

Sex Crimes: Definitions and Penalties New Jersey

Last Updated: April 2023

Aggravated Sexual Assault in the First Degree

Question	Answer
How is it defined?	<p>Committing an act of sexual penetration with another person under any one of the following circumstances:</p> <ul style="list-style-type: none">• The victim is less than 13 years old;• The victim is at least 13 but less than 16 years old; and<ul style="list-style-type: none">• The actor is related to the victim by blood or affinity to the third degree, or• The actor has supervisory or disciplinary power over the victim by virtue of the actor's legal, professional, or occupational status, or• The actor is a resource family parent, a guardian, or stands in loco parentis within the household;• The act is committed during the commission, or attempted commission, whether alone or with one or more other persons, of robbery, kidnapping, homicide, aggravated assault on the victim or a person other than the victim, burglary, arson or criminal escape;• The actor is armed with a weapon or any object fashioned in such a manner as to lead the victim to reasonably believe it to be a weapon and threatens by word or gesture to use the weapon or object;• The actor is aided or abetted by one or more other persons and the actor commits the act using coercion or without the victim's affirmative and freely-given permission;• The actor commits the act using coercion or without the victim's affirmative and freely-given permission and severe personal injury is sustained by the victim;• The victim, at the time of sexual penetration, is one whom the actor knew or should have known was:<ul style="list-style-type: none">• Physically helpless or incapacitated;• Intellectually or mentally incapacitated; or• had a mental disease or defect which rendered the victim temporarily or permanently incapable of understanding the distinctively sexual nature of the conduct, including, but not limited to, being incapable of providing consent, or incapable of understanding or exercising the right to refuse to engage in the conduct.
What are the punishments for this crime?	<ul style="list-style-type: none">• For convictions where the victim is less than 13 years old:<ul style="list-style-type: none">• 25 years to life in prison, provided that at least 25 years are served before eligible for parole.• the prosecutor, in consideration of the interests of the victim, may offer a negotiated plea agreement in which the defendant would be sentenced to a specific term of imprisonment of not less than 15 years, during which the defendant shall not be eligible for parole• Otherwise, between 10 years and 20 years imprisonment.

Anything else I should know?	<ul style="list-style-type: none"> • “Mentally incapacitated” means that condition in which a person is rendered temporarily incapable of understanding or controlling his conduct due to the influence of a narcotic, anesthetic, intoxicant, or other substance administered to that person without his prior knowledge or consent, or due to any other act committed upon that person which rendered that person incapable of appraising or controlling his conduct. NJ St 2C:14-1. • “Physically helpless” means that condition in which a person is unconscious or is physically unable to flee or is physically unable to communicate unwillingness to act. • “Severe personal injury” means severe bodily injury, disfigurement, disease, incapacitating mental anguish or chronic pain. • “Sexual penetration” means vaginal intercourse, cunnilingus, fellatio or anal intercourse between persons or insertion of the hand, finger or object into the anus or vagina either by the actor or upon the actor's instruction. The depth of insertion shall not be relevant as to the question of commission of the crime. • The prosecutor shall not be required to offer proof that the victim resisted, or resisted to the utmost, or reasonably resisted the sexual assault in any offense proscribed by this chapter. • No actor shall be presumed to be incapable of committing a crime under this chapter because of age or impotency or marriage to the victim. • It shall be no defense to a prosecution for a crime under this chapter that the actor believed the victim to be above the age stated for the offense, even if such a mistaken belief was reasonable.
Statutory citation(s):	<ul style="list-style-type: none"> • NJ St 2C:14-2

Sexual Assault in the Second Degree

Question	Answer
How is it defined?	<ul style="list-style-type: none"> • An actor is guilty of sexual assault if the actor commits an act of sexual contact with a victim who is less than 13 years old and the actor is at least 4 years older than the victim. • Committing an act of sexual penetration with another person under any one of the following circumstances: <ul style="list-style-type: none"> • The actor uses physical force or coercion or without the victim's affirmative and freely-given permission, but the victim does not sustain severe personal injury; • The victim is on probation or parole, or is detained in a hospital, prison or other institution and the actor has supervisory or disciplinary power over the victim by virtue of the actor's legal, professional or occupational status; • The victim is at least 16 but less than 18 years old and: <ul style="list-style-type: none"> • The actor is related to the victim by blood or affinity to the third degree; or

	<ul style="list-style-type: none"> • The actor has supervisory or disciplinary power of any nature or in any capacity over the victim; or • The actor is a resource family parent, a guardian, or stands in loco parentis within the household; or • The victim is at least 13 but less than 16 years old and the actor is at least four years older than the victim; or • The victim is a pupil at least 18 but less than 22 years old and has not received a high school diploma and the actor is a teaching staff member or substitute teacher, school bus driver, other school employee, contracted service provider, or volunteer and the actor has supervisory or disciplinary power of any nature or in any capacity over the victim.
What are the punishments for this crime?	<ul style="list-style-type: none"> • Between 5 and 10 years imprisonment.
Anything else I should know?	<ul style="list-style-type: none"> • “Sexual penetration” means vaginal intercourse, cunnilingus, fellatio or anal intercourse between persons or insertion of the hand, finger or object into the anus or vagina either by the actor or upon the actor's instruction. The depth of insertion shall not be relevant as to the question of commission of the crime. NJ St 2C:14-1. • “Intimate parts” means the following body parts: sexual organs, genital area, anal area, inner thigh, groin, buttock or breast of a person. • “Sexual contact” means an intentional touching by the victim or actor, either directly or through clothing, of the victim's or actor's intimate parts for the purpose of degrading or humiliating the victim or sexually arousing or sexually gratifying the actor. Sexual contact of the actor with himself must be in view of the victim whom the actor knows to be present. • The prosecutor shall not be required to offer proof that the victim resisted, or resisted to the utmost, or reasonably resisted the sexual assault in any offense proscribed by this chapter. • No actor shall be presumed to be incapable of committing a crime under this chapter because of age or impotency or marriage to the victim. • It shall be no defense to a prosecution for a crime under this chapter that the actor believed the victim to be above the age stated for the offense, even if such a mistaken belief was reasonable.
Statutory citation(s):	<ul style="list-style-type: none"> • NJ St 2C:14-2(b-c)

Aggravated Criminal Sexual Contact in the Third Degree

Question	Answer
----------	--------

How is it defined?	<p>Actor commits an act of sexual contact with another person under any one of the following circumstances:</p> <ul style="list-style-type: none"> • The victim is at least 13 but less than 16 years old; and • The actor is related to the victim by blood or affinity to the third degree, or • The actor has supervisory or disciplinary power over the victim by virtue of the actor's legal, professional, or occupational status, or • The actor is a resource family parent, a guardian, or stands in loco parentis within the household; • The act is committed during the commission, or attempted commission, whether alone or with one or more other persons, of robbery, kidnapping, homicide, aggravated assault on the victim or a person other than the victim, burglary, arson or criminal escape; • The actor is armed with a weapon or any object fashioned in such a manner as to lead the victim to reasonably believe it to be a weapon and threatens by word or gesture to use the weapon or object; • The actor is aided or abetted by one or more other persons and the actor commits the act using coercion or without the victim's affirmative and freely-given permission; • The actor commits the act using coercion or without the victim's affirmative and freely-given permission and severe personal injury is sustained by the victim; • The victim, at the time of sexual penetration, is one whom the actor knew or should have known was <ul style="list-style-type: none"> • Physically helpless or incapacitated; • Intellectually or mentally incapacitated; or • had a mental disease or defect which rendered the victim temporarily or permanently incapable of understanding the distinctively sexual nature of the conduct, including, but not limited to, being incapable of providing consent, or incapable of understanding or exercising the right to refuse to engage in the conduct.
What are the punishments for this crime?	<ul style="list-style-type: none"> • 3 to 5 years in prison.
Anything else I should know?	<ul style="list-style-type: none"> • "Mentally incapacitated" means that condition in which a person is rendered temporarily incapable of understanding or controlling his conduct due to the influence of a narcotic, anesthetic, intoxicant, or other substance administered to that person without his prior knowledge or consent, or due to any other act committed upon that person which rendered that person incapable of appraising or controlling his conduct. NJ St 2C:14-1. • "Physically helpless" means that condition in which a person is unconscious or is physically unable to flee or is physically unable to communicate unwillingness to act. • "Severe personal injury" means severe bodily injury, disfigurement, disease, incapacitating mental anguish or chronic pain. • "Sexual contact" means an intentional touching by the victim or actor, either directly or through clothing, of the victim's or actor's intimate parts for the purpose of degrading or humiliating the victim or sexually arousing or sexually gratifying the actor. Sexual contact of the actor with himself must be in view of the victim whom the actor knows to be present. • The prosecutor shall not be required to offer proof that the victim resisted, or resisted to the utmost, or reasonably resisted the sexual assault in any offense proscribed by this chapter.

	<ul style="list-style-type: none"> • No actor shall be presumed to be incapable of committing a crime under this chapter because of age or impotency or marriage to the victim. • It shall be no defense to a prosecution for a crime under this chapter that the actor believed the victim to be above the age stated for the offense, even if such a mistaken belief was reasonable.
Statutory citation(s):	<ul style="list-style-type: none"> • NJ St 2C:14-3(a)

Criminal Sexual Contact in the Fourth Degree

Question	Answer
How is it defined?	<p>Committing an act of sexual contact with another person under any of the following circumstances:</p> <ul style="list-style-type: none"> • The actor commits the act using coercion or without the victim's affirmative and freely-given permission, but the victim does not sustain severe personal injury; • The victim is on probation or parole, or is detained in a hospital, prison or other institution and the actor has supervisory or disciplinary power over the victim by virtue of the actor's legal, professional or occupational status; <ul style="list-style-type: none"> • The actor is related to the victim by blood or affinity to the third degree; or • The actor has supervisory or disciplinary power of any nature or in any capacity over the victim; or • The actor is a resource family parent, a guardian, or stands in loco parentis within the household; or • The victim is at least 16 but less than 18 years old and: • The victim is at least 13 but less than 16 years old and the actor is at least 4 years older than the victim; or • The victim is a pupil at least 18 but less than 22 years old and has not received a high school diploma and the actor is a teaching staff member or substitute teacher, school bus driver, other school employee, contracted service provider, or volunteer and the actor has supervisory or disciplinary power of any nature or in any capacity over the victim.
What are the punishments for this crime?	<ul style="list-style-type: none"> • Up to 18 months in prison.

<p>Anything else I should know?</p>	<ul style="list-style-type: none"> • “Severe personal injury” means severe bodily injury, disfigurement, disease, incapacitating mental anguish or chronic pain. NJ St 2C:14-1. • “Sexual contact” means an intentional touching by the victim or actor, either directly or through clothing, of the victim's or actor's intimate parts for the purpose of degrading or humiliating the victim or sexually arousing or sexually gratifying the actor. Sexual contact of the actor with himself must be in view of the victim whom the actor knows to be present. • The prosecutor shall not be required to offer proof that the victim resisted, or resisted to the utmost, or reasonably resisted the sexual assault in any offense proscribed by this chapter. • No actor shall be presumed to be incapable of committing a crime under this chapter because of age or impotency or marriage to the victim. • It shall be no defense to a prosecution for a crime under this chapter that the actor believed the victim to be above the age stated for the offense, even if such a mistaken belief was reasonable.
<p>Statutory citation(s):</p>	<ul style="list-style-type: none"> • NJ St 2C:14-3(b)