term of imprisonment as such.</li> </ul> </li> </ul>
Anything else I should know?	<ul style="list-style-type: none"> <li>• <b>Aggravated sexual offense:</b> Any sexual offense, in the course of which, the actor: <ul style="list-style-type: none"> <li>• Inflicts serious physical injury on the victim;</li> <li>• Displays a deadly weapon or dangerous instrument in a threatening manner;</li> <li>• Subjects the victim to sexual intercourse or deviate sexual intercourse with more than one person;</li> <li>• Had previously been found guilty of certain other crimes involving minors;</li> <li>• Commits the offense as part of an act or series of acts performed by two or more persons as part of an established or prescribed pattern of activity; or</li> <li>• Engages in the act that constitutes the offense with a person the actor knows to be, without regard to legitimacy, the actor's: <ul style="list-style-type: none"> <li>• Ancestor or descendant by blood or adoption;</li> <li>• Stepchild while the marriage creating that relationship exists;</li> <li>• Brother or sister of the whole or half blood; or</li> <li>• Uncle, aunt, nephew, or niece of the whole blood.</li> </ul> </li> </ul> </li> <li>• <b>Sexual conduct:</b> <ul style="list-style-type: none"> <li>• Sexual intercourse, deviate sexual intercourse or sexual contact.</li> </ul> </li> <li>• <b>Sexual contact:</b> <ul style="list-style-type: none"> <li>• Any touching of another person with the genitals or any touching of the genitals or anus of another person, or the breast of a female person, or such touching through the clothing, for the purpose of arousing or gratifying sexual desire of any person.</li> </ul> </li> <li>• <b>Deviate sexual intercourse:</b> Any act involving the genitals of one person and the hand, mouth, tongue, or anus of another person or a sexual act involving the penetration, however slight, of the penis, female genitalia, or the anus by a finger, instrument or object done for the purpose of arousing or gratifying the sexual desire of any person or for the purpose of terrorizing the victim.</li> <li>• Whenever the criminality of conduct depends upon a child being less than 14 years of age, it is no defense that the defendant believed the child to be older. Mo. Rev. Stat. § 566.020(1)</li> <li>• Consent is not a defense if the alleged victim is less than fourteen years of age. Mo. Rev. Stat. § 566.020(3)</li> <li>• If the criminality of conduct depends upon a child being less than 17 years of age, it is an affirmative defense that the defendant reasonably believed that the child was 17 years of age or older. Mo. Rev. Stat. § 566.020(2)</li> </ul>

	<ul style="list-style-type: none"> <li>• It shall be an affirmative defense to prosecutions pursuant to sections 566.032 (Statutory Rape in the First Degree), 566.034 (Statutory Rape in the Second Degree), 566.062 (Sodomy First Degree), 566.064(Sodomy Second Degree), and 566.071 (Child Molestation Fourth Degree) that the defendant was married to the victim at the time of the offense. Mo. Rev. Stat. § 566.023</li> </ul>
Statutory citation(s):	<ul style="list-style-type: none"> <li>• Mo. Rev. Stat. § 566.032</li> </ul>

## Second Degree Rape

Question	Answer
How is it defined?	<p>A person commits the crime of rape in the second degree if:</p> <ul style="list-style-type: none"> <li>• Such person has sexual intercourse with another person knowing that he or she does so without that person's consent.</li> </ul>
What are the punishments for this crime?	<ul style="list-style-type: none"> <li>• Rape in the second degree is a class D felony: maximum imprisonment is seven years and maximum fines of \$10,000.</li> </ul>
Anything else I should know?	<ul style="list-style-type: none"> <li>• <b>Sexual intercourse:</b> <ul style="list-style-type: none"> <li>• Any penetration, however slight, of the female sex organ by the male sex organ, whether or not an emission results.</li> </ul> </li> <li>• <b>Consent:</b> Consent or lack of consent may be expressed or implied. Assent does not constitute consent if: <ul style="list-style-type: none"> <li>• It is given by a person who lacks the mental capacity to authorize the conduct charged to constitute the offense and such mental incapacity is manifest or known to the actor; or</li> <li>• It is given by a person who by reason of youth, mental disease or defect, intoxication, a drug-induced state, or any other reason is manifestly unable or known by the actor to be unable to make a reasonable judgment as to the nature or harmfulness of the conduct charged to constitute the offense; or</li> <li>• It is induced by force, duress or deception.</li> </ul> </li> </ul>
Statutory citation(s):	<ul style="list-style-type: none"> <li>• Mo. Rev. Stat. § 566.031</li> </ul>

## Statutory Rape in the Second Degree

Question	Answer
How is it defined?	<p>A person commits the crime of statutory rape in the second degree if:</p> <ul style="list-style-type: none"> <li>• Being 21 years of age or older,</li> <li>• He or she has sexual intercourse with another person who is less than 17 years of age.</li> </ul>
What are the punishments for this crime?	<p>Statutory rape in the second degree is a class D felony:</p> <ul style="list-style-type: none"> <li>• Maximum imprisonment is seven years and maximum fines of \$10,000.</li> </ul>
Anything else I should know?	<ul style="list-style-type: none"> <li>• <b>Sexual intercourse:</b> <ul style="list-style-type: none"> <li>• Any penetration, however slight, of the female sex organ by the male sex organ, whether or not an emission results.</li> </ul> </li> <li>• Whenever the criminality of conduct depends upon a child being less than 17 years of age, it is an affirmative defense that the defendant reasonably believed that the child was 17 years of age or older. Mo. Rev. Stat. § 566.020(2)</li> <li>• It shall be an affirmative defense to prosecutions pursuant to sections 566.032, 566.034, 566.062, 566.064, and 566.071 that the defendant was married to the victim at the time of the offense. Mo. Rev. Stat. § 566.023</li> </ul>
Statutory citation(s):	<ul style="list-style-type: none"> <li>• Mo. Rev. Stat. § 566.034</li> </ul>

## Sodomy (First and Second Degree)

Question	Answer
How is it defined?	<ul style="list-style-type: none"> <li>• <b>A person commits the crime of sodomy in the first degree if:</b> <ul style="list-style-type: none"> <li>• 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.</li> </ul> </li> <li>• <b>A person commits the crime of sodomy in the second degree if:</b> <ul style="list-style-type: none"> <li>• Such person has deviate sexual intercourse with another person knowing that he or she does so without that person's consent.</li> </ul> </li> </ul>
What are the punishments for this crime?	<p>Sodomy in the first degree or an attempt to commit sodomy in the first degree is a felony for which the authorized term of imprisonment is life imprisonment or a term of years not less than 5, unless:</p> <ul style="list-style-type: none"> <li>• In the course thereof the actor committed an aggravated sexual offense, in which case the authorized term of imprisonment is life, imprisonment or a term of years not less than 10 years, or</li> </ul>

- The actor is a persistent or predatory sexual offender and subjected to an extended term of imprisonment as such,
- The victim is a child less than 12 years of age, in which case the required term of imprisonment is life imprisonment without eligibility for probation or parole until the defendant has served 30 years of such sentence, or unless the defendant has reached the age of 75 and has served at least 15 years, or
- The victim is a child less than 12 years of age and such forcible sodomy was outrageously or wantonly vile, horrible or inhumane, in that it involved torture or depravity of mind, in which case the required term of imprisonment is life imprisonment without eligibility for probation, parole or conditional release.

Sodomy in the second degree is a class D felony for which the maximum imprisonment is 7 years and the maximum fine is \$10,000.

Anything else I should know?

- **Aggravated sexual offense:** Any sexual offense, in the course of which, the actor:
  - Inflicts serious physical injury on the victim;
  - Displays a deadly weapon or dangerous instrument in a threatening manner;
  - Subjects the victim to sexual intercourse or deviate sexual intercourse with more than one person;
  - Had previously been found guilty of certain other crimes involving minors;
  - Commits the offense as part of an act or series of acts performed by two or more persons as part of an established or prescribed pattern of activity; or
  - Engages in the act that constitutes the offense with a person the actor knows to be, without regard to legitimacy, the actor's:
    - Ancestor or descendant by blood or adoption;
    - Stepchild while the marriage creating that relationship exists;
    - Brother or sister of the whole or half blood; or
    - Uncle, aunt, nephew, or niece of the whole blood.
- **Forcible compulsion:**
  - Physical force that overcomes reasonable resistance; or a threat, express or implied, that places a person in reasonable fear of death, serious physical injury or kidnapping of such person or another person.
  - Includes the use of a substance administered without a victim's knowledge or consent which renders the victim physically or mentally impaired so as to be incapable of making an informed consent to sexual intercourse.
- **Deviate sexual intercourse:**
  - Any act involving the genitals of one person and the hand, mouth, tongue, or anus of another person, or
  - A sexual act involving the penetration, however slight, of the male or female sex organ or the anus by a finger, instrument or object done for the purpose of arousing or gratifying the sexual desire of any person or for the purpose of terrorizing the victim.
- **Incapacitated:**
  - That physical or mental condition, temporary or permanent, in which a person is unconscious,

	<p>unable to appraise the nature of such person's conduct, or unable to communicate unwillingness to an act</p> <ul style="list-style-type: none"> <li>• <b>Consent:</b> Consent or lack of consent may be expressed or implied. Assent does not constitute consent if: <ul style="list-style-type: none"> <li>• It is given by a person who lacks the mental capacity to authorize the conduct charged to constitute the offense and such mental incapacity is manifest or known to the actor; or</li> <li>• It is given by a person who by reason of youth, mental disease or defect, intoxication, a drug-induced state, or any other reason is manifestly unable or known by the actor to be unable to make a reasonable judgment as to the nature or harmfulness of the conduct charged to constitute the offense; or</li> <li>• It is induced by force, duress or deception.</li> </ul> </li> <li>• Following the Supreme Court of the United States' decision in Lawrence v. Texas, it is unconstitutional to prohibit private sexual conduct between consenting adults. Lawrence v. Texas (2003) 539 U.S. 558.</li> </ul>
Statutory citation(s):	<ul style="list-style-type: none"> <li>• Mo. Rev. Stat. § 566.060; § 566.061</li> </ul>

## Child Molestation (First and Second Degree)

Question	Answer
How is it defined?	<ul style="list-style-type: none"> <li>• <b>A person commits the crime of child molestation in the first degree if:</b> <ul style="list-style-type: none"> <li>• Such person subjects another person who is less than 14 to sexual contact and the offense is an aggravated sexual offense.</li> </ul> </li> <li>• <b>A person commits the crime of child molestation in the second degree if:</b> <ul style="list-style-type: none"> <li>• Such person subjects a child who is less than 12 years of age to sexual contact; or</li> <li>• 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.</li> </ul> </li> </ul>
What are the punishments for this crime?	<p><b>Child molestation in the first degree is a class A felony:</b></p> <ul style="list-style-type: none"> <li>• Imprisonment of a term of years not less than 10 years and not to exceed 30 years, or life imprisonment.</li> <li>• If the victim is less than 12 years old, the person shall serve the term of imprisonment without eligibility for probation, parole, or conditional release.</li> </ul> <p><b>Child molestation in the second degree is a class B felony:</b></p> <ul style="list-style-type: none"> <li>• Imprisonment authorized for a term of years not less than 5 years and not to exceed 15 years.</li> </ul>

Anything else I should know?	<ul style="list-style-type: none"> <li>• <b>Sexual contact:</b> <ul style="list-style-type: none"> <li>• Any touching of another person with the genitals or any touching of the genitals or anus of another person, or the breast of a female person, or such touching through the clothing, for the purpose of arousing or gratifying sexual desire of any person.</li> </ul> </li> <li>• <b>Aggravated sexual offense:</b> Any sexual offense, in the course of which, the actor: <ul style="list-style-type: none"> <li>• Inflicts serious physical injury on the victim;</li> <li>• Displays a deadly weapon or dangerous instrument in a threatening manner;</li> <li>• Subjects the victim to sexual intercourse or deviate sexual intercourse with more than one person;</li> <li>• Had previously been found guilty of certain other crimes involving minors;</li> <li>• Commits the offense as part of an act or series of acts performed by two or more persons as part of an established or prescribed pattern of activity; or</li> <li>• Engages in the act that constitutes the offense with a person the actor knows to be, without regard to legitimacy, the actor's: <ul style="list-style-type: none"> <li>• Ancestor or descendant by blood or adoption;</li> <li>• Stepchild while the marriage creating that relationship exists;</li> <li>• Brother or sister of the whole or half blood; or</li> <li>• Uncle, aunt, nephew, or niece of the whole blood</li> </ul> </li> </ul> </li> </ul>
Statutory citation(s):	<ul style="list-style-type: none"> <li>• Mo. Rev. Stat. § 566.067; § 566.068</li> </ul>

## Sexual Misconduct Involving a Child

Question	Answer
How is it defined?	<p>A person commits the crime of sexual misconduct involving a child if such person:</p> <ul style="list-style-type: none"> <li>• 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 the child;</li> <li>• 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;</li> <li>• 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</li> <li>• 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.</li> <li>• These provisions apply regardless of whether the person violates the provisions in person or through the Internet or other electronic means.</li> </ul>



What are the punishments for this crime?	<ul style="list-style-type: none"> <li>• Sexual misconduct involving a child is a class E felony unless the person has previously been found guilty of an offense under this chapter or the person has previously been found guilty of an offense in another jurisdiction which would constitute an offense under this chapter, in which case it is a class D felony. <ul style="list-style-type: none"> <li>• Class D felony: Imprisonment for a term of years not to exceed seven years and a maximum fine of \$10,000.</li> <li>• Class E felony: Imprisonment for a term of years not to exceed four years and a maximum fine of \$10,000.</li> </ul> </li> </ul>
Anything else I should know?	<ul style="list-style-type: none"> <li>• It is not a defense to prosecution that the other person was a peace officer masquerading as a minor. State v. Hall (App. S.D. 2010) 321 S.W.3d 453.</li> </ul>
Statutory citation(s):	<ul style="list-style-type: none"> <li>• Mo. Rev. Stat. §566.083</li> </ul>

## Sexual Contact with a Student

Question	Answer
How is it defined?	<p>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:</p> <ul style="list-style-type: none"> <li>• a teacher;</li> <li>• a student teacher;</li> <li>• an employee of the school;</li> <li>• 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;</li> <li>• an elected or appointed official of the school district; or</li> <li>• a person employed by an entity that contracts with the school or school district to provide services.</li> </ul>
What are the punishments for this crime?	<ul style="list-style-type: none"> <li>• Sexual contact with a student is a class E felony for which a sentence of a maximum of 4 years imprisonment and maximum fine of \$10,000 may be imposed.</li> </ul>
Anything else I should know?	<ul style="list-style-type: none"> <li>• <b>Sexual contact:</b> <ul style="list-style-type: none"> <li>• Any touching of another person with the genitals or any touching of the genitals or anus of another person, or the breast of a female person, or such touching through the clothing,</li> <li>• For the purpose of arousing or gratifying sexual desire of any person.</li> </ul> </li> <li>• <b>School:</b> <ul style="list-style-type: none"> <li>• Any public or private school in Missouri serving kindergarten through grade twelve or any school bus used by the school district.</li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>• It is not a defense that the student consented to the sexual contact.</li> <li>• Defendant was not “employed by” school bus company, as required to support conviction for sexual contact with a student, when time of action was during summer break between school months, defendant was not performing any services for bus company, was not under a contract with bus company, and was collecting unemployment benefits. <i>State v. Gray</i>, 446 S.W.3d 291 (App. W.D. 2014).</li> </ul>
Statutory citation(s):	<ul style="list-style-type: none"> <li>• Mo. Rev. Stat. § 566.086</li> </ul>

## Sexual Misconduct (First and Second Degree)

Question	Answer
How is it defined?	<ul style="list-style-type: none"> <li>• A person commits the crime of sexual misconduct in the first degree if such person: <ul style="list-style-type: none"> <li>• 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,</li> <li>• 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 cause affront or alarm, or</li> <li>• Has sexual intercourse or deviate sexual intercourse in a public place in the presence of a third person.</li> </ul> </li> <li>• A person commits the crime of sexual misconduct in the second degree if: <ul style="list-style-type: none"> <li>• 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.</li> </ul> </li> </ul>
What are the punishments for this crime?	<ul style="list-style-type: none"> <li>• Sexual misconduct in the first degree is a class B misdemeanor with maximum imprisonment of 6 months and a maximum fine of \$1,000; unless <ul style="list-style-type: none"> <li>• The actor has previously been convicted of an offense under this chapter or has previously been found guilty of an offense in another jurisdiction which would constitute an offense under this chapter, in which case it is a class A misdemeanor with maximum imprisonment of 1 year and a maximum fine of \$2,000.</li> </ul> </li> <li>• Sexual misconduct in the second degree is a class C misdemeanor with maximum imprisonment of 15 days and a maximum fine of \$750.</li> </ul>
Anything else I should know?	<ul style="list-style-type: none"> <li>• <b>Sexual contact:</b> <ul style="list-style-type: none"> <li>• Any touching of another person with the genitals or any touching of the genitals or anus of another person, or the breast of a female person, or such touching through the clothing,</li> <li>• For the purpose of arousing or gratifying sexual desire of any person.</li> </ul> </li> <li>• <b>Sexual intercourse:</b> <ul style="list-style-type: none"> <li>• Any penetration, however slight, of the female sex organ by the male sex organ, whether or not</li> </ul> </li> </ul>

	<p>an emission results.</p> <ul style="list-style-type: none"> <li>• <b>Deviate sexual intercourse:</b> <ul style="list-style-type: none"> <li>• Any act involving the genitals of one person and the hand, mouth, tongue, or anus of another person, or</li> <li>• A sexual act involving the penetration, however slight, of the male or female sex organ or the anus by a finger, instrument or object done for the purpose of arousing or gratifying the sexual desire of any person or for the purpose of terrorizing the victim.</li> </ul> </li> </ul>
Statutory citation(s):	<ul style="list-style-type: none"> <li>• Mo. Rev. Stat. § 566.093; Mo. Rev. Stat. § 566.095</li> </ul>

## Statutory Sodomy (First and Second Degree)

Question	Answer
How is it defined?	<ul style="list-style-type: none"> <li>• <b>A person commits the crime of statutory sodomy in the first degree if:</b> <ul style="list-style-type: none"> <li>• He has deviate sexual intercourse with another person who is less than 14 years old.</li> </ul> </li> <li>• <b>A person commits the crime of statutory sodomy in the second degree if:</b> <ul style="list-style-type: none"> <li>• He is 21 years of age and</li> <li>• Has deviate sexual intercourse with another person who is less than 17 years of age.</li> </ul> </li> </ul>
What are the punishments for this crime?	<p><b>Statutory sodomy in the first degree</b>, or an attempt to commit statutory sodomy in the first degree, is a felony for which the authorized term of imprisonment is life imprisonment or a term of years not less than 5 years, <i>unless</i>:</p> <ul style="list-style-type: none"> <li>• In the course thereof the actor commits an aggravated sexual offense, or the victim is less than 12 years of age, in which case the authorized term of imprisonment is life imprisonment or a term of years not less than 10 years; or</li> <li>• The actor is a persistent or predatory sexual offender and subjected to an extended term of imprisonment as such.</li> </ul> <p><b>Statutory sodomy in the second degree is a class D felony:</b></p> <ul style="list-style-type: none"> <li>• Maximum imprisonment authorized is 7 years and a maximum fine of \$10,000.</li> </ul>
Anything else I should know?	<ul style="list-style-type: none"> <li>• <b>Deviate sexual intercourse:</b> <ul style="list-style-type: none"> <li>• Any act involving the genitals of one person and the hand, mouth, tongue, or anus of another person, or</li> <li>• A sexual act involving the penetration, however slight, of the male or female sex organ or the anus by a finger, instrument or object done for the purpose of arousing or gratifying the sexual desire of any person or for the purpose of terrorizing the victim.</li> </ul> </li> <li>• It shall be an affirmative defense to prosecutions pursuant to sections 566.032, 566.034, 566.062,</li> </ul>

566.064, and 566.071 that the defendant was married to the victim at the time of the offense. Mo. Rev. Stat. § 566.023

- **Aggravated sexual offense:** Any sexual offense, in the course of which, the actor:
  - Inflicts serious physical injury on the victim;
  - Displays a deadly weapon or dangerous instrument in a threatening manner;
  - Subjects the victim to sexual intercourse or deviate sexual intercourse with more than one person;
  - Had previously been found guilty of certain other crimes involving minors;
  - Commits the offense as part of an act or series of acts performed by two or more persons as part of an established or prescribed pattern of activity; or
  - Engages in the act that constitutes the offense with a person the actor knows to be, without regard to legitimacy, the actor's:
    - Ancestor or descendant by blood or adoption;
    - Stepchild while the marriage creating that relationship exists;
    - Brother or sister of the whole or half blood; or
    - Uncle, aunt, nephew, or niece of the whole blood.

Statutory citation(s):

• Mo. Rev. Stat. §§ 566.062 & 566.064

## Sexual Abuse (First and Second Degree)

Question	Answer
How is it defined?	<ul style="list-style-type: none"> <li>• <b>A person commits the offense of sexual abuse in the first degree</b> 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.</li> <li>• <b>A person commits the offense of sexual abuse in the second degree</b> if he or she purposely subjects another person to sexual contact without that person's consent.</li> </ul>
What are the punishments for this crime?	<ul style="list-style-type: none"> <li>• <b>Sexual abuse in the first degree</b> is a class C felony for which a sentence of a maximum of 10 years and not less than 3 years imprisonment and a maximum fine of \$10,000 may be imposed, unless in the course thereof the actor inflicts serious physical injury or displays a deadly weapon or dangerous instrument in a threatening manner or subjects the victim to sexual contact with more than one person or the victim is less than 14, in which case it is a class B felony for which a sentence of a maximum of 15 years and not less than 5 years imprisonment may be imposed.</li> <li>• <b>Sexual abuse in the second degree</b> is a class A misdemeanor for which a sentence of a maximum of one year imprisonment and a fine of \$2,000 may be imposed, unless it is an aggravated sexual offense, in which case it is a class E felony for which a sentence of a maximum of four years imprisonment and a fine of \$10,000 may be imposed.</li> </ul>

Anything else I should know?

- **Sexual contact:**
  - Any touching of another person with the genitals or any touching of the genitals or anus of another person, or the breast of a female person, or such touching through the clothing,
  - For the purpose of arousing or gratifying sexual desire of any person.
- **Forcible compulsion:**
  - Physical force that overcomes reasonable resistance; or a threat, express or implied, that places a person in reasonable fear of death, serious physical injury or kidnapping of such person or another person.
  - Includes the use of a substance administered without a victim's knowledge or consent which renders the victim physically or mentally impaired so as to be incapable of making an informed consent to sexual intercourse.
- **Incapacitated:**
  - That physical or mental condition, temporary or permanent, in which a person is unconscious, unable to appraise the nature of such person's conduct, or unable to communicate unwillingness to an act
- **Consent:** Consent or lack of consent may be expressed or implied. Assent does not constitute consent if:
  - It is given by a person who lacks the mental capacity to authorize the conduct charged to constitute the offense and such mental incapacity is manifest or known to the actor; or
  - It is given by a person who by reason of youth, mental disease or defect, intoxication, a drug-induced state, or any other reason is manifestly unable or known by the actor to be unable to make a reasonable judgment as to the nature or harmfulness of the conduct charged to constitute the offense; or
  - It is induced by force, duress or deception.
- **Aggravated sexual offense:** Any sexual offense, in the course of which, the actor:
  - Inflicts serious physical injury on the victim;
  - Displays a deadly weapon or dangerous instrument in a threatening manner;
  - Subjects the victim to sexual intercourse or deviate sexual intercourse with more than one person;
  - Had previously been found guilty of certain other crimes involving minors;
  - Commits the offense as part of an act or series of acts performed by two or more persons as part of an established or prescribed pattern of activity; or
  - Engages in the act that constitutes the offense with a person the actor knows to be, without regard to legitimacy, the actor's:
    - Ancestor or descendant by blood or adoption;
    - Stepchild while the marriage creating that relationship exists;
    - Brother or sister of the whole or half blood; or
    - Uncle, aunt, nephew, or niece of the whole blood.

Statutory citation(s):

• Mo. Rev. Stat. §§ 566.100; 566.101

