

Sex Crimes: Definitions and Penalties

Washington

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Rape in the First Degree

Question	Answer
How is it defined?	<ul style="list-style-type: none"> • Engaging in sexual intercourse with another person by forcible compulsion and the defendant or an accessory: <ul style="list-style-type: none"> • Uses or threatens to use a deadly weapon or what appears to be a deadly weapon; or • Kidnaps the victim; or • Inflicts serious physical injury, including but not limited to physical injury which renders the victim unconscious; or • Feloniously enters into the building or vehicle where the victim is situated.
What are the punishments for this crime?	<ul style="list-style-type: none"> • Rape (1st degree) is a Class A felony; minimum imprisonment of 3 years. Maximum life imprisonment and/or fine of \$50,000.
Anything else I should know?	<p>The following definitions are relevant to this crime:</p> <ul style="list-style-type: none"> • “Forcible compulsion” means physical force which overcomes resistance, or a threat, express or implied, that places a person in fear of death or physical injury to herself or himself or another person, or in fear that she or he or another person will be kidnapped. • “Sexual intercourse” has its ordinary meaning and occurs upon any penetration, however slight, and: Also means any penetration of the vagina or anus however slight, by an object, when committed on one person by another, whether such persons are of the same or opposite sex, except when such penetration is accomplished for medically recognized treatment or diagnostic purposes, and Also means any act of sexual contact between persons involving the sex organs of one person and the mouth or anus of another whether such persons are of the same or opposite sex. <ul style="list-style-type: none"> • A finger is an “object” within the meaning and intent of the statute defining “sexual intercourse.” <i>State v. Cain</i>, 624 P.2d 732, 734 (Wash. 1981).
Statutory citation(s):	<ul style="list-style-type: none"> • Wash. Rev. Code § 9a.44.040

Rape in the Second Degree

Question	Answer
How is it defined?	<ul style="list-style-type: none"> • Under circumstances not constituting rape in the first degree, defendant engages in sexual intercourse with another person: <ul style="list-style-type: none"> • By forcible compulsion; • When the victim is incapable of consent by reason of being physically helpless or mentally incapacitated; • When the victim is a person with a developmental disability and the defendant is a person who: <ul style="list-style-type: none"> • Has supervisory authority over the victim; or • Was providing transportation, within the course of his or her employment, to the victim at the time of the offense; • When the defendant is a health care provider, the victim is a client or patient, and the sexual intercourse occurs during a treatment session, consultation, interview, or examination. <ul style="list-style-type: none"> • Exception if the defendant can prove by a preponderance of the evidence that the client or patient consented to the sexual intercourse with the knowledge that the sexual intercourse was not for the purpose of treatment; • When the victim is a resident of a facility for persons with a mental disorder or chemical dependency and the defendant is a person who has supervisory authority over the victim; or • When the victim is a frail elder or vulnerable adult and the defendant is a person who: <ul style="list-style-type: none"> • Has a significant relationship with the victim; or • Was providing transportation, within the course of his or her employment, to the victim at the time of the offense.
What are the punishments for this crime?	<ul style="list-style-type: none"> • Rape (2nd degree) is a Class A felony. Maximum life imprisonment and/or fine of \$50,000.
Anything else I should know?	<p>The following definitions are relevant to this crime:</p> <ul style="list-style-type: none"> • “Frail elder or vulnerable adult” means a person 60 years of age or older who has the functional, mental, or physical inability to care for himself or herself or a person declared incapacitated, or a person over 18 who has a developmental disability, a person admitted to a long-term care facility, or a person receiving care from a home health, hospice or home care agency. • “Health care provider” means a person who is, holds him/herself out to be, or provides services as if he/she were a member of a health care profession or registered/licensed. • “Mental incapacity” is that condition existing at the time of the offense which prevents a person from understanding the nature or consequences of the act of sexual intercourse whether that condition is produced by illness, defect, the influence of a substance or from some other cause. • “Physically helpless” means a person who is unconscious or for any other reason is physically unable to communicate unwillingness to an act. • “Significant relationship” means a situation in which the defendant is: A person who undertakes the

	<p>responsibility, professionally or voluntarily, to provide education, health, welfare, or organized recreational activities principally for minors; person who in the course of his or her employment supervises minors; or A person who provides welfare, health or residential assistance, personal care, or organized recreational activities to frail elders or vulnerable adults but not including a consensual sexual partner.</p> <ul style="list-style-type: none"> • “Supervisory authority” means any proprietor or employee of any public or private care or treatment facility who directly supervises developmentally disabled, mentally disordered, or chemically dependent persons at the facility. • See Rape (1st degree) for additional relevant definitions.
Statutory citation(s):	<ul style="list-style-type: none"> • Wash. Rev. Code § 9a.44.050

Rape in the Third Degree

Question	Answer
How is it defined?	<p>Under circumstances not constituting rape in the first or second degrees, defendant engages in sexual intercourse with another person:</p> <ul style="list-style-type: none"> • Where the victim did not consent to sexual intercourse with defendant, or • Where there is a threat of substantial unlawful harm to property rights of the victim.
What are the punishments for this crime?	<ul style="list-style-type: none"> • Rape (3rd degree) is a Class C felony. Maximum 5 years imprisonment and/or 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"> • “Consent” means that at the time of the act of sexual intercourse or sexual contact there are actual words or conduct indicating freely given agreement to have sexual intercourse or sexual contact • See Rape (1st degree) for relevant definitions.
Statutory citation(s):	<ul style="list-style-type: none"> • Wash. Rev. Code. § 9A.44.060

Rape of a Child in the First Degree

Question	Answer
How is it defined?	<ul style="list-style-type: none"> Engaging in sexual intercourse with another who is less than 12 years old, and the defendant is at least 24 months older than the victim.
What are the punishments for this crime?	<ul style="list-style-type: none"> Rape of a Child (1st degree) is a Class A felony. Maximum life imprisonment and/or fine of \$50,000.
Anything else I should know?	<p>The following definitions are relevant to this crime:</p> <ul style="list-style-type: none"> See Rape (1st degree) for relevant definitions. <p>“[L]ack of consent is not an element of first-degree child rape.” <i>State v. T.J.M.</i>, 162 P.3d 1175, 1180 (Wash. App. 2007).</p>
Statutory citation(s):	<ul style="list-style-type: none"> Wash. Rev. Code. § 9A.44.073

Rape of a Child in the Second Degree

Question	Answer
How is it defined?	<ul style="list-style-type: none"> Engaging in sexual intercourse with another who is at least 12 years old but less than 14 years old, not married to the defendant, and the defendant is at least 36 months older than the victim.
What are the punishments for this crime?	<ul style="list-style-type: none"> Rape of a Child (2nd degree) is a Class A felony. Maximum life imprisonment and/or fine of \$50,000.
Anything else I should know?	<p>The following definitions are relevant to this crime:</p> <ul style="list-style-type: none"> See Rape (1st degree) for relevant definitions.
Statutory citation(s):	<ul style="list-style-type: none"> Wash. Rev. Code. § 9A.44.076

Rape of a Child in the Third Degree

Question	Answer

How is it defined?	<ul style="list-style-type: none"> Engaging in sexual intercourse with another who is at least 14 years old but less than 16 years old and the defendant is at least 48 months older than the victim.
What are the punishments for this crime?	<ul style="list-style-type: none"> Rape of a Child (3rd degree) is a Class C felony. Maximum 5 years imprisonment and/or 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"> See Rape (1st degree) for relevant definitions.
Statutory citation(s):	<ul style="list-style-type: none"> Wash. Rev. Code. § 9A.44.079

Child Molestation in the First Degree

Question	Answer
How is it defined?	<ul style="list-style-type: none"> When defendant has, or knowingly causes, another person under the age of 18 to have sexual contact with another who is less than 12 years old and the defendant is at last 36 months older than the victim.
What are the punishments for this crime?	<ul style="list-style-type: none"> Child molestation (1st degree) is a Class A felony. Maximum imprisonment for life, and/or fine of \$50,000.
Anything else I should know?	<p>The following definitions are relevant to this crime:</p> <ul style="list-style-type: none"> See Rape (1st degree, 2nd degree, 3rd degree) for relevant definitions.
Statutory citation(s):	<ul style="list-style-type: none"> Wash. Rev. Code. § 9A.20.021, § 9A.44.083.

Child Molestation in the Second Degree

Question	Answer
How is it defined?	<ul style="list-style-type: none"> When defendant has, or knowingly causes, another person under the age of 18 to have sexual contact with another who is at least 12 years old but less than 14 years old and the defendant is at last 36 months older than the victim.

What are the punishments for this crime?	<ul style="list-style-type: none"> • Child molestation (2nd degree) is a Class B felony. Maximum imprisonment for a term of 10 years, and/or fine of \$20,000.
Anything else I should know?	<p>The following definitions are relevant to this crime:</p> <ul style="list-style-type: none"> • See Rape (1st degree, 2nd degree, 3rd degree) for relevant definitions.
Statutory citation(s):	<ul style="list-style-type: none"> • Wash. Rev. Code. § 9A.20.021, § 9A.44.086.

Child Molestation in the Third Degree

Question	Answer
How is it defined?	<ul style="list-style-type: none"> • When defendant has, or knowingly causes, another person under the age of 18 to have sexual contact with another who is at least 14 years old but less than 16 years old and the defendant is at last 48 months older than the victim.
What are the punishments for this crime?	<ul style="list-style-type: none"> • Child molestation (3rd degree) is a Class C felony. Maximum imprisonment for a term of 5 years, and/or 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"> • See Rape (1st degree, 2nd degree, 3rd degree) for relevant definitions.
Statutory citation(s):	<ul style="list-style-type: none"> • Wash. Rev. Code. § 9A.20.021, § 9A.44.089.

Sexual Misconduct with a Minor in the First Degree

Question	Answer
How is it defined?	<ul style="list-style-type: none"> • Engaging, or knowingly causing another person under the age of 18 years to engage, in sexual intercourse with another person who is at least 16 years but less than 18 years and defendant is: <ul style="list-style-type: none"> • At least 60 months older than the victim; • In a significant relationship to the victim; and • Abuses a supervisory position within that relationship in order to engage, in or cause another person under the age of 18 to engage in, sexual intercourse with the victim;

	<ul style="list-style-type: none"> • Defendant is a school employee who has, or knowingly causes another person under the age of 18 to have, sexual intercourse with an enrolled student of the school who is at least 16 years old and not more than 21 years old, if the employee is at least 60 months older than the student; or • Defendant is a foster parent who has, or knowingly causes another person under the age of 18 to have, sexual intercourse with his or her foster child who is at least 16.
What are the punishments for this crime?	<ul style="list-style-type: none"> • Sexual Misconduct with a Minor (1st degree) is a Class C felony. Maximum 5 years imprisonment and/or 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"> • See Rape (1st degree) for relevant definitions. • “Enrolled student” means any student enrolled at or attending a program hosted or sponsored by a common school, or a student enrolled at or attending a program hosted or sponsored by a private school, or any person who receives home-based instruction. • “School employee” means an employee of a common school, or a grade kindergarten through twelve employee of a private school, who is not enrolled as a student of the common school or private school.
Statutory citation(s):	<ul style="list-style-type: none"> • Wash. Rev. Code. § 9A.44.093

Sexual Misconduct with a Minor in the Second Degree

Question	Answer
How is it defined?	<ul style="list-style-type: none"> • Engaging, or knowingly causing another person under the age of 18 years to engage, in sexual contact with another person who is at least 16 years but less than 18 years; and defendant is: <ul style="list-style-type: none"> • At least 60 months older than the victim; • In a significant relationship to the victim; and • Abuses a supervisory position within that relationship in order to engage, in or cause another person under the age of 18 to engage in, sexual contact with the victim; • Defendant is a school employee who has, or knowingly causes another person under the age of 18 to have, sexual contact with an enrolled student of the school who is at least 16 years old and not more than 21 years old if the employee is at least 60 months older than the student; or • Defendant is a foster parent who has, or knowingly causes another person under the age of 18 to have, sexual contact with his or her foster child who is at least 16.

What are the punishments for this crime?	<ul style="list-style-type: none"> • Sexual Misconduct with a Minor (2nd degree) is a gross misdemeanor. Maximum 364 days imprisonment in the county jail and/or fine of not more than \$5,000.
Anything else I should know?	<p>The following definitions are relevant to this crime:</p> <ul style="list-style-type: none"> • “Sexual contact” means any touching of the sexual or other intimate parts of a person done for the purpose of gratifying sexual desire of either party or a third party. • See Rape (1st degree) and Sexual Misconduct with a Minor (1st degree) for relevant definitions.
Statutory citation(s):	<ul style="list-style-type: none"> • Wash. Rev. Code. § 9A.44.096

Indecent Liberties

Question	Answer
How is it defined?	<ul style="list-style-type: none"> • A person is guilty of indecent liberties when he or she knowingly causes another person to have sexual contact with him or her or another: <ul style="list-style-type: none"> • By forcible compulsion; • When the other person is incapable of consent by reason of being mentally defective, mentally incapacitated, or physically helpless; • When the victim is a person with a developmental disability and the perpetrator is a person who: <ul style="list-style-type: none"> • (i) Has supervisory authority over the victim; or • (ii) Was providing transportation, within the course of his or her employment, to the victim at the time of the offense; • When the perpetrator is a health care provider, the victim is a client or patient, and the sexual contact occurs during a treatment session, consultation, interview, or examination. It is an affirmative defense that the defendant must prove by a preponderance of the evidence that the client or patient consented to the sexual contact with the knowledge that the sexual contact was not for the purpose of treatment; • When the victim is a resident of a facility for persons with a mental disorder or chemical dependency and the perpetrator is a person who has supervisory authority over the victim; or • When the victim is a frail elder or vulnerable adult and the perpetrator is a person who: <ul style="list-style-type: none"> • Has a significant relationship with the victim; or • Was providing transportation, within the course of his or her employment, to the victim at the time of the offense.

What are the punishments for this crime?	<ul style="list-style-type: none"> • Indecent liberties is a Class B felony. Maximum imprisonment for a term of 10 years, and/or fine of \$20,000. • Indecent liberties by forcible compulsion is a Class A felony. Maximum imprisonment for life, and/or fine of \$50,000.
Anything else I should know?	<p>The following definitions are relevant to this crime:</p> <ul style="list-style-type: none"> • “Forcible compulsion” means physical force which overcomes resistance, or a threat, express or implied, that places a person in fear of death or physical injury to herself or himself or another person, or in fear that she or he or another person will be kidnapped. • See Rape (1st degree, 2nd degree, 3rd degree) for relevant definitions.
Statutory citation(s):	<ul style="list-style-type: none"> • Wash. Rev. Code. § 9A.44.100, § 9A.20.021.

Sodomy

Question	Answer
How is it defined?	<ul style="list-style-type: none"> • Washington does not penalize sodomy. • Any state laws that outright prohibit sodomy are unconstitutional under <i>Lawrence v. Texas</i>, 539 U.S. 588 (2003).
What are the punishments for this crime?	<ul style="list-style-type: none"> • N/A
Anything else I should know?	<ul style="list-style-type: none"> • N/A
Statutory citation(s):	<ul style="list-style-type: none"> • N/A