

RAPE;



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STATUTORY RAPE LAWS BY STATE

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Cited in Estrada-Espinoza v. Mukasey,
No. 05-75850 archived on October 22, 2008

You asked for a comparison of statutory rape statutes by state.

SUMMARY

Most states do not refer specifically to statutory rape; instead they use designations such as sexual assault and sexual abuse to identify prohibited activity. Regardless of the designation, these crimes are based on the premise that until a person reaches a certain age, he is legally incapable of consenting to sexual intercourse. Thus, instead of including force as a criminal element, these crimes make it illegal for anyone to engage in sexual intercourse with anyone below a certain age, other than his spouse. The age of consent varies by state, with most states, including Connecticut, setting it at age 16. The age of consent in other states ranges from ages 14 to 18.

Some states base the penalty for violations on the age of the offender, with older offenders receiving harsher penalties. For example, California, Maryland, Missouri, Nevada, and New York reserve their harshest statutory rape penalty for offenders who are age 21 or older.

Table 1 shows statutory rape laws, including penalties, by state.

Table 1: Statutory Rape Laws by State

<i>States</i>	<i>Statutory Rape</i>	<i>Penalties</i>

<p>Alabama</p> <p>§ 13A-6-61</p> <p>§ 13A-6-62</p>	<p>First-degree rape for someone age 16 or older to have sexual intercourse with someone under age 12.</p> <p>Second-degree rape for someone age 16 or older to have sexual intercourse with someone between age 12 and 16, when the actor is at least two years older.</p>	<p>Life in prison or between 10 and 99 years</p> <p>Two to 20 years in prison</p>
<p>Alaska</p> <p>§ 11. 41. 434</p> <p>§ 11. 41. 436</p> <p>§ 11. 41. 440</p>	<p>First-degree sexual abuse of a minor for someone age 16 or older to engage in sexual penetration with someone under age 13.</p> <p>Second-degree sexual abuse of a minor for someone age 16 or older to engage in sexual penetration with someone who is age 13, 14, or 15 and at least three years younger than the offender.</p> <p>Fourth-degree sexual abuse of a minor for someone under age 16 to engage in sexual penetration with someone under age 13 and at least three years younger.</p>	<p>Up to 30 years in prison</p> <p>Up to 10 years in prison</p> <p>Up to one year in prison</p>
<p>Arizona</p> <p>§ 13-1405</p>	<p>Sexual conduct with a minor to engage in sexual intercourse with someone under age 18.</p>	<p>(1) If the minor is under age 15, five years in prison; (2) if the offender is at least age 18 or is tried as an adult and the minor was age 12 or younger, life in prison and the offender is ineligible for release until serving 35 years; (3) if the offender is at least 18 or tried as an adult and the victim is age 12, 13, or 14, the presumptive sentence is 20 years; or (4) if the minor is at least age 15, it is punishable by one year in prison</p>

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<p>Arkansas</p> <p>§ 5-14-103</p> <p>§ 5-14-127</p>	<p>Rape is engaging in sexual intercourse with someone under age 14 who is at least three years younger.</p> <p>Fourth-degree sexual assault if someone age 20 or older engages in sexual intercourse with someone under age 16.</p>	<p>10 to 40 years or life in prison</p> <p>Up to one year in prison</p>
<p>California</p> <p>§ 261. 5(b)-(d)</p>	<p>Anyone who engages in an act of unlawful sexual intercourse with a person under age 18 and the actor is not more than three years older or three years younger, is guilty of a misdemeanor</p> <p>Anyone who engages in an act of unlawful sexual intercourse with a person under age 18 who is more than three years younger than the actor is guilty of either a misdemeanor or a felony</p> <p>Any person 21 years of age or older who engages in an act of unlawful sexual intercourse with a minor who is under 16 years of age is guilty of either a misdemeanor or a felony</p>	<p>Up to one year in county jail</p> <p>Up to one year in county jail or by imprisonment in the state prison (period unspecified)</p> <p>Up to one year in a county jail or by imprisonment in the state prison for two, three, or four years</p>
<p>Colorado</p> <p>§18-3-402</p>	<p>Sexual assault to knowingly inflicts sexual intrusion or sexual penetration on a victim (1) under age 15 if the actor is at least four years older or (2) at least 15 years old but less than 17 years old and the actor is at least 10 years older.</p>	<p>The former is punishable by two to six years' in prison and the latter by one to two years in prison</p>
<p>Connecticut</p> <p>§ 53a-70 (a)(2)</p> <p>§ 53a-71 (a)(1)</p>	<p>First-degree sexual assault to have sexual intercourse with a person under age 13 if the actor is more than two years older</p> <p>Second-degree sexual assault to have sexual intercourse with a person between ages 13 and 16 if the actor is more than two years older</p>	<p>10 to 25 years in prison with a mandatory minimum of five years if the victim is between age 10 and 16 and 10 years if the victim is under age 10. The combined sentence and special parole must equal at least 10 years</p> <p>Up to 20 years in prison (nine months mandatory minimum)</p>

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<p>Delaware</p> <p>§ 770</p> <p>§ 771</p> <p>§772</p> <p>§ 773</p>	<p>Fourth-degree rape to have sexual intercourse with (1) someone under age 16 or (2) someone under age 18 and the actor is at least 30 years older.</p> <p>Third-degree rape to have sexual intercourse with a (1) victim under age 16 if the actor is at least 10 years older or (2) victim under age 14 if the actor is age 19 or older.</p> <p>Second-degree rape to sexually penetrate a person under age 12 if the actor is 18 or older.</p> <p>First-degree rape to have sexual intercourse with a person under age 12 if the actor is age 18 or older.</p>	<p>Up to 10 years</p> <p>Two to 20 years in prison</p> <p>Two to 20 years in prison with a 10 year minimum</p> <p>15 years to life in prison</p>
<p>Florida</p> <p>§ 794. 05</p>	<p>Unlawful sexual activity with certain minors if someone age 24 or older engages in sexual activity with someone age 16 or 17.</p>	<p>Up to 15 years in prison</p>
<p>Georgia</p> <p>§ 16-6-3</p>	<p>Statutory rape to have sexual intercourse with someone under age 16.</p>	<p>One to 20 years in prison, but (1) 10 to 20 years if the offender is age 21 or older and (2) up to one year in prison if the victim is age 14 or 15 and the offender is no more than three years older.</p>
<p>Hawaii</p> <p>§ 707-730</p>	<p>First-degree sexual assault to knowingly engage in sexual penetration (1) with someone under age 14 or (2) with someone between age 14 and 16 when the offender is more than five years older.</p>	<p>An indeterminate term of 20 years in prison</p>
<p>Idaho</p> <p>§ 18-6101</p>	<p>Rape of a female under age 18.</p>	<p>One year to life in prison</p>

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<p>Illinois</p> <p>§ 730 ILCS 5/12-12 et seq.</p>	<p>Aggravated sexual assault for sexual penetration by an offender under age 17 with a victim under age 9.</p> <p>Predatory criminal sexual assault of a child for sexual penetration by an offender age 17 or older and a victim under 13.</p> <p>Criminal sexual abuse is sexual penetration with (1) an offender under age 17 and a victim between ages 9 and 17 or (2) a victim between ages 13 and 17 and an offender less than five years older.</p> <p>Aggravated criminal sexual abuse is sexual penetration with a victim between age 13 and 17 by an offender at least five years older.</p>	<p>Six to 30 years in prison</p> <p>Six to 30 years in prison</p> <p>Up to one year in prison</p> <p>Three to seven years in prison</p>
<p>Indiana</p> <p>§ 35-42-4-3</p> <p>§ 35-52-4-9</p>	<p>Child molesting is sexual intercourse with a child under age 14.</p> <p>Sexual misconduct with a minor if a person at least age 18 engages in sexual intercourse with a child between ages 14 and 16.</p>	<p>(1) Fixed term of 10 years with up to 10 years added or four subtracted for aggravating and mitigating circumstances or (2) if the offender actor is at least age 21, a fixed term of 30 years, with up to 20 years added or 10 subtracted.</p> <p>(1) Fixed term of four years with up to four added or two subtracted or (2) if the actor is at least age 21, a fixed term of 10 years with up to 10 years added or four subtracted.</p>
<p>Iowa</p> <p>§ 709. 4</p>	<p>Third-degree sexual abuse to perform a sex act on another person, not his spouse, who is (1) age 12 or 13 or (2) age 14 or 15 if the actor is five or more years older.</p>	<p>Up to 10 years in prison</p>

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<p>Kansas</p> <p>§ 21-3504</p> <p>§ 21-3522</p>	<p>Aggravated indecent liberties with a child is sexual intercourse with a child between age 14 and 16.</p> <p>Unlawful voluntary sexual relations is sexual intercourse with a child age 14 to 16 when the offender is under age 19 and less than four year older.</p>	<p>These crimes are felonies subject to sentencing guidelines</p>
<p>Kentucky</p> <p>§ 510. 020 et seq.</p>	<p>First-degree rape is sexual intercourse with someone under age 12.</p> <p>Second-degree rape is someone age 18 or older engaging in sexual intercourse with someone under 14.</p> <p>Third-degree rape is someone age 21 or older engaging in sexual intercourse with someone under 16.</p>	<p>20 to 50 years in prison</p> <p>Five to 10 years in prison</p> <p>One to five years in prison</p>
<p>Louisiana</p> <p>§ 14-80</p> <p>§ 14. 80. 1</p>	<p>Felony carnal knowledge of a juvenile is sexual intercourse with consent between (1) someone age 19 or older and someone between age 12 and 17 or (2) someone age 17 or older and someone between age 12 and 15.</p> <p>Misdemeanor carnal knowledge of a juvenile is sexual intercourse with consent between someone age 17 to 19 and someone age 15 to 17 when the difference in their ages is greater than two years.</p>	<p>Up to 10 years in prison (with or without hard labor)</p> <p>Up to six months in prison</p>
<p>Maine</p> <p>17-A § 253 (1)(B)</p> <p>17-A § 254 (1)(A)</p>	<p>Gross sexual assault to have sexual intercourse with a person under age 14</p> <p>Sexual abuse of a minor for anyone to have sexual intercourse with someone, other than his spouse, who is either age 14 or 15 and the actor is at least five years older.</p>	<p>Up to 40 years in prison</p> <p>Up to one year in prison. Up to five years in prison if the actor is at least 10 years older than the victim.</p>

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<p>Maryland</p> <p>§ 3-306</p> <p>§ 3-307</p> <p>§ 3-304</p>	<p>Second-degree sexual offense to engage in a sexual act with a person under age 14 and the actor is at least four years older</p> <p>Third-degree sexual offense for someone at least age 21 to engage in a sexual act, including vaginal intercourse, with someone age 14 or 15</p> <p>Second-degree rape to have vaginal intercourse with a person under age 14 if the actor is at least four years older</p>	<p>Up to 20 years in prison</p> <p>Up to 10 years in prison</p> <p>Up to 20 years in prison</p>
<p>Massachusetts</p> <p>272 § 4</p>	<p>Criminal inducement to get a person under age 18 of chaste life to have unlawful sexual intercourse</p>	<p>Up to three years in prison or up to two and one-half years in jail</p>
<p>Michigan</p> <p>§ 750. 520b et seq.</p>	<p>First-degree criminal sexual conduct is sexual penetration with someone under age 13.</p> <p>Third-degree criminal sexual conduct is sexual penetration with someone between age 13 and 16.</p>	<p>Up to life in prison</p> <p>Up to 15 years in prison</p>
<p>Minnesota</p> <p>§ 609. 342 et seq.</p>	<p>First-degree criminal sexual conduct is sexual penetration with a victim under age 13 and an actor more than 36 months older.</p> <p>Third-degree criminal sexual conduct is sexual penetration with (1) a victim under age 13 and an actor no more than 36 months older or (2) a victim age 13 to 16 and an actor more than 24 months older.</p>	<p>Up to 30 years in prison</p> <p>Up to 15 years in prison. But under the second part of the crime, if the actor is between 24 and 48 months older, up to five years in prison</p>
<p>Mississippi</p> <p>§ 97-3-95</p>	<p>Sexual battery to sexually penetrate a child (1) at least age 14 but under age 16 if the actor is at least 36 months older than the child or (2) under age 14 if the actor is at least 24 months older than the child.</p>	<p>Up to 30 years in prison but (1) under the first part of the crime, if the actor is between age 18 and 21, up to five years and (2) under the second part of the crime, if the actor is 18 or older, then life or a term over 20 years</p>

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<p>Missouri</p> <p>§ 566. 032 (1)</p> <p>§ 566. 034 (1)</p>	<p>First-degree statutory rape to have sexual intercourse with another person who is less than fourteen years old</p> <p>Second-degree statutory rape for someone at least age 21 to have sexual intercourse with someone who is less than age 17</p>	<p>Five years to life in prison</p> <p>Up to seven years in prison</p>
<p>Montana</p> <p>§ 45-5-501 et seq.</p>	<p>Sexual intercourse with someone under age 16.</p>	<p>Life imprisonment or between two and 100 years. If the victim if under age 16 and the offender is at least three years older, life imprisonment or four to 100 years.</p>
<p>Nebraska</p> <p>§ 28-319</p>	<p>First-degree sexual assault for a person age 19 or older to sexually penetrate a person under age 16</p>	<p>One to 50 years in prison</p>
<p>Nevada</p> <p>§§ 200. 364</p>	<p>Statutory sexual seduction for anyone age 18 or older to engage in sexual intercourse with a person under age 16</p>	<p>One to five years in prison if the actor is 21 years of age or older. Up to one year in prison if he is under age 21</p>
<p>New Hampshire</p> <p>§ 632-A: 3</p>	<p>Felony sexual assault for anyone to engage in sexual penetration with a person, other than his spouse, who is under age 16</p>	<p>Up to seven years in prison</p>
<p>New Jersey</p> <p>§ 2C: 14-2</p>	<p>Aggravated sexual assault is sexual penetration with a victim under age 13.</p> <p>Sexual assault is sexual penetration with a victim between age 13 and 16 when the actor is at least four years older.</p>	<p>10 to 20 years in prison</p> <p>Five to 10 years in prison</p>
<p>New Mexico</p> <p>§ 30-9-11</p>	<p>First-degree criminal sexual penetration to engage in sexual intercourse with a child less than age 13</p> <p>Fourth-degree sexual penetration to engage in sexual intercourse with a child age 13 to 16 if the actor is at least age 18 and at least four years older than the child</p>	<p>Basic sentence of 18 years in prison</p> <p>Basic sentence of 18 months in prison</p>

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<p>New York</p> <p>§§130. 25, 130. 30, and 130. 35</p>	<p>Third-degree rape for anyone age 21 or older to have sexual intercourse with someone under age 17</p> <p>Second-degree rape for anyone age 18 or older to engage in sexual intercourse with someone under age 15. The fact that the offender was less than four years older than the victim at the time of the act is an affirmative defense.</p> <p>First-degree rape to have sexual intercourse with someone (1) less than age 11 or (2) less than age 13 if the actor is age 18 or older</p>	<p>Up to four years in prison</p> <p>Up to seven years in prison</p> <p>Five to 25 years in prison</p>
<p>North Carolina</p> <p>§ 14-27. 2 et seq.</p>	<p>First-degree rape is sexual intercourse with a victim under age 13 when the actor is at least age 12 and at least four years older.</p> <p>Statutory rape or sexual offense of person age 13, 14, or 15 is intercourse with someone age 13, 14, or 15 when the actor is (1) at least six years older and (2) between four and six years older.</p>	<p>These crimes are felonies subject to the structured sentencing law with minimums and maximums depending on aggravating and mitigating factors and the offender's prior record</p>
<p>North Dakota</p> <p>§ 12. 1-20-03</p>	<p>Gross sexual imposition is committing a sexual act with a victim under age 15.</p> <p>Corruption of minor is an adult engaging in sexual act with a minor</p>	<p>Up to 10 years in prison</p> <p>(1) Up to one year in prison if the victim is at least age 15 or (2) if actor is at least age 22 and the victim is a minor at least age 15, up to five years in prison.</p>
<p>Ohio</p> <p>§ 2907. 04</p>	<p>Sexual assault for a person age 18 to engage in sexual conduct with a minor if the actor knows that the minor is between ages 13 and 16</p>	<p>(1) Six to 18 months in prison, (2) if the actor is less that four years older than the victim, a \$ 1,000 fine, or (3) if the actor is 10 or more years older than the victim, one to five years in prison.</p>
<p>Oklahoma</p> <p>§ 21-1114</p>	<p>First-degree rape for a person over age 18 to have sexual intercourse with a person under age 14</p> <p>In all other cases rape is second-degree rape</p>	<p>Five years in prison to death</p> <p>One to 15 years in prison</p>

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<p>Oregon</p> <p>§ 163. 355</p> <p>§ 163. 365</p> <p>§ 163. 375</p>	<p>Third-degree rape to have sexual intercourse with a person under age 16. Defense that the actor was less than three years older than the victim at the time of the offense</p> <p>Second-degree rape to have sexual intercourse with a person under age 14. Defense that the actor was less than three years older than the victim at the time of the offense</p> <p>First-degree rape to have sexual intercourse with a person under age 12</p>	<p>Up to five years in prison</p> <p>Up to 10 years in prison</p> <p>Up to 20 years in prison</p>
<p>Pennsylvania</p> <p>18 § 3121</p>	<p>Rape to engage in sexual intercourse with a complainant who is less than 13 years of age.</p> <p>Rape to engage in deviate sexual intercourse with a complainant who is less than (1) 13 years of age or (2) 16 years of age and the actor is four or more years older.</p>	<p>Up to 20 years in prison</p>
<p>Rhode Island</p> <p>§ 11-37-6</p>	<p>Third-degree sexual assault for anyone over age 18 to engage in sexual penetration with someone over age 14 and under age 16</p>	<p>Up to five years in prison</p>
<p>South Carolina</p> <p>§ 16-3-655</p>	<p>First-degree criminal sexual conduct with a minor to have sexual intercourse with a person under age 11.</p> <p>Second-degree criminal sexual conduct with a minor to have sexual intercourse with a person between ages 11 and 14.</p>	<p>Up to 30 years in prison</p> <p>Up to 20 years in prison</p>
<p>South Dakota</p> <p>§ 22-22-1</p>	<p>Rape to sexually penetrate a person under age 10.</p> <p>Rape to sexually penetrate a person between ages 10 and 16 if the actor is at least three years older than the victim.</p>	<p>10 years in prison</p> <p>15 years in prison</p>

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Tennessee § 39-13-506	Statutory rape to sexually penetrate a person at least age 13 but less than age 18 if the actor is at least four years older than the victim. Any actor under age 18 must be tried as a juvenile and cannot be transferred to adult court.	Two to six years in prison
Texas § 22. 011	Sexual assault for anyone to intentionally or knowingly penetrate a person under age 17, other than his spouse. The actor has an affirmative defense if he is not more than three years older than the victim, who is at least age 14	Two to 20 years in prison
Utah § 76-5-401 § 76-5-401. 2	Unlawful sexual activity with a minor to have sexual intercourse with someone age 14 or 15 Unlawful sexual activity with a minor to have sexual intercourse with someone age 16 or 17 if the actor is 10 or more years older than the victim	Up to five years in prison, unless the actor is less than four years older than the victim Up to five years in prison
Vermont 13 § 3252 13 § 3253	Sexual assault to engage in a sexual act with a person under age 16, except where the actors are married and the act is consensual Aggravated sexual assault for anyone age 18 or older to engage in a sexual act with someone under age 10	Up to 20 years in prison Up to life in prison
Virginia § 18. 2-61 § 18. 2-63 § 18. 2-63 §18. 2-63	Sexual intercourse with a child under the age of thirteen Carnal knowledge of a child between ages 13 and 15 Carnal knowledge of a child between ages 13 and 15 when the actor is a minor and the victim is three or more years younger Carnal knowledge of a child between ages 13 and 15 when the actor is a minor and the victim is less than three years younger	Five years to life in prison Two to 10 years in prison One to five years in prison Maximum fine of \$ 250

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<p>Washington</p> <p>§ 9A. 44. 073</p> <p>§ 9A. 44. 076</p> <p>§ 9A. 44. 079</p>	<p>First-degree rape of a child to have sexual intercourse with a person less than age 12 years and the actor is at least 24 months older</p> <p>Second-degree rape of a child to have sexual intercourse with a person who is at least 12 but less than 14 years old if the actor is at least 36 months older than the victim</p> <p>Third-degree rape of a child to have sexual intercourse with a person age 14 or 15 if the actor is at least 48 months older than the victim</p>	<p>Five years to life in prison</p> <p>Five years to life in prison</p> <p>Up to five years in prison</p>
<p>West Virginia</p> <p>§ 61-8B-3</p> <p>§ 61-8B-5</p>	<p>First-degree sexual assault for a person age 14 or older to have sexual intercourse with a person age 11 or younger</p> <p>Third-degree sexual assault for a person age 16 or older to have sexual intercourse with a person under age 16 and at least four years younger than the actor</p>	<p>15 to 35 years in prison</p> <p>One to five years in prison</p>
<p>Wisconsin</p> <p>§ 948. 02</p> <p>§ 948. 09</p>	<p>Sexual intercourse with a person under 13 years of age</p> <p>Sexual intercourse with a person under 16 years of age</p> <p>Sexual intercourse with a minor at least age of 16</p>	<p>Up to 40 years in prison</p> <p>Up to 25 years in prison</p> <p>Up to nine months in prison</p>
<p>Wyoming</p> <p>§ 6-2-303</p> <p>§ 6-2-304</p>	<p>Second-degree sexual assault to inflict sexual intrusion upon a person under age 12 and the actor is at least four years older than the victim.</p> <p>Third-degree sexual assault if, under circumstances not constituting first- or second-degree sexual assault, the actor is at least four years older than the victim and inflicts sexual intrusion on a victim under age 16.</p>	<p>Up to 20 years in prison</p> <p>Up to 15 years in prison</p>

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