

Sex Crimes: Definitions and Penalties

South Carolina

Last Updated: March 2020

Criminal Sexual Conduct in the First Degree

Question	Answer
How is it defined?	<p>Engaging in sexual battery with the victim and if:</p> <ul style="list-style-type: none"> • The actor used aggravated force to accomplish sexual battery; • The victim submits to sexual battery by the actor under circumstances where the victim is also the victim of forcible confinement, kidnapping, trafficking in persons, robbery, extortion, burglary, housebreaking, or any other similar offense or act; or • The actor causes the victim, without the victim's consent, to become mentally incapacitated or physically helpless by administering, distributing, dispensing, delivering, or causing to be administered, distributed, dispensed, or delivered a controlled substance, a controlled substance analogue, or any intoxicating substance.
What are the punishments for this crime?	<ul style="list-style-type: none"> • Felony. Maximum sentence: 30 years imprisonment.
Anything else I should know?	<p>The following definitions are relevant to this crime:</p> <ul style="list-style-type: none"> • “Sexual battery” means sexual intercourse, cunnilingus, fellatio, anal intercourse, or any intrusion, however slight, of any part of a person's body or of any object into the genital or anal openings of another person's body, except when such intrusion is accomplished for medically recognized treatment or diagnostic purposes. • “Aggravated force” means that the actor uses physical force or physical violence of a high and aggravated nature to overcome the victim or includes the threat of the use of a deadly weapon. • “Mentally incapacitated” means that a person is rendered temporarily incapable of appraising or controlling his or her conduct whether this condition is produced by illness, defect, the influence of a substance or from some other cause. • “Physically helpless” means that a person is unconscious, asleep, or for any other reason physically unable to communicate unwillingness to an act. • “Mentally defective” means that a person suffers from a mental disease or defect which renders the person temporarily or permanently incapable of appraising the nature of his or her conduct. • “Victim” means the person alleging to have been subjected to criminal sexual conduct.
Statutory citation(s):	<ul style="list-style-type: none"> • S.C. Code Ann. § 16-3-652; <i>see also id.</i> §§ 16-3-600, 16-3-651 (definitions).

Criminal Sexual Conduct in the Second Degree

Question	Answer
How is it defined?	<ul style="list-style-type: none"> • Using aggravated coercion to accomplish sexual battery.
What are the punishments for this crime?	<ul style="list-style-type: none"> • Felony. Maximum sentence: 20 years imprisonment.
Anything else I should know?	<p>The following definitions are relevant to this crime:</p> <ul style="list-style-type: none"> • “Sexual battery” means sexual intercourse, cunnilingus, fellatio, anal intercourse, or any intrusion, however slight, of any part of a person's body or of any object into the genital or anal openings of another person's body, except when such intrusion is accomplished for medically recognized treatment or diagnostic purposes. • “Aggravated coercion” means that the actor threatens to use force or violence of a high and aggravated nature to overcome the victim or another person, if the victim reasonably believes that the actor has the present ability to carry out the threat, or threatens to retaliate in the future by the infliction of physical harm, kidnapping or extortion, under circumstances of aggravation, against the victim or any other person. • “Mentally incapacitated” means that a person is rendered temporarily incapable of appraising or controlling his or her conduct whether this condition is produced by illness, defect, the influence of a substance or from some other cause. • “Physically helpless” means that a person is unconscious, asleep, or for any other reason physically unable to communicate unwillingness to an act. • “Mentally defective” means that a person suffers from a mental disease or defect which renders the person temporarily or permanently incapable of appraising the nature of his or her conduct. • “Victim” means the person alleging to have been subjected to criminal sexual conduct.
Statutory citation(s):	<ul style="list-style-type: none"> • S.C. Code Ann. § 16-3-653; see also <i>id.</i> §§ 16-3-600, 16-3-651 (definitions).

Criminal Sexual Conduct in the Third Degree

Question	Answer
How is it defined?	<ul style="list-style-type: none"> • Engaging in sexual battery with the victim and if: <ul style="list-style-type: none"> • The actor uses force or coercion to accomplish the sexual battery in the absence of aggravating circumstances; or • The actor knows or has reason to know that the victim is mentally defective, mentally incapacitated, or physically helpless and aggravated force or aggravated coercion was not used to accomplish sexual battery. • A person cannot be guilty of this crime if the victim is the legal spouse of the person unless the couple is living apart or if the purported marriage includes a male under the age of 16 or a female under the age of 14.
What are the punishments for this crime?	<ul style="list-style-type: none"> • Felony. Maximum sentence: 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 battery” means sexual intercourse, cunnilingus, fellatio, anal intercourse, or any intrusion, however slight, of any part of a person's body or of any object into the genital or anal openings of another person's body, except when such intrusion is accomplished for medically recognized treatment or diagnostic purposes. • “Aggravated force” means that the actor uses physical force or physical violence of a high and aggravated nature to overcome the victim or includes the threat of the use of a deadly weapon. • “Aggravated coercion” means that the actor threatens to use force or violence of a high and aggravated nature to overcome the victim or another person, if the victim reasonably believes that the actor has the present ability to carry out the threat, or threatens to retaliate in the future by the infliction of physical harm, kidnapping or extortion, under circumstances of aggravation, against the victim or any other person. • “Mentally incapacitated” means that a person is rendered temporarily incapable of appraising or controlling his or her conduct whether this condition is produced by illness, defect, the influence of a substance or from some other cause. • “Physically helpless” means that a person is unconscious, asleep, or for any other reason physically unable to communicate unwillingness to an act. • “Mentally defective” means that a person suffers from a mental disease or defect which renders the person temporarily or permanently incapable of appraising the nature of his or her conduct.
Statutory citation(s):	<ul style="list-style-type: none"> • S.C. Code Ann. § 16-3-654; <i>see also id.</i> §§ 16-3-600, 16-3-651 (definitions).

Spousal Sexual Battery

Question	Answer
How is it defined?	<ul style="list-style-type: none"> • Sexual battery when accomplished through use of aggravated force by one spouse of the other spouse if they are living together. • The offending spouse's conduct must be reported to appropriate law enforcement authorities within thirty days in order for that spouse to be prosecuted for this offense. • This section is not applicable to a purported marriage entered into by a male under the age of sixteen or a female under the age of fourteen.
What are the punishments for this crime?	<ul style="list-style-type: none"> • Felony. Maximum sentence: 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 battery” means sexual intercourse, cunnilingus, fellatio, anal intercourse, or any intrusion, however slight, of any part of a person's body or of any object into the genital or anal openings of another person's body, except when such intrusion is accomplished for medically recognized treatment or diagnostic purposes. • “Aggravated force” means the use or the threat of use of a weapon or the use or threat of use of physical force or physical violence of a high and aggravated nature. • “Aggravated coercion” means that the person affiliated with a public or private secondary school in an official capacity threatens to use force or violence of a high and aggravated nature to overcome the student, if the student reasonably believes that the person has the present ability to carry out the threat, or threatens to retaliate in the future by the infliction of physical harm, kidnapping, or extortion, under circumstances of aggravation, against the student.
Statutory citation(s):	<ul style="list-style-type: none"> • S.C. Code Ann. §§ 16-3-615, 16-3-658; <i>see also id.</i> §§ 16-3-600, 16-3-651 (definitions).

Felony Sexual Battery with a Student

Question	Answer
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How is it defined?	<ul style="list-style-type: none"> • A person affiliated with a public or private secondary school in an official capacity engaging in sexual battery with a student enrolled in the school who is 16-17 years old and aggravated coercion or aggravated force is not used to accomplish the sexual battery is guilty of a felony. • If a person affiliated with a public or private secondary school in an official capacity has direct supervisory authority over a student enrolled in the school who is eighteen years of age or older, and the person affiliated with the public or private secondary school in an official capacity engages in sexual battery with the student, and aggravated coercion or aggravated force is not used to accomplish the sexual battery, the person affiliated with the public or private secondary school in an official capacity is guilty of a felony and, upon conviction, must be imprisoned for not more than five years. • This section does not apply if the person affiliated with a public or private secondary school in an official capacity is lawfully married to the student at the time of the act.
What are the punishments for this crime?	<ul style="list-style-type: none"> • Felony. Maximum sentence: 5 years imprisonment.
Anything else I should know?	<p>The following definitions are relevant to this crime:</p> <ul style="list-style-type: none"> • “Sexual battery” means sexual intercourse, cunnilingus, fellatio, anal intercourse, or any intrusion, however slight, of any part of a person's body or of any object into the genital or anal openings of another person's body, except when such intrusion is accomplished for medically recognized treatment or diagnostic purposes. • “Aggravated force” means the use or the threat of use of a weapon or the use or threat of use of physical force or physical violence of a high and aggravated nature. • “Aggravated coercion” means that the person affiliated with a public or private secondary school in an official capacity threatens to use force or violence of a high and aggravated nature to overcome the student, if the student reasonably believes that the person has the present ability to carry out the threat, or threatens to retaliate in the future by the infliction of physical harm, kidnapping, or extortion, under circumstances of aggravation, against the student. • “Person affiliated with a public or private secondary school in an official capacity” means an administrator, teacher, substitute teacher, teacher's assistant, student teacher, law enforcement officer, school bus driver, guidance counselor, or coach who is affiliated with a public or private secondary school but is not a student enrolled in the school. • “Secondary school” means either a junior high school or a high school. • “Student” means a person who is enrolled in a school.
Statutory citation(s):	<ul style="list-style-type: none"> • S.C. Code Ann. § 16-3-755.

Misdemeanor Sexual Battery with a Student

Question	Answer
How is it defined?	<ul style="list-style-type: none"> • A person affiliated with a public or private secondary school in an official capacity engaging in sexual battery with a student enrolled in the school who is 18 years of age or older, and aggravated coercion or aggravated force is not used to accomplish the sexual battery. • This section does not apply if the person affiliated with a public or private secondary school in an official capacity is lawfully married to the student at the time of the act.
What are the punishments for this crime?	<ul style="list-style-type: none"> • Misdemeanor. Maximum sentence: 30 day imprisonment and \$500 fine.
Anything else I should know?	<p>The following definitions are relevant to this crime:</p> <ul style="list-style-type: none"> • “Sexual battery” means sexual intercourse, cunnilingus, fellatio, anal intercourse, or any intrusion, however slight, of any part of a person's body or of any object into the genital or anal openings of another person's body, except when such intrusion is accomplished for medically recognized treatment or diagnostic purposes. • “Aggravated force” means the use or the threat of use of a weapon or the use or threat of use of physical force or physical violence of a high and aggravated nature. • “Aggravated coercion” means that the person affiliated with a public or private secondary school in an official capacity threatens to use force or violence of a high and aggravated nature to overcome the student, if the student reasonably believes that the person has the present ability to carry out the threat, or threatens to retaliate in the future by the infliction of physical harm, kidnapping, or extortion, under circumstances of aggravation, against the student. • “Person affiliated with a public or private secondary school in an official capacity” means an administrator, teacher, substitute teacher, teacher's assistant, student teacher, law enforcement officer, school bus driver, guidance counselor, or coach who is affiliated with a public or private secondary school but is not a student enrolled in the school. • “Secondary school” means either a junior high school or a high school. • “Student” means a person who is enrolled in a school.
Statutory citation(s):	<ul style="list-style-type: none"> • S.C. Code Ann. § 16-3-755.

Statutory Rape

Question	Answer
How is it defined?	<ul style="list-style-type: none"> • Criminal sexual conduct with a minor in the first degree: <ul style="list-style-type: none"> • Sexual battery when the victim is less than 11 years old; or • Sexual battery when the victim is less than 16 years old and the actor is a previous sex offender. • Criminal sexual conduct with a minor in the second degree: <ul style="list-style-type: none"> • Sexual battery when the victim 11-14 years old; or • Sexual battery when the victim who is 14-15 years old and the actor is in a position of familial, custodial, or official authority to coerce the victim to submit or is older than the victim. A person may not be convicted of a violation of the provisions of this item if he is eighteen years of age or less when he engages in consensual sexual conduct with another person who is at least fourteen years of age. • Criminal sexual conduct with a minor in the third degree: <ul style="list-style-type: none"> • The actor is over 14 years old and the actor willfully and lewdly commits or attempts to commit a lewd or lascivious act upon or with the body of a child under 16 years old, with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desire of the actor or child. A person may not be convicted of a violation of the provisions of this subsection if the person is eighteen years of age or less when the person engages in consensual lewd or lascivious conduct with another person who is at least fourteen years of age. • Men under the age of 14 may commit rape. A person cannot be guilty of this crime if the victim is the legal spouse of the person unless the couple is living apart or if the purported marriage includes a male under the age of 16 or a female under the age of 14.
What are the punishments for this crime?	<ul style="list-style-type: none"> • Criminal sexual conduct with a minor in the first degree: Felony – If the victim is under 11 the crime is a felony and the minimum sentence is 25 years imprisonment and the maximum sentence is life; if the person has been previously convicted of, pled guilty or nolo contendere to, or adjudicated delinquent for first degree criminal sexual conduct with a minor who is less than eleven years of age, he must be punished by death or imprisonment for life. <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. • If the victim is under 16 and assaulted by a sex offender the crime is a felony and the minimum sentence is 10 years and the maximum sentence is 30 years imprisonment. • Criminal sexual conduct with a minor in the second degree: Felony – the maximum sentence is 20 years imprisonment. • Criminal sexual conduct with a minor in the third degree: Felony – the maximum sentence is 15 years imprisonment and a fine.
Anything else I should know?	<p>The following definitions are relevant to this crime:</p> <ul style="list-style-type: none"> • “Sexual battery” means sexual intercourse, cunnilingus, fellatio, anal intercourse, or any intrusion, however slight, of any part of a person's body or of any object into the genital or anal openings of another person's body, except when such intrusion is accomplished for medically recognized treatment or diagnostic purposes.

Statutory citation(s):	<ul style="list-style-type: none"> • S.C. Code Ann. § 16-3-655 (Criminal Sexual Conduct with a Minor); see also <i>id.</i> §§ 16-3-600, 16-3-651 (definitions).
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Sodomy

Question	Answer
How is it defined?	<ul style="list-style-type: none"> • South Carolina does not prohibit sodomy. Anal sex is included in the definition of “sexual battery”. • Any state laws that outright prohibit sodomy are unconstitutional under <i>Lawrence v. Texas</i>.
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"> • “Sexual battery” means sexual intercourse, cunnilingus, fellatio, anal intercourse, or any intrusion, however slight, of any part of a person's body or of any object into the genital or anal openings of another person's body, except when such intrusion is accomplished for medically recognized treatment or diagnostic purposes.
Statutory citation(s):	<ul style="list-style-type: none"> • N/A