

Sex Crimes: Definitions and Penalties

Ohio

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Rape in the First Degree

Question	Answer
How is it defined?	<ul style="list-style-type: none"> • (1) Engaging in sexual conduct with another who is not the spouse of the offender or who is the spouse of the offender but is living separate and apart from the offender, when any of the following applies: <ul style="list-style-type: none"> • (a) For the purpose of preventing resistance, the offender substantially impairs the other person's judgment or control by administering any drug, intoxicant, or controlled substance to the other person surreptitiously or by force, threat of force, or deception; • (b) The other person is less than thirteen years of age, whether or not the offender knows the age of the other person; or • (c) The other person's ability to resist or consent is substantially impaired because of a mental or physical condition or because of advanced age, and the offender knows or has reasonable cause to believe that the other person's ability to resist or consent is substantially impaired because of a mental or physical condition or because of advanced age. • Engaging in sexual conduct with another when the offender purposely compels the other person to submit by force or threat of force.
What are the punishments for this crime?	<ul style="list-style-type: none"> • Unless subject to one of the exceptions below, the offender is guilty of a 1st degree felony, and the penalty is 3 to 11 years in prison and up to a \$20,000 fine. • If, under (1)(a) above, the offender administers a controlled substance that substantially impairs judgment in order to control victim surreptitiously or by force, threat of force, or deception, the penalty is five to 11 years in prison and up to a \$20,000 fine. • If the offender violates (1)(b) above, the penalty is life in prison. • If the offender (who has been convicted or pled guilty to violating (1)(b) above) was less than 16 at the time of the violation, did not cause serious physical harm to the victim, the victim was at least 10 years old, and the offender has not previously been convicted or pled guilty to a violation of this section or similar state or federal law, he will be sentenced to a minimum of 25 years (if rape occurred after 1/2/07) or 10 years (if rape occurred before 1/2/07) and up to a \$20,000 fine, but will not receive life in prison. • If the offender has been convicted of or pled guilty to violating (1)(b) above and has previously been convicted of or pled guilty to violating this same law, or violating a similar state or federal law, if the offender during or immediately after the commission of the offense caused serious physical harm to the victim, or the victim was less than 10 years old, the court may impose a penalty of life without parole and up to a \$20,000 fine.

Anything else I should know?	<p>The following definitions are relevant to this crime:</p> <ul style="list-style-type: none"> • “Sexual conduct” means vaginal intercourse between a male and female; anal intercourse, fellatio, and cunnilingus between persons regardless of sex; and, without privilege to do so, the insertion, however slight, of any part of the body or any instrument, apparatus, or other object into the vaginal or anal opening of another. Penetration, however slight, is sufficient to complete vaginal or anal intercourse. • Marriage or cohabitation is not a defense. • A victim need not prove physical resistance to the offender in prosecutions under this section. Upon approval by the court, the victim may be represented by counsel in any hearing in chambers or other proceeding to resolve the admissibility of evidence. If the victim is indigent or otherwise is unable to obtain the services of counsel, the court, upon request, may appoint counsel to represent the victim without cost to the victim.
Statutory citation(s):	<ul style="list-style-type: none"> • Ohio Rev. Code Ann. § 2907.02; <i>see also id.</i> § 2907.01 (definitions); <i>id.</i> §§ 2929.14, 2971.03, 2929.18 (punishments).

Sexual Battery

Question	Answer
How is it defined?	<p>Engaging in sexual conduct with another, not the spouse of the offender, when any of the following apply:</p> <ul style="list-style-type: none"> • The offender knowingly coerces the other person to submit by any means that would prevent resistance by a person of ordinary resolution; • The offender knows that the other person's ability to appraise the nature of or control the other person's own conduct is substantially impaired; • The offender knows that the other person submits because the other person is unaware that the act is being committed; • The offender knows that the other person submits because the other person mistakenly identifies the offender as the other person's spouse; • The offender is the other person's natural or adoptive parent, or a stepparent, or guardian, custodian, or person in loco parentis of the other person; • The other person is in custody of law or a patient in a hospital or other institution, and the offender has supervisory or disciplinary authority over the other person; • The offender is a teacher, administrator, coach, or other person in authority employed by or serving in a school for which the state board of education prescribes minimum standards pursuant to division (D) of section 3301.07 of the Revised Code, the other person is enrolled in or attends that school, and the offender is not enrolled in and does not attend that school; • The other person is a minor, the offender is a teacher, administrator, coach, or other person in

	<p>authority employed by or serving in an institution of higher education, and the other person is enrolled in or attends that institution;</p> <ul style="list-style-type: none"> • The other person is a minor, and the offender is the other person's athletic or other type of coach, is the other person's instructor, is the leader of a scouting troop of which the other person is a member, or is a person with temporary or occasional disciplinary control over the other person; • The offender is a mental health professional, the other person is a mental health client or patient of the offender, and the offender induces the other person to submit by falsely representing to the other person that the sexual conduct is necessary for mental health treatment purposes; • The other person is confined in a detention facility, and the offender is an employee of that detention facility; • The other person is a minor, the offender is a cleric, and the other person is a member of, or attends, the church or congregation served by the cleric; or • The other person is a minor, the offender is a peace officer, and the offender is more than two years older than the other person.
<p>What are the punishments for this crime?</p>	<ul style="list-style-type: none"> • If the victim is under 13, the offender is guilty of a 2nd degree felony and the penalty is 2 to 8 years in prison and up to a \$15,000 fine. • If the victim is over 13, the offender is guilty of a 3rd degree felony. The penalty depends on previous criminal history of the defendant and ranges from 9 to 60 months in prison and up to a \$10,000 fine.
<p>Anything else I should know?</p>	<p>The following definitions are relevant to this crime:</p> <ul style="list-style-type: none"> • “Cleric” means a member of the clergy, rabbi, priest, Christian Science practitioner, or regularly ordained, accredited, or licensed minister of an established and legally cognizable church, denomination, or sect. • “Detention facility” means any public or private place used for the confinement of a person charged with or convicted of any crime in this state or another state or under the laws of the United States or alleged or found to be a delinquent child or unruly child in this state or another state or under the laws of the United States. • “Institution of higher education” means a state institution of higher education or a private nonprofit college or university located in the state that has a certificate of authorization from the Ohio board of regents. • See definition of “sexual conduct” in Rape in the First Degree. • Sexual Battery is a third degree felony; provided, however, that if the other person is less than thirteen years old, sexual battery is a second degree felony. <p>One court held the statute unconstitutional, finding that a statute prohibiting sexual conduct between a minor and a peace officer who is more than two years older than the minor was not rationally related to a legitimate governmental purpose, and thus violated equal protection. <i>See State v. Mole</i>, 74 N.E.3d 368.</p>
<p>Statutory citation(s):</p>	<ul style="list-style-type: none"> • Ohio Rev. Code Ann. § 2907.03; <i>see also id.</i> § 2907.01 (definitions); <i>id.</i> §§ 2929.14, 2971.03, 2929.18 (punishments).

Unlawful Sexual Conduct with a Minor

Question	Answer
How is it defined?	<ul style="list-style-type: none"> Engaging in sexual conduct with another, who is not the spouse of the offender, when the offender knows the other person is 13 years old or older but less than sixteen years of age, or the offender is reckless in that regard, and the offender is at least eighteen years old.
What are the punishments for this crime?	<ul style="list-style-type: none"> Unless subject to one of the exceptions below, the offender is guilty of a 4th degree felony, and the penalty is 6 to 18 months in prison and up to a \$5,000 fine. If the offender is less than 4 years older than the other person, he is guilty of a first degree misdemeanor, and the penalty is a maximum of 180 days in prison. If the offender is ten or more years older than the other person, the offender is guilty of a 3rd degree felony. The penalty depends on previous criminal history of the defendant and ranges from 9 to 60 months in prison and up to a \$10,000 fine. If the offender has previously been convicted or pled guilty to rape, sexual battery, or unlawful sexual conduct with a minor, this act is a second degree felony and the penalty is 2 to 8 years in prison and up to a \$15,000 fine.
Anything else I should know?	<ul style="list-style-type: none"> See definition of “sexual conduct” in Rape in the First Degree.
Statutory citation(s):	<ul style="list-style-type: none"> Ohio Rev. Code Ann. § 2907.04; <i>see also id.</i> § 2907.01 (definitions); <i>id.</i> §§ 2929.14, 2971.03, 2929.18 (punishments).

Gross Sexual Imposition

Question	Answer
How is it defined?	<ul style="list-style-type: none"> (A) Having sexual contact with another, not the spouse of the offender; causing another, not the spouse of the offender, to have sexual contact with the offender; or causing two or more other persons to have sexual contact when any of the following applies: <ul style="list-style-type: none"> (1) The offender purposely compels the other person, or one of the other persons, to submit by force or threat of force; (2) For the purpose of preventing resistance, the offender substantially impairs the judgment or

	<p>control of the other person or of one of the other persons by administering any drug, intoxicant, or controlled substance to the other person surreptitiously or by force, threat of force, or deception;</p> <ul style="list-style-type: none"> • (3) The offender knows that the judgment or control of the other person or of one of the other persons is substantially impaired as a result of the influence of any drug or intoxicant administered to the other person with the other person's consent for the purpose of any kind of medical or dental examination, treatment, or surgery; • (4) The other person, or one of the other persons, is less than thirteen years of age, whether or not the offender knows the age of that person; or • (5) The ability of the other person to resist or consent or the ability of one of the other persons to resist or consent is substantially impaired because of a mental or physical condition or because of advanced age, and the offender knows or has reasonable cause to believe that the ability to resist or consent of the other person or of one of the other persons is substantially impaired because of a mental or physical condition or because of advanced age. <ul style="list-style-type: none"> • Knowingly touching the genitalia of another, when the touching is not through clothing, the other person is less than twelve years of age, whether or not the offender knows the age of that person, and the touching is done with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.
<p>What are the punishments for this crime?</p>	<ul style="list-style-type: none"> • Violation of (A)(1), (2), (3), or (5) of this section is a 4th degree felony, and the penalty is 6 to 18 months in prison and up to a \$5,000 fine. • If the offender under (A)(2) substantially impairs the judgment or control of the other person through a controlled substance, or the offender violates (A)(4) or (B) above, the violation is a 3^d degree felony. The penalty depends on previous criminal history of the defendant and ranges from 9 to 60 months in prison and up to a \$10,000 fine.
<p>Anything else I should know?</p>	<p>The following definitions are relevant to this crime:</p> <ul style="list-style-type: none"> • “Sexual contact” means any touching of an erogenous zone of another, including without limitation the thigh, genitals, buttock, pubic region, or, if the person is a female, a breast, for the purpose of sexually arousing or gratifying either person. <p>The Supreme Court of Ohio held the statute unconstitutional on the basis that a statute requiring imposition of a mandatory prison for gross sexual imposition committed against a child when there was corroborating evidence lacked a rational basis and thus violated due process. See <i>State v. Bevely</i>, 27 N.E.3d 516 (Ohio Feb. 11, 2015).</p>
<p>Statutory citation(s):</p>	<ul style="list-style-type: none"> • Ohio Rev. Code Ann. § 2907.05; see also <i>id.</i> § 2907.01 (definitions); <i>id.</i> §§ 2929.14, 2971.03, 2929.18 (punishments).

Sexual Imposition

Question	Answer
How is it defined?	<p>(A) Having sexual contact with another, not the spouse of the offender; causing another, not the spouse of the offender, to have sexual contact with the offender; or causing two or more other persons to have sexual contact when any of the following applies:</p> <ul style="list-style-type: none"> • (1) The offender knows that the sexual contact is offensive to the other person, or one of the other persons, or is reckless in that regard; • (2) The offender knows that the other person's, or one of the other person's, ability to appraise the nature of or control the offender's or touching person's conduct is substantially impaired; • (3) The offender knows that the other person, or one of the other persons, submits because of being unaware of the sexual contact; • (4) The other person, or one of the other persons, is thirteen years of age or older but less than sixteen years of age, whether or not the offender knows the age of such person, and the offender is at least eighteen years of age and four or more years older than such other person; or • (5) The offender is a mental health professional, the other person or one of the other persons is a mental health client or patient of the offender, and the offender induces the other person who is the client or patient to submit by falsely representing to the other person who is the client or patient that the sexual contact is necessary for mental health treatment purposes.
What are the punishments for this crime?	<ul style="list-style-type: none"> • A violation of this section is a 3rd degree misdemeanor, and the penalty is a maximum of 60 days in jail. • If previously convicted of a violation of this section, or any of the crimes discussed above, the violation is a 1st degree misdemeanor, and the penalty is a maximum of 180 days in prison. If previously convicted of a violation of this section three or more times, the court may impose a jail term of not more than one year.
Anything else I should know?	<p>The following definitions are relevant to this crime:</p> <ul style="list-style-type: none"> • See the definition of "sexual contact" in Gross Sexual Imposition. • No person shall be convicted of a violation of this section solely upon the victim's testimony unsupported by other evidence.
Statutory citation(s):	<ul style="list-style-type: none"> • Ohio Rev. Code Ann. § 2907.06; see also <i>id.</i> § 2901.01 (definitions); <i>id.</i> §§ 2929.14, 2971.03, 2929.24 (punishments).

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Question	Answer
How is it defined?	<ul style="list-style-type: none"> • (A) Soliciting a person who is less than thirteen years of age to engage in sexual activity with the offender, whether or not the offender knows the age of such person. • (B) <ul style="list-style-type: none"> • (1) Soliciting another, not the spouse of the offender, to engage in sexual conduct with the offender, when the offender is eighteen years of age or older and four or more years older than the other person, and the other person is thirteen years of age or older but less than sixteen years of age, whether or not the offender knows the age of the other person. • (2) Soliciting another, not the spouse of the offender, to engage in sexual conduct with the offender, when the offender is eighteen years of age or older and four or more years older than the other person, the other person is sixteen or seventeen years of age and a victim trafficking, and the offender knows or has reckless disregard of the age of the other person. • (C) Soliciting another by means of a telecommunications device, to engage in sexual activity with the offender when the offender is eighteen years of age or older and either of the following applies: <ul style="list-style-type: none"> • (1) The other person is less than thirteen years of age, and the offender knows that the other person is less than thirteen years of age or is reckless in that regard; or • (2) The other person is a law enforcement officer posing as a person who is less than thirteen years of age, and the offender believes that the other person is less than thirteen years of age or is reckless in that regard. • (D) Soliciting another by means of a telecommunications device, to engage in sexual activity with the offender when the offender is eighteen years of age or older and either of the following applies: <ul style="list-style-type: none"> • (1) The other person is thirteen years of age or older but less than sixteen years of age, the offender knows that the other person is thirteen years of age or older but less than sixteen years of age or is reckless in that regard, and the offender is four or more years older than the other person; or • (2) The other person is a law enforcement officer posing as a person who is thirteen years of age or older but less than sixteen years of age, the offender believes that the other person is thirteen years of age or older but less than sixteen years of age or is reckless in that regard, and the offender is four or more years older than the age the law enforcement officer assumes in posing as the person who is thirteen years of age or older but less than sixteen years of age.
What are the punishments for this crime?	<ul style="list-style-type: none"> • If the offender has previously been convicted of a sexually oriented offense or a child-victim oriented offense: <ul style="list-style-type: none"> • A violation of (A) or (C) above is a 2nd degree felony and the penalty is 2 to 8 years in prison and up to a \$15,000 fine. • A violation of (B) or (D) above is a 4th degree felony, and the penalty is 12 to 18 months in prison and up to a \$5,000 fine. • If this is the offender's first offense: <ul style="list-style-type: none"> • A violation of (A) or (C) is a 3rd degree felony. The penalty depends on previous criminal history of the defendant and ranges from 9 to 60 months in prison and up to a \$10,000 fine.

	<ul style="list-style-type: none">• A violation of (B) or (D) above is a 5th degree felony, and the penalty is 6 to 12 months in prison and up to a \$2,500 fine.
Anything else I should know?	<p>The following definitions are relevant to this crime:</p> <ul style="list-style-type: none">• “Sexual activity” means sexual conduct or sexual contact, or both.
Statutory citation(s):	<ul style="list-style-type: none">• Ohio Rev. Code Ann. § 2907.07; <i>see also id.</i> § 2907.01 (definitions); <i>id.</i> §§ 2929.14, 2971.03, 2929.18 (punishments).