

Sex Crimes: Definitions and Penalties

Puerto Rico

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Sexual Assault

Question	Answer
How is it defined?	<ul style="list-style-type: none">• Any person who performs sexual penetration, whether vaginal, anal, oral-genital, digital or instrumental under any of the following circumstances shall incur a severe second degree felony:<ul style="list-style-type: none">• If the victim has not yet reached the age of 16 at the time of the event;• If due to mental disability or illness, whether temporary or permanent, the victim is unable to understand the nature of the act at the time of its commission;• If the victim has been compelled into the act by means of physical force, violence, intimidation or the threat of serious and immediate bodily harm;• If the victim's capability to consent has been annulled or diminished substantially without his/her knowledge or without his/her consent by means of hypnosis, narcotics, depressants or stimulants, or similar means or substances;• When at the time of the commission of the act the victim is not conscious of its nature and this circumstance is known to the person accused;• If the victim submits to the act by means of deception, trickery, simulation or cover up with respect to the identity of the person accused;• If the victim is forced or induced by means of abuse or physical or psychological violence into participating or becoming involved in unwanted sexual relations with third parties;• If the accused person is a relative of the victim, by ascendancy or descendancy, or consanguinity, adoption or affinity, or collateral by consanguinity or adoption up to the third degree; or• When the accused person takes advantage of the trust deposited in him/her by the victim because there is a relationship of superiority because the victim is under his/her custody, guardianship, or primary, secondary or special education, medical or psychotherapeutic treatment, or any type of counseling, or because there is a relationship with the victim as the leader of his/her religious belief.• The crime of sexual assault essentially consists of battery against the bodily or psycho-emotional integrity and dignity of the person.• When considering the circumstances of the crime, the point of view of a person of equal age and gender as the victim shall be taken into consideration.• Ejaculation is not necessary and any sexual penetration, whether vaginal, anal, oral-genital, digital or instrumental, regardless of how slight, shall be sufficient for the consummation of the crime.

What are the punishments for this crime?	<ul style="list-style-type: none"> • Severe second degree felony. Imprisonment for a fixed term of 15 years and 1 day to 25 years. • If the conduct typified in subsection (a) above is committed by a minor who has not yet reached the age of 18, the offender shall incur a third degree felony if prosecuted as an adult. Imprisonment for a fixed term of 3 years and 1 day to 8 years. • In addition to the prison sentence, the court shall impose a punishment of \$300 for each felony.
Anything else I should know?	<ul style="list-style-type: none"> • N/A
Statutory Citation(s):	<ul style="list-style-type: none"> • 33 L.P.R.A. §§ 4770–4771; <i>see also id.</i> §§ 4694–4695 (penalties).

Lewd Acts

Question	Answer
How is it defined?	<ul style="list-style-type: none"> • Any person who without the intention to consummate the crime of sexual assault submits another person to an act that tends to awaken, excite or satisfy the sexual passion or desire of the accused, under any of the following circumstances, shall incur a third degree felony: <ul style="list-style-type: none"> • When the victim has not attained the age of 16 years at the time of the commission of the crime; • When the victim was compelled to the act by means of physical force, violence, the threat of serious and immediate bodily harm or intimidation, or by means of hypnotics, narcotics, depressants or stimulants, or otherwise similar means or substances; • When the victim, due to mental disease or a temporary or permanent disability was unable to understand the nature of the act; • When the victim was compelled to the act through the use of deceptive means that substantially annulled or impaired his/her capacity to consent; • If the accused has kinship with the victim, by reason of being an ascendant or descendant relative, by consanguinity, adoption or affinity, or collateral by consanguinity or adoption up to the third degree; or • When the accused takes advantage of the trust placed upon him/her by the victim because there is a relationship of superiority due to having the victim under his/her custody, guardianship, or primary, middle school or special education, or medical or psychotherapeutic treatment, or any type of counseling, or because there is a religious belief leadership relationship with the victim.
What are the punishments for this crime?	<ul style="list-style-type: none"> • Third degree felony. Imprisonment for a fixed term of 3 to 8 years. • In addition to the prison sentence, the court shall impose a punishment of \$300 for each felony.

Anything else I should know?	<ul style="list-style-type: none"> • N/A
Statutory Citation(s):	<ul style="list-style-type: none"> • 33 L.P.R.A. § 4772; <i>see also id.</i> §§ 4694–4695 (penalties).

Conjugal Sexual Assault

Question	Answer
How is it defined?	<p>Any person that commits a non-consensual sexual act against a current spouse or former spouse, or of the person with whom he/she cohabitates or has cohabited or of the person he/she has or has had a consensual relationship, or of the person with whom he/she shares a child in common, regardless of the sex, civil status, sexual orientation, gender identity, or immigrant status under any of the following circumstances:</p> <ul style="list-style-type: none"> • If the person has been compelled to engage in sexual conduct through the use of force, violence, intimidation or threat of grave or immediate bodily harm; or • if the person's capacity to resist has been substantially annulled or reduced, without the person's knowledge or the person's consent through the use of hypnotic methods, narcotics, depressants, stimulants or similar means or substances; or • if due to an illness or temporary or permanent mental disability, the person were unable to understand the nature of the act at the time it is carried out; or • if the person is forced or induced by the use of abuse, physical or psychological violence to participate or become involved in an undesired sexual relation with third parties. <p>The penalty to be imposed for this crime, with the exception of the modality referred to in subsection (a) of this section, shall be that of a second degree felony.</p> <p>The penalty to be imposed for this crime in all its modalities shall correspond to a felony in the second degree.</p> <p>The court may impose the penalty of restitution besides the established penalty of imprisonment in any of the modalities indicated above.</p>
What are the punishments for this crime?	<ul style="list-style-type: none"> • Second degree felony. Imprisonment for a fixed term of 8 to 15 years. • In addition to the prison sentence, the court shall impose a punishment of \$300 for each felony.
Anything else I should know?	<ul style="list-style-type: none"> • N/A

Statutory
Citation(s):

- 8 L.P.R.A. § 635; *see also id.* §§ 4694–4695 (penalties).