

Sex Crimes: Definitions and Penalties

Virginia

Last Updated: April 2023

Rape

Question	Answer
How is it defined?	<ul style="list-style-type: none">• Engaging in sexual intercourse with a victim, whether or not his/her spouse, or causing a victim, whether or not his/her spouse, to engage in sexual intercourse with any other person and such act is accomplished:<ul style="list-style-type: none">• Against the victim's will, by force, threat, or intimidation of or against the victim or another person;• Through the use of the victim's mental incapacity or physical helplessness; or• With a child under the age of 13 years as the victim.• Note: There is a rebuttable presumption that a juvenile over the age of 10 years but less than 12 years does not possess the physical capacity to commit rape.
What are the punishments for this crime?	<ul style="list-style-type: none">• Felony punishable by imprisonment for life or for any term not less than 5 years; and<ul style="list-style-type: none">• If the victim is under the age of 13 years and defendant is more than 3 years older than the victim, and the rape is done in the commission of, or as part of the same course of conduct as, or as part of a common scheme/plan of any abduction, kidnapping, extortion, burglary, or aggravated malicious wounding, then the punishment must include a mandatory minimum term of 25 years, and if the sentence is for less than life imprisonment, the judge shall impose, in addition to any active sentence, a suspended sentence of no less than 40 years to be suspended for the remainder of the defendant's life (subject to revocation by the court); or• If the victim is under the age of 13 years and defendant was 18 years of age or older at the time of the offense, the punishment must include a mandatory minimum term of life imprisonment; and• Any mandatory minimum terms of confinement prescribed for rape will be served consecutively with any other sentence.• Note: Where the offense is against a spouse, if deemed appropriate by the court, all or part of the sentence imposed may be suspended upon defendant's completion of counseling or therapy, if after consideration of the views of the victim and such other evidence as may be relevant, the court finds such action will promote maintenance of the family unit and will be in the best interest of the victim. If a spouse is the victim in any case tried by the court without a jury, the court, without entering a judgment of guilt, upon motion of the defendant who has not previously had a proceeding against him for rape dismissed and with the consent of the victim and the prosecutor, may defer further proceedings and place the defendant on probation pending completion of counseling or therapy. If the defendant fails to so complete such counseling or therapy, the court may make final disposition. If such counseling is completed, the court may discharge the defendant and dismiss the proceedings against him if, after consideration of the views of the victim and such other evidence as may be relevant, the court finds such action will promote maintenance of the family unit and be in the best interest of the victim.

Anything else I should know?	<p>The following definitions are relevant to this crime:</p> <ul style="list-style-type: none"> • “Mental incapacity” means that condition of the victim existing at the time of the offense which prevents the victim from understanding the nature or consequences of the sexual act involved in such offense and about which the defendant knew or should have known. • “Physical helplessness” means unconsciousness or any other condition existing at the time of the offense which otherwise rendered the victim physically unable to communicate an unwillingness to act and about which the defendant knew or should have known.
Statutory citation(s):	<ul style="list-style-type: none"> • Va. Code Ann. § 18.2-61

Carnal Knowledge of a Child Between 13-15 Years of Age

Question	Answer
How is it defined?	<ul style="list-style-type: none"> • (A) Carnally knowing, without the use of force, a child at least 13 but less than 15 years of age; or • (B) Carnally knowing, without the use of force, a child at least 13 but less than 15 years of age, who consents to sexual intercourse, and defendant is a minor but at least 3 years the child’s senior; or • (C) Carnally knowing, without the use of force, a child at least 13 but less than 15 years of age, who consents to sexual intercourse, and defendant is a minor but less than 3 years the child’s senior. • Note: In calculating whether the defendant is 3 years the child’s senior, the actual dates of birth of the child and the defendant shall be used. A child under the age of 13 years shall not be considered a consenting child.
What are the punishments for this crime?	<ul style="list-style-type: none"> • If defendant is convicted under (A), then defendant is guilty of a Class 4 felony - imprisonment of not less than two years nor more than 10 years and a fine of not more than \$100,000, and the court shall impose either a sentence of imprisonment together with a fine, or imprisonment only. • If defendant is convicted under (B), then defendant is guilty of a Class 6 felony - term of imprisonment of not less than one year nor more than five years, or in the discretion of the jury or the court trying the case without a jury, confinement in jail for not more than 12 months and a fine of not more than \$2,500, either or both. • If defendant is convicted under (C), then defendant is guilty of a Class 4 misdemeanor - a fine of not more than \$250.
Anything else I should know?	<p>The following definition is relevant to this crime:</p> <ul style="list-style-type: none"> • “Carnal knowledge” includes the acts of sexual intercourse, cunnilingus, fellatio, anilingus, anal intercourse, and animate and inanimate object sexual penetration.

Statutory citation(s):	• Va. Code Ann. §§ 18.2-63; 18.2-10; 18.2-11
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Carnal Knowledge of an Inmate, Parolee, Probationer, Juvenile Detainee or Pretrial Defendant or Posttrial Offender

Question	Answer
How is it defined?	<ul style="list-style-type: none"> • (A) Defendant is: <ul style="list-style-type: none"> • A law-enforcement officer or an employee or contractual employee of, or a volunteer with, a state or local correctional facility or regional jail, the Department of Corrections, the Department of Juvenile Justice, a secure facility or detention home or other like detention or pretrial/probation services; and • In a position of authority over the person detained or arrested by the officer, inmate, parolee, probationer, juvenile detainee, pretrial defendant or posttrial offender; and • Knows that the victim is in the custody or under the jurisdiction of the state or local facility or service; and • Carnally knows, without the use of force, threat, or intimidation, the victim in question. • (B) Defendant is: <ul style="list-style-type: none"> • An owner or employee of the bail bond company that posted the victim's pre-trial or post-trial bond; and • Has the authority to revoke the victim's bond; and • Carnally knows, without the use of force, threat, or intimidation, the victim in question.
What are the punishments for this crime?	<ul style="list-style-type: none"> • If defendant is convicted under either (A) or (B), then defendant is guilty of a Class 6 felony, term of imprisonment of not less than one year nor more than five years, or in the discretion of the jury or the court trying the case without a jury, confinement in jail for not more than 12 months and a fine of not more than \$2,500, either or both.
Anything else I should know?	<p>The following definition is relevant to this crime:</p> <ul style="list-style-type: none"> • “Carnal knowledge” includes the acts of sexual intercourse, cunnilingus, fellatio, anilingus, anal intercourse, and animate and inanimate object sexual penetration.
Statutory citation(s):	• Va. Code Ann. §§ 18.2-64.2; 18.2-10

Forcible Sodomy

Question	Answer
How is it defined?	<ul style="list-style-type: none"> • Engaging in cunnilingus, fellatio, anilingus, or anal intercourse with a victim, whether or not his/her spouse, or causing a victim, whether or not his/her spouse, to engage in such acts with any other person, and: <ul style="list-style-type: none"> • The victim is less than 13 years of age; or • The act is accomplished against the will of the victim, by force, threat or intimidation of or against the victim or another person, or through the use of the victim's mental incapacity or physical helplessness.
What are the punishments for this crime?	<ul style="list-style-type: none"> • Felony punishable by imprisonment for life or for any term not less than 5 years; and <ul style="list-style-type: none"> • If the victim is under the age of 13 years and defendant is more than 3 years older than the victim, and the forcible sodomy is done in the commission of, or as part of the same course of conduct as, or as part of a common scheme/plan of any kidnapping, burglary, or assault, then the punishment must include a mandatory minimum term of 25 years; or • If the victim is under the age of 13 years and defendant was 18 years of age or older at the time of the offense, the punishment must include a mandatory minimum term of life imprisonment. • Note: Where the offense is against a spouse, if deemed appropriate by the court, all or part of the sentence imposed may be suspended upon defendant's completion of counseling or therapy, if, after consideration of the views of the victim and such other evidence as may be relevant, the court finds such action will promote maintenance of the family unit and will be in the best interest of the victim. • Other details may affect the sentence. See Va. Code Ann. § 18.2-67.1.
Anything else I should know?	<p>The following definitions are relevant to this crime:</p> <ul style="list-style-type: none"> • See Rape for relevant definitions.
Statutory citation(s):	<ul style="list-style-type: none"> • Va. Code Ann. § 18.2-67.1

Object Sexual Penetration

Question	Answer
How is it defined?	<ul style="list-style-type: none"> • An accused shall be guilty of inanimate or animate object sexual penetration if he/she penetrates the labia majora or anus of a victim, whether or not his/her spouse, other than for a bona fide medical purpose, or causes such victim to so penetrate his/her own body with an object or causes a victim, whether or not his/her spouse, to engage in such acts with any other person or to penetrate, or to be penetrated by, an animal, and

	<ul style="list-style-type: none"> • The victim is less than 13 years of age; or • The act is accomplished against the will of the victim, by force, threat or intimidation of or against the victim or another person, or through the use of the victim's mental incapacity or physical helplessness.
What are the punishments for this crime?	<ul style="list-style-type: none"> • Felony punishable by imprisonment for life or for any term not less than 5 years; and • If the victim is under the age of 13 years and defendant is more than 3 years older than the victim, and the forcible sodomy is done in the commission of, or as part of the same course of conduct as, or as part of a common scheme/plan of any kidnapping, burglary, or assault, then the punishment must include a mandatory minimum term of 25 years; or • If the victim is under the age of 13 years and defendant was 18 years of age or older at the time of the offense, the punishment must include a mandatory minimum term of life imprisonment. • Note: Where the offense is against a spouse, if deemed appropriate by the court, all or part of the sentence imposed may be suspended upon defendant's completion of counseling or therapy, if, after consideration of the views of the victim and such other evidence as may be relevant, the court finds such action will promote maintenance of the family unit and will be in the best interest of the victim. • Other details may affect the sentence. See Va. Code Ann. § 18.2-67.2.
Anything else I should know?	<p>The following definitions are relevant to this crime:</p> <ul style="list-style-type: none"> • See Rape for relevant definitions.
Statutory citation(s):	<ul style="list-style-type: none"> • Va. Code Ann. § 18.2-67.2

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 and consent is immaterial. While Virginia expressly penalizes carnal knowledge of a child between 13 and 15 years of age, the offenses of rape and forcible sodomy also targets "statutory rape" under certain circumstances. • Statutory rape is rape if defendant engages in sexual intercourse with the victim, and the victim is under the age of 13 years; or causes the victim to engage in sexual intercourse with another person, and the victim is under the age of 13 years. It is immaterial whether or not the victim is defendant's spouse. • Statutory rape is forcible sodomy if defendant engages in cunnilingus, fellatio, anilingus, or anal intercourse with a victim, and the victim is under the age of 13 years; or causes the victim to engage in the acts in question with another person, and the victim is under the age of 13 years. It

	is immaterial whether or not the victim is defendant's spouse.
What are the punishments for this crime?	<ul style="list-style-type: none"> • Rape: <ul style="list-style-type: none"> • If the victim is under the age of 13 years and defendant is more than 3 years older than the victim, and the rape is done in the commission of, or as part of the same course of conduct as, or as part of a common scheme/plan of any kidnapping, burglary, or assault, then the punishment must include a mandatory minimum term of 25 years; or • If the victim is under the age of 13 years and defendant was 18 years of age or older at the time of the offense, the punishment must include a mandatory minimum term of life imprisonment. • Forcible Sodomy: <ul style="list-style-type: none"> • If the victim is under the age of 13 years and defendant is more than 3 years older than the victim, and the forcible sodomy is done in the commission of, or as part of the same course of conduct as, or as part of a common scheme/plan of any kidnapping, burglary, or assault, then the punishment must include a mandatory minimum term of 25 years; or • If the victim is under the age of 13 years and defendant was 18 years of age or older at the time of the offense, the punishment must include a mandatory minimum term of life imprisonment.
Anything else I should know?	<p>The following definitions are relevant to this crime:</p> <ul style="list-style-type: none"> • See Rape, Carnal Knowledge of a Child Between 13-15 Years of Age, and Forcible Sodomy for relevant definitions.
Statutory citation(s):	<ul style="list-style-type: none"> • Va. Code Ann. §§ 18.2-61, 63, and 67.1