

Sex Crimes: Definitions and Penalties

Oregon

Last Updated: March 2020

Rape in the First Degree

| Question | Answer |
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| How is it defined? | <ul style="list-style-type: none"> • The victim is subjected to forcible compulsion by the person; • The victim is under 12 years of age; • The victim is under 16 years of age and is the person's whole- or half-sibling, the person's child, or the person's spouse's child; or • The victim is incapable of consent by reason of mental incapacitation, physical helplessness or incapability of appraising the nature of the victim's conduct. <ul style="list-style-type: none"> • Engaging in sexual intercourse with another person if: • If the crime depends on the victim being under the age of 16, it is no defense that the defendant did not know the victim's age or that the defendant reasonably believed the child to be older than the age of 16. • If the crime depends on the victim being under a specified age other than 16, it is an affirmative defense for the defendant to prove that the defendant reasonably believed the child to be above the specified age at the time of the alleged offense. • If the victim's lack of consent is based solely upon the incapacity of the victim to consent because the victim is mentally incapacitated, physically helpless or incapable of appraising the nature of the victim's conduct, it is an affirmative defense for the defendant to prove that at the time of the alleged offense the defendant did not know of the facts or conditions responsible for the victim's incapacity to consent. |
| What are the punishments for this crime? | <ul style="list-style-type: none"> • Class A felony, minimum of 300 months' (if the victim is under 12) or 100 months' and maximum 20 years imprisonment and maximum \$375,000 fine. • Any person convicted of this crime with one or more previous convictions of first degree rape, first degree sodomy, first degree unlawful sexual penetration, or using a child in a display of sexually explicit conduct shall receive a mandatory minimum sentence of 25 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 intercourse” has its ordinary meaning and occurs upon any penetration, however slight; emission is not required. • “Forcible compulsion” means to compel by: (a) Physical force; or (b) a threat, express or implied, that places a person in fear of immediate or future death or physical injury to self or another person, or in fear that the person or another person will immediately or in the future be kidnapped. • “Mentally incapacitated” means that a person is rendered incapable of appraising or controlling the conduct of the person at the time of the alleged offense. • “Physically helpless” means that a person is unconscious or for any other reason is physically unable to |

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| | <p>communicate unwillingness to an act.</p> <ul style="list-style-type: none"> • “Incapable of consent” means a person is considered incapable of consenting to a sexual act if the person is: (a) under 18; (b) incapable of appraising the nature of the person’s conduct; (c) mentally incapacitated; or (d) physically helpless. Lack of verbal or physical resistance does not, by itself, constitute consent but may be considered by the trier of fact along with other relevant evidence. A person is incapable of appraising the nature of the person's conduct if: (a) the person is unable to understand the nature of the conduct; (b) the person is unable to understand the right to choose whether and how to engage in conduct, including the right to revoke a prior decision to engage in conduct; or (c) the person is unable to communicate a decision to engage in conduct. |
| Statutory citation(s): | <ul style="list-style-type: none"> • Or. Rev. Stat. § 163.375; <i>see id.</i> § 163.305 (definitions); <i>id.</i> § 163.315 (capability to consent); <i>id.</i> §§ 137.690, 137.700, 161.605, 161.625 (penalties); <i>id.</i> § 163.325 (knowledge of victim’s age). |

Rape in the Second Degree

| Question | Answer |
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| How is it defined? | <ul style="list-style-type: none"> • Engaging in sexual intercourse with another person who is under 14 years of age. • If the crime depends on the victim being under a specified age other than 16, it is an affirmative defense for the defendant to prove that the defendant reasonably believed the child to be above the specified age at the time of the alleged offense. • If the victim's lack of consent is based solely upon the incapacity of the victim to consent because the victim is mentally incapacitated, physically helpless or incapable of appraising the nature of the victim's conduct, it is an affirmative defense for the defendant to prove that at the time of the alleged offense the defendant did not know of the facts or conditions responsible for the victim's incapacity to consent. • If the victim's lack of consent was due solely to incapacity to consent by reason of being less than a specified age, it is a defense that the actor was less than three years older than the victim at the time of the alleged offense. |
| What are the punishments for this crime? | <ul style="list-style-type: none"> • Class B Felony, minimum of 75 months’ and maximum 10 years imprisonment and maximum \$250,000 fine. |
| Anything else I should know? | <p>The following definitions are relevant to this crime:</p> <ul style="list-style-type: none"> • See “Sexual intercourse” under Rape – 1st Degree. • If the crime depends on the victim being under the age of 16, it is no defense that the defendant did not know the child’s age or that the defendant reasonably believed the child to be older than the age of 16. |

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| Statutory citation(s): | <ul style="list-style-type: none"> • Or. Rev. Stat. § 163.365; <i>see id.</i> § 163.305 (definitions); <i>id.</i> §§ 137.700, 161.605, 161.625 (penalties); <i>id.</i> § 163.345 (age; defense); <i>id.</i> § 163.325 (knowledge of victim's age). |
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Rape in the Third Degree

| Question | Answer |
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| How is it defined? | <ul style="list-style-type: none"> • Engaging in sexual intercourse with a person under 16 years of age. • If the crime depends on the victim being under the age of 16, it is no defense that the defendant did not know the victim's age or that the defendant reasonably believed the child to be older than the age of 16. • If the victim's lack of consent is based solely upon the incapacity of the victim to consent because the victim is mentally incapacitated, physically helpless or incapable of appraising the nature of the victim's conduct, it is an affirmative defense for the defendant to prove that at the time of the alleged offense the defendant did not know of the facts or conditions responsible for the victim's incapacity to consent. • If the victim's lack of consent was due solely to incapacity to consent by reason of being less than a specified age, it is a defense that the actor was less than three years older than the victim at the time of the alleged offense. |
| What are the punishments for this crime? | <ul style="list-style-type: none"> • Class C Felony, maximum 5 years imprisonment and maximum \$125,000 fine. |
| Anything else I should know? | <p>The following definitions are relevant to this crime:</p> <ul style="list-style-type: none"> • See "Sexual intercourse" under Rape – 1st Degree. |
| Statutory citation(s): | <ul style="list-style-type: none"> • Or. Rev. Stat. § 163.355; <i>see id.</i> § 163.305 (definitions); <i>id.</i> §§ 137.690, 137.700, 161.605, 161.625 (penalties); <i>id.</i> § 163.325 (knowledge of victim's age); <i>id.</i> § 163.345 (age; defense). |

Sodomy in the First Degree

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| How is it defined? | <ul style="list-style-type: none"> • Engaging in oral or anal sexual intercourse with another person or causing another to engage in oral or anal sexual intercourse if: <ul style="list-style-type: none"> • The victim is subjected to forcible compulsion by the actor; • The victim is under 12 years of age; • The victim is under 16 years of age and is the person’s whole- or half-sibling, the actor’s child, or the actor’s spouse’s child; or • The victim is incapable of consent by reason of mental incapacitation, physical helplessness or incapability of appraising the nature of the victim’s conduct. • If the crime depends on the victim being under the age of 16, it is no defense that the defendant did not know the victim’s age or that the defendant reasonably believed the child to be older than the age of 16. • If the crime depends on the victim being under a specified age other than 16, it is an affirmative defense for the defendant to prove that the defendant reasonably believed the child to be above the specified age at the time of the alleged offense. • If the victim's lack of consent is based solely upon the incapacity of the victim to consent because the victim is mentally incapacitated, physically helpless or incapable of appraising the nature of the victim's conduct, it is an affirmative defense for the defendant to prove that at the time of the alleged offense the defendant did not know of the facts or conditions responsible for the victim's incapacity to consent. |
| What are the punishments for this crime? | <ul style="list-style-type: none"> • Class A Felony, minimum of 300 months (if the victim is under 12) or 100 months’ (if by forcible compulsion, the victim is under 16 and related as stated above to victim, or the victim is incapable of consent by reason of mental defect, mental incapacitation or physical helplessness), and maximum 20 years imprisonment and maximum \$375,000 fine. • Any person convicted of this crime with one or more previous convictions of first degree rape, first degree sodomy, first degree unlawful sexual penetration, or using a child in a display of sexually explicit conduct shall receive a mandatory minimum sentence of 25 years in prison. |
| Anything else I should know? | <p>The following definitions are relevant to this crime:</p> <ul style="list-style-type: none"> • See “Forcible compulsion” under Rape – 1st Degree. • See “Mentally incapacitated” under Rape – 1st Degree. • “Oral or anal sexual intercourse” means sexual conduct between persons consisting of contact between the sex organs of one person and the mouth or anus of another. • See “Physically helpless” under Rape – 1st Degree. |
| Statutory citation(s): | <ul style="list-style-type: none"> • Or. Rev. Stat. § 163.405; see <i>id.</i> § 163.305 (definitions); <i>id.</i> § 163.315 (capability to consent); <i>id.</i> §§ 137.690, 137.700, 161.605, 161.625 (penalties); <i>id.</i> § 163.325 (knowledge of victim’s age); <i>id.</i> §§ 163.345 (age; defense). |

Sodomy in the Second Degree

| Question | Answer |
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| How is it defined? | <ul style="list-style-type: none"> • Engaging in oral or anal sexual intercourse with another person or causing another to engage in oral or anal sexual intercourse with a victim who is under 14 years of age. • If the crime depends on the victim being under a specified age other than 16, it is an affirmative defense for the defendant to prove that the defendant reasonably believed the child to be above the specified age at the time of the alleged offense. • If the victim's lack of consent was due solely to incapacity to consent by reason of being less than a specified age, it is a defense that the actor was less than three years older than the victim at the time of the alleged offense. • If the victim's lack of consent is based solely upon the incapacity of the victim to consent because the victim is mentally incapacitated, physically helpless or incapable of appraising the nature of the victim's conduct, it is an affirmative defense for the defendant to prove that at the time of the alleged offense the defendant did not know of the facts or conditions responsible for the victim's incapacity to consent. |
| What are the punishments for this crime? | <ul style="list-style-type: none"> • Class B Felony, minimum of 75 months' and maximum 10 years imprisonment and maximum \$250,000 fine. |
| Anything else I should know? | <p>The following definitions are relevant to this crime:</p> <ul style="list-style-type: none"> • See "Oral or anal sexual intercourse" under Sodomy – 1st Degree. |
| Statutory citation(s): | <ul style="list-style-type: none"> • Or. Rev. Stat. § 163.395; see <i>id.</i> § 163.305 (definitions); <i>id.</i> § 163.315 (capability to consent); <i>id.</i> §§ 137.690, 137.700, 161.605, 161.625 (penalties); <i>id.</i> § 163.345 (age; defense); <i>id.</i> § 163.325 (knowledge of victim's age). |

Sodomy in the Third Degree

| Question | Answer |
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| How is it defined? | <ul style="list-style-type: none"> • Engaging in oral or anal sexual intercourse with a person under 16 years of age. • If the crime depends on the victim being under the age of 16, it is no defense that the defendant did not know the victim's age or that the defendant reasonably believed the child to be older than the age of 16. • If the victim's lack of consent is based solely upon the incapacity of the victim to consent because the victim is mentally incapacitated, physically helpless or incapable of appraising the nature of the |

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| | <p>victim's conduct, it is an affirmative defense for the defendant to prove that at the time of the alleged offense the defendant did not know of the facts or conditions responsible for the victim's incapacity to consent.</p> <ul style="list-style-type: none"> • If the victim's lack of consent was due solely to incapacity to consent by reason of being less than a specified age, it is a defense that the actor was less than three years older than the victim at the time of the alleged offense. |
| What are the punishments for this crime? | Class C Felony, maximum 5 years imprisonment and maximum \$125,000 fine. |
| Anything else I should know? | <p>The following definitions are relevant to this crime:</p> <ul style="list-style-type: none"> • See “Oral or anal sexual intercourse” under Sodomy – 1st • If the crime depends on the victim being under the age of 16, it is an affirmative defense for the defendant to prove that the defendant reasonably believed the child to be older than the age of 16. |
| Statutory citation(s): | <ul style="list-style-type: none"> • Or. Rev. Stat. § 163.385; <i>see id.</i> § 163.305 (definitions); <i>id.</i> §§ 161.605, 161.625 (penalties); <i>id.</i> § 163.325 (knowledge of victim’s age); <i>id.</i> § 163.345 (age; defense). |

Unlawful Sexual Penetration in the First Degree

| Question | Answer |
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| How is it defined? | <ul style="list-style-type: none"> • Penetration of the vagina, anus or penis of another with any object other than the penis or mouth of the actor and: <ul style="list-style-type: none"> • The victim is subjected to forcible compulsion by the actor; • The victim is under 12 years of age; or • The victim is incapable of consent by reason of mental incapacitation, physical helplessness or incapability of appraising the nature of the victim's conduct; • unless the penetration is part of a medically recognized treatment or diagnostic procedure or the penetration is accomplished by a peace officer or a corrections officer acting in official capacity, or by medical personnel at the request of such an officer, in order to search for weapons, contraband or evidence of a crime. • If the crime depends on the victim being under a specified age other than 16, it is an affirmative defense for the defendant to prove that the defendant reasonably believed the child to be above the specified age at the time of the alleged offense. • If the victim's lack of consent is based solely upon the incapacity of the victim to consent because the victim is mentally incapacitated, physically helpless or incapable of appraising the nature of the victim's |

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| | conduct, it is an affirmative defense for the defendant to prove that at the time of the alleged offense the defendant did not know of the facts or conditions responsible for the victim's incapacity to consent. |
| What are the punishments for this crime? | <ul style="list-style-type: none"> • Class A Felony, minimum of 300 months (if the victim is under 12) or 100 months' (if by forcible compulsion or the victim is incapable of consent by reason of mental defect, mental incapacitation or physical helplessness) and maximum 20 years imprisonment and maximum \$375,000 fine. • Any person convicted of this crime with one or more previous convictions of first degree rape, first degree sodomy, first degree unlawful sexual penetration, or using a child in a display of sexually explicit conduct shall receive a mandatory minimum sentence of 25 years in prison. |
| Anything else I should know? | <p>The following definitions are relevant to this crime:</p> <ul style="list-style-type: none"> • See "Forcible compulsion" under Rape – 1st Degree. • See "Mentally incapacitated" under Rape – 1st Degree. • See "Physically helpless" under Rape – 1st Degree. |
| Statutory citation(s): | <ul style="list-style-type: none"> • Or. Rev. Stat. §§ 163.411, 163.412; see <i>id.</i> § 163.305 (definitions); <i>id.</i> § 163.315 (capability to consent); <i>id.</i> §§ 137.690, 137.700, 161.605, 161.625 (penalties); <i>id.</i> § 163.325 (knowledge of victim's age). |

Unlawful Sexual Penetration in the Second Degree

| Question | Answer |
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| How is it defined? | <ul style="list-style-type: none"> • Penetration of the vagina, anus or penis of another with any object other than the penis or mouth of the actor if the victim is under 14 years of age. • Unless the penetration is part of a medically recognized treatment or diagnostic procedure or the penetration is accomplished by a peace officer or a corrections officer acting in official capacity, or by medical personnel at the request of such an officer, in order to search for weapons, contraband or evidence of a crime. • If the crime depends on the victim being under a specified age other than 16, it is an affirmative defense for the defendant to prove that the defendant reasonably believed the child to be above the specified age at the time of the alleged offense. • If the victim's lack of consent is based solely upon the incapacity of the victim to consent because the victim is mentally incapacitated, physically helpless or incapable of appraising the nature of the victim's conduct, it is an affirmative defense for the defendant to prove that at the time of the alleged offense the defendant did not know of the facts or conditions responsible for the victim's incapacity to consent. • When the object used to commit the unlawful sexual penetration was the hand or any part thereof of the actor and in which the victim's lack of consent was due solely to incapacity to consent by reason of |

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| | being less than a specified age, it is a defense that the actor was less than three years older than the victim at the time of the alleged offense. |
| What are the punishments for this crime? | <ul style="list-style-type: none"> • Class B Felony, minimum of 75 months' and maximum 10 years imprisonment and maximum \$250,000 fine. |
| Anything else I should know? | <ul style="list-style-type: none"> • N/A |
| Statutory citation(s): | <ul style="list-style-type: none"> • Or. Rev. Stat. §§ 163.408, 163.412; see <i>id.</i> § 163.305 (definitions); <i>id.</i> §§ 137.700, 161.605, 161.625 (penalties); <i>id.</i> § 163.345 (age; defense); <i>id.</i> § 163.325 (knowledge of victim's age). |

Sexual Abuse in the First Degree

| Question | Answer |
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| How is it defined? | <ul style="list-style-type: none"> • Subjecting another person to sexual contact and: <ul style="list-style-type: none"> • The victim is less than 14 years of age; • The victim is subjected to forcible compulsion by the actor; • The victim is incapable of consent by reason of being mentally incapacitated, physically helpless or incapable of appraising the nature of the victim's conduct; or • Intentionally causing a person under 18 years of age to touch or contact the mouth, anus or sex organs of an animal for the purpose of arousing or gratifying the sexual desire of a person. • If the crime depends on the victim being under a specified age other than 16, it is an affirmative defense for the defendant to prove that the defendant reasonably believed the child to be above the specified age at the time of the alleged offense. • If the victim's lack of consent is based solely upon the incapacity of the victim to consent because the victim is mentally incapacitated, physically helpless or incapable of appraising the nature of the victim's conduct, it is an affirmative defense for the defendant to prove that at the time of the alleged offense the defendant did not know of the facts or conditions responsible for the victim's incapacity to consent. • If the victim's lack of consent was due solely to incapacity to consent by reason of being less than a specified age, it is a defense that the actor was less than three years older than the victim at the time of the alleged offense. |
| What are the punishments for this crime? | <ul style="list-style-type: none"> • Class B Felony, minimum of 75 months' and maximum 10 years imprisonment and maximum \$250,000 fine. |

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| Anything else I should know? | <p>The following definitions are relevant to this crime:</p> <ul style="list-style-type: none"> • See “Forcible compulsion” under Rape – 1st Degree. • “Sexual contact” means any touching of the sexual or other intimate parts of a person or causing such person to touch the sexual or other intimate parts of the actor for the purpose of arousing or gratifying the sexual desire of either party. • See “Mentally incapacitated” under Rape – 1st Degree. • See “Physically helpless” under Rape – 1st Degree. |
| Statutory citation(s): | <ul style="list-style-type: none"> • Or. Rev. Stat. § 163.427; see also <i>id.</i> § 163.305 (definitions); see <i>id.</i> § 163.305 (definitions); <i>id.</i> § 163.315 (capability to consent); <i>id.</i> §§ 137.700, 161.605, 161.625 (penalties); see <i>id.</i> § 163.345 (age; defense); <i>id.</i> § 163.325 (knowledge of victim’s age). |

Sexual Abuse in the Second Degree

| Question | Answer |
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| How is it defined? | <ul style="list-style-type: none"> • Subjecting another person to sexual intercourse, oral or anal sexual intercourse, or penetration of the vagina, anus or penis with any object other than the penis or mouth of the actor and the victim does not consent thereto or the person commits Sexual Abuse in the Third Degree and the person is 21 years of age or older and at any time before the commission of the offense, the person was the victim’s coach. • Unless the penetration is part of a medically recognized treatment or diagnostic procedure or the penetration is accomplished by a peace officer or a corrections officer acting in official capacity, or by medical personnel at the request of such an officer, in order to search for weapons, contraband or evidence of a crime. • If the victim's lack of consent was due solely to incapacity to consent by reason of being less than a specified age, it is a defense that the actor was less than three years older than the victim at the time of the alleged offense. • If the victim's lack of consent is based solely upon the incapacity of the victim to consent because the victim is mentally incapacitated, physically helpless or incapable of appraising the nature of the victim's conduct, it is an affirmative defense for the defendant to prove that at the time of the alleged offense the defendant did not know of the facts or conditions responsible for the victim's incapacity to consent. |
| What are the punishments for this crime? | <ul style="list-style-type: none"> • Class C Felony, maximum 5 years imprisonment and maximum \$125,000 fine. • If (a) the victim is incapable of consent by reason of being under 18 years of age; (b) the offender is 21 years of age or older; and (c) any time before the commission of the offense, the offender was the victim’s coach, the punishment shall be consistent with crime category 8 of the sentencing grid. |

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| Anything else I should know? | <p>The following definitions are relevant to this crime:</p> <ul style="list-style-type: none"> • See “Oral or anal sexual intercourse” under Sodomy – 1st Degree. “Coach” means a person who instructs or trains an individual or members of a team in a sport. • See “Sexual intercourse” under Rape – 1st Degree. |
| Statutory citation(s): | <ul style="list-style-type: none"> • Or. Rev. Stat. § 163.425; <i>see also id.</i> § 163.405 (definitions); <i>id.</i> § 163.426; <i>see id.</i> § 163.305 (definitions); <i>id.</i> § 163.315 (capability to consent); <i>id.</i> §§ 137.700, 161.605, 161.625 (penalties); <i>id.</i> § 163.345 (age; defense); <i>id.</i> § 163.325 (knowledge of victim’s age). |

Sexual Abuse in the Third Degree

| Question | Answer |
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| How is it defined? | <p>Subjecting another person to sexual contact and:</p> <ul style="list-style-type: none"> • The victim does not consent to the sexual contact; • The victim is incapable of consent by reason of being under 18 years of age; or • For the purpose of arousing or gratifying the sexual desire of the person or another person, the person intentionally propels any dangerous substance at a victim without the consent of the victim. • If the crime depends on the victim being under a specified age other than 16, it is an affirmative defense for the defendant to prove that the defendant reasonably believed the child to be above the specified age at the time of the alleged offense. • If the victim's lack of consent is based solely upon the incapacity of the victim to consent because the victim is mentally incapacitated, physically helpless or incapable of appraising the nature of the victim's conduct, it is an affirmative defense for the defendant to prove that at the time of the alleged offense the defendant did not know of the facts or conditions responsible for the victim's incapacity to consent. • If the victim's lack of consent was due solely to incapacity to consent by reason of being less than a specified age, it is a defense that the actor was less than three years older than the victim at the time of the alleged offense. |
| What are the punishments for this crime? | <ul style="list-style-type: none"> • Class A Misdemeanor, maximum 1 year imprisonment and maximum \$6,250 fine. |
| Anything else I should know? | <p>The following definitions are relevant to this crime:</p> <ul style="list-style-type: none"> • See “Sexual contact” under Sexual Abuse – 1st Degree. • “Dangerous substance” means blood, urine, semen or feces. |

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| Statutory citation(s): | <ul style="list-style-type: none"> • Or. Rev. Stat. § 163.415; see also <i>id.</i> § 163.405 (definitions); <i>id.</i> §§ 161.615, 161.635 (penalties); <i>id.</i> § 163.345 (age; defense); <i>id.</i> § 163.325 (knowledge of victim's age). |
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Sexual Misconduct

| Question | Answer |
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| How is it defined? | <ul style="list-style-type: none"> • Engaging in sexual intercourse or oral or anal sexual intercourse with an unmarried person under 18 years of age. • If the crime depends on the victim being under a specified age other than 16, it is an affirmative defense for the defendant to prove that the defendant reasonably believed the child to be above the specified age at the time of the alleged offense. • In any prosecution of this crime in which the victim's lack of consent was due solely to incapacity to consent by reason of being less than a specified age, it is a defense that the actor was less than three years older than the victim at the time of the alleged offense if the victim was at least 15 years of age at the time of the alleged offense. |
| What are the punishments for this crime? | <ul style="list-style-type: none"> • Class C Misdemeanor, maximum 30 days' imprisonment and maximum \$1,250 fine. |
| Anything else I should know? | <p>The following definitions are relevant to this crime:</p> <ul style="list-style-type: none"> • See "Sexual intercourse" under Rape – 1st Degree. • See "Oral or anal sexual intercourse" under Sodomy – 1st Degree. |
| Statutory citation(s): | <ul style="list-style-type: none"> • Or. Rev. Stat. § 163.445; see also <i>id.</i> § 163.405 (definitions); see also <i>id.</i> § 163.405 (definitions); <i>id.</i> §§ 161.615, 161.635 (penalties); <i>id.</i> § 163.345 (age; defense); <i>id.</i> § 163.325 (knowledge of victim's age). |

Custodial Sexual Misconduct in the First Degree

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| How is it defined? | <p>Engaging in sexual intercourse or oral or anal sexual intercourse with another person or penetrating the vagina, anus or penis of another person with any object other than the penis or mouth of the actor knowing that the other person is:</p> <ul style="list-style-type: none"> • In the custody of a law enforcement agency following arrest; • Confined or detained in a correctional facility; • Participating in an adult in custody or offender work crew or work release program; or • On probation, parole, post-prison supervision or other form of conditional or supervised release; <p><u>and</u></p> <ul style="list-style-type: none"> • The actor is employed by or under contract with the state or local agency that: <ul style="list-style-type: none"> • Employs the officer who arrested the other person; • Operates the correctional facility in which the other person is confined or detained; • Is responsible for supervising the other person in a work crew or work release program or on probation, parole, post-prison supervision or other form of conditional or supervised release; or • Engages the other person in work or on-the-job training pursuant to ORS 421.354 (1). <p>Consent of the other person to sexual intercourse, oral or anal sexual intercourse or the sexual penetration is not a defense to a prosecution under this section.</p> <p>Lack of supervisory authority over the other person is an affirmative defense to a prosecution under this section when the other person is on probation, parole, post-prison supervision or other form of conditional or supervised release.</p> |
| What are the punishments for this crime? | <ul style="list-style-type: none"> • Class C Felony, 5 years imprisonment and maximum \$125,000 fine. |
| Anything else I should know? | <p>The following definitions are relevant to this crime:</p> <ul style="list-style-type: none"> • See “Sexual intercourse” under Rape – 1st Degree. • See “Oral or anal sexual intercourse” under Sodomy – 1st Degree. |
| Statutory citation(s): | <ul style="list-style-type: none"> • Or. Rev. Stat. § 163.452; <i>see also id.</i> § 163.405 (definitions) |

Custodial Misconduct in the Second Degree

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| How is it defined? | <p>Engaging in sexual contact with another person or penetrating the vagina, anus or penis of another person with any object other than the penis or mouth of the actor knowing that the other person is:</p> <ul style="list-style-type: none"> • In the custody of a law enforcement agency following arrest; • Confined or detained in a correctional facility; • Participating in an adult in custody or offender work crew or work release program; or • On probation, parole, post-prison supervision or other form of conditional or supervised release; <p><u>and</u></p> <ul style="list-style-type: none"> • The actor is employed by or under contract with the state or local agency that: <ul style="list-style-type: none"> • Employs the officer who arrested the other person; • Operates the correctional facility in which the other person is confined or detained; • Is responsible for supervising the other person in a work crew or work release program or on probation, parole, post-prison supervision or other form of conditional or supervised release; or • Engages the other person in work or on-the-job training pursuant to ORS 421.354 (1). <p>Consent of the other person to sexual intercourse, oral or anal sexual intercourse or the sexual penetration is not a defense to a prosecution under this section.</p> <p>Lack of supervisory authority over the other person is an affirmative defense to a prosecution under this section when the other person is on probation, parole, post-prison supervision or other form of conditional or supervised release.</p> |
| What are the punishments for this crime? | <ul style="list-style-type: none"> • Class A Misdemeanor, maximum 1 year imprisonment and maximum \$6,250 fine. |
| Anything else I should know? | <p>The following definitions are relevant to this crime:</p> <ul style="list-style-type: none"> • See “Sexual intercourse” under Rape – 1st Degree. • See “Oral or anal sexual intercourse” under Sodomy – 1st Degree. |
| Statutory citation(s): | <ul style="list-style-type: none"> • Or. Rev. Stat. § 163.454; <i>see also id.</i> § 163.405 (definitions); <i>id.</i> § 163.405 (definitions); <i>id.</i> §§ 161.615, 161.635 (penalties). |