

Sex Crimes: Definitions and Penalties Oklahoma

Last Updated: April 2023

Rape in the First Degree

Question	Answer
How is it defined?	<p>Rape or rape by instrumentation in the first degree shall include:</p> <ul style="list-style-type: none">• rape committed by a person over 18 years of age upon a person under 14 years of age; or• rape committed upon a person incapable through mental illness or any unsoundness of mind of giving legal consent regardless of the age of the person committing the crime; or• rape accomplished where the victim is intoxicated by a narcotic or anesthetic agent, administered by or with the privity of the accused as a means of forcing the victim to submit; or• rape accomplished where the victim is at the time unconscious of the nature of the act and this fact is known to the accused; or• rape accomplished with any person by means of force, violence, or threats of force or violence accompanied by apparent power of execution regardless of the age of the person committing the crime; or• rape by instrumentation regardless of the age of the victim or the age of the person committing the crime.• No person can be convicted of rape or rape by instrumentation on account of an act of sexual intercourse with anyone sixteen (16) years of age or older, with his or her consent, unless such person was more than four (4) years older than the other person at the time of such act.
What are the punishments for this crime?	<ul style="list-style-type: none">• Rape in the first degree is a felony punishable by 5 years to life in prison without parole, or death.<ul style="list-style-type: none">• Note: The statute provides for a possible penalty of death, but the Supreme Court has held that the death penalty as punishment for rape is unconstitutional. See <i>Kennedy v. Louisiana</i>, 554 U.S. 407 (2008).• Any person convicted of rape in the first degree after having been convicted of either rape in the first degree, forcible sodomy, lewd molestation or sexual abuse of a child, or any attempt to commit these offenses, shall be sentenced to life without parole.• If the victim is a child under 14 years old, any person that has a prior conviction for forcible anal or oral sodomy, rape, rape by instrumentation, or lewd molestation of a child under 14, shall be punished by death or life in prison.• Except for persons sentenced to life or life without parole, any person sentenced to 2 years or more for a violation of this section shall be required to serve a term of post-imprisonment supervision.

Anything else I should know?

The following definitions are relevant to this crime:

- **“Rape:”** Rape is an act of sexual intercourse involving vaginal or anal penetration accomplished with a male or female within or without the bonds of matrimony who may be of the same or the opposite sex as the perpetrator under any of the following circumstances:
 - Where the victim is under sixteen (16) years of age;
 - No person can be convicted of rape or rape by instrumentation on account of an act of sexual intercourse with anyone over the age of 14 years, with his or her consent, unless such person was over the age of 18 years at the time of such act.
 - Where the victim is incapable through mental illness or any other unsoundness of mind, whether temporary or permanent, of giving legal consent;
 - Where force or violence is used or threatened, accompanied by apparent power of execution to the victim or to another person;
 - Where the victim is intoxicated by a narcotic or anesthetic agent, administered by or with the privity of the accused as a means of forcing the victim to submit;
 - Where the victim is at the time unconscious of the nature of the act and this fact is known to the accused;
 - Where the victim submits to sexual intercourse under the belief that the person committing the act is a spouse, and this belief is induced by artifice, pretense, or concealment practiced by the accused or by the accused in collusion with the spouse with intent to induce that belief. In all cases of collusion between the accused and the spouse to accomplish such act, both the spouse and the accused, upon conviction, shall be deemed guilty of rape;
 - Where the victim is under the legal custody or supervision of a state agency, a federal agency, a county, a municipality or a political subdivision and engages in sexual intercourse with a state, federal, county, municipal or political subdivision employee or an employee of a contractor of the state, the federal government, a county, a municipality or a political subdivision that exercises authority over the victim, or the subcontractor or employee of a subcontractor of the contractor of the state or federal government, a county, a municipality or a political subdivision that exercises authority over the victim;
 - Where the victim is at least sixteen (16) years of age and is less than twenty (20) years of age and is a student, or under the legal custody or supervision of any public or private elementary or secondary school, junior high or high school, or public vocational school, and engages in sexual intercourse with a person who is eighteen (18) years of age or older and is an employee of a school system. For purposes of this section, “employee of a school system” shall include employed and contracted school resource officers and security guards;
 - Where the victim is nineteen (19) years of age or younger and is in the legal custody of a state agency, federal agency or tribal court and engages in sexual intercourse with a foster parent or foster parent applicant.
 - Where the victim is a student at a secondary school, is concurrently enrolled at an institution of higher education, and engages in acts pursuant to this subsection with a perpetrator who is an employee of the institution of higher education of which the victim is enrolled.

- The essential guilt of rape or rape by instrumentation, except with the consent of a male or female over fourteen (14) years of age, consists in the outrage to the person and feelings of the victim. Any sexual penetration, however slight, is sufficient to complete the crime.
- **“Rape by Instrumentation”** is an act within or without the bonds of matrimony in which any inanimate object or any part of the human body, not amounting to sexual intercourse is used in the carnal knowledge of another person without his or her consent and penetration of the anus or vagina occurs to that person, provided, further, that at least one of the circumstances specified in Section 1111 of this title has been met; further, where the victim is:
 - 1. At least sixteen (16) years of age and is less than twenty (20) years of age and is a student, or under the legal custody or supervision of any public or private elementary or secondary school, junior high or high school, or public vocational school, and engages in conduct prohibited by this section of law with a person who is eighteen (18) years of age or older and is an employee of a school system;
 - 2. Under the legal custody or supervision of a state or federal agency, county, municipal or a political subdivision and engages in conduct prohibited by this section of law with a federal, state, county, municipal or political subdivision employee or an employee of a contractor of the state, the federal government, a county, a municipality or a political subdivision that exercises authority over the victim, consent shall not be an element of the crime;
 - 3. Nineteen (19) years of age or younger and in the legal custody of a state agency, federal agency or tribal court and engages in conduct prohibited by this section of law with a foster parent or foster parent applicant; or
 - 4. A student at a secondary school, is concurrently enrolled at an institution of higher education, and engages in acts pursuant to this section with a perpetrator who is an employee of the institution of higher education of which the student is enrolled.
- **“Force”** shall mean any force, no matter how slight, necessary to accomplish the act without the consent of the victim. The force necessary to constitute an element need not be actual physical force since fear, fright or coercion may take the place of actual physical force.
- **“Consent”** means the affirmative, unambiguous and voluntary agreement to engage in a specific sexual activity during a sexual encounter which can be revoked at any time. Consent cannot be: (1) given by an individual who: (a) is asleep or is mentally or physically incapacitated either through the effect of drugs or alcohol or for any other reason; or (b) is under duress, threat, coercion or force; or (2) inferred under circumstances in which consent is not clear including, but not limited to: (a) the absence of an individual saying “no” or “stop”; or (b) the existence of a prior or current relationship or sexual activity.
- **“Employee of a school system”** means a teacher, principal or other duly appointed person employed by a school system or an employee of a firm contracting with a school system, including a school resource officer and security guard.
- **“Employee of an institution of higher education”** means faculty, adjunct faculty, instructors, volunteers, or an employee of a business contracting with an institution of higher education who may exercise, at any time, institutional authority over the victim. Employee of an institution of higher education shall not include an enrolled student who is not more than three (3) years of age or older than the concurrently enrolled student and who is employed or volunteering, in any capacity, for the institution of higher

	education.
Statutory citation(s):	<ul style="list-style-type: none"> • Okla. Stat. Ann. tit. 21, §§ 1114, 1112; see <i>also id.</i> §§ 1111 (rape defined), 1111.1 (rape by instrumentation defined), 1113 (slight penetration sufficient), 111 (force defined), 113 (consent defined), 1115 (punishment), 51.1a (punishment), 843.5 (child abuse).

Rape in the Second Degree

Question	Answer
How is it defined?	<ul style="list-style-type: none"> • In all other cases not listed under “Rape in the First Degree,” rape or rape by instrumentation is rape in the second degree.
What are the punishments for this crime?	<ul style="list-style-type: none"> • 1 to 15 years in prison.
Anything else I should know?	<ul style="list-style-type: none"> • See definitions under Rape in the First Degree.
Statutory citation(s):	<ul style="list-style-type: none"> • Okla. Stat. Ann. tit. 21, §§ 1114, 1112, 1116 (punishment).

Lewd or Indecent Proposals or Acts as to Child Under 16 or Person Believed to be Under 16 - Sexual Battery

Question	Answer
How is it defined?	<p>(A) Knowingly and intentionally:</p> <ul style="list-style-type: none"> • Make any oral, written or electronically or computer-generated lewd or indecent proposal to any child under sixteen (16) years of age, or other individual the person believes to be a child under sixteen (16) years of age, for the child to have unlawful sexual relations or sexual intercourse with any person; • Look upon, touch, maul, or feel the body or private parts of any child under sixteen (16) years of age in any lewd or lascivious manner by any acts against public decency and morality, as defined by law; • Ask, invite, entice, or persuade any child under sixteen (16) years of age, or other individual the person believes to be a child under sixteen (16) years of age, to go alone with any person to a secluded, remote, or secret place, with the unlawful and willful intent and purpose then and there to commit any crime against public decency and morality, as defined by law, with the child; • In any manner lewdly or lasciviously look upon, touch, maul, or feel the body or private parts of any child

	<p>under sixteen (16) years of age in any indecent manner or in any manner relating to sexual matters or sexual interest; or</p> <ul style="list-style-type: none"> • In a lewd and lascivious manner and for the purpose of sexual gratification: <ul style="list-style-type: none"> • urinate or defecate upon a child under sixteen (16) years of age, or force or require a child to defecate or urinate upon the body or private parts of another, or for the purpose of sexual gratification, • ejaculate upon or in the presence of a child, • cause, expose, force or require a child to look upon the body or private parts of another person, • force or require any child under sixteen (16) years of age or other individual the person believes to be a child under sixteen (16) years of age, to view any obscene materials, child sexual abuse material or materials deemed harmful to minors as such terms are defined by Sections 1024.1 and 1040.75 of this title, • cause, expose, force or require a child to look upon sexual acts performed in the presence of the child, or • force or require a child to touch or feel the body or private parts of the child or another person. <p>The provisions of (A) shall not apply unless the accused is at least 3 years older than the victim, except when accomplished by the use of force or fear.</p> <p>(B) No person shall commit sexual battery on any other person.</p> <p>(C) No person shall in any manner lewdly or lasciviously:</p> <ul style="list-style-type: none"> • 1. Look upon, touch, maul, or feel the body or private parts of any human corpse in any indecent manner relating to sexual matters or sexual interest; or • 2. Urinate, defecate or ejaculate upon any human corpse.
<p>What are the punishments for this crime?</p>	<ul style="list-style-type: none"> • The penalty for a violation of (A) above is 3 to 20 years in prison. <ul style="list-style-type: none"> • If the victim is under 12 at the time of the offense, the minimum sentence is 25 years. • If a person is convicted of a second or subsequent violation under this subsection, he shall not be eligible for probation, suspended or deferred sentence. • If a person is convicted of a third or subsequent violation under this subsection, he is eligible for a term of life in prison without parole. • If a person has twice been convicted of a violation of Rape in the First Degree, Forcible Sodomy, or sexual abuse of a child, the penalty is life in prison or life in prison without parole. • The penalty for a violation of (B) or (C) above is a maximum of 10 years in prison. • Except for persons sentenced to life or life without parole, any person sentenced to imprisonment for 2 years or more for a violation of this section shall be required to serve a term of post-imprisonment supervision. • Any parent or person responsible for the child's health, safety or welfare who violates (A), (B) or (C) above when the victim is at least 16 years of age but less than 18 years of age, upon conviction, shall be guilty of a felony. The penalty for such violation is a maximum of 10 years in prison.

Anything else I should know?	<p>The following definitions are relevant to this crime:</p> <ul style="list-style-type: none"> • “Sexual battery” shall mean the intentional touching, mauling or feeling of the body or private parts of any person 16 years of age or older, in a lewd and lascivious manner: <ul style="list-style-type: none"> • 1. Without the consent of that person; • 2. When committed by a state, county, municipal or political subdivision employee or a contractor or an employee of a contractor of the state, a county, a municipality or political subdivision of this state upon a person who is under the legal custody, supervision or authority of a state agency, a county, a municipality or a political subdivision of this state, or the subcontractor or employee of a subcontractor of the contractor of the state or federal government, a county, a municipality or a political subdivision of this state; • 3. When committed upon a person who is at least sixteen (16) years of age and is less than twenty (20) years of age and is a student, or in the legal custody or supervision of any public or private elementary or secondary school, or technology center school, by a person who is eighteen (18) years of age or older and is an employee of a school system; • 4. When committed upon a person who is nineteen (19) years of age or younger and is in the legal custody of a state agency, federal agency or a tribal court, by a foster parent or foster parent applicant; or • 5. When the victim is a student at a secondary school, is concurrently enrolled at an institution of higher education, and engages in acts pursuant to this subsection with a perpetrator who is an employee of the institution of higher education of which the student is enrolled. • “Employee of a school system” means a teacher, principal or other duly appointed person employed by a school system or an employee of a firm contracting with a school system. • “Employee of an institution of higher education” means faculty, adjunct faculty, instructors, volunteers, or an employee of a business contracting with an institution of higher education who may exercise, at any time, institutional authority over the victim. Employee of an institution of higher education shall not include an enrolled student who is not more than three (3) years of age or older than the concurrently enrolled student and who is employed or volunteering, in any capacity, for the institution of higher education.
Statutory citation(s):	<ul style="list-style-type: none"> • Okla. Stat. Ann. tit. 21, § 1123.

Crime Against Nature (Sodomy)

Question	Answer
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How is it defined?	<ul style="list-style-type: none"> • The detestable and abominable crime against nature, committed with mankind or with a beast. • Any sexual penetration, however slight, is sufficient to complete the crime against nature. • Note: Any state laws that outright prohibit sodomy are unconstitutional under <i>Lawrence v. Texas</i>, 539 U.S. 558 (2003).
What are the punishments for this crime?	<ul style="list-style-type: none"> • Up to 10 years in prison. • Except for persons sentenced to life or life without parole, any person sentenced to imprisonment for 2 years or more for a violation of this section shall be required to serve a term of post-imprisonment supervision.
Anything else I should know?	<ul style="list-style-type: none"> • Note: Any state laws that outright prohibit sodomy are unconstitutional under <i>Lawrence v. Texas</i>, 539 U.S. 558 (2003).
Statutory citation(s):	<ul style="list-style-type: none"> • Okla. Stat. Ann. tit. 21, §§ 886–887.

Forcible Sodomy

Question	Answer
How is it defined?	<p>Any person who forces another person to engage in the detestable and abominable crime against nature.</p> <p>The crime of forcible sodomy shall include:</p> <ul style="list-style-type: none"> • Sodomy committed by a person over eighteen (18) years of age upon a person under sixteen (16) years of age; or • Sodomy committed upon a person incapable through mental illness or any unsoundness of mind of giving legal consent regardless of the age of the person committing the crime; or • Sodomy accomplished with any person by means of force, violence, or threats of force or violence accompanied by apparent power of execution regardless of the age of the victim or the person committing the crime; or • Sodomy committed by a state, county, municipal or political subdivision employee or a contractor or an employee of a contractor of the state, a county, a municipality or political subdivision of this state upon a person who is under the legal custody, supervision or authority of a state agency, a county, a municipality or a political subdivision of this state. <p>Any sexual penetration, however slight, is sufficient to complete the crime against nature.</p>

What are the punishments for this crime?	<ul style="list-style-type: none">• A felony, up to 20 years in prison, plus a term of post-imprisonment supervision for anyone serving 2 or more years in prison for a violation of this section (except for persons sentenced to life or life without parole).• If this is the offender's second violation of this section, and the victim is under 16, the offender is not eligible for probation, suspended or deferred sentence.
Anything else I should know?	N/A
Statutory citation(s):	<ul style="list-style-type: none">• Okla. Stat. Ann. tit. 21, §§ 888, 887.