

Sex Crimes: Definitions and Penalties Pennsylvania

Last Updated: April 2023

Rape

Question	Answer
How is it defined?	<ul style="list-style-type: none">• Engaging in sexual intercourse:<ul style="list-style-type: none">• by forcible compulsion;• by threat of forcible compulsion that would prevent resistance by a person of reasonable resolution;• with a person who is unconscious or where the person knows that the complainant is unaware that sexual intercourse is occurring;• where the person has substantially impaired the complainant's power to appraise or control his or her conduct by administering or employing, without the knowledge of the complainant, drugs, intoxicants or other means for the purpose of preventing resistance; or• with a person who suffers from a mental disability which renders the complainant incapable of consent.• Rape of a child: Sexual intercourse with a person who is less than 13 years of age.• Rape of a child with serious bodily injury: Sexual intercourse with a child who is under 13 years old and suffers serious bodily injury in the course of the offense.• Except as otherwise provided, whenever the criminality of conduct depends on a child being below the age of 14 years, it is no defense that the defendant did not know the age of the child or reasonably believed the child to be the age of 14 years of age or older. When criminality depends on the child's being below a critical age older than 14 years, it is a defense for the defendant to prove by a preponderance of the evidence that he or she reasonably believed the child to be above the critical age.
What are the punishments for this crime?	<ul style="list-style-type: none">• First degree felony, maximum 20 years imprisonment and fine of not more than \$25,000. For rape of a child less than 13 years of age, maximum 40 years imprisonment. For rape of a child with serious bodily injury, the maximum sentence is life imprisonment. For victim less than 16 years old, mandatory minimum sentence of 10 years imprisonment.• A person may be sentenced to an additional term not to exceed 10 years of confinement and an additional amount not to exceed \$100,000 where the person engages in sexual intercourse with a complainant and has substantially impaired the complainant's power to appraise or control his or her conduct by administering or employing, without the knowledge of the complainant, any substance for the purpose of preventing resistance through the inducement of euphoria, memory loss and any other effect of this substance.

Anything else I should know?	<p>The following definitions are relevant to this crime:</p> <ul style="list-style-type: none"> • “Sexual intercourse” is, in addition to its ordinary meaning, includes intercourse per os or per anus, with some penetration however slight; emission is not required. • “Forcible compulsion” is compulsion by use of physical, intellectual, moral, emotional or psychological force, either express or implied. The term “forcible compulsion” includes, but is not limited to, compulsion resulting in another person’s death, whether the death occurred before, during or after the sexual intercourse. • “Serious bodily injury” is any impairment of physical condition or substantial pain which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.
Statutory citation(s):	<ul style="list-style-type: none"> • 18 Pa. Cons. Stat. § 3121; <i>see also id.</i> § 3101 (definitions); <i>id.</i> § 3102 (mistake as to age); <i>id.</i> §§ 1101, 1103 (penalties); 42 Pa. Cons. Stat. § 9718 (mandatory minimum sentences).

Involuntary Deviate Sexual Intercourse

Question	Answer
How is it defined?	<ul style="list-style-type: none"> • Deviate sexual intercourse: <ul style="list-style-type: none"> • by forcible compulsion; • by threat of forcible compulsion that would prevent resistance by a person of reasonable resolution; • with a person who is unconscious or where the person knows that the complainant is unaware that sexual intercourse is occurring; • where the person has substantially impaired the complainant’s power to appraise or control her conduct by administering or employing, without the knowledge of the complainant, drugs, intoxicants or other means for the purpose of preventing resistance; • who suffers from a mental disability which renders the complainant incapable of consent; or • is less than 16 years of age and the person is more than 4 years older than the complainant and the complainant and the person are not married to each other. • Involuntary deviate sexual intercourse with a child: a person commits involuntary deviate sexual intercourse with a child, a felony of the first degree, when the person engages in deviate sexual intercourse with a complainant who is less than 13 years of age. • Involuntary deviate sexual intercourse with a child with serious bodily injury: Committing involuntary deviate sexual intercourse with a child who is under 13 years old and suffers serious bodily injury in the course of the offense. • Except as otherwise provided, whenever the criminality of conduct depends on a child being below the

	age of 14 years, it is no defense that the defendant did not know the age of the child or reasonably believed the child to be the age of 14 years of age or older. When criminality depends on the child's being below a critical age older than 14 years, it is a defense for the defendant to prove by a preponderance of the evidence that he or she reasonably believed the child to be above the critical age.
What are the punishments for this crime?	<ul style="list-style-type: none"> • First degree felony, maximum 20 years imprisonment and fine of not more than \$25,000. For involuntary deviate sexual intercourse with a child less than 13 years of age, maximum 40 years imprisonment. For involuntary deviate sexual intercourse with a child with serious bodily injury, the maximum sentence is life imprisonment. For victim less than 16 years old, mandatory minimum sentence of 10 years imprisonment.
Anything else I should know?	<p>The following definitions are relevant to this crime:</p> <ul style="list-style-type: none"> • “Deviate sexual intercourse” is sexual intercourse per os or per anus between human beings and any form of sexual intercourse with an animal. The term also includes penetration, however slight, of the genitals or anus of another person with a foreign object for any purpose other than good faith medical, hygienic or law enforcement procedures. • “Serious bodily injury” is any impairment of physical condition or substantial pain which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ. • “Forcible compulsion” includes, but is not limited to, compulsion resulting in another person's death, whether the death occurred before, during or after the sexual intercourse.
Statutory citation(s):	<ul style="list-style-type: none"> • 18 Pa. Cons. Stat. § 3123; <i>see also id.</i> § 3101 (definitions); <i>id.</i> § 3102 (mistake as to age); <i>id.</i> §§ 1101, 1103 (penalties); 42 Pa. Cons. Stat. § 9718 (mandatory minimum sentences).

Sexual Assault

Question	Answer
How is it defined?	<ul style="list-style-type: none"> • Sexual intercourse or deviate sexual intercourse without the complainant's consent.
What are the punishments for this crime?	<ul style="list-style-type: none"> • Second degree felony, maximum 10 years imprisonment. Fine of not more than \$25,000.
Anything else I should know?	<p>The following definitions are relevant to this crime:</p> <ul style="list-style-type: none"> • “Sexual intercourse” is, in addition to its ordinary meaning, includes intercourse per os or per anus, with some penetration however slight; emission is not required. • “Deviate sexual intercourse” is sexual intercourse per os or per anus between human beings and any

	form of sexual intercourse with an animal. The term also includes penetration, however slight, of the genitals or anus of another person with a foreign object for any purpose other than good faith medical, hygienic or law enforcement procedures.
Statutory citation(s):	• 18 Pa. Cons. Stat. § 3124.1; <i>see also id.</i> § 3101 (definitions); <i>id.</i> §§ 1101, 1103 (penalties).

Statutory Sexual Assault

Question	Answer
How is it defined?	<ul style="list-style-type: none"> • (a) Except as provided in the offense of Rape, a person commits a second degree felony when that person engages in sexual intercourse with a complainant to whom the person is not married who is under the age of 16 years and that person is either: (1) 4 years older but less than 8 years older than the complainant; or (2) 8 years older but less than 11 years older than the complainant. • (b) A person commits a first degree felony when that person engages in sexual intercourse with a complainant under the age of 16 years and that person is 11 or more years older than the complainant and the complainant and the person are not married to each other.
What are the punishments for this crime?	<ul style="list-style-type: none"> • For (a) above, second degree felony, maximum 10 years imprisonment and fine of not more than \$25,000. • For (b) above, first degree felony, maximum 20 years imprisonment and fine of not more than \$25,000. For rape of a child less than 13 years of age, maximum 40 years imprisonment. For rape of a child with serious bodily injury, the maximum sentence is life imprisonment. For victim less than 16 years old, mandatory minimum sentence of 10 years imprisonment.
Anything else I should know?	<p>The following definitions are relevant to this crime:</p> <ul style="list-style-type: none"> • “Sexual intercourse” is, in addition to its ordinary meaning, includes intercourse per os or per anus, with some penetration however slight; emission is not required.
Statutory citation(s):	• 18 Pa. Cons. Stat. § 3122.1; <i>see also id.</i> § 3101 (definitions); <i>id.</i> § 3102 (mistake as to age); <i>id.</i> §§ 1101, 1103 (penalties); 42 Pa. Cons. Stat. § 9718 (mandatory minimum sentences).

Aggravated Indecent Assault

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How is it defined?	<p>Engaging in penetration, however slight, of the genitals or anus of a complainant with a part of the person's body for any purpose other than good faith medical, hygienic or law enforcement procedures if:</p> <ul style="list-style-type: none"> • (1) the person does so without the complainant's consent; • (2) the person does so by forcible compulsion; • (3) the person does so by threat of forcible compulsion that would prevent resistance by a person of reasonable resolution; • (4) the complainant is unconscious or the person knows that the complainant is unaware that the indecent contact is occurring; • (5) the person has substantially impaired the complainant's power to appraise or control his or her conduct by administering or employing, without the knowledge of the complainant, drugs, intoxicants or other means for the purpose of preventing resistance; • (6) the complainant suffers from a mental disability which renders the complainant incapable of consent; • (7) the complainant is less than 13 years of age; or • (8) the complainant is less than 16 years of age and the person is 4 or more years older than the complainant and the person and the complainant are not married to each other.
What are the punishments for this crime?	<ul style="list-style-type: none"> • Second degree felony, maximum 10 years imprisonment, except if the victim is a child less than 13. • If a child less than 13 years old under (7) above, second degree felony, minimum 5 years and maximum 10 years imprisonment. If (1)-(6) above are committed against a complainant less than 13 years old, first degree felony, minimum 10 years and maximum 20 years imprisonment. • Fine of not more than \$25,000.
Anything else I should know?	<p>The following definitions are relevant to this crime:</p> <ul style="list-style-type: none"> • “Forcible compulsion” is compulsion by use of physical, intellectual, moral, emotional or psychological force, either express or implied. The term “forcible compulsion” includes, but is not limited to, compulsion resulting in another person's death, whether the death occurred before, during or after the sexual intercourse.
Statutory citation(s):	<ul style="list-style-type: none"> • 18 Pa. Cons. Stat. § 3125; <i>see also id.</i> § 3101 (definitions); <i>id.</i> § 3102 (mistake as to age); <i>id.</i> §§ 1101, 1103 (penalties); 42 Pa. Cons. Stat. § 9718 (mandatory minimum sentences).

Indecent Assault

Question	Answer
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How is it defined?	<p>Having indecent contact with the complainant, causing the complainant to have indecent contact with the person, or intentionally causing the complainant to come in contact with seminal fluid, urine, or feces for the purpose of arousing sexual desire in the person or the complainant and:</p> <ul style="list-style-type: none"> • the person does so without the complainant’s consent (second degree misdemeanor); • the person does so by forcible compulsion (first degree misdemeanor); • the person does so by threat of forcible compulsion that would prevent resistance by a person of reasonable resolution (first degree misdemeanor); • the complainant is unconscious or the person knows that the complainant is unaware that the indecent contact is occurring (first degree misdemeanor); • the person has substantially impaired the complainant’s power to appraise or control his or her conduct by administering or employing, without the knowledge of the complainant, drugs, intoxicants or other means for the purpose of preventing resistance (first degree misdemeanor); • the complainant suffers from a mental disability which renders the complainant incapable of consent (first degree misdemeanor); • the complainant is less than 13 years of age (see below for grading of offense and sentencing); or • the complainant is less than 16 years of age and the person is 4 or more years older than the complainant and the person and the complainant are not married to each other (second degree misdemeanor).
What are the punishments for this crime?	<ul style="list-style-type: none"> • First degree misdemeanor, maximum penalty 5 years imprisonment. Fine of not more than \$10,000. • Second degree misdemeanor, maximum penalty 2 years imprisonment. Fine of not more than \$5,000. • Indecent assault of a child under 13 is usually a first degree misdemeanor (maximum penalty 5 years imprisonment, fine of not more than \$10,000). It is a third degree felony (maximum penalty 7 years imprisonment, fine of not more than \$15,000) if it is a second or subsequent offense, there has been a course of conduct of indecent assault by the person, or the indecent assault was committed by touching the complainant’s sexual or intimate parts with sexual or intimate parts of the person.
Anything else I should know?	<p>The following definitions are relevant to this crime:</p> <ul style="list-style-type: none"> • “Forcible compulsion” is compulsion by use of physical, intellectual, moral, emotional or psychological force, either express or implied. The term “forcible compulsion” includes, but is not limited to, compulsion resulting in another person’s death, whether the death occurred before, during or after the sexual intercourse. • “Indecent contact” is any touching of the sexual or other intimate parts of the person for the purpose of arousing or gratifying sexual desire, in any person.
Statutory citation(s):	<ul style="list-style-type: none"> • 18 Pa. Cons. Stat. § 3126; <i>see also id.</i> § 3101 (definitions); <i>id.</i> § 3102 (mistake as to age); <i>id.</i> §§ 1101-1104 (penalties).

Institutional Sexual Assault

Question	Answer
How is it defined?	<ul style="list-style-type: none"> • A person who is an employee or agent of the Department of Corrections or a county correctional authority, youth development center, youth forestry camp, State or county juvenile detention facility, other licensed residential facility serving children and youth, or mental health or mental retardation facility or institution commits a felony of the third degree when that person engages in sexual intercourse, deviate sexual intercourse or indecent contact with an inmate, detainee, another person being supervised by that person under probation or parole supervision, patient, or resident. • Institutional sexual assault of a minor: A person who is an employee or agent of the Department of Corrections or a county correctional authority, youth development center, youth forestry camp, State or county juvenile detention facility, other licensed residential facility serving children and youth or mental health or mental retardation facility or institution commits a felony of the third degree when that person engages in sexual intercourse, deviate sexual intercourse or indecent contact with an inmate, another person being supervised by that person under probation or parole supervision, detainee, patient or resident who is under 18 years of age. • Schools: A person who is a volunteer or an employee of a school or any other person who has direct contact with a student at a school commits a felony of the third degree when he engages in sexual intercourse, deviate sexual intercourse or indecent contact with a student of the school. • Child care: A person who is a volunteer or an employee of a center for children commits a felony of the third degree when he engages in sexual intercourse, deviate sexual intercourse or indecent contact with a child who is receiving services at the center. • Peace Officers: A person who is a peace officer or employee of an agency employing a peace officer in his official capacity commits a felony of the third degree when the person engages in sexual intercourse, deviate sexual intercourse or indecent contact with another person who is under official detention or in the custody of the person or is a confidential informant of the person. A person who is a peace officer commits a felony of the third degree when the person engages in sexual intercourse, deviate sexual intercourse or indecent contact with a child who is under official detention or in the custody of the person or is a confidential informant of the person. • Caretakers: A person who is a caretaker commits a felony of the third degree if the caretaker engages in sexual intercourse, deviate sexual intercourse or indecent contact with a care-dependent person who receives care, services or treatment in or from a facility. • Consent not a defense: Consent is not a defense to a violation of any of the above subsections.
What are the punishments for this crime?	<ul style="list-style-type: none"> • Third degree felony, maximum penalty 7 years imprisonment. Fine of not more than \$15,000.

Anything else I should know?

- **“Sexual intercourse”** is, in addition to its ordinary meaning, includes intercourse per os or per anus, with some penetration however slight; emission is not required.
- **“Deviate sexual intercourse”** is sexual intercourse per os or per anus between human beings and any form of sexual intercourse with an animal. The term also includes penetration, however slight, of the genitals or anus of another person with a foreign object for any purpose other than good faith medical, hygienic or law enforcement procedures.
- **“Indecent contact”** is any touching of the sexual or other intimate parts of the person for the purpose of arousing or gratifying sexual desire, in any person.
- **“Direct Contact”** means care, supervision, guidance or control.
- **“Employee”** does not include a student employed at the school or an independent contractor or any employee of an independent contractor who has no direct contact with school students.
- **“School”** includes any public or private school, intermediate unit, or area vocational-technical school.
- **“Caretaker”** means a person who is any of the following: (A) An owner, operator, manager or employee of a facility; (B) An individual who provides care to a care-dependent person in a facility; (C) An individual who has an obligation to provide care to a care-dependent person for monetary consideration in a facility; (D) An individual who does not reside with a care-dependent person but who, with respect to the care-dependent person, has: (I) a legal duty to provide care; (II) affirmatively assumed a responsibility to provide care; or (III) responsibility by contract or court order to provide care.
- **“Center for children”** includes a child day-care center, group and family day-care home, boarding home for children, a center providing early intervention and drug and alcohol services for children or other facility which provides child-care services which are subject to approval, licensure, registration or certification by the Department of Public Welfare or a county social services agency or which are provided pursuant to a contract with the department or a county social services agency. The term does not include a youth development center, youth forestry camp, State or county juvenile detention facility and other licensed residential facility serving children and youth.
- **“Child”** includes an individual who is less than 18 years of age.
- **“Confidential informant”** includes an individual who engages in the activity of associating with persons engaged in criminal activity for the purpose of furnishing information to or acting as an agent for a law enforcement agency.
- **“Custody”** includes a traffic stop, a custodial interrogation or an interview conducted in connection with an investigation.
- **“Official detention”** means arrest, detention in any facility for custody of persons under charge or conviction of crime or alleged or found to be delinquent, detention for extradition or deportation, or any other detention for law enforcement purposes; but the phrase does not include supervision of probation or parole, or constraint incidental to release on bail.
- **“Facility.”** Any of the following:
 - A nursing home, personal care home, assisted living facility, private care residence or the care-dependent person's residence.
 - A community residential facility or intermediate care facility for

	<p>an individual with a mental disability.</p> <p>(C) An adult daily living center.</p> <p>(D) A home health care agency.</p> <ul style="list-style-type: none"> • “Private care residence.”A private residence, including a domiciliary care home: • In which the owner of the residence or the legal entity responsible <p>for the operation of the residence, for monetary consideration, provides or assists with or arranges for the provision of food, room, shelter, clothing, personal care or health care in the residence, for a period exceeding 24 hours, to fewer than four care-dependent persons who are not relatives of the owner.</p> <p>(B) That is not:</p> <p>(I) required to be licensed as a long-term care nursing facility, as defined in section 802.1 of the Health Care Facilities Act; and (II) specified in subparagraph (iii)(A).</p>
Statutory citation(s):	<ul style="list-style-type: none"> • 18 Pa. Cons. Stat. § 3124.2; <i>see also id.</i> § 3101 (definitions); <i>id.</i> § 3102 (mistake as to age); <i>id.</i> §§ 1101, 1103 (penalties).

Sexual Assault by Sports Official, Volunteer, or Employee of Nonprofit Association

Question	Answer
How is it defined?	<ul style="list-style-type: none"> • A person who serves as a sports official in a sports program of a nonprofit association or a for-profit association commits a felony of the third degree when that person engages in sexual intercourse, deviate sexual intercourse or indecent contact with a child under 18 years of age who is participating in a sports program of the nonprofit association or for-profit association. • A volunteer or an employee of a nonprofit association having direct contact with a child under 18 years of age who participates in a program or activity of the nonprofit association commits a felony of the third degree if the volunteer or employee engages in sexual intercourse, deviate sexual intercourse or indecent contact with that child.
What are the punishments for this crime?	<ul style="list-style-type: none"> • Third degree felony, maximum penalty 7 years imprisonment. Fine of not more than \$15,000.

<p>Anything else I should know?</p>	<p>The following definitions are relevant to this crime:</p> <ul style="list-style-type: none"> • “Sexual intercourse” is, in addition to its ordinary meaning, includes intercourse per os or per anus, with some penetration however slight; emission is not required. • “Deviate sexual intercourse” is sexual intercourse per os or per anus between human beings and any form of sexual intercourse with an animal. The term also includes penetration, however slight, of the genitals or anus of another person with a foreign object for any purpose other than good faith medical, hygienic or law enforcement procedures. • “Indecent contact” is any touching of the sexual or other intimate parts of the person for the purpose of arousing or gratifying sexual desire, in any person. • “Direct Contact” means care, supervision, guidance or control. • “Nonprofit association” means an entity which is organized as a nonprofit corporation or nonprofit unincorporated association under the laws of this Commonwealth or the United States or any entity which is authorized to do business in this Commonwealth as a nonprofit corporation or unincorporated association under the laws of this Commonwealth, including, but not limited to, youth or athletic associations, volunteer fire, ambulance, religious, charitable, fraternal, veterans, civic, county fair or agricultural associations, or any separately chartered auxiliary of the foregoing, if organized and operated on a nonprofit basis. • “Sports official” means a person who supervises children participating in a sports program of a nonprofit association or a for-profit association, including, but not limited to, a coach, assistant coach, athletic trainer, team attendant, game manager, instructor or a person at a sports program who enforces the rules of a sporting event sponsored by a sports program of a nonprofit association or a for-profit association, including, but not limited to, an umpire or referee, whether receiving remuneration or holding the position as a volunteer. • “Sports program” means baseball (including softball), football, basketball, soccer and any other competitive sport formally recognized as a sport by the United States Olympic Committee as specified by and under the jurisdiction of the Amateur Sports Act of 1978 (Public Law 95-606, 36 U.S.C. § 371 et seq.), the Amateur Athletic Union or the National Collegiate Athletic Association. The term shall be limited to a program or that portion of a program that is organized for recreational purposes and whose activities are substantially for such purposes and which is primarily for participants who are 18 years of age or younger or whose 19th birthday occurs during the year of participation or the competitive season, whichever is longer. There shall, however, be no age limitation for programs operated for the physically handicapped or mentally retarded.
<p>Statutory citation(s):</p>	<p>• 18 Pa. Cons. Stat. § 3124.3; <i>see also id.</i> § 3101 (definitions); <i>id.</i> § 3102 (mistake as to age); <i>id.</i> §§ 1101, 1103, 9718 (penalties).</p>

Sodomy

Question	Answer
How is it defined?	<ul style="list-style-type: none"> • Pennsylvania does not prohibit sodomy. Anal intercourse is included in the definition of “deviate sexual intercourse.” • 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"> • N/A
Anything else I should know?	<p>The following definitions are relevant to this crime:</p> <ul style="list-style-type: none"> • “Deviate sexual intercourse” is sexual intercourse per os or per anus between human beings and any form of sexual intercourse with an animal. The term also includes penetration, however slight, of the genitals or anus of another person with a foreign object for any purpose other than good faith medical, hygienic or law enforcement procedures.
Statutory citation(s):	<ul style="list-style-type: none"> • N/A