

Sex Crimes: Definitions and Penalties

Texas

Last Updated: March 2020

Sexual Assault

Question	Answer
How is it defined?	<ul style="list-style-type: none">• Intentionally or knowingly causing any of the following:<ul style="list-style-type: none">• Penetration of the anus or sexual organ of another by any means without that person’s consent;• Penetration of the mouth of another person by the sexual organ of the actor without that person’s consent; or• The sexual organ of another person, without that person’s consent, to contact or penetrate the mouth, anus, or sexual organ of another person including the actor.• “Against a child”<ul style="list-style-type: none">• Intentionally or knowingly causing any of the following:<ul style="list-style-type: none">• Penetration of the anus or sexual organ of a child by any means;• Penetration of the mouth of a child by the sexual organ of the actor;• The sexual organ of a child to contact or penetrate the mouth, anus, or sexual organ of another person, including the actor;• The anus of a child to contact the mouth, anus, or sexual organ of another person including the actor; or• The mouth of a child to contact the anus or sexual organ of another person including the actor• Unless:<ul style="list-style-type: none">• The conduct consisted of medical care for the child and did not include any contact between the anus or sexual organ of the child and the mouth, anus, or sexual organ of the actor or a third party;• The actor was the spouse of the child; and• The child is over 13 years of age and the actor was not more than 3 years older than the child, not a registered sex offender, not a repeat offender, not prohibited from marrying or purporting to marry the child, and not prohibited from living under the appearance of marriage with the child.
What are the punishments for this crime?	<ul style="list-style-type: none">• Second degree felony: 2-20 years imprisonment; maximum fine of \$10,000.• First degree felony if actor was prohibited from marrying or purporting to marry victim or prohibited from living under the appearance of being married: 5-99 years imprisonment; maximum fine of \$10,000.

Anything else I should know?	<p>The following definitions are relevant to this crime:</p> <ul style="list-style-type: none"> • “Child” means a person younger than 17 years of age. • “Spouse” means a person who is legally married to another. • “Health care services provider” means a licensed physician, a licensed chiropractor, a licensed physical therapist, a licensed physician assistant, a licensed registered nurse, a licensed vocational nurse, or a licensed advanced practice nurse. • “Mental health services provider” means an individual, licensed or unlicensed, who performs or purports to perform mental health services, including a licensed social worker, a chemical dependency counselor, a licensed professional counselor, a licensed marriage and family therapist, a member of the clergy, a psychologist offering psychological services, or a special officer for mental health assignment. • “Employee of a facility” means a person who is an employee of a health facility, or any other person who provides services for a facility for compensation, including contract labor.
Statutory citation(s):	<ul style="list-style-type: none"> • Tex. Penal Code Ann. § 22.011

Aggravated Sexual Assault

Question	Answer
How is it defined?	<ul style="list-style-type: none"> • Intentionally or knowingly causing any of the following or acts in concert with one who intentionally or knowingly causes: <ul style="list-style-type: none"> • Penetration of the anus or sexual organ of another by any means without that person’s consent; • Penetration of the mouth of another person by the sexual organ of the actor without the person’s consent; or • The sexual organ of another person, without that person’s consent, to contact or penetrate the mouth, anus, or sexual organ of another person including the actor; and • The person caused serious bodily injury or attempts to cause the death of the victim or another person; • The person threatens that or puts the victim in fear that any person will be forced into prostitution or trafficked, or that death, serious bodily injury, or kidnapping will be imminently inflicted on any person; • The person uses or exhibits a deadly weapon; • The person administers or provides to the victim of the offense any substance capable of impairing the victim's ability to appraise the nature of the act or to resist the act; • The victim is under 14 years of age; or

	<ul style="list-style-type: none"> • The victim is an elderly or disabled individual. • “Against a child” <ul style="list-style-type: none"> • Intentionally or knowingly causing any of the following: <ul style="list-style-type: none"> • Penetration of the anus or sexual organ of a child by any means; • Penetration of the mouth of a child by the sexual organ of the actor; • The sexual organ of a child to contact or penetrate the mouth, anus, or sexual organ of another person, including the actor; • The anus of a child to contact the mouth, anus, or sexual organ of another person including the actor; or • The mouth of a child to contact the anus or sexual organ of another person including the actor; and • The person caused serious bodily injury or attempts to cause the death of the victim or another person; • The person threatens that or puts the victim in fear that any person will be forced into prostitution or trafficked, or that death, serious bodily injury, or kidnapping will be imminently inflicted on any person; • The person uses or exhibits a deadly weapon; • The person administers to the victim of the offense any substance capable of impairing the victim's ability to appraise the nature of the act or to resist the act; • The victim is under 14 years of age; or • The victim is disabled; • <u>Unless:</u> <ul style="list-style-type: none"> • the conduct consisted of medical care for the child and did not include any contact between the anus or sexual organ of the child and the mouth, anus, or sexual organ of the actor or a third party.
What are the punishments for this crime?	<ul style="list-style-type: none"> • First degree felony: 5-99 years imprisonment; maximum fine of \$10,000. • Minimum sentence increased to 25 years imprisonment if: the victim is under 6 years old or the victim is younger than 14 years old or the offense is “against a child”.
Anything else I should know?	<p>The following definitions are relevant to this crime:</p> <ul style="list-style-type: none"> • “Child” means a person younger than 17 years of age. • “Disabled individual” means a person older than 13 years of age who by reason of age or physical or mental disease, defect, or injury is substantially unable to protect the person’s self from harm or to provide food, shelter, or medical care for the person's self. • “Elderly individual” means a person 65 years of age or older.
Statutory citation(s):	<ul style="list-style-type: none"> • Tex. Penal Code Ann. § 22.021

Statutory Rape

Question	Answer
How is it defined?	<ul style="list-style-type: none"> • “Statutory rape” is commonly used to refer to sexual penetration that is illegal because it involves a youth. <ul style="list-style-type: none"> • Texas has no specific statutory rape statute, but this sentiment is captured under § 22.011 (Sexual Assault “<i>Against a child</i>”), § 22.021 (Aggravated Sexual Assault “<i>Against a child</i>”) and Indecency with a Child § 22.11. • Indecency with a Child <ul style="list-style-type: none"> • Engaging in sexual contact with a child younger than 17 or causing the child to engage in sexual contact (second degree felony); • Exposing the person’s anus or any part of the person’s genitals, knowing a child under 17 is present, with the intent to arouse or gratify the sexual desires of any person (third degree felony); or • Causing a child under 17 to expose his or her anus or any part of his or her genitals, with the intent to arouse or gratify the sexual desires of any person (third degree felony); unless • the actor is no more than 3 years older than the victim and is of the opposite sex, did not use duress, force, or a threat against the victim and is not a registered sex offender nor a repeat offender; or • actor was the spouse of the child.
What are the punishments for this crime?	<ul style="list-style-type: none"> • Sexual assault: Second degree felony: 2-20 years imprisonment; maximum fine of \$10,000. • Aggravated sexual assault: First degree felony: 5-99 years imprisonment; maximum fine of \$10,000. • Indecency with a child: Second degree felony: 2-20 years imprisonment; maximum \$10,000 fine; Third degree felony: 2-10 years imprisonment; maximum \$10,000 fine.
Anything else I should know?	<p>The following definitions are relevant to this crime:</p> <ul style="list-style-type: none"> • “Child” means a person younger than 17 years of age. • “Sexual contact” (only for the purposes of Indecency with a Child) means touching by a person, including touching through clothing, of the anus, breast, or any part of the genitals of a child, any touching of any part of the body of a child, including touching through clothing, with the anus, breast, or any part of the genitals of the person with the intent to arouse or gratify the sexual desire of any person.
Statutory citation(s):	<ul style="list-style-type: none"> • Tex. Penal Code Ann. §§ 21.11

Sodomy

Question	Answer
How is it defined?	<ul style="list-style-type: none"> • A person commits an offense if he engages in deviate sexual intercourse with another individual of the same sex. • This law was held unconstitutional in <i>Lawrence v. Texas</i> 539 U.S. 588 (2003) but has not been officially repealed.
What are the punishments for this crime?	<ul style="list-style-type: none"> • Class C misdemeanor: maximum fine of \$500.
Anything else I should know?	<p>The following definitions are relevant to this crime:</p> <ul style="list-style-type: none"> • “Deviate sexual intercourse” means: any contact between any part of the genitals of one person and the mouth or anus of another person; or the penetration of the genitals or the anus of another person with an object.
Statutory citation(s):	<ul style="list-style-type: none"> • Tex. Penal Code Ann. § 21.06.