The Lewin Group

Statutory Rape: A Guide to State Laws and Reporting Requirements

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

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The Authors

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

Table of Contents

I. EXECUTIVE SUMMARY ES-1

A. Background ES-1

1. Criminal Laws ES-1
2. Reporting Requirements ES-2

B. Implications for Program Staff and Policy Makers ES-3

C. Structure of Report ES-3

II. INTRODUCTION 1

A. Project Description 1

B. Methodology 2

1. Terminology 2
2. Types of Laws 3
3. Sources 3

III. SUMMARY OF CURRENT STATE LAWS 5

A. Statutory Rape—Criminal Offenses 5

1. Sexual Intercourse with Minors 5
2. Definition of Offenses 9

B. Child Abuse Reporting Requirements 10

1. Inclusion of Statutory Rape in Reporting Requirements 10
2. Mandatory Reporters 12
3. Who to Report to 13
4. State Response 14

IV. STATE LAWS 17

ALABAMA 18

ALASKA 20

ARIZONA 22

ARKANSAS 24

CALIFORNIA 26

COLORADO 29

CONNECTICUT 31

DELAWARE 33

DISTRICT OF COLUMBIA 35

FLORIDA 37

GEORGIA 39

HAWAII 41

IDAHO 43

ILLINOIS 45

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

INDIANA....48
IOWA....50
KANSAS....52
KENTUCKY....54
LOUISIANA....57
MAINE....59
MARYLAND....62
MASSACHUSETTS....64
MICHIGAN....65
MINNESOTA....67
MISSISSIPPI....69
MISSOURI....71
MONTANA....73
NEBRASKA....75
NEVADA....77
NEW HAMPSHIRE....79
NEW JERSEY....81
NEW MEXICO....83
NEW YORK....85
NORTH CAROLINA....88
NORTH DAKOTA....90
OHIO....92
OKLAHOMA....94
OREGON....96
PENNSYLVANIA....99
RHODE ISLAND....101
SOUTH CAROLINA....103
SOUTH DAKOTA....105
TENNESSEE....107
TEXAS....110
UTAH....112
VERMONT....115
VIRGINIA....117

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

WASHINGTON **119**
WEST VIRGINIA **121**
WISCONSIN **123**
WYOMING **125**

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

I. EXECUTIVE SUMMARY

In 2003, the Office of the Assistant Secretary for Planning and Evaluation (ASPE) within the U.S. Department of Health and Human Services (HHS) contracted with The Lewin Group to explore how three federally funded programs that have contact with adolescents—Title X family planning clinics, Health Resources and Services Administration-supported health centers, and child protective services—address statutory rape within their client populations. The multi-phase, descriptive study will collect information about state laws, federal guidance to programs, and grantees' and local offices' practices. The findings will help HHS to determine if additional guidance is needed.

This report is a compilation of state laws and reporting requirements. It provides an overview of state statutory rape laws and reporting requirements, as well as a summary of laws for each state and the District of Columbia. *This report is not intended to be a legal document*. It is designed to provide useful information to state and federal policymakers who are interested in how state statutes address statutory rape. It also is intended to serve as a resource for HHS grantees.

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

A. Background

To understand if statutory rape has occurred and whether it should be reported (and to whom), program staff and policy makers need to be familiar with two sets of laws: criminal and civil codes. The former deals with the legality of sexual activities involving minors, while the latter describes individuals' reporting responsibilities. In short, there is no "one size fits all" law that guides the identification and reporting of statutory rape. Rather, there is wide variation in state codes. What is a reportable offense in one state may be outside the purview of law enforcement or child protective services in another.

1. Criminal Laws

Criminal laws deal with the legality of sexual acts. Statutory rape laws assume that all sexual activities involving individuals below a certain age are coercive. This is true even if both parties believe their participation is voluntary. Generally, statutory rape laws define the age below which an individual is legally incapable of consenting to sexual activity. To complicate matters, few states use the term "statutory rape" in their criminal codes. More often, a state's code will address legality of different sexual activities involving minors (e.g., sexual contact versus penetration). Sometimes it is difficult to identify the applicable laws because they are often embedded in the section of the code dealing with other sexual offenses (e.g., sexual assault, forcible rape).

A common misconception about statutory rape is that there is a single age at which an individual can legally consent to sexual activity. In fact, only 12 states have a single age of consent; in these states, this age ranges from 16 to 18 years old. In the remaining states, the age of consent depends on one or more of the following factors: age differences between the partners, the age of the victim, and the age of the defendant. Each is described below.

The following exhibit illustrates how the age of consent interacts with these three elements. The examples are actual state laws.

State	Age of Consent	Minimum Age: Victim	Age Differential	Minimum Age: Defendant
A	18	--	--	--
B	16	--	4	--
C	16	13	4	--
D	16	16	--	18

State A has a single age of consent. In this state, a male or female under age 18 cannot consent to sex, regardless of the age of the other party. Thus, sexual relations between two 17-year-olds would be illegal, as would relations between a 17-year-old and a 25-year-old.

- ***Age differential.*** A number of state codes specify age ranges outside of which parties cannot consent to sex. In *State B*, sex with an individual under 16 years of age is illegal if the other party is four or more years older. Thus, sexual relations between a 15-year-old and an 18-year-old would be legal, while the same relationship between a 15-year-old and a 21-year old would not.

- ***Minimum age of victim.*** Some state codes define the age below which an individual cannot legally engage in sexual activities, regardless of the age of the other party. For example, in *State C*, the age of consent is 16, but under certain circumstances—that is, the defendant is no more than four years older and under age 19—individuals who are at least 13 years of age can legally engage in sexual activities. It is illegal to engage in sexual activities with someone under 13 years of age under all circumstances.

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

- ***Minimum age of defendant.*** Some states define the age below which an individual cannot be prosecuted for having sex with a minor. In *State D*, sexual activity with someone below the age of consent is only illegal if the defendant is at least 18 years of age.

Thus, in order to understand a specific state's laws, one must look to see which of these elements is included. The individual state law summaries contained in this report help the reader get a better sense of how statutory rape is defined in a specific state.

2. Reporting Requirements

State civil codes spell out reporting requirements. They detail who must report (i.e., mandated reporters) and where reports must be made (generally child protective services, law enforcement, or both). In almost all states, the reporting requirements related to statutory rape are found in the section of the civil code that describes child abuse reporting. As such, the requirement to report statutory rape is generally dictated by states' definition of child abuse—which varies substantially by state. Statutory rape is not always a reportable offense.

A primary factor in determining whether statutory rape is child abuse is the *relationship between the victim and the defendant*. In roughly one-third of state codes, statutory rape is only considered child abuse—and therefore a reportable offense—if it is perpetrated or allowed by a person responsible for the care of the child.[1] Take the example of *State A* above. The relationship in

[1] The exact definition of this relationship varies by state, but it usually includes the child's parent, guardian, custodian, or caretaker. In many cases is also includes the child's teacher, doctor, or coach.

question involves a 15-year-old and a 19-year-old. This would be a violation of the state's criminal code. However, suppose this state defines child abuse as any sexual act that is in violation of criminal law, but only if the act was perpetrated by the victim's parent or other person responsible for the child's care. In this state, statutory rape *would not* be a reportable offense under the child abuse code if the person who perpetrated the crime was not responsible for the care of the child.

In the remaining two-thirds of the states, the statutes outline circumstances where statutory rape is a reportable offense regardless of the relationship between the victim and the defendant. Within these states there is a wide continuum. In some, there are limited circumstances in which an offense must be reported. For example, in some of the states where state statutory rape is only a reportable offense if the defendant is someone responsible for the care of the child in question, the reporting requirements make an exception for those cases involving a victim who is below a certain age (e.g., less than 12 years of age). In these cases, mandated reporters must notify the proper authorities of suspected abuse regardless of the defendant's relationship to the victim. At the other end of the spectrum are states in which the definition of child abuse includes all statutory rape offenses; mandated reporters are required to notify the proper authorities of statutory rape regardless of the relationship between the victim and defendant.

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

The wide variation among states in terms of the relationship between the different criminal offenses and reporting requirements necessitates close examination of the individual state summaries.

B. Implications for Program Staff and Policy Makers

Staff in the three HHS programs of interest have to understand to sets of laws concerning statutory rape. First, they have to understand the criminal code in the state—that is, what types of sexual activities are and are not legal. They need to be able to identify whether or not the teenager is involved in an illegal relationship. Second, they must determine whether or not they are required to report this relationship to the proper authorities. Thus, they must have a grasp of child abuse reporting laws.

This is not always a straightforward exercise. In many states, the two sections of law do not align neatly. For example, in some states the civil code (and reporting requirements) references specific sexual acts listed in the criminal code. In other states, the definition of child abuse does not reference any statutory rape-related offenses defined in the criminal code.

C. Structure of Report

This report is divided into the following sections:

- ***Introduction.*** This section includes the project description and methodology.
- ***Summary of Current State Laws.*** This section provides an overview of state criminal codes and child abuse reporting requirements.

- ***State Law Summaries.*** For each state, the summary includes a definition of criminal offenses, child abuse reporting requirements, mandated reporters, where to report, and state responses to reports.

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

II. INTRODUCTION

A. Project Description

The U.S. Department of Health and Human Services (HHS) is concerned about the health of adolescents, including unwanted sexual contact at a young age. For example, research finds that:

- Adolescents who are sexually active at a young age are more likely to have experienced coercive sex. Almost three-quarters of women who had intercourse before age 14, and 60 percent who did so before age 15, reported having a forced sexual experience.[1]

- Half of children born to minors are fathered by adult men, and sexual partners of these adolescents are often 3 to 6 years older.[2]

These findings raised concerns among policy makers, health care providers, and advocates alike and prompted a study of alternatives for reducing coercive sexual activity. Of paramount concern is protecting young people from harm and providing vulnerable young people with the health care and other supports that they need while assisting service providers in their obligation to comply with state reporting requirements. It is important to understand how HHS grantees can meet those responsibilities within the context of their organizational missions, which may involve the provision of confidential services.

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

The Office of the Assistant Secretary for Planning and Evaluation (ASPE) within HHS, and its federal partner agencies, are focusing on three federally funded programs that have contact with adolescents: Title X family planning clinics, Health Resources and Services Administration-supported health centers, and child protective services. ASPE contracted with The Lewin Group, a health and human services consulting firm, to conduct a multi-phase, descriptive study to collect information about state laws, federal guidance to programs, and grantees' and local offices' practices. Lewin is assisted in the study by an advisory group composed of representatives from each of the three HHS agencies on which the study is focused: The Office of Population Affairs, the Children's Bureau, and the Health Resources and Services Administration.

One task of this project was a compilation of state laws and reporting requirements. As this document indicates, there is wide variation among laws and reporting requirements in different states. This report includes the following two sections:

- An overview of state statutory rape laws and reporting requirements.

- A summary of statutory rape and reporting laws for each state and the District of Columbia.

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[1] The Alan Guttmacher Institute (1994). *Sex and America's Teenagers.* New York.

[2] Donovan, P. (1998). "Caught Between Teens and the Law: Family Planning Programs and Statutory Rape Reporting," *The Guttmacher Report on Public Policy*. 1(3): 5-7.

This report is designed to provide information useful to state and federal policymakers who are interested in how state statutes address statutory rape. It is also intended to serve as a resource for HHS grantees to better understand their legal obligations with respect to statutory rape.

B. Methodology

1. Terminology

Unlike most rape laws, in which force is a key element of the offense, statutory rape laws assume that all sexual activities with individuals below a certain age are coercive, even if both parties believe their participation is voluntary. Generally, statutory rape laws define the age below which an individual is legally incapable of consenting to sexual activity. For example, the Supreme Court of Idaho defined the ability to give legal consent to include: (1) the ability to recognize the potential consequences of sexual intercourse and, given this understanding, (2) the ability to make a knowing choice.[3]

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

The History of Statutory Rape Laws

As Michelle Oberman discusses in *Regulating Consensual Sex with Minors: Defining a Role for Statutory Rape*, the theoretical underpinnings of statutory rape laws have changed dramatically since their inception.[4] The modern rationale for these laws is grounded in the desire to protect minors from sexual exploitation. However, when these laws originated in 13th century, the primary intent was to protect the chastity of young women.

Oberman notes that the emergence of feminism heavily influenced changes to statutory rape laws. The laws went largely unchanged until the end of the 19th century, when feminists sought to increase the age of consent to protect young women from potentially coercive relationships. As a result of these efforts, the average age of consent was raised from 12 to 18 years old.

In the 1970's, second wave feminists began to challenge the underlying principles of statutory rape laws. Although they recognized the importance of protecting vulnerable minors from coercive and exploitative sexual relationships, they wanted to ensure that the laws did not unduly restrict the sexual autonomy of young women. In addition, there was a strong push to make the laws gender-neutral.

Statutory rape laws continue to evolve in the wake of the reforms of the past 30 years. For example, the issue surfaced during debates about welfare reform in the mid 1990's when some legislators suggested that stricter enforcement of statutory rape laws could help to reduce teen pregnancy rates.

[3] *State v. Soura, 118 Idaho 232, 796 P.2d 109 (1990)*

[4] Oberman, M. (2000). "Regulating Consensual Sex with Minors: Defining a Role for Statutory Rape," *Buffalo Law Review*, 48: 703-784.

The term "statutory rape" appears throughout this paper; however few states have laws which specifically use this term. More frequently, a state's statute will include a number of offenses that have age-specific provisions addressing voluntary sexual acts and the age at which an individual can legally consent to such acts. For the purposes of this overview, "statutory rape" refers to sexual acts that would be legal if not for the age of at least one of the parties. The individual state summaries, in ***Section III*** of the report, reference the specific offenses that constitute statutory rape.

In the interest of clarity, the report also uses standard labels for the participants in the offenses discussed. "Defendant" refers to the alleged perpetrator or individual who would be subject to prosecution under the statute in question. "Victim" identifies the individual on whom the act was allegedly perpetrated. Although these terms may be overly simplistic, they communicate the legal role each party plays with respect to the laws discussed in the report.[5]

2. Types of Laws

This report focuses on laws that criminalize voluntary sexual acts involving a minor that would be legal if not for the age of one or more of the participants. The report does not include laws where the legality of the sexual acts is dependent on the relationship of the participants (e.g., incest, sex between teachers and students or doctors and patients). In addition, the summaries do not include laws that criminalize specific sexual behavior (e.g., sodomy, bestiality) or deal primarily with prostitution, sexual exploitation,[6] or enticement.

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

The laws referenced in this report generally come from two areas of states' statutes.[7]

- The descriptions of the criminal sexual acts are based on information from states' criminal or penal codes.
- Information on states' reporting requirements is usually found in the section of the code dealing with juveniles, children and families, domestic relationships, or social services.

The majority of the reporting requirements deal primarily with child abuse. Although these laws also address neglect, child maltreatment, and non-sexual abuse, this report focuses only on those sections of the laws addressing sexual abuse. In addition, the report indicates where the applicability of states' reporting requirements is limited based on the relationship between the victim and defendant (e.g., cases where the defendant is a person responsible for the care of the victim).

3. Sources

Statutes from each of the 50 states and the District of Columbia were the primary sources of information for this report. Each state's statutes were accessed via the Internet—usually

[5] There are cases where a defendant can also be a victim and vice versa. For example, in a state where individuals under a certain age cannot consent to sexual acts regardless of the age of the other party, if two individuals under the age of consent engage in sexual acts they have both been victimized and are both subject to prosecution.

[6] Many states have laws that specifically address the depiction of minors engaging in sexual acts.

[7] Although the exact title of the section and/or statute varies by state.

through the state legislature's Website. As of this writing, all of the statutes were current through at least 2003. *This report is not intended to be a legal document*. It relies on the most recent information available; however many of the state statutes referenced were unannotated. That said, every effort was made to search additional resources to learn of recent changes in the law or applicable case law and attorneys' general opinions affecting the statutes.

In addition to the actual state statutes, a number of documents and on-line resources provided valuable supplementary information. These include:

- Cornell University, Legal Information Institute. *Constitutions, Statutes, and Codes.* http://www.law.cornell.edu/statutes.html.

- Davis, N. and Twombly, J. (2000). *State Legislators' Handbook for Statutory Rape Issues.* Washington, D.C.: American Bar Association.

- Donovan, P. (1997). "Special Report: Can Statutory Rape Laws Be Effective In Preventing Adolescent Pregnancy?" *Family Planning Perspectives*, 29(1): 30-34, 40.

- Elstein, S., and Davis, N. (1997). *Sexual Relationships Between Adult Males and Young Teen Girls: Exploring the Legal and Social Responses.* New York: American Bar Association.

- National Center for Prosecution of Child Abuse (2003). *Child Abuse Crimes: Sexual Offenses.* Alexandria, VA: American Prosecutors Research Institute. http://www.ndaa-apri.org/pdf/child_abuse_crimes_sexual_offenses_state_statutes.pdf.

- National Clearinghouse on Child Abuse and Neglect Information (2002). *Compendium of Laws: Reporting Laws* (part of *Child Abuse and Neglect State Statutes Series).* Washington, D.C.: U.S. Department of Health and Human Services, Administration for Children and Families.

- National Clearinghouse on Child Abuse and Neglect Information (2002). *Issue Paper: Current Trends in Child Maltreatment Reporting Laws* (part of *Child Abuse and Neglect State Statutes Series).* Washington, D.C.: U.S. Department of Health and Human Services, Administration for Children and Families.

- Oberman, M. (2000). "Regulating Consensual Sex with Minors: Defining a Role for Statutory Rape," *Buffalo Law Review*, 48: 703-784.

- Phipps, C.A. (2003). "Misdirected Reform: On Regulating Consensual Sexual Activity Between Teenagers," *Cornell Journal of Law and Public Policy*, 12: 373-445.

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

III. SUMMARY OF CURRENT STATE LAWS

A. Statutory Rape—Criminal Offenses

As noted above, few states use the term statutory rape in their codes. Instead, criminal codes specify the legality of specific sexual acts. The applicable laws are often embedded in the section of the code dealing with other sexual offenses (e.g., sexual assault, forcible rape).

This section summarizes some key provisions of state statutory rape laws.[1] ***Subsection 1*** examines the legality of sexual activities involving minors (e.g., age of consent). ***Subsection 2*** describes briefly the variety of offenses delineated in state statutes.

1. Sexual Intercourse with Minors

States' statutory rape offenses detail the age at which an individual can legally consent to sexual activity. This section focuses on laws addressing *sexual intercourse*.[2] ***Table 1*** summarizes, where applicable, each state's:

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

- ***Age of consent***. This is the age at which an individual can legally consent to sexual intercourse under any circumstances;
- ***Minimum age of victim***. This is the age below which an individual cannot consent to sexual intercourse under any circumstances;
- ***Age differential***. If the victim is above the minimum age and below the age of consent, the age differential is the maximum difference in age between the victim and the defendant where an individual can legally consent to sexual intercourse; and
- ***Minimum age of defendant in order to prosecute.*** This is the age below which an individual cannot be prosecuted for engaging in sexual activities with minors. The table notes those states in which this law only applies when the victim is above a certain age.

As the first column in ***Table 1*** shows, the age of consent varies by state. In the majority of states (34), it is 16 years of age. In the remaining states, the age of consent is either 17 or 18 years old (6 and 11 states, respectively).

[1] Although the federal government's jurisdiction is limited, the United States Code does include statutory rape laws. See 18 U.S.C.A. § 2241 and § 2243.

[2] There are some cases where a state's laws regarding sexual intercourse are not consistent with one or more of its laws governing other types of sexual acts. For example, in South Dakota, engaging in *sexual penetration* with someone between 10 and 16 years of age is illegal unless the defendant is less than 3 years older than the victim. However, *sexual contact* with someone who is less than 16 years of age is illegal regardless of the age of the defendant (in *State v. Darby, 556 N.W.2d 311, 127 (SD 1996)*, the South Dakota Supreme Court found that these two offenses can be mutually exclusive). Such instances are identified in the appropriate state summaries.

Table 1: State Age Requirements

State	Age of consent	Minimum age of victim	Age differential between the victim and defendant (if victim is above minimum age)	Minimum age of defendant in order to prosecute
Alabama	16	12	2	16
Alaska	16	N/A	3	N/A
Arizona	18	15	2 (defendant must be in high school and < 19)	N/A
Arkansas	16	N/A	3 (if victim is < 14)	20 (if victim is = 14)
California	18	18	N/A	N/A
Colorado	17	N/A	4 (if victim is < 15), 10 (if victim is < 17)	N/A
Connecticut	16	N/A[3]	2	N/A
Delaware	18[4]	16	N/A	N/A
District of Columbia	16	N/A	4	N/A
Florida	18	16	N/A	24 (if victim is = 16)
Georgia	16	16	N/A	N/A
Hawaii	16	14	5	N/A
Idaho	18[5]	18	N/A	N/A
Illinois	17	17	N/A	N/A
Indiana	16	14	N/A	18 (if victim is = 14)
Iowa	16	14	4	N/A
Kansas	16	16	N/A	N/A
Kentucky	16	16	N/A	N/A
Louisiana	17	13	3 (if victim is < 15), 2 (if victim is < 17)	N/A
Maine	16	14[6]	5	N/A
Maryland	16	N/A	4	N/A
Massachusetts	16	16	N/A	N/A
Michigan	16	16[7]	N/A	N/A
Minnesota	16	N/A	3 (if victim is < 13), 2 (if victim is < 16)	N/A
Mississippi	16	N/A	2 (if victim is < 14), 3 (if victim is < 16)	N/A
Missouri	17	14	N/A	21 (if victim is = 14)
Montana	16	16[8]	N/A	N/A
Nebraska	16	16[9]	N/A	19
Nevada	16	16	N/A	18
New Hampshire	16	16	N/A	N/A

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

[3] Engaging in *sexual intercourse* with someone who is less than 16 years of age is legal under certain circumstances. However, *sexual contact* with someone who is less than 15 years of age is illegal regardless of the age of the defendant.

[4] Sexual acts with individuals who are at least 16 years of age are only illegal is the defendant is 30 years of age or older.

[5] Intercourse with a *female* who is less than 18 years of age is illegal regardless of the age of the defendant. However, *sexual actsnot amounting to penetration* are legal under certain circumstances in cases where the victim is at least 16 years of age.

[6] It is illegal to engage in a *sexual act* with someone who is less than 14 years of age regardless of the age of the defendant. However, *sexual contact* or *sexual touching* with someone who is less than 14 years of age is legal under certain circumstances.

[7] It is illegal to engage in a *sexual penetration* with someone who is less than 16 years of age. However, *sexual contact* with someone who is at least 13 years of age is legal under certain circumstances.

[8] *Sexual intercourse* with someone who is less than 16 years of age is illegal regardless of the age of the defendant. However, *sexual contact* with someone who is at least 14 years of age is legal under certain circumstances.

[9] Under the offense, "Debauching a minor," it is illegal to debauch or deprave morals by lewdly inducing someone less than 17 years of age to carnally know any other person.

State	Age of consent	Minimum age of victim	Age differential between the victim and defendant (if victim is above minimum age)	Minimum age of defendant in order to prosecute
New Jersey	16	13[10]	4	N/A
New Mexico	16	13	4	18 (if victim is = 13)
New York	17	17	N/A	N/A
North Carolina	16	N/A	4	12
North Dakota	18	15	N/A	18 (if victim is = 15)
Ohio	16	13	N/A	18 (if victim is = 13)
Oklahoma	16	14	N/A	18 (if victim is > 14)
Oregon	18	15	3	N/A
Pennsylvania	16	13	4	N/A
Rhode Island	16	14	N/A	18 (if victim is = 14)
South Carolina	16	14	Illegal if victim is 14 to 16 and defendant is older than victim	N/A
South Dakota	16	10[11]	3	N/A
Tennessee	18	13	4	N/A
Texas	17	14	3	N/A
Utah	18	16	10	N/A
Vermont	16	16	N/A	16
Virginia	18	15	N/A	18 (if victim is = 15)
Washington	16	N/A	2 (if victim is < 12), 3 (if victim is < 14), 4 (if victim is < 16)	N/A
West Virginia	16	N/A	4 (if victim is = 11)	16, 14 (if victim is < 11)
Wisconsin	18	18	N/A	N/A
Wyoming	16	N/A	4	N/A

Note: Some states have marital exemptions. This Table assumes the two parties are not married to one another.

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

A common misperception about statutory rape is that state codes define a single age at which an individual can legally consent to sex. Only 12 states have a ***single age of consent***, below which an individual cannot consent to sexual intercourse under any circumstances, and above which it is legal to engage in sexual intercourse with another person above the age of consent. For example, in Massachusetts, the age of consent is 16.

In the remaining 39 states, other factors come into play: age differentials, minimum age of the victim, and minimum age of the defendant. Each is described below.

Minimum age requirement. In 27 states that do not have a single age of consent, statutes specify the age below which an individual cannot legally engage in sexual intercourse regardless of the age of the defendant (see the second column in ***Table 1***). The minimum age requirements in these states range from 10 to 16 years of age. The legality of sexual intercourse with an

[10] It is illegal to engage in a *sexual penetration* with someone who is less than 13 years of age regardless of the age of the defendant. However, *sexual contact* with someone who is less than 13 years of age is legal under certain circumstances.

[11] Engaging in *sexual penetration* with someone who is at least 10 years of age and less than 16 years of age is legal under certain circumstances. However, *sexual contact* with someone who is less than 16 years of age is illegal regardless of the age of the defendant.

individual who is above the minimum age requirement and below the age of consent is dependent on the difference in ages between the two parties and/or the age of the defendant.

- In New Jersey, the age of consent is 16, but individuals who are at least 13 years of age can legally engage in sexual activities if the defendant is less than 4 years older than the victim.

Age differential. In 27 states, the legality of engaging in sexual intercourse with minors is, at least in some circumstances, based on the difference in age between the two parties (see the third column in ***Table 1***). In 12 of these states, the legality is based *solely* on the difference between the ages of the two parties. For example:

- In the District of Columbia it is illegal to engage in sexual intercourse with someone who is under the age of consent (16) if the defendant is 4 or more years older than the victim.

Although it is less common, the age differentials in some states vary depending on the age of the victim.

- In Washington, sexual intercourse with someone who is at least 14 years of age and less than 16 years of age is illegal if the defendant is 4 or more years older than the victim. The age differential decreases in cases where the victim is less than 14 years of age (3 years), further decreasing if the victim is less than 12 years of age (2 years).

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

Minimum age of defendant in order to prosecute. Sixteen states set age thresholds for defendants, below which individuals cannot be prosecuted for engaging in sexual intercourse with minors (see the last column in ***Table 1***).

- In Nevada, the age of consent is 16; however, sexual intercourse with someone who is under 16 years of age is illegal only if the defendant is at least 18 years of age (the age at which the defendant can be prosecuted).

States that set a minimum age of the defendant also tend to have minimum age requirements for the victim. Often, the age of the defendant is only relevant if the victim is above the minimum age requirement.

- In Ohio, sexual intercourse with someone under 13 years of age is illegal regardless of the age of the defendant. However, if the victim is above this minimum age requirement (13) and below the age of consent (16), it is only illegal to engage in sexual intercourse with that individual if the defendant is at least 18 years of age.

Some states define minimum age thresholds for defendants *and* age differentials.

- In North Carolina, the age of consent is 16. Sexual intercourse with someone who is under the age of consent is only illegal if the defendant is: (1) at least 4 years older than the victim *and* (2) at least 12 years of age (the age at which the defendant can be prosecuted).

2. Definition of Offenses

States' laws addressing sexual activity involving minors are usually included in the section of the criminal code devoted to sexual offenses. Each state summary (***Section III***) includes a table detailing all of the offenses in the statute that deal with statutory rape.

As noted above, most states do not have laws that specifically use the term "statutory rape;" only five include the offense of statutory rape.[12] More often, state statutes include a variety of offenses addressing voluntary sexual activity involving minors. In New Jersey, for example, sexual activities involving minors is addressed in three offenses: criminal sexual contact, sexual assault, and aggravated sexual assault. The ages of the victim and the defendant as well as the nature of the sexual activity dictate under which offense the conduct falls.

In some cases, provisions addressing statutory rape are embedded in rape or sexual assault laws that typically apply to violent offenses. For example, New Hampshire defines "felonious sexual assault" as voluntary sexual penetration with someone who is at least 13 years of age and under 16 years of age, as well as acts involving the use of physical force irrespective of the age of either party. Other states have separate offenses specifically concerned with sexual crimes involving a minor. For example, Alaska's statute includes four offenses that deal specifically with the sexual abuse of a minor.

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State statutes also use a variety of terms when referring to sexual acts (e.g., sexual intercourse, sexual penetration, sexual contact, indecent contact), and the definitions of these terms are not always consistent across states. The descriptions of the offenses within each state summary use the specific terms from the statutes and the summaries include footnoted definitions of these terms whenever the statutes provide them.

Understanding the different terms used in a state statute is especially important in those states where an individual may be able to legally consent to one type of sexual activity but not another. For example, Alabama's laws regarding the legality of sexual activities with individuals who are under 16 years of age and more than 12 years of age differ depending on the nature of the activities. In cases involving *sexual intercourse*, defendants over 16 years of age who are at least 2 years older than the victim are guilty of rape in the second degree. However, *sexual contact* is only illegal in cases where the defendant is at least 19 years of age.

More often though, all of the acts will be illegal (with the same age requirements), but the severity of the punishment will differ based on the type of sexual activity. In Kentucky for example, sexual activities with children under 12 years of age are illegal regardless of the age of the defendant. If the activities amount to *sexual contact*, the defendant is guilty of first degree *sexual abuse* (a Class D felony); if they amount to *sexual intercourse*, the defendant is guilty of first degree *rape* (a Class A felony).

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[12] The Georgia, Mississippi, Missouri, North Carolina, and Tennessee statutes include the offense of statutory rape. The situation in which an act would be considered statutory rape differs by state. The crime of statutory rape in North Carolina is also referred to as "sexual offense of person who is 13, 14, or 15 years old." In addition to the five states listed, the Pennsylvania statutes include the offense of "statutory sexual assault." Similarly, "statutory sexual seduction" is a crime in Nevada.

Although the primary focus of this report is not the punishments associated with statutory rape, the offenses in each state summary are listed in ascending order based on their severity.[13] The severity of the crime is usually dependent on the nature of the sexual activities and the age of the victim and/or defendant.[14]

Depending on the state, defendants may be exempt from prosecution if they are married to the victim. In some states, marriage is a defense to all of the crimes listed (e.g., Alaska, District of Columbia, West Virginia); other states exclude some of the more aggravated offenses from this exemption (e.g., Arkansas, Louisiana, Mississippi).[15] In a few states, the criminal statutes identify age limits for the marriage exemptions.[16] Individual state summaries note those crimes that include spousal exemptions.[17]

B. Child Abuse Reporting Requirements

Statutory rape reporting requirements are generally found in the sections of states' codes that deal with juveniles, children and families, domestic relationships, or social services, whereas the criminal or penal codes address the legality of specific offenses. This section of the report summarizes states' child abuse reporting requirements and the extent to which they address the issue of statutory rape. It is divided into four subsections.

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

- ***Subsection 1*** examines differences in how state statutes define child abuse and whether these definitions include statutory rape.
- ***Subsection 2*** discusses which individuals states designate as mandated reporters.
- ***Subsection 3*** details the actions mandated reporters must take upon encountering cases of child abuse.
- ***Subsection 4*** deals with agencies' responsibilities upon receiving reports.

1. Inclusion of Statutory Rape in Reporting Requirements

State statutes vary in the extent to which statutory rape is included in the reporting requirements. In approximately one-third of the states, mandated reporting is limited to those situations where the abuse was perpetrated or allowed by a person responsible for the care of the child.[18] Consider the example of Virginia. Child abuse, a reportable offense, is defined to

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[13] It is important to note that this ordering is inexact. The statutes often provide a range of sentences and this ordering does not take into account the effect of any sentencing recommendations in the statutes or other documents.

[14] Most statutes categorize crimes based on the severity of the act (e.g., 1st, 2nd, or 3rd degree rape). The state summaries note those cases where, within a specific crime, the severity varies depending on the age of the defendant. For example, Georgia law considers the crime of statutory rape to be a felony unless the victim is 14 or 15 years of age (the age of consent is 16) and the defendant is no more than 3 years older than the victim, in which case the offense is only a misdemeanor.

[15] In Arkansas, marriage is a defense to 2nd, 3rd, and 4th degree sexual assault but not rape.

[16] In South Carolina, the spousal exemption does not apply to marriages entered into by a male under 16 years of age or a female under 14 years of age.

[17] It is important to note that this report does not address state laws governing the age at which individuals can marry.

[18] Usually, persons responsible for the care of a child include parents, guardians, custodians, caretakers, or individuals living in the same house as the child. The exact definitions vary by state.

include any sexual act that is in violation of the state's criminal law, but it is limited to those acts perpetrated by the victim's parent or other person responsible for the child's care.

In two-thirds of the states, the statutes specify circumstances under which child abuse is a reportable offense irrespective of the defendant's relationship to the victim. In some states, the definition of child abuse includes all of the statutory rape offenses detailed in the criminal code (e.g., North Dakota, Ohio, and Wyoming). In such cases, mandated reporters are required to notify the proper authorities if they suspect that a child has been a victim of any of these offenses. More often, states vary in terms of the applicability of the reporting requirements. The following examples illustrate the variation among these states.

In some states, there are only a few specific circumstances under which offenses not involving a person responsible for a child are considered reportable offenses. In Minnesota, for example, such a case is only a reportable offense if the reporter suspects that a defendant has sexually abused two or more children not related to the defendant in the past 10 years. Rhode Island law only requires reports of non-familial cases in two situations: (1) if the defendant is less than 18 years of age; or (2) if the mandated reporter is a physician or nurse practitioner who treats a child who is less than 12 years of age and has been infected with a sexually transmitted disease. In Iowa, the reporting requirements only pertain to cases involving someone responsible for the care of the child in question. However, a separate provision requires mandated reporters to notify the proper authorities of all cases of sexual abuse involving a victim under 12 years of age regardless of the defendant's relationship to the victim.

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

In other states there are fewer limits on the applicability of reporting requirements to statutory rape. Often, such limitations are based on the age of the victim and/or the defendant. For example, in California all sexual activity involving minors is illegal. However, the reporting requirements only apply to the violations of certain criminal offenses—namely, those addressing situations involving victims under 16 years of age where there is an especially large difference in the age of the two parties.[19]

In those states where the definition of child abuse does not explicitly refer to statutory rape, discrepancies between the legality of certain sexual activities and whether they are reportable offenses are more common. Take the following examples:

- ***Georgia.*** The reporting requirements in Georgia are less strict than the state's statutory rape laws. Even though all sexual activities involving someone who is less 16 years of age are illegal (per the criminal code), such acts only constitute a reportable offense if the defendant is more than five years older than the victim.

- ***Utah.*** In contrast, Utah's reporting requirements define as reportable offenses some activities that are legal according to the state's criminal code. For example, *sexual conduct* with someone who is at least 16 years of age and less than 18 years of age is only illegal if the defendant is 10 or more years older than the victim. However, *sexual abuse*, a reportable

[19] Although the reporting requirements in many states make reference to one or more of the state's statutory rape laws, California is somewhat of an exception in that the reporting requirements are included in the same section of the statutes (the penal code) as the criminal laws addressing sexual activities with minors.

offense, is defined to include all acts of sexual intercourse, molestation, or sodomy directed towards someone under 18 years of age regardless of the age of the defendant.

- ***Connecticut.*** Due to some confusion on the part of providers in the state, the Attorney General's office issued an opinion addressing this issue. Specifically, the Commissioner of the Department of Children and Families sought clarification with respect to the reporting laws as they relate to cases involving defendants under 21 years of age who engage in sexual activities with teenagers under the age of consent. The Attorney General concluded that, although such relationships are illegal if the defendant is more than 2 years older than the victim, mandated reporters are not required to make a report if no other evidence of abuse exists. In justifying the opinion, the Attorney General cited the statute related to the treatment of minors for sexually transmitted diseases, which only requires providers to report cases where the minor seeking treatment is less than 13 years of age.[20]

2. Mandatory Reporters

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

Each state's reporting requirements identify certain individuals who are required to notify the authorities of suspected abuse. Although it varies by state, *mandated reporters are typically individuals who encounter children through their professional capacity*. In Pennsylvania, the statute requires *all* individuals who encounter a case of abuse through their professional capacity to make a report. More often, a state's statute will refer to a number of specific professions.[21] Common professions include: physical and mental health providers, teachers, child care workers, legal professionals (e.g., judges, magistrates, attorneys, law enforcement officers), clergy members, and employees of state agencies that deal with children and families.[22] In addition, some states designate any individual who provides care or treatment to children as a mandatory reporter (e.g., Alabama, Missouri, Montana). In 18 states, any individual who suspects that a child has been the victim of abuse is required to notify the proper authorities.[23]

In terms of physical and/or mental health providers (e.g., physicians, nurses, psychologists, psychiatrists, dentists, surgeons, osteopaths), statutes often make specific reference to providers who treat adolescents who are pregnant or infected with sexually transmitted diseases. For example, in Texas any individual who suspects child abuse is required to notify the proper authorities. However, the law also includes more specific reporting requirements for individuals who work with children in a professional capacity, including employees of a clinic or health care facility that provides reproductive services.

In some states, a child who is pregnant or infected with a sexually transmitted disease is sufficient to cause reasonable suspicion of abuse, thereby necessitating a report. In Rhode Island, as noted above, the law requires reports of non-familial cases in two situations, one of

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[20] 2002 Conn. AG Lexis 33, September 30, 2002

[21] As the primary focus of this project is reporting requirements as they affect HHS grantees, the state summaries tend to include an abbreviated list emphasizing those professions more relevant to the project. For example, although most states identify coroners and medical examiners as mandated reporters, they have been omitted from the state summaries.

[22] Most state statutes in which members of the clergy or attorneys are mandated reporters designate certain communication to be privileged and therefore exempt from these requirements. Such laws are described within the state summaries where appropriate.

[23] Almost all state statutes include a provision indicating that anyone is *allowed* to report suspected abuse.

which is if the mandated reporter is a physician or nurse practitioner who treats a child less than 12 years of age who is infected with a sexually transmitted disease. Michigan also requires medical providers to report all cases where a child under 12 years of age is pregnant or has a sexually transmitted disease. In contrast, California law states that "the pregnancy of a minor does not, in and of itself, constitute a basis for a reasonable suspicion of sexual abuse."[24] The California Court of Appeals has similarly found that mandated reporters are not required to report cases in which a minor is found to have a sexually transmitted disease.[25]

Few states allow mandated reporters to exercise discretion in deciding which cases to report. Consider the following three exceptions:

- ***Florida.*** The criminal code includes a law stating that anyone 21 years of age or older who impregnates a child under 16 years of age is guilty of contributing to the delinquency or dependency of a minor. However, the reporting requirements state that health care professionals and other individuals who provide medical or counseling services to pregnant children are not required to report abuse when the only violation is impregnation of a child under the circumstances described above if such reporting would interfere with the provision of medical services.

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- ***Tennessee.*** A 1996 law addressing statutory rape added a number of provisions to the state statutes with respect to reporting requirements. One such provision addresses cases in which a physician or other person treating pregnant minors learns that the alleged father of the patient's child is at least 4 years older than the patient and not her spouse. The provision *encourages* the provider to notify the appropriate legal authorities. However, such a report can only be made with the consent of the patient or the patient's parent, legal guardian, or custodian.

- ***Wisconsin.*** Health care practitioners who provide family planning services, pregnancy testing, obstetrical health care or screening, or diagnosis and treatment for sexually transmitted diseases to minors are exempted from the reporting requirements with the following exception: If providers judge that their clients are in a dangerous situation. For example, providers are required to report cases where they believe that: the victim, because of his or her age or immaturity, is incapable of understanding the nature or consequences of sexual activities; the other participant in the sexual acts is exploiting the child; or the child's participation in the sexual acts is not voluntary.

3. Who to Report to

To varying degrees of specificity, all state statutes provide mandated reporters with instructions for the reporting process.[26] States generally require that mandated reporters notify the appropriate authorities within one to three days of encountering a case of suspected abuse.

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[24] California Penal Code, §11166

[25] *Planned Parenthood Affiliates v. Van De Kamp, 226 Cal. Rptr. 361 (1986); People ex rel. Eichenberger v. Stockton Pregnancy Control Medial Clinic, Inc., 249 Cal. Rptr. 762 (1988).*

[26] Although many states' statutes also include instructions for non-mandatory reporters who wish to report suspected abuse, the state summaries do not discuss these provisions.

Mandated reporters can usually make an initial report orally, via telephone.[27] Approximately two-thirds of states require mandated reporters to follow their initial report with a more detailed written report.[28]

The reporting laws usually specify one or more agencies to which reports should be made. Mandated reporters in the majority of states may notify the state or county agency (or its designee) responsible for social or human services, children and families, or child protection.[29] In roughly two-thirds of states, mandated reporters have the option of notifying law enforcement agencies or prosecutors' offices instead of the child protection agency.

States differ with respect to whether mandated reporters must notify an agency's state office or one of its local offices—typically the one in the local jurisdiction in which the offense took place or the victim resides.

The only states in which the child protection agency is not designated to receive reports are those with separate reporting procedures for cases not involving abuse perpetrated by a person responsible for the victim. Take the example of Louisiana. Mandated reporters must notify the local child protection unit of the Department of Social Services if they suspect abuse perpetrated by: the victim's parent or caretaker; a person who maintains an interpersonal dating or engagement relationship with the parent or caretaker; or a person living in the same residence with the parent or caretaker as a spouse whether married or not. In all other cases, the report must be made to a local or state law enforcement agency.

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

West Virginia is another example of a state where the reporting requirements depend on the nature of the offense. Local child protective services agencies are responsible for receiving reports of child abuse. If the report alleges sexual abuse, the mandated reporter must also notify the Division of Public Safety and the law enforcement agency with investigative jurisdiction.

4. State Response

Each state summary highlights the required response of the state and local agencies that receive reports of suspected child abuse. State statutes vary in the level of detail they provide. Generally they include requirements addressing which entities, if any, the agency receiving the initial report must notify, the timeframe for this notification, and the requirements for investigating reported abuse.

States have two primary objectives when responding to allegations of child abuse: (1) ensuring the health, safety, and well-being of the child in question, taking the necessary steps to prevent further harm and (2) conducting an investigation to determine if the reported abuse constitutes a criminal act and, when appropriate, prosecuting offenders.

[27] Some state statutes require the state agency responsible for receiving reports to maintain a toll-free hotline for the sole purpose of receiving reports.

[28] Nine of these states only require a follow-up report if the agency receiving the report requests one.

[29] The exact titles of these agencies vary by state.

In most states, the responsibility for the initial investigation of reported child abuse falls to law enforcement, the state agency responsible for child protective services, or some combination of the two.

- Approximately one-half of all states require child protective services or some other human services agency to conduct the initial investigation.
- Local law enforcement agencies are responsible for conducting the initial investigation in approximately one-fifth of states.
- Although rare, in some states either law enforcement or child protective services may conduct initial investigations.
- In the remaining states, the investigation is a cooperative effort among multiple agencies.

In some states, the responsibility for the initial investigation depends on the relationship between the victim and the defendant. In North Carolina, the county Department of Social Services is generally responsible for the initial investigation of reported abuse. However, cases alleging abuse by a person not responsible for the care of the victim must be immediately forwarded to law enforcement and the district attorney's office. Such provisions are common in states where the definition of child abuse does not include statutory rape. Consider Iowa, where statutory rape is only included in the definition of child abuse—thereby making it a reportable offense—if the victim is under 12 years of age. The agency responsible for receiving and investigating reports of child abuse (the Department of Human Services) must refer to the appropriate law enforcement agency all cases that would constitute child abuse if not for the fact that the act was perpetrated by someone not responsible for the care of the child.

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

Generally, law enforcement is responsible for conducting investigations into criminal acts, whereas child protective services and human services agencies are primarily concerned with the well-being of the victim. For example, in Rhode Island, the Department of Children, Youth, and Families investigates all reported abuse. If the Department's investigation indicates that the child in question has been the victim of criminal abuse, the Department transfers the case to law enforcement so that it may initiate a criminal investigation.

Increasingly, states are emphasizing interagency collaboration in child abuse investigations. Almost one-half of states statutes require the involvement of multiple agencies in investigations. There is wide variation among states in the level of cooperation mandated by their statutes. Often law enforcement and child protective services maintain their traditional roles, and the laws focus on information sharing and maximizing the relative strengths of each agency. Nevada law states that if the initial evaluation of the report, conducted by the child welfare services agency, indicates that if an investigation is warranted, the agency and law enforcement must cooperate with one another and coordinate their investigation. Similarly, Hawaii statutes require the Department of Human Services to provide police and prosecutors with any relevant information that would aid in the investigation or prosecution of child abuse cases.

States can formalize such cooperation by requiring relevant agencies to develop a memorandum of understanding (MOU) for responding to reported abuse. In Ohio, the county public children services agency (usually the Department of Job and Family Services) is

responsible for preparing the MOU. The MOU must delineate the roles and responsibilities of each partner and establish processes for coordinating investigations. The agency must ensure that the following officials sign the MOU: a juvenile judge in the county; the county peace officer, chief municipal peace officers, and local other law enforcement officers that handle abuse cases; the prosecuting attorney of the county; and the county humane officer. The primary goal of Ohio's MOU is to eliminate unnecessary and redundant interviews with victims.

Other states require that multi-disciplinary teams assume responsibility for the investigative process. The District of Columbia Code mandates that all child sexual abuse investigations be conducted by a multi-disciplinary team that must include at least one representative from: law enforcement, social services, child advocacy centers, and the city and federal prosecutors' offices. Additional individuals eligible for inclusion in multi-disciplinary teams include: representatives from the public schools, mental and physical health practitioners, child development specialists, and victim counselors. Teams' efforts are to be governed by a written protocol outlining investigative responsibilities, prosecutorial procedures, and treatment options and services for both victims and defendants.

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

IV. STATE LAWS

The following sections represent a detailed compilation of the statutory rape and reporting laws for each of the 50 states and the District of Columbia.

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

ALABAMA

A. Statutory Rape—Criminal Offenses

An individual is deemed incapable of consent if he or she is less than 16 years of age,[1] with the following exceptions:

- Sexual *intercourse* with a victim who is greater than 12 years of age and less than 16 years of age is not considered rape if the defendant is less than 2 years older than the victim.[2]
- Sexual *contact* with a victim who is greater than 12 years of age and less than 16 years of age is legal as long as the defendant is less than 19 years of age.[3]

Children under 12 years of age are unable to consent to a sexual act regardless of the age of the defendant (although the act is only considered rape in cases where the defendant is at least 16 years of age).[4]

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

Definition of Offenses

Offense	Definition
2nd degree sexual abuse[5]	Sexual contact[6] with someone more than 12 years of age and less than 16 years of age and where the defendant is at least 19 years of age.
1st degree sexual abuse[7]	Sexual contact with someone less than 12 years of age where the defendant is at least 16 years of age.
2nd degree rape[8]	Engaging in sexual intercourse[9] with someone of the opposite sex more than 12 years of age and less than 16 years of age where the defendant is at least 16 years of age and at least 2 years older than the victim.
1st degree rape[10]	Engaging is sexual intercourse with someone of the opposite sex less than 12 years of age where the defendant is at least 16 years of age.

B. Child Abuse Reporting Requirements

1. Inclusion of statutory rape in reporting requirements

Alabama statutes require mandated reporters to report all instances where they suspect a child to be a victim of child abuse.[11] The statutes define child abuse to include harm caused through

[1] Alabama Code, §13A-6-70
[2] Alabama Code, §13A-6-62
[3] Alabama Code, §13A-6-67
[4] Alabama Code, §13A-6-61
[5] Alabama Code, §13A-6-67
[6] Sexual contact is defined as: any touching of the sexual or other intimate parts of a person not married to the actor, done for the purpose of gratifying the sexual desire of either party. Alabama Code, §13A-6-60.
[7] Alabama Code, §13A-6-66
[8] Alabama Code, §13A-6-62
[9] Sexual intercourse is defined as having its ordinary meaning and occurs upon any penetration, however slight; emission is not required. Alabama Code, §13A-6-60.
[10] Alabama Code, §13A-6-61

sexual abuse, including rape. The definition of sexual abuse does not include any provisions that indicate that it applies only to parents, guardians, or custodians of the child in question.[12]

2. Mandatory reporters

Mandatory reporters include: physical and mental health providers; school teachers and officials; law enforcement officials; social workers; day care workers or employees; or any other person called upon to render aid or medical assistance to any child.[13]

3. Who to report to

Mandatory reporters must make an oral report to law enforcement or the Department of Human Resources if they suspect that a child is a victim of abuse. All oral reports must be immediately followed by a written report.[14]

4. State response

The Department of Human Resources is responsible for investigating reports of child abuse promptly after receiving an oral or written report. The Department must produce a written report documenting its findings and recommendations.[15] In the event that the initial report of abuse is made to a law enforcement official, the individual is required to inform the Department. The statute indicates that nothing precludes the Department from working with other agencies in the process of its investigation.[16]

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

[11] Alabama Code, §26-14-3
[12] Alabama Code, §26-14-1
[13] Alabama Code, §26-14-3
[14] Alabama Code, §26-14-3
[15] Alabama Code, §26-14-7
[16] Alabama Code, §26-14-3

ALASKA

A. Statutory Rape—Criminal Offenses

Children under 16 years of age are unable to consent to sexual activity,[1] with the following exceptions:

- If the defendant and victim are married to one another[2]
- If the victim is at least 13 years of age and the defendant is less than 3 years older than the victim[3]
- If the victim is less than 13 years of age and the defendant is less than 16 years of age and less than 3 years older than the victim[4]

Definition of Offenses

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

Offense	Definition
4th degree sexual abuse of a minor[5]	Sexual penetration or sexual contact with a person under 13 years of age where the defendant is under 16 years of age and at least 3 years older than the victim.
3rd degree sexual abuse of a minor[6]	Sexual contact with someone 13, 14, or 15 years of age where the defendant is at least 16 years of age and at least 3 years older than the victim.
2nd degree sexual abuse of a minor[7]	Sexual penetration (or aiding, inducing, causing, or encouraging sexual penetration) of someone 13, 14, or 15 years of age where the defendant is at least 16 years of age and at least 3 years older than the victim. Sexual contact (or aiding, inducing, causing, or encouraging sexual contact) with someone under 13 years of age where the defendant is at least 16 years of age.
1st degree sexual abuse of a minor[8]	Sexual penetration (or aiding, inducing, causing, or encouraging sexual penetration) of someone under 13 years of age where the defendant is at least 16 years of age.

Note: These crimes are only applicable in cases where the defendant and victim were not married to one another at the time of the offense.[9]

[1] Alaska Statutes, §11.41.436 and §11.41.438
[2] Alaska Statutes, §11.41.445
[3] Alaska Statutes, §11.41.436
[4] Alaska Statutes, §11.41.440
[5] Alaska Statutes, §11.41.440
[6] Alaska Statutes, §11.41.438
[7] Alaska Statutes, §11.41.436
[8] Alaska Statutes, §11.41.434
[9] Alaska Statutes, §11.41.445

B. Child Abuse Reporting Requirements

1. Inclusion of statutory rape in reporting requirements

Alaska statutes require mandated reporters to report all instances where they suspect that a child has suffered harm as the result of child abuse.[10] The definition of child abuse includes specific reference to sexual abuse, and it does not include any provisions that indicate that it applies only to parents, guardians, or custodians of the child in question.[11]

2. Mandatory reporters

Mandatory reporters include: practitioners of the healing arts; school teachers and administrative staff; law enforcement and correctional officers; administrative officers of institutions; child care providers; and employees of crisis intervention and prevention programs.[12]

3. Who to report to

Mandatory reporters are required to report to the nearest office of the Department of Health and Social Services within 24 hours if they suspect that a child has suffered harm as a result of child abuse. If a reporter cannot contact an office of the Department, he or she can make a report to law enforcement.[13]

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

4. State response

Upon receipt of a report of abuse, the Department of Health and Social Services is required to notify the Department of Law. If a law enforcement agency receives a report of abuse, it is required to immediately notify the Department of Health and Human Services. The Department of Health and Social Services must immediately conduct an investigation and provide the Department of Law with a written report of the investigation within 72 hours of the receipt of a report of abuse.[14] The Department of Health and Social Services must inform the nearest law enforcement agency if it concludes that the report involves conduct that falls under the state's sexual abuse laws.[15]

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[10] Alaska Statutes, §47.17.020
[11] Alaska Statutes, §47.17.290
[12] Alaska Statutes, §47.17.020
[13] Alaska Statutes, §47.17.020
[14] Alaska Statutes, §47.17.025
[15] Alaska Statutes, §47.17.020

ARIZONA

A. Age of Consent/ Voluntary Sex Between Minors

Children under 15 years of age are unable to consent to sexual conduct regardless of the age of the defendant.[1] Individuals who are at least 15 years of age and less than 18 years of age are unable to consent to sexual conduct[2] unless the defendant is: (1)less than 19 years of age or still attending high school *and* (2) no more than 2 years older than the victim.[3]

Definition of Offenses

Offense	Definition
Sexual abuse[4]	Sexual contact[5] with someone less than 15 years of age if the sexual contact involves only the female breast where the defendant is not the victim's spouse.
Molestation of a child[6]	Sexual contact, except sexual contact with the female breast, with someone less than 15 years of age.
Sexual conduct with a minor[7]	Sexual intercourse[8] or oral sexual contact[9] with someone less than 15 years of age where the defendant is not the victim's spouse. Sexual intercourse or oral sexual contact with someone at least 15 years of age and less than 18 years of age where the defendant is at least 19 years of age, not attending high school, at least 2 years older than the victim, and not the victim's spouse.

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

B. Child Abuse Reporting Requirements

1. Inclusion of statutory rape in reporting requirements

Arizona statutes require mandated reporters to report all instances where they suspect that a child has been the victim of abuse.[10] The definition of child abuse includes specific reference to the crimes listed in the previous section. However, it only refers to those cases where the abuse occurred as the result of an act or omission on the part of someone having care, custody, and control of the child.[11] The statute also includes a provision stating that mandated reporters are not required to report consensual activities—illegal under the sexual abuse and sexual conduct

[1] Arizona Revised Statutes, §13-1405
[2] Arizona Revised Statutes, §13-1405
[3] Arizona Revised Statutes, §13-1407
[4] Arizona Revised Statutes, §13-1404
[5] Sexual contact is defined as: any direct or indirect touching, fondling or manipulating of any part of the genitals, anus or female breast by any part of the body or by any object or causing a person to engage in such contact. Arizona Revised Statutes, §13-1401.
[6] Arizona Revised Statutes, §13-1410
[7] Arizona Revised Statutes, §13-1405
[8] Sexual intercourse is defined as: penetration into the penis, vulva or anus by any part of the body or by any object or masturbatory contact with the penis or vulva. Arizona Revised Statutes, §13-1401.
[9] Oral sexual contact is defined as: oral contact with the penis, vulva or anus. Arizona Revised Statutes, §13-1401.
[10] Arizona Revised Statutes, §13-3620
[11] Arizona Revised Statutes, §8-201

with a minor laws described above—if the victim is at least 14 years of age and the defendant is less than 18 years of age.[12]

2. Mandatory reporters

Mandated reporters include: physical and mental health providers, social workers, peace officers, members of the clergy[13], parents and guardians of the victim, school personnel, or any other individual who has responsibility for the care or treatment of the victim.[14]

3. Who to report to

Mandated reporters must make an immediate report, by telephone or in person, of suspected abuse to a peace officer or Child Protective Services (within the Department of Economic Security). This must be followed by a written report within 72 hours. If the suspected offender does not have care, custody, or control of the victim, mandated reporters must report to a peace officer.[15]

4. State response

Peace officers and Child Protective Services must immediately notify one another of any reports they receive.[16]

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

[12] Arizona Revised Statutes, §13-3620
[13] Clergy members are not required to make reports if the suspicion is based on information obtained in confidence as part of the clergy member's religious duties.
[14] Arizona Revised Statutes, §13-3620
[15] Arizona Revised Statutes, §13-3620
[16] Arizona Revised Statutes, §13-3620

ARKANSAS

A. Statutory Rape—Criminal Offenses

Individuals under 14 years of age cannot consent to sexual activities, with the following exception:

- If the victim is at least 12 years of age and less than 14 years of age and the defendant is no more than 3 years older than the victim[1]
- If the victim is less than 12 years of age and the defendant is no more than 3 years older than the victim[2]

In addition, children less than 16 years of age cannot consent to sexual activity if the defendant is at least 20 years of age.[3]

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

Definition of Offenses

Offense	Definition
4th degree sexual assault[4]	Sexual intercourse,[5] deviate sexual activity,[6] or sexual contact[7] with someone less than 16 years of age where the defendant is at least 20 years of age.
3rd degree sexual assault[8]	Sexual intercourse or deviate sexual activity with someone less than 14 years of age where the defendant is under 18 years of age and more than 3 years older than the victim.
2nd degree sexual assault[9]	Sexual contact with someone less than 14 years of age where the defendant is at least 18 years of age. Sexual contact with someone at least 12 years of age and less than 14 years of age and where the defendant is less than 18 years of age and more than 4 years older than the victim. Sexual contact with someone less than 12 years of age where the defendant is less than 18 years of age and more than 3 years older than the victim.
Rape[10]	Sexual intercourse or deviate sexual intercourse with someone less than 14 years of age where the defendant is more than 3 years older than the victim.

[1] If the sexual acts include "sexual contact" but not "sexual intercourse," the defendant is only guilty if he or she is 4 or more years older than the victim. Arkansas Code, §5-14-103 and §5-14-103.

[2] Arkansas Code, §5-14-125

[3] Arkansas Code, §5-14-127

[4] Arkansas Code, §5-14-127

[5] Sexual intercourse is defined as: penetration, however slight, of the labia majora by a penis. Arkansas Code, §5-14-101.

[6] Deviate sexual activity is defined as: any act of sexual gratification involving the penetration, however slight, of the anus or mouth of one person by the penis of another person; or the penetration, however slight, of the labia majora or anus of one person by any body member or foreign instrument manipulated by another person. Arkansas Code, §5-14-101.

[7] Sexual contact is defined as: any act of sexual gratification involving the touching, directly or through clothing, of the sex organs, buttocks, or anus of a person or the breast of a female. Arkansas Code, §5-14-101.

[8] Arkansas Code, §5-14-126

[9] Arkansas Code, §5-14-125

[10] Arkansas Code, §5-14-103

Note: These crimes are only applicable in cases where the defendant and victim were not married to one another at the time of the offense.[11]

B. Child Abuse Reporting Requirements

1. Inclusion of statutory rape in reporting requirements

The Arkansas Code requires mandatory reporters to report all cases of suspected child maltreatment.[12] Sexual abuse—included in the definition of child maltreatment—includes actual or attempted sexual intercourse, deviate sexual activity, or sexual contact with a child less than 16 years of age by someone at least 18 years of age and not that person's spouse. The definition of sexual abuse does not include any provisions that indicate that it applies only to parents, guardians, or custodians of the child in question.[13]

2. Mandatory reporters

Mandatory reporters include: child care workers; physical and mental health providers; domestic abuse advocates and volunteers; members of the clergy; [14] law enforcement officials; prosecutors; school employees; social workers; and employees of the Department of Human Services.[15]

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

3. Who to report to

Mandated reporters are required to notify the Department of Human Services through its 24-hour child abuse hotline if they have reasonable cause to suspect a case of child maltreatment.[16]

4. State response

The Department of Human Services is responsible for investigating all reports of child maltreatment within 72 hours of receiving them from the child abuse hotline. The Department of Human Services is required to inform the prosecutor's office of the report unless the office has given the department written notification stating that it does not require such notice. The Department of Human Services must complete a written determination based on its investigation within 30 days of receiving the report.[17] The department is required to provide a copy of this report to the appropriate law enforcement officials and the prosecutor's office.[18]

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[11] Marriage is not a defense to the crime of rape.

[12] Arkansas Code, §12-12-507

[13] Arkansas Code, §12-12-503

[14] Clergy members are not required to make reports if the suspicion is based on information obtained in confidence as part of the clergy member's religious duties.

[15] Arkansas Code, §12-12-507

[16] Arkansas Code, §12-12-507

[17] Arkansas Code, §12-12-509

[18] Arkansas Code, §12-12-514

CALIFORNIA

A. Statutory Rape—Criminal Offenses

An individual less than 18 years of age is unable to consent to sexual intercourse unless he or she is married to the defendant.[1]

Definition of Offenses

Offense	Definition
Unlawful sexual intercourse[2]	Sexual intercourse with someone less than 18 years of age where the defendant is not the victim's spouse.[3]
Unlawful oral copulation[4]	Oral copulation[5] with someone less than 18 years of age.[6]
Lewd or lascivious acts upon a child[7]	Committing lewd or lascivious acts with or upon someone less than 14 years of age. Committing lewd or lascivious acts with or upon someone at least 14 years of age and less than 16 years of age where the defendant is at least 10 years older than the victim.
Sexual penetration[8]	Engaging in the act of sexual penetration[9] with someone less than 14 years of age where the defendant is more than 10 years older than the victim.

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

B. Child Abuse Reporting Requirements

1. Inclusion of statutory rape in reporting requirements

Mandated reporters are required to report all instances where they know of or observe a child that they know or reasonably suspect to have been the victim of child abuse.[10] The definition of child abuse within the statutes includes sexual abuse and makes specific reference to the offenses listed in the previous section. The statute applies regardless of the defendant's

[1] California Penal Code, §261.5

[2] California Penal Code, §261.5

[3] The defendant is guilty of a misdemeanor if he or she is no more than 3 years older or 3 years younger than the victim. If the defendant is more than 3 years older than the victim the crime is treated as either a misdemeanor or a felony. There is also an increased penalty for those cases where the defendant is at least 21 years of age and the victim is less than 16 years of age.

[4] California Penal Code, §288a

[5] Oral copulation is defined as: the act of copulating the mouth of one person with the sexual organ or anus of another person. California Penal Code, §288a.

[6] The sentence for this crime, normally no more than one year in prison, increases to three to eight years if: the defendant is over 21 years of age and the victim is less than 16 years of age; or the victim is less than 14 years of age and the defendant is more than 10 years older than the victim.

[7] California Penal Code, §288

[8] California Penal Code, §289

[9] Sexual penetration is defined as: the act of causing the penetration, however slight, of the genital or anal opening of any person or causing another person to so penetrate the defendant's or another person's genital or anal opening for the purpose of sexual arousal, gratification, or abuse by any foreign object, substance, instrument, or device, or by any unknown object. California Penal Code, §289.

[10] California Penal Code, §11165.9 and §11166

relationship to the victim.[11] However, mandatory reporters are only required to report consensual sexual activity involving minors under the following circumstances: [12]

- Unlawful sexual intercourse when the victim is less than 16 years of age and the defendant is at least 21 years of age.
- Lewd or lascivious acts between a minor less than 14 years of age and another minor of disparate age.[13]
- Lewd or lascivious acts where the victim is between 14 and 15 years of age and the defendant is at least 10 years older than the victim.
- Sexual penetration where the victim is less than 14 years of age and the defendant is more than 10 years older than the victim.

In addition, the statute states that "the pregnancy of a minor does not, in and of itself, constitute a basis for a reasonable suspicion of sexual abuse."[14] The California Court of Appeals has similarly found that mandated reporters are not required to report cases in which a minor is found to have a sexually transmitted disease.[15]

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

2. Mandatory reporters

Mandated reporters include persons in any of the following positions who encounter a case of abuse through their professional capacity or through their employment responsibilities: any administrator or employee of an organization whose duties require direct contact and supervision of children; public assistance workers; prosecutors; child support caseworkers and investigators; firefighters; physical and mental health practitioners; emergency medical technicians and paramedics; marriage, family, and child therapists; state or county public health employees who treat minors for sexually transmitted diseases or any other condition; clergy members;[16] law enforcement officials; and employees and volunteers of Court Appointed Special Advocate programs.[17]

3. Who to report to

Mandated reporters must immediately notify, by telephone, the county welfare department or any police or sheriff's department (if designated by the county to receive mandated reports) of

[11] California Penal Code, §11165.6
[12] California Penal Code, §11165.1
[13] In *People ex rel. Eichenberger v. Stockton Pregnancy Control Medial Clinic, Inc., 249 Cal. Rptr. 762 (1988),* the court found that voluntary sexual conduct between minors under 14 years of age who are of a similar age is not a reportable offense if there are no additional factors that would indicate abuse. The court does not define what constitutes a sufficiently similar age.
[14] California Penal Code, §11166
[15] *Planned Parenthood Affiliates v. Van De Kamp, 226 Cal. Rptr. 361 (1986); People ex rel. Eichenberger v. Stockton Pregnancy Control Medial Clinic, Inc., 249 Cal. Rptr. 762 (1988).*
[16] Clergy members are not required to make reports based on information they obtain through penitential communication.
[17] California Penal Code, §11165.7

suspected abuse. They must follow-up with a detailed written report within 36 hours of learning of the incident.[18]

4. State response

The local law enforcement agency is responsible for investigating reports of child abuse. Law enforcement and county welfare or probation department must notify one another, as well as the district attorney's office, of all reported cases of abuse.[19] The statutes require that, in each county, law enforcement and the county welfare or probation department establish cooperative agreements to coordinate their efforts in the investigation of child abuse. Law enforcement must notify the county welfare or probation department within 36 of commencing an investigation.[20]

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

[18] California Penal Code, §11165.9 and §11166
[19] California Penal Code, §11166
[20] California Penal Code, §11166.3

COLORADO

A. Statutory Rape—Criminal Offenses

A child under 15 years of age cannot consent to sexual acts in cases where the other person is 4 or more years older than the victim. Individuals who are at least 15 years of age but less than 17 years of age can only consent to sexual acts if the other person is less than 10 years older than the victim.[1]

Definition of Offenses

Offense	Definition
Sexual assault[2]	Sexual intrusion[3] or sexual penetration[4] with someone less than 15 years of age where the defendant is at least 4 years older than the victim. Sexual intrusion or sexual penetration with someone at least 15 years of age and less than 17 years of age where the defendant is at least 10 years older than the victim.
Sexual assault on a child[5]	Sexual contact[6] with someone less than 15 years of age where the defendant is at least 4 years older than the victim.

Note: These crimes are only applicable in cases where the defendant is not the victim's spouse.

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

B. Child Abuse Reporting Requirements

1. Inclusion of statutory rape in reporting requirements

Mandated reporters are required to report all incidences of child abuse, including unlawful sexual behavior,[7] to the proper authorities.[8] The definition of unlawful sexual behavior includes the crimes listed in the previous section.[9] The definition of abuse does not include any provisions that indicate that it applies only to parents, guardians, or custodians of the child in question.

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[1] Colorado Statutes, §18-3-402

[2] Colorado Statutes, §18-3-402

[3] Sexual intrusion is defined as: any intrusion, however slight, by any object or any part of a person's body, except the mouth, tongue, or penis, into the genital or anal opening of another person's body if that sexual intrusion can reasonably be construed as being for the purposes of sexual arousal, gratification, or abuse. Colorado Statutes, §18-3-401.

[4] Sexual penetration is defined as: sexual intercourse, cunnilingus, fellatio, analingus, or anal intercourse. Emission need not be proved as an element of any sexual penetration. Any penetration, however slight, is sufficient to complete the crime. Colorado Statutes, §18-3-401.

[5] Colorado Statutes, §18-3-405

[6] Sexual contact is defined as: the knowing touching of the victim's intimate parts by the actor, or of the actor's intimate parts by the victim, or the knowing touching of the clothing covering the immediate area of the victim's or actor's intimate parts if that sexual contact is for the purposes of sexual arousal, gratification, or abuse. Colorado Statutes, §18-3-401.

[7] The definition of abuse includes unlawful sexual behavior. Colorado Statutes, §19-1-103.

[8] Colorado Statutes, §19-3-304

[9] Colorado Statutes, §16-22-102

2. Mandatory reporters

Mandated reporters include: physical and mental health providers; members of the clergy;[10] school employees; social workers; child care workers; peace officers; and victims advocates.[11]

3. Who to report to

Mandated reporters must immediately report cases of suspected child abuse to the county Department of Social Services or local law enforcement agency. If the report is not made in writing, it must be promptly followed by a written report.[12]

4. State response

Any county Department of Social Services receiving reports of abuse must immediately transmit a copy to the district attorney's office and local law enforcement. Additionally, the county Department must submit a report to the state Department of Social Services within 60 days of receiving a report if the report is confirmed.[13]

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

[10] Clergy members are not required to make reports if the suspicion is based on information obtained in confidence as part of the clergy member's religious duties.
[11] Colorado Statutes, §19-3-304
[12] Colorado Statutes, §19-3-307
[13] Colorado Statutes, §19-3-307

CONNECTICUT

A. Statutory Rape—Criminal Offenses

A child under 16 years of age is unable to consent to *sexual intercourse* when the other person is more than 2 years older than him or her.[1] However, *sexual contact* with someone less than 15 years of age is illegal regardless of the age of the defendant.[2]

Definition of Offenses

Offense	Definition
4th degree sexual assault[3]	Sexual contact[4] with someone less than 15 years of age.[5]
2nd degree sexual assault[6]	Sexual intercourse[7] with someone at least 13 years of age and less than 16 years of age where the defendant is more than 2 years older than the victim.
1st degree sexual assault[8]	Sexual intercourse with someone less than 13 years of age where the defendant is more than 2 years older than the victim.

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

B. Child Abuse Reporting Requirements

1. Inclusion of statutory rape in reporting requirements

Connecticut statutes require mandated reporters to report all instances where they suspect that a child has been the victim of abuse.[9] Although the statute does not make specific reference to the sexual assault laws described in the previous section, it does define abuse to include sexual molestation.[10] The reporting requirement does not include any provisions that indicate that it applies only to parents, guardians, or custodians of the child in question; the statutes require the Commissioner of Children and Families to establish a telephone hotline to receive reports or abuse *regardless* of the relationship of the alleged defendant to the child in question.[11]

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[1] Connecticut General Statutes, §53a-70 and §53a-71

[2] Connecticut General Statutes, §53a-73a

[3] Connecticut General Statutes, §53a-73a

[4] Sexual contact is defined as: any contact with the intimate parts of a person not married to the actor for the purpose of sexual gratification of the actor or for the purpose of degrading or humiliating such person or any contact of the intimate parts of the actor with a person not married to the actor for the purpose of sexual gratification of the actor or for the purpose of degrading or humiliating such person. Connecticut General Statutes, §53a-65.

[5] It is a defense to this charge that the defendant and victim were living together by mutual consent in a relationship of cohabitation, regardless of the legal status of the relationship. Connecticut General Statutes, §53a-67.

[6] Connecticut General Statutes, §53a-71

[7] Sexual intercourse is defined as: vaginal intercourse, anal intercourse, fellatio or cunnilingus between persons regardless of sex. Its meaning is limited to persons not married to each other. Penetration, however slight, is sufficient to complete vaginal intercourse, anal intercourse or fellatio and does not require emission of semen. Penetration may be committed by an object manipulated by the actor into the genital or anal opening of the victim's body. Connecticut General Statutes, §53a-65.

[8] Connecticut General Statutes, §53a-70

[9] Connecticut General Statutes, §17a-101a

[10] Connecticut General Statutes, §46b-120

[11] Connecticut General Statutes, §17a-103a

In response to a query from the Commissioner of Children and Families, the Connecticut Attorney General issued an opinion interpreting the reporting requirements.[12] The query specifically addressed providers' responsibilities in cases involving a victim who is at least 13 years of age and less than 16 years where the defendant is less than 21 years of age and more than 2 years older than the victim. The Attorney General concluded that, despite the fact that such a relationship would be considered illegal, mandated reporters are not required to make a report if no other evidence of abuse exists. In justifying the opinion, the Attorney General cites the statute related to the treatment of minors for sexually transmitted diseases, which only requires providers to report cases where the minor seeking treatment is less than 13 years of age.[13]

2. Mandatory reporters

Mandated reporters include: physical and mental health providers; athletic coaches; school employees; social workers; law enforcement and corrections officers; members of the clergy; licensed or certified alcohol and drug counselors; sexual assault and battered women's counselors; child care workers; and employees of the Department of Public Health or the Department of Children and Families.[14]

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

3. Who to report to

Upon learning of a suspected case of abuse, mandated reporters must make an oral report within 12 hours to the Commissioner of Children and Families (in person or via the telephone hotline) or a law enforcement agency.[15] Within 48 hours of making the initial report, mandated reporters are required to submit a written report to the Commissioner of Children and Families.[16]

4. State response

Law enforcement is required to immediately notify the Commissioner of Children and Families of the receipt of any reports of abuse. If the Commissioner of Children and Families receives a report involving sexual assault, the appropriate law enforcement agency must be notified within 12 hours.[17] Furthermore, in cases where the alleged defendant is not responsible for the child's health, welfare, or care the Commissioner of Children and Families is required to refer the report to the appropriate local law enforcement agency.[18]

The statutes also require that there is a child abuse unit within the Department of Public Safety's Division of State Police that can assist local law enforcement with the investigation of abuse.[19]

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[12] 2002 Conn. AG Lexis 33, September 30, 2002
[13] Connecticut General Statutes, §19a-216
[14] Connecticut General Statutes, §17a-101
[15] Connecticut General Statutes, §17a-101b
[16] Connecticut General Statutes, §17a-101c
[17] Connecticut General Statutes, §17a-101b
[18] Connecticut General Statutes, §17a-101g
[19] Connecticut General Statutes, §17a-105a

DELAWARE

A. Statutory Rape—Criminal Offenses

Children under 16 years of age are unable to consent to sexual intercourse regardless of the age of the defendant.[1] Individuals less than 18 years of age cannot consent to sexual intercourse if the defendant is 30 years of age or older except in those cases where the victim and the defendant are married to one another.[2]

Definition of Offenses

Offense	Definition
2nd degree unlawful sexual contact[3]	Intentional sexual contact[4] with another person who is less than 16 years of age.
4th degree rape[5]	Intentionally engaging in sexual intercourse[6]/penetration[7] with someone who is less than 16 years of age. Intentionally engaging in sexual intercourse with someone who is less than 18 years of age where the defendant is 30 years of age or older.
3rd degree rape[8]	Intentionally engaging in sexual intercourse/penetration with someone who is less than 16 years of age where the defendant is at least 10 years older than the victim. Intentionally engaging in sexual intercourse/penetration with someone who is less than 14 years of age where the defendant is 19 years of age or older.
2nd degree rape[9]	Intentionally engaging in sexual penetration with someone who is less than 12 years of age where the defendant is 18 years of age or older.
1st degree rape[10]	Intentionally engaging in sexual intercourse with someone who is less than 12 years of age where the defendant is 18 years of age or older.

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

[1] Delaware Code, Title 11, § 770

[2] Delaware Code, Title 11, § 770

[3] Delaware Code, Title 11, § 768

[4] Sexual contact is defined as: any intentional touching by the defendant of the anus, breast, buttocks or genitalia of another person; or any intentional touching of another person with the defendant's anus, breast, buttocks or genitalia, which touching, under the circumstances as viewed by a reasonable person, is intended to be sexual in nature. Sexual contact shall also include touching when covered by clothing. Delaware Code, Title 11, § 761.

[5] Delaware Code, Title 11, § 770

[6] Sexual intercourse is defined as: any act of physical union of the genitalia or anus of 1 person with the mouth, anus or genitalia of another person. It occurs upon any penetration, however slight. Ejaculation is not required. This offense encompasses the crimes commonly known as rape and sodomy; or any act of cunnilingus or fellatio regardless of whether penetration occurs. Ejaculation is not required. Delaware Code, Title 11, § 761.

[7] Sexual penetration is defined as: the unlawful placement of an object (any item, device, instrument, substance or any part of the body, not including medical instruments used by a licensed medical doctor or nurse for the purpose of diagnosis or treatment) inside the anus or vagina of another person; or the unlawful placement of the genitalia or any sexual device inside the mouth of another person. Delaware Code, Title 11, § 761.

[8] Delaware Code, Title 11, § 771

[9] Delaware Code, Title 11, § 772

[10] Delaware Code, Title 11, § 773

B. Child Abuse Reporting Requirements

1. Inclusion of statutory rape in reporting requirements

The Delaware Code require mandated reporters to report suspected child abuse.[11] The statute defines child abuse to include physical injury to a child through sexual abuse by any person responsible for the care, custody, and control of the child.[12] In addition, the reporting requirements mandate the investigation of all cases where acts perpetrated by a person responsible for the child would constitute a violation of any of the offenses listed in the previous section.[13]

2. Mandatory reporters

Physical and mental health providers and any other person who knows or in good faith suspects child abuse.[14] Privileged communication between attorneys and clients and between priest and penitent is exempt from these requirements.[15]

3. Who to report to

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

Mandatory reporters encountering a case of child abuse must make an immediate oral report to the Division of Child Protective Services of the Department of Services for Children, Youth, and Their Families. Reports should be made in accordance with the rules and regulations adopted by Division.[16]

4. State response

The Division of Child Protective Services must maintain a Child Protection Registry that documents reports of abuse. Upon receipt of a report, the Division must check its internal information system to determine whether previous reports have been made. The report is then forwarded to the appropriate Division staff for further investigation based on Division-established protocols. The Division must also notify the appropriate law enforcement agency upon receipt of any report.[17]

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[11] Delaware Code, Title 16, § 903
[12] Delaware Code, Title 16, § 902
[13] Delaware Code, Title 16, § 906
[14] Delaware Code, Title 16, § 903
[15] Delaware Code, Title 16, § 909
[16] Delaware Code, Title 16, § 904
[17] Delaware Code, Title 16, § 905 and 906

DISTRICT OF COLUMBIA

A. Statutory Rape—Criminal Offenses

An individual less than 16 years of age is unable to consent to sexual activities with a person 4 or more years older than him or her.[1]

Definition of Offenses

Offense	Definition
2nd degree child sexual abuse[2]	Sexual contact[3] with someone less than 16 years of age where the defendant is at least 4 years older than the victim.[4]
1st degree child sexual abuse[5]	Engaging in a sexual act[6] with someone less than 16 years of age where the defendant is at least 4 years older than the victim.[7]

Note: These crimes are only applicable in cases where the defendant and victim were not married to one another at the time of the offense.[8]

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

B. Child Abuse Reporting Requirements

1. Inclusion of statutory rape in reporting requirements

The District of Columbia Code requires mandated reporters to notify the proper authorities in all instances where, through their professional capacity, they suspect a child has been or is in immediate danger of being physically or mentally abused. The requirement does not include any provisions that indicate that it applies only to parents, guardians, or custodians of the child in question.[9] Although the statute does not make specific reference to the criminal offenses listed in the previous section, the definition does include sexual abuse of and sexual activity with children.[10]

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[1] District of Columbia Code, § 22-3008 and § 22-3009

[2] District of Columbia Code, § 22-3009

[3] Sexual contact is defined as: the touching with any clothed or unclothed body part or any object, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person. District of Columbia Code, § 22-3001.

[4] There are increased penalties for this offense if the victim was less than 12 years of age. District of Columbia Code, § 22-3020.

[5] District of Columbia Code, § 22-3008

[6] Sexual act is defined as: the penetration, however slight, of the anus or vulva of another by a penis; contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus; or the penetration, however slight, of the anus or vulva by a hand or finger or by any object, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person. The emission of semen is not required. District of Columbia Code, § 22-3001.

[7] There are increased penalties for this offense if the victim is less than 12 years of age. District of Columbia Code, § 22-3020.

[8] District of Columbia Code, § 22-3011

[9] District of Columbia Code, § 4-1321.02

[10] District of Columbia Code, § 16-2301

2. Mandatory reporters

Mandatory reporters include: physical and mental health providers; law enforcement officers; school officials and teachers; social service workers; and day care workers.[11]

3. Who to report to

Mandatory reporters must immediately make an oral report to the Metropolitan Police Department or the Child Protective Services Division of the Department of Human Services if they know or suspect a child has been or is in danger of abuse.[12] Upon the request of Child Protective Services or the police department, the mandated reporter must also submit a written report of the case.[13]

4. State response

The Child and Family Services Agency must immediately inform the police of any report it receives of alleged abuse.[14] The police department has the primary responsibility for the initial investigation of alleged abuse.[15] The police department is not required to notify the Agency of alleged abuse and the outcome of any investigation which substantiates a report.[16]

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

The District of Columbia Code requires that a multidisciplinary investigation team (MDT) review and investigate all instances of child sexual abuse. The primary focus of the MDT's investigation is the needs of the child—the secondary focus is on law enforcement and prosecution. The MDT must include at least one individual from the police department, the Child and Family Services Agency, the Office of the Corporation Counsel, and a representative from the Office of the United States Attorney and the Children's Advocacy Center.[17]

[11] District of Columbia Code, § 4-1321.02
[12] District of Columbia Code, § 4-1321.02
[13] District of Colu mbia Code, § 4-1321.03
[14] District of Columbia Code, § 4-1301.04
[15] District of Columbia Code, § 4-1301.06
[16] District of Columbia Code, § 4-1301.05
[17] District of Columbia Code, § 4-1301.51

FLORIDA

A. Statutory Rape—Criminal Offenses

A child under 16 years of age cannot consent to sexual activity, regardless of the age of the defendant.[1] A child who is at least 16 years of age and less than 18 years of age cannot consent to sexual activity if the defendant is 24 years of age or older.[2]

Definition of Offenses

Offense	Definition
Lewd or lascivious conduct[3]	Lewd or lascivious conduct[4] with someone less than 16 years of age.
Lewd or lascivious battery[5]	Sexual activity [6] with someone more than 12 years of age and less than 16 years of age.
Unlawful sexual activity with certain minors[7]	Sexual activity with someone at least 16 years of age and less than 18 years of age where the defendant is at least 24 years of age.
Lewd or lascivious molestation[8]	Lewd or lascivious molestation [9] with someone less than less than 16 years of age where the defendant is at least 18 years of age.[10] Lewd or lascivious molestation with someone less than 16 years of age where the defendant is less than 18 years of age.[11]
Contributing to the delinquency or dependency of a child[12]	A person who is 21 years of age or older commits an act of child abuse by impregnating a child who is less than 16 years of age.

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

[1] Florida Statutes, § 800.04

[2] Florida Statutes, § 794.05

[3] Florida Statutes, § 800.04

[4] Lewd or lascivious conduct is defined as: intentionally touching a person under 16 years of age in a lewd or lascivious manner; or soliciting a person under 16 years of age to commit a lewd or lascivious act. Florida Statutes, § 800.04.

[5] Florida Statutes, § 800.04

[6] Sexual activity is defined as: oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object. Florida Statutes, § 800.04.

[7] Florida Statutes, § 794.05

[8] Florida Statutes, § 800.04

[9] Lewd or lascivious molestation is defined as: intentionally touching in a lewd or lascivious manner the breasts, genitals, genital area, or buttocks, or the clothing covering them, of a person less than 16 years of age, or forcing or enticing a person under 16 years of age to so touch the defendant. Florida Statutes, § 800.04.

[10] Normally a 2nd degree felony, this crime is a felony in the 1st degree if the victim is less than 12 years of age. Florida Statutes, § 800.04.

[11] Normally a 3rd degree felony, this crime is a felony in the 2nd degree if the victim is less than 12 years of age. Florida Statutes, § 800.04.

[12] Florida Statutes, § 827.04

B. Child Abuse Reporting Requirements

1. Inclusion of statutory rape in reporting requirements

Mandated reporters are only required to notify the state of suspected abuse when the defendant is the victim's parent, legal custodian, caregiver, or other person responsible for the child's welfare.[13]

2. Mandatory reporters

Mandated reporters include anyone that knows or suspects that a child has been abused. The following individuals are required to provide their names when making a mandated report: physical and mental health providers, spiritual healers, school employees, social workers, child care workers, law enforcement officers, and judges.

Health care professionals and other individuals who provide medical or counseling services to pregnant children are not required to report abuse when the only violation is impregnation of a child less than 16 years of age by someone 21 years of age or older when such reporting would interfere with the provision of medical services.[14]

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

3. Who to report to

All reports of suspected child abuse must be made to the Department of Children and Family Services' central abuse hotline, via phone or in writing. If the report involves abuse by someone not responsible for the child, it is immediately electronically transferred to the appropriate county sheriff's office.[15]

4. State response

Department of Children and Family Services employees receiving reports of abuse through the state's hotline are responsible for determining if the report meets the statutory definition of child abuse. [16] Any allegations of criminal conduct, including sexual abuse, must be immediately forwarded to the appropriate law enforcement agency. Any investigation on the part of law enforcement must be coordinated with the Department to the extent possible.[17] As indicated in the previous section, all reports to the state's abuse hotline that involve abuse by someone not responsible for the child electronically transferred to the appropriate county sheriff's office.[18]

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[13] Florida Statutes, § 39.201
[14] Florida Statutes, § 39.201
[15] Florida Statutes, § 39.201
[16] Florida Statutes, § 39.201
[17] Florida Statutes, § 39.301
[18] Florida Statutes, § 39.201

GEORGIA

A. Statutory Rape—Criminal Offenses

A child less than 16 years of age is unable to consent to sexual intercourse unless he or she is married to the defendant.[1]

Definition of Offenses

Offense	Definition
Child molestation[2]	Committing immoral or indecent acts to or in the presence of any child less than 16 years of age with the intent to arouse or satisfy the sexual desires of the victim or the defendant.
Statutory rape[3]	Sexual intercourse with someone less than 16 years of age who is not the victim's spouse.[4]
Rape[5]	Carnal knowledge[6] of a female less than 10 years of age.

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

B. Child Abuse Reporting Requirements

1. Inclusion of statutory rape in reporting requirements

Mandatory reporters are required to report all incidences of child abuse, including sexual abuse. Although the statute indicates that the purpose of the reporting requirement is to protect the welfare of children from abuse perpetrated by those responsible for their care and protection, the definition of sexual abuse is not limited to those responsible for the child's welfare. However, the definition specifically states that sexual abuse does not include consensual sex between minors or between minors and adults when the adult is no more than 5 years older than the minor.[7]

2. Mandatory reporters

Mandatory reporters include: physical and mental health providers; professional counselors, social workers, and marriage and family therapists; school employees; child welfare agency personnel; child counseling personnel; child service organization personnel; and law enforcement.[8]

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[1] Georgia Code, § 16-6-3
[2] Georgia Code, § 16-6-4
[3] Georgia Code, § 16-6-3
[4] Statutory rape is considered a misdemeanor (as opposed to a felony) if the victim is 14 or 15 years of age and the defendant is no more than 3 years older.
[5] Georgia Code, § 16-6-1
[6] Carnal knowledge is defined as: any penetration of the female sex organ by the male sex organ. Georgia Code, § 16-6-1.
[7] Georgia Code, § 19-7-5
[8] Georgia Code, § 19-7-5

3. Who to report to

Mandated reporters must make an oral report to a child welfare agency providing protective services, as designated by the Department of Human Resources, as soon as possible in cases where they suspect abuse. Reports can be made to law enforcement or the district attorney in the absence of a designated child welfare agency. Reporters must follow all initial reports with written ones.[9]

4. State response

Upon receiving reports of alleged abuse, the child welfare agency—designated by the Department of Human Resources—is responsible for conducting an investigation. If the investigation suggests that there is reasonable cause to believe that an offense took place, the agency must immediately notify law enforcement or the district attorney.[10]

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

[9] Georgia Code, § 19-7-5
[10] Georgia Code, § 19-7-5

HAWAII

A. Statutory Rape—Criminal Offenses

Children under 14 years of age are unable to consent to sexual activities under any circumstances. Individuals less than 16 years of age and at least 14 years of age can consent to sexual activities if the defendant is less than 5 years older than the victim or is the victim's spouse.[1]

Definition of Offenses

Offense	Definition
3rd degree sexual assault[2]	Engaging in sexual contact[3] with someone at least 14 years of age and less than 16 years of age where the defendant is at least 5 years older than the victim and not the victim's spouse.
1st degree sexual assault[4]	Engaging in sexual penetration[5] with someone less than 14 years of age. Engaging in sexual penetration with someone at least 14 years of age and less than 16 years of age where the defendant is at least 5 years older than the victim and not the victim's spouse.

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

B. Child Abuse Reporting Requirements

1. Inclusion of statutory rape in reporting requirements

Mandated reporters are required to report all instances of suspected child abuse.[6] The statutes define child abuse to include sexual assault as defined in the penal code. However, the definition only applies to acts perpetrated by someone related to, residing with, or responsible for the victim.[7]

2. Mandatory reporters

Mandated reporters include persons in any of the following positions who, through their professional or official capacity, have reason to believe child abuse has occurred: licensed or registered professional of the healing arts or any health-related occupation; school employees; individuals working for agencies or institutions that provide social, medical, hospital, or mental

[1] Hawaii Revised Statutes, § 707-730

[2] Hawaii Revised Statutes, § 707-732

[3] Sexual contact is defined as: any touching of the sexual or other intimate parts of a person not married to the actor, or of the sexual or other intimate parts of the actor by the person, whether directly or through the clothing or other material intended to cover the sexual or other intimate parts. Hawaii Revised Statutes, § 707-700.

[4] Hawaii Revised Statutes, § 707-730

[5] Sexual penetration is defined as: vaginal intercourse, anal intercourse, fellatio, cunnilingus, analingus, deviate sexual intercourse, or any intrusion of any part of a person's body or of any object into the genital or anal opening of another person's body; it occurs upon any penetration, however slight, but emission is not required. Hawaii Revised Statutes, § 707-700.

[6] Hawaii Revised Statutes, § 350-1.1

[7] Hawaii Revised Statutes, § 350-1

health services, including financial assistance; child care providers and employees of child care facilities; and employees of agencies providing recreational or sports activities.[8]

3. Who to report to

Mandatory reporters must make an immediate oral report to the Department of Human Services or the police department if they suspect that a child has been the victim of abuse. All oral reports must be followed by a written report to the Department as soon as possible.[9]

4. State response

The Department of Human Services must notify the appropriate police department of all reports of child abuse that it receives. The Department must also provide the police and prosecutor's office with any relevant information that would aid in the investigation and/or prosecution of the case.[10]

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

[8] Hawaii Revised Statutes, § 350-1.1
[9] Hawaii Revised Statutes, § 350-1.1
[10] Hawaii Revised Statutes, § 350-2

IDAHO

A. Statutory Rape—Criminal Offenses

Intercourse with a female under 18 years of age is considered rape, regardless of the age of the defendant.[1] The only defense to this crime is if the defendant is the victim's spouse.[2] Sexual acts, not amounting to penetration, with a minor who is less than 18 years of age but at least 16 years of age are legal in cases where the defendant is less than 5 years older than the victim.[3]

Definition of Offenses

Offense	Definition
Sexual battery of a minor child 16 or 17 years of age[4]	With the intent to gratify the lust, passions, or sexual desire of any party—committing lewd or lascivious acts,[5] soliciting a minor to participate in a sexual act,[6] or engaging in sexual contact[7] where the victim is at least 16 years of age and less than 18 years of age and the defendant is 5 or more years older than the victim.
Sexual abuse of a child under the age of 16 years[8]	With the intent to gratify the lust, passions, or sexual desire of any party—soliciting a minor to participate in a sexual act or engaging in sexual contact where the victim is less than 16 years of age and the defendant is at least 18 years of age.
Lewd conduct with a minor under 16[9]	With the intent to gratify the lust, passions, or sexual desire of any party—committing lewd or lascivious acts with someone less than 16 years of age.
Rape[10]	Penetration[11] of a female who is less than 18 years of age and not the victim's spouse.[12]

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

B. Child Abuse Reporting Requirements

1. Inclusion of statutory rape in reporting requirements

Mandated reporters are required to report of all cases in which they suspect a child under 18 years of age has been the victim of abuse.[13] Although the sexual offenses defined in the criminal

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[1] Idaho Code, § 18-6101

[2] Idaho Code, § 18-6107

[3] Idaho Code, § 18-1508A

[4] Idaho Code, § 18-1508A

[5] Lewd and lascivious acts include: genital-genital contact, oral-genital contact, anal-genital contact, oral-anal contact, manual-anal contact or manual-genital contact, whether between persons of the same or opposite sex. Idaho Code, § 18-1508A.

[6] Solicit is defined to include: any written, verbal or physical act which is intended to communicate to such minor child the desire of the actor or third party to participate in a sexual act or participate in sexual foreplay, by the means of sexual contact, photographing or observing such minor child engaged in sexual contact. Idaho Code, § 18-1508A.

[7] Sexual contact is defined as: any physical contact between such minor child and any person or between such minor children which is caused by the actor, or the actor causing such minor child to have self contact. Idaho Code, § 18-1508A.

[8] Idaho Code, § 18-1506

[9] Idaho Code, § 18-1508

[10] Idaho Code, § 18-6101

[11] Penetration, however slight, of the oral, anal or vaginal opening with the defendant's penis. Idaho Code, § 18-1601.

[12] The Supreme Court of Idaho found that this law, which applies only to female victims, does not violateequal protection laws. The Court's opinion emphasizes the State interest in preventing unwanted pregnancy, noting that the law is an attempt "to protect women from sexual intercourse at an age when the physical, emotional and psychological consequences of sexual activity are particularly sever." *State v. LaMere, 103 Idaho 839, 655 P.2d 46 (1982).* Also see *State v. Greensweig, 103 Idaho 50, 644 P.2d 372 (Ct.App.1982).*

code are not specifically referenced, the definition of abuse contains specific reference to sexual conduct, including rape and molestation.[14] The reporting requirement does not include any provisions that indicate that it applies only to parents, guardians, or custodians of the child in question.

2. Mandatory reporters

Mandatory reporters include: any physical or mental health provider, school teacher, day care personnel, social worker, or other person having reason to believe that a child under 18 years of age has been abused. Clergy members who learn of abuse through confidential communication are exempted from reporting requirements.[15]

3. Who to report to

Mandated reporters are required to inform the Department of Health and Welfare or law enforcement within 24 hours of encountering a case of suspected abuse.[16]

4. State response

Law enforcement must notify the Department of Health and Welfare of any reports of alleged abuse that it receives.[17]

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

[13] Idaho Code, § 16-1619
[14] Idaho Code, § 16-1602
[15] Idaho Code, § 16-1619
[16] Idaho Code, § 16-1619
[17] Idaho Code, § 16-1619

ILLINOIS

A. Statutory Rape—Criminal Offenses

A person is deemed incapable of consent if he or she is under 17 years of age, regardless of the age of the defendant.[1] Sexual activity with someone under 17 years of age is treated as a misdemeanor if:

- The victim is at least 9 years of age and the defendant is less than 17 years of age; or
- The victim is at least 13 years of age and the defendant is less than 5 years older than the victim.[2]

Definition of Offenses

Offense	Definition
Criminal sexual abuse[3]	Sexual penetration[4] or sexual conduct[5] with someone at least 9 years of age and less than 17 years of age where the defendant is less than 17 years of age. Sexual penetration or sexual conduct with someone at least 13 years of age and less than 17 years of age where the defendant is less than 5 years older than the victim.
Aggravated criminal sexual abuse[6]	Sexual conduct with someone less than 13 years of age where the defendant is at least 17 years of age. Sexual conduct with someone less than 9 years of age where the defendant is less than 17 years of age. Sexual penetration or sexual conduct with someone at least 13 years of age but less than 17 years of age where the defendant is at least 5 years older than the victim.
Aggravated criminal sexual assault[7]	Sexual penetration with someone less than 9 years of age where the defendant is less than 17 years of age.
Predatory criminal sexual assault of a child[8]	Sexual penetration with someone less than 13 years of age where the defendant is at least 17 years of age.

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

[1] 720 Illinois Compiled Statutes, § 5/12-16
[2] 720 Illinois Compiled Statutes, § 5/12-15
[3] 720 Illinois Compiled Statutes, § 5/12-15
[4] Sexual penetration is defined as: any contact, however slight, between the sex organ or anus of one person by an object, the sex organ, mouth or anus of another person, or any intrusion, however slight, of any part of the body of one person or of any animal or object into the sex organ or anus of another person, including but not limited to cunnilingus, fellatio or anal penetration. Evidence of emission of semen is not required to prove sexual penetration. 720 Illinois Compiled Statutes, § 5/12-12.
[5] Sexual conduct is defined as: any intentional or knowing touching or fondling by either party, either directly or through clothing, of the sex organs, anus or breast of either party, or any part of the body of a child under 13 years of age, or any transfer or transmission of semen by the defendant upon any part of the clothed or unclothed body of the victim, for the purpose of sexual gratification or arousal of either party. 720 Illinois Compiled Statutes, § 5/12-12.
[6] 720 Illinois Compiled Statutes, § 5/12-16
[7] 720 Illinois Compiled Statutes, § 5/12-14
[8] 720 Illinois Compiled Statutes, § 5/12-14.1

Note: Defendants who are married to the victim can only be prosecuted for these offenses if the victim reports the offense to law enforcement or the State's Attorney's office within 30 days of when the alleged offense occurred.[9]

B. Child Abuse Reporting Requirements

1. Inclusion of statutory rape in reporting requirements

Mandatory reporters are required to notify the proper authorities if they suspect that a child has been the victim of abuse.[10] The statute defines child abuse to include the offenses listed in the previous section. However, the definition only applies to those cases where the defendant is the parent, immediate family member, person responsible for the child's welfare, an individual residing in the same house as the child, or a paramour of the child's parent.[11]

2. Mandatory reporters

Mandatory reporters include the following individuals who suspect that a child known to them through their professional or official capacity has been a victim of abuse: physical and mental health providers; hospital administrators; substance abuse treatment personnel; crisis line or hotline personnel; school personnel; educational advocates assigned to a child pursuant to the school code; truant officers; social workers; social services administrators; domestic violence program personnel; nursery school and day care personnel; recreational program or facility personnel; law enforcement officers; field personnel of the Departments of Public Aid, Public Health, Human Services, Corrections, Human Rights, or Children and Family Services; probation officers; clergy;[12] foster parents; homemakers; and child care workers.[13]

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

3. Who to report to

The Department of Children and Family Services is required to maintain a statewide toll-free hotline to receive reports of abuse at all times.[14] Mandated reporters are required to immediately report suspected child abuse through this hotline or by notifying the Department's nearest office. Initial reports must be followed within 48 hours by a written report to the appropriate Child Protective Service Unit.[15]

4. State response

All reports received through the statewide hotline are to be immediately forwarded to the appropriate Child Protective Service Unit.[16] These specialized units within the Department of Children and Family Services are responsible for investigating all reports of child abuse.[17] The

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[9] This does not apply to "Predatory criminal assault of a child." 720 Illinois Compiled Statutes, § 5/12-18.

[10] 325 Illinois Compiled Statutes, § 5/4

[11] 325 Illinois Compiled Statutes, § 5/3

[12] Clergy must report abuse involving a sexual offense. However, they may claim privilege with respect to confessions made to them through their role as a spiritual advisor.

[13] 325 Illinois Compiled Statutes, § 5/4

[14] 325 Illinois Compiled Statutes, § 5/7.6

[15] 325 Illinois Compiled Statutes, § 5/7

[16] 325 Illinois Compiled Statutes, § 5/7

[17] 325 Illinois Compiled Statutes, § 5/7.3

initial investigation to determine the need for a formal investigation must commence within 24 hours of receiving a report.[18] The unit then has 60 days to conduct a formal investigation. [19]

In addition, the Department must orally notify law enforcement and the State's Attorney of the involved county within 24 hours of receiving reports alleging sexual abuse. Oral notification must be followed within 48 hours by a written report.

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

[18] 325 Illinois Compiled Statutes, § 5/7.4
[19] 325 Illinois Compiled Statutes, § 5/7.12

INDIANA

A. Statutory Rape—Criminal Offenses

Sexual intercourse with an individual less than 14 years of age is illegal regardless of the age of the defendant.[1] Sexual intercourse with an individual at least 14 years of age and less than 16 years of age is a crime if the defendant is at least 18 years of age.[2]

Definition of Offenses

Offense	Definition
Sexual misconduct with a minor[3]	Sexual intercourse or deviate sexual conduct with someone at least 14 years of age and less than 16 years of age (who is not and never has been married) where the defendant is at least 18 years of age.[4] Fondling or touching of either the victim or the defendant with the intent to arouse or to satisfy the sexual desires of either party where the victim is at least 14 years of age and less than 16 years of age (and is not and never has been married) and the defendant is at least 18 years of age.[5]
Child molesting[6]	Sexual intercourse or deviate sexual conduct with someone less than 14 years of age.[7] Fondling or touching of either the victim or the defendant with the intent to arouse or to satisfy the sexual desires of either party where the victim is less than 14 years of age.

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

B. Child Abuse Reporting Requirements

1. Inclusion of statutory rape in reporting requirements

Mandated reporters are required to report all cases of suspected child abuse.[8] The definition of child abuse makes specific reference to sexual offenses detailed in the state's criminal code, including the two described in the previous section.[9,10] The reporting requirement does not include any provisions that indicate that it applies only to parents, guardians, or custodians of the child in question.

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[1] Indiana Code, § 35-42-4-3
[2] Indiana Code, § 35-42-4-9
[3] Indiana Code, § 35-42-4-9
[4] Normally a class C felony, this crime is a class B felony if the defendant is at least 21 years of age. Indiana Code, § 35-42-4-9.
[5] Normally a class D felony, this crime is a class C felony if the defendant is at least 21 years of age. Indiana Code, § 35-42-4-9.
[6] Indiana Code, § 35-42-4-3
[7] Normally a class B felony, this crime is a class A felony if the defendant is at least 21 years of age. Indiana Code, § 35-42-4-3.
[8] Indiana Code, § 31-33-5-1
[9] Indiana Code, § 31-34-1-3
[10] Child molestation (Indiana Code, § 35-42-4-3) is *not* a reportable offense unless it involved fondling or touching of the buttocks, genitals, or female breasts. Indiana Code, § 31-9-2-14.

2. Mandatory reporters

Any individual that suspects a child has been abused must make a report.[11]

3. Who to report to

Mandated reporters must make an oral report to the local child protection service or law enforcement agency immediately after encountering a case of suspected abuse.[12]

4. State response

The local child protection service agency is required to make a written report of suspected abuse within 48 hours of receiving an oral report[13] and forward copies of its report to law enforcement and the district attorney's office.[14]

If a law enforcement agency receives the initial report, it must immediately inform the local child protection service agency. In all cases of suspected abuse, law enforcement and local child protection service must conduct an onsite investigation in unison.[15]

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

[11] Indiana Code, § 31-33-5-1
[12] Indiana Code, § 31-33-5-4
[13] Indiana Code, § 31-33-7-4
[14] Indiana Code, § 31-33-7-5
[15] Indiana Code, § 31-33-7-7, § 31-33-8-2

IOWA

A. Statutory Rape—Criminal Offenses

Sexual acts with children less than 14 years of age are illegal under all circumstances.[1] An individual who is at least 14 years of age and less than 16 years of age cannot consent to a sexual act if the defendant is 4 or more years older than him or her and not his or her spouse.[2]

Definition of Offenses

Offense	Definition
Indecent contact with a child[3]	Indecent contact[4] with someone less than 14 years of age where the defendant is at least 18 years of age and not the victim's spouse. This law also applies to defendants at least 16 years of age and less than 18 years of age when the victim is at least 5 years younger than the defendant.
Lascivious acts with a child[5]	Performing lascivious acts[6]—for the of arousing or satisfying the sexual desires of either party—with someone less than 14 years of age where the defendant is at least 18 years of age and not the victim's spouse.
3rd degree sexual abuse[7]	Committing a sex act[8] with someone at least 12 years of age and less than 14 years of age where the defendant is not victim's spouse. Committing a sex act with someone at least 14 years of age and less than 16 years of age where the defendant is at least 4 years older than the victim and not the victim's spouse.
2nd degree sexual abuse	Sexually abusing[9] someone less than 12 years of age.

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

B. Child Abuse Reporting Requirements

1. Inclusion of statutory rape in reporting requirements

Mandated reporters must make a report in all cases where they suspect a child to be a victim of abuse.[10] The definition of child abuse includes the sexual offenses detailed in the previous

[1] Iowa Code, § 709.3, § 709.4

[2] Iowa Code, § 709.4

[3] Iowa Code, § 709.12

[4] Indecent contact includes: fondling or touching the inner thigh, groin, buttock, anus, or breast of the victim; touching the clothing covering the immediate area of the inner thigh, groin, buttock, anus, or breast of the victim; or soliciting or permitting the victim to fondle or touch the inner thigh, groin, buttock, anus, or breast of the defendant. Iowa Code, § 709.12.

[5] Iowa Code, § 709.8

[6] Lascivious acts include: fondling or touching the pubes or genitals of the victim; permitting or causing the victim to fondle or touch the defendant's genitals or pubes; or soliciting the victim to engage in a sex act or solicit a person to arrange a sex act with the victim. Iowa Code, § 709.8.

[7] Iowa Code, § 709.4

[8] Sex act is defined as any sexual contact between two or more persons by: penetration of the penis into the vagina or anus; contact between the mouth and genitalia or by contact between the genitalia of one person and the genitalia or anus of another person; contact between the finger or hand of one person and the genitalia or anus of another person; or by use of artificial sexual organs or substitutes therefore in contact with the genitalia or anus. Iowa Code, § 702.17.

[9] Sexual abuse is defined to include: any sex act between persons where one person is less than 14 years of age. Iowa Code, § 709.1.

[10] Iowa Code, § 232.69

section; however it only applies to those cases where the defendant is someone responsible for the care of the child in question.[11] The reporting requirement makes an exception for those cases involving a victim who is less than 12 years of age, in which case mandated reporters must notify the proper authorities of suspected sexual abuse regardless of the defendant's relationship to the victim.[12]

2. Mandatory reporters

Mandated reporters include persons in any of the following positions who encounter a case of abuse through their professional practice or employment responsibilities: health practitioners; social workers; employees and operators of public or private health care facilities; mental health providers; school employees; child care workers and administrators; employees and operators of substance abuse programs; employees of Department of Human Services institutions; foster care providers; and peace officers.[13]

3. Who to report to

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

Mandated reporters must make an oral report of suspected abuse to the Department of Human Services within 24 hours.[14] If the reporter feels that the child is in immediate need of protection, he or she must also report the case to law enforcement. Individuals must submit a written report to the Department within 48 hours of making an oral report.[15]

4. State response

The Department of Human Services is responsible for determining whether each report they received constitutes an allegation of child abuse and notifying the appropriate county attorney. If the report alleges sexual abuse by someone not responsible for the child, the Department must refer the report to the local law enforcement agency.[16]

[11] Iowa Code, § 232.68
[12] Iowa Code, § 232.69
[13] Iowa Code, § 232.69
[14] Iowa Code, § 232.69
[15] Iowa Code, § 232.70
[16] Iowa Code, § 232.70

KANSAS

A. Statutory Rape—Criminal Offenses

Sexual acts with individuals under 16 years age are illegal regardless of the of the age of the defendant.[1]

Definition of Offenses

Offense	Definition
Unlawful voluntary sexual relations[2]	Sexual intercourse,[3] sodomy,[4] or lewd fondling or touching with someone at least 14 years of age and less than 16 years of age where the defendant is less than 19 years of age, less than 4 years older than the victim, and the victim and defendant are the only parties involved and members of the opposite sex.[5]
Indecent liberties with a child[6]	With the intent to arouse or satisfy the sexual desires of either party—engaging in (or soliciting to engage in) lewd fondling or touching where the victim is at least 14 years of age and less than 16 years of age.
Aggravated indecent liberties with a child[7]	Sexual intercourse with someone at least 14 years of age and less than 16 years of age. With the intent to arouse or satisfy the sexual desires of either party—engaging in (or soliciting to engage in) lewd fondling or touching where the victim is less than 14 years of age.
Rape[8]	Sexual intercourse with someone less than 14 years of age.

Cited in Estrada-Espinoza v. Mukasey No. 05-75890 archived on October 22, 2008

Note: These crimes are only applicable in cases where the defendant and victim were not married to one another at the time of the offense.[9]

B. Child Abuse Reporting Requirements

1. Inclusion of statutory rape in reporting requirements

Mandated reporters are required to report all instances where they suspect that a child has been injured as a result of sexual abuse.[10] The definition of sexual abuse makes specific reference to section of the Kansas Statutes that contains the offenses listed in the previous section. The

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[1] Kansas Statutes, § 21-3502 and § 21-3504

[2] Kansas Statutes, § 21-3522

[3] Sexual intercourse is defined as: any penetration of the female sex organ by a finger, and the male sex organ or any object. Any penetration, however slight, is sufficient to constitute sexual intercourse. Kansas Statutes, § 21-3501.

[4] Sodomy is defined as: oral contact or oral penetration of the female genitalia or oral contact of the male genitalia; anal penetration, however slight, of a male or female by any body part or object; or oral or anal copulation or sexual intercourse between a person and an animal. Kansas Statutes, § 21-3501.

[5] This severity level of this crime is dependent on the nature of the sexual relations; sexual intercourse is most severe of the three (level 8), followed by sodomy (level 9) and lewd fondling or touching (level 10).

[6] Kansas Statutes, § 21-3503

[7] Kansas Statutes, § 21-3504

[8] Kansas Statutes, § 21-3502

[9] This does not apply to the crime of unlawful voluntary sexual relations.

[10] Kansas Statutes, § 38-1522

definition does not include any provisions that indicate that it applies only to defendants responsible for the care of the victim.[11]

2. Mandatory reporters

Mandatory reporters include: physical and mental health practitioners; teachers, school administrators, and other school employees; chief administrative officers of medical facilities; licensed marriage and family therapists; registered drug and alcohol abuse counselors; child care providers; juvenile intake and assessment workers; and law enforcement officers.[12]

3. Who to report to

Mandatory reporters are required to make oral reports to the Department of Social and Rehabilitation Services. When requested by the Department, an oral report must be followed by a written report. If the Department is not open for business, reports should be made to the appropriate law enforcement agency (law enforcement must notify the Department when it receives these reports).[13]

4. State response

Investigations of abuse can be conducted by either the Department of Social and Rehabilitation Services or law enforcement. In cases of alleged sexual abuse, the two agencies must conduct a joint investigation.[14]

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

[11] Kansas Statutes, § 38-1502
[12] Kansas Statutes, § 38-1522
[13] Kansas Statutes, § 38-1522
[14] Kansas Statutes, § 38-1523

KENTUCKY

A. Statutory Rape—Criminal Offenses

An individual is deemed incapable of consent when he or she is less than 16 years of age.[1] Individuals are exempt from prosecution for rape (a felony) under the following circumstances:

- If the victim is less than 14 years of age and the defendant is less than 18 years of age[2]
- If the victim is between 14 and 16 years of age and the defendant is less than 21 years of age[3]

However, it is a misdemeanor to engage in sexual intercourse or deviate sexual intercourse with someone under 16 years of age regardless of the age of the defendant.[4]

Definition of Offenses

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

Offense	Definition
3rd degree sexual abuse[5]	Sexual contact[6] with someone at least 14 years of age where the defendant is less than 5 years older than the victim.
Sexual misconduct[7]	Engaging in sexual intercourse[8] or deviate sexual intercourse[9] with someone less than 16 years of age.
2nd degree sexual abuse[10]	Sexual contact with someone less than 14 years of age.
1st degree sexual abuse[11]	Sexual contact with someone less than 12 years of age.
3rd degree rape[12]	Engaging in sexual intercourse with someone less than 16 years of age where the defendant is at least 21 years of age.
2nd degree rape[13]	Engaging in sexual intercourse with someone less than 14 years of age where the defendant is at least 18 years of age.

[1] Kentucky Revised Statutes, § 510.020
[2] Kentucky Revised Statutes, § 510.050
[3] Kentucky Revised Statutes, § 510.060
[4] Kentucky Revised Statutes, § 510.140
[5] Kentucky Revised Statutes, § 510.130
[6] Sexual contact is defined as: any touching of the sexual or other intimate parts of a person done for the purpose of gratifying the sexual desire of either party. Kentucky Revised Statutes, § 510.010.
[7] Kentucky Revised Statutes, § 510.140
[8] Sexual intercourse is defined as: its ordinary sense and includes penetration of the sex organs of one person by a foreign object manipulated by another person. Sexual intercourse occurs upon any penetration, however slight; emission is not required. Kentucky Revised Statutes, § 510.010.
[9] Deviate sexual intercourse is defined as: any act of sexual gratification involving the sex organs of one person and the mouth or anus of another; or penetration of the anus of one person by a foreign object manipulated by another person. Kentucky Revised Statutes, § 510.010.
[10] Kentucky Revised Statutes, § 510.120
[11] Kentucky Revised Statutes, § 510.110
[12] Kentucky Revised Statutes, § 510.060
[13] Kentucky Revised Statutes, § 510.050

1st degree rape[14]	Engaging in sexual intercourse with someone less than 12 years of age.

Note: Marriage is a defense to all of these offenses when the act is only illegal due to the fact that the victim is less than 16 years of age.[15]

B. Child Abuse Reporting Requirements

1. Inclusion of statutory rape in reporting requirements

Mandatory reporters are required to report all cases in which they know or have reasonable cause to believe that a child has been the victim of abuse.[16] The definition of abuse includes sexual abuse. However, the definition only applies to those cases where a child's parent, guardian, or other person exercising custodial control or supervision of the child commits or creates a risk of abuse.[17]

2. Mandatory reporters

Anyone who knows or has reasonable cause to believe that a child has been the victim of abuse is considered to be a mandatory reporter.[18] This requirement does not apply to information covered under the attorney-client or clergy-penitent privilege.[19]

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

3. Who to report to

Mandatory reporters can make an oral or written report of abuse to any of the following agencies: local law enforcement, Kentucky State Police, the Cabinet for Families and Children, the Commonwealth's attorney, or the county attorney. Although mandatory reporters are not required to report cases of abuse that do not involve a child's parent, guardian, or other person exercising custodial control or supervision of the child, the statute does include requirements for mandatory reporters who report these cases. In addition to the initial report, individuals reporting these cases must, if requested, also file a written report with all of the other agencies designated to receive reports.[20]

4. State response

Whatever agency receives a report of abuse must immediately notify all of the other agencies designated to receive reports. The Cabinet for Families and Children must notify the prosecutor's office and law enforcement of any cases of abuse that do not involve the victim's parent, guardian, or other person exercising custodial control or supervision of the child.[21]

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[14] Kentucky Revised Statutes, § 510.040
[15] Kentucky Revised Statutes, § 510.035
[16] Kentucky Revised Statutes, § 620.030
[17] Kentucky Revised Statutes, § 600.020
[18] Kentucky Revised Statutes, § 620.030
[19] Kentucky Revised Statutes, § 620.050
[20] Kentucky Revised Statutes, § 620.030
[21] Kentucky Revised Statutes, § 620.040

All investigations of child abuse must be conducted by a specialized multi-disciplinary team that includes representatives from law enforcement and Cabinet social workers. The team can also include representatives from the Commonwealth and county attorneys office, child advocacy centers, physical and mental health providers, victim advocates, and educators. Law enforcement is responsible for leading the investigations of cases in which the defendant is not the parent, guardian, or other person exercising custodial control or supervision of the child.[22]

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

[22] Kentucky Revised Statutes, § 431.600

LOUISIANA

A. Statutory Rape—Criminal Offenses

In Louisiana, an individual can legally consent to sexual intercourse when he or she is 17 years of age.[1] Sexual intercourse with a child less than 13 years of age is illegal regardless of the age of the defendant. In cases where the victim is at least 15 years of age and less than 17 years of age, the defendant must be no more than 2 years older than the victim for sexual intercourse to be legal.[2]

Definition of Offenses

Offense	Definition
Misdemeanor carnal knowledge of a juvenile[3]	Sexual intercourse[4] with someone at least 15 years of age and less than 17 years of age where the defendant is at least 17 years of age and less than 19 years of age and more than 2 years older than the victim.
Indecent behavior with juveniles[5]	With the intention of arousing or gratifying the sexual desires of either party — committing lewd or lascivious acts upon (or in the presence of) someone less than 17 years of age where the defendant is more than 2 years older than the victim.
Felony carnal knowledge of a juvenile[6]	Sexual intercourse with someone at least 12 years of age and less than 17 years of age where the defendant is at least 19 years of age. Sexual intercourse with someone at least 12 years of age and less than 15 years of age where the defendant is at least 17 years of age.
Sexual battery[7]	Committing sexual battery[8] against someone less than 15 years of age where the defendant is 3 or more years older than the victim.
Oral Sexual battery[9]	Committing oral sexual battery[10] against someone less than 15 years of age where the defendant is 3 or more years older than the victim.
Aggravated rape[11]	Sexual intercourse with someone less than 13 years of age.

Note: With the exception of Aggravated Rape, marriage is a defense to all of these offenses.

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

[1] Louisiana Revised Statutes, § 14-80
[2] Louisiana Revised Statutes, § 14-42 and § 14-80.1
[3] Louisiana Revised Statutes, § 14-80.1
[4] Sexual intercourse includes: anal, oral, or vaginal sexual intercourse. Louisiana Revised Statutes, § 14-80.1.
[5] Louisiana Revised Statutes, § 14-81
[6] Louisiana Revised Statutes, § 14-80
[7] Louisiana Revised Statutes, § 14-43.1
[8] Sexual battery includes: touching of the anus or genitals of the victim by the offender using any instrumentality or any part of the body of the offender; or touching of the anus or genitals of the offender by the victim using any instrumentality or any part of the body of the victim. Louisiana Revised Statutes, § 14-43.1.
[9] Louisiana Revised Statutes, § 14-43.3
[10] Oral sexual battery includes: touching of the anus or genitals of the victim by the offender using the mouth or tongue of the offender; or touching of the anus or genitals of the offender by the victim using the mouth or tongue of the victim. Louisiana Revised Statutes, § 14-43.3.
[11] Louisiana Revised Statutes, § 14-42

B. Child Abuse Reporting Requirements

1. Inclusion of statutory rape in reporting requirements

Mandated reporters are required to notify the proper authorities in all cases where they suspect a child is the victim of abuse.[12] The definition of abuse includes the involvement of a child in sexual activity that would constitute a crime under Louisiana law. It does not include any provisions that indicate that it applies only to defendants responsible for the care of the victim.[13]

2. Mandatory reporters

Mandated reporters include any of the following individuals who, in their professional capacity, encounter a child who they suspect to be a victim of abuse: health practitioners; mental health / social service practitioners; members of the clergy;[14] teaching or child care providers; and police officers or law enforcement officials.[15]

3. Who to report to

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

Mandated reporters are required to notify the local child protection unit of the Department of Social Services in cases where the alleged abuse was perpetrated by: the victim's parent or caretaker; a person who maintains an interpersonal dating or engagement relationship with the parent or caretaker; or a person living in the same residence with the parent or caretaker as a spouse whether married or not. In all other cases, the report must be made to a local or state law enforcement agency. Initial reports may be made orally, but they must be followed by a written report to the appropriate agency within 5 days.[16]

4. State response

The Louisiana Children's Code requires that as of February 2004, each judicial district in the state has a multi-disciplinary team that will be responsible for investigating all allegations of child abuse.[17] Teams should include individuals from government and the private sector that have experience investigating child abuse and treating victims of abuse.[18]

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[12] Louisiana Children's Code, Article 609
[13] Louisiana Children's Code, Article 603
[14] Clergy members are not required to make reports if the suspicion is based on information obtained in confidence as part of the clergy member's religious duties.
[15] Louisiana Children's Code, Article 603
[16] Louisiana Children's Code, Article 610
[17] Louisiana Children's Code, Article 508
[18] Louisiana Children's Code, Article 512

MAINE

A. Statutory Rape—Criminal Offenses

A child who is less than 16 years of age cannot consent to sexual acts,[1] with the following exceptions:

- Engaging in a voluntary *sexual act* with a victim who is at least 14 years of age and less than 16 years of age is not illegal if the defendant is less than 5 years older than the victim.[2]
- Voluntary *sexual contact* with a victim who is at least 14 years of age and less than 16 years of age is not illegal if the defendant is less than 10 years older than the victim.[3]
- Voluntary *sexual contact* with a victim under 14 years of age is not considered to be unlawful sexual contact if the defendant is less than 3 years older than the victim.[4]
- Voluntary *sexual touching* with a victim under 14 years of age is exempted from prosecution if the defendant is less than 5 years older than the victim.[5]

It is illegal to engage in a *sexual act* with someone less than 14 years of age regardless of the age of the defendant.[6]

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

Definition of Offenses

Offense	Definition
Sexual abuse of minors[7]	Engaging in a sexual act[8] with someone at least 14 years of age and less than 16 years of age where the defendant is at least 5 years older than victim. Sexual contact[9] with someone at least 14 years of age and less than 16 years of age where the defendant is at least 10 years older than victim.
Unlawful sexual touching[10]	Subjecting someone less than 14 years of age to sexual touching[11] where the defendant is at least 5 years older than victim.

[1] Maine Revised Statutes, Title 17-A, § 254
[2] Maine Revised Statutes, Title 17-A, § 254
[3] Maine Revised Statutes, Title 17-A, § 254
[4] Maine Revised Statutes, Title 17-A, § 255-A
[5] Maine Revised Statutes, Title 17-A, § 260
[6] Maine Revised Statutes, Title 17-A, § 253
[7] Maine Revised Statutes, Title 17-A, § 254
[8] Sexual act is defined to include: any act between 2 persons involving direct physical contact between the genitals of one and the mouth or anus of the other, or direct physical contact between the genitals of one and the genitals of the other; or any act involving direct physical contact between the genitals or anus of one and an instrument or device manipulated by another person when that act is done for the purpose of arousing or gratifying sexual desire or for the purpose of causing bodily injury or offensive physical contact. Maine Revised Statutes, Title 17-A, § 251.
[9] Sexual contact is defined as: any touching of the genitals or anus, directly or through clothing, other than as would constitute a sexual act, for the purpose of arousing or gratifying sexual desire or for the purpose of causing bodily injury or offensive physical contact. Maine Revised Statutes, Title 17-A, § 251.
[10] Maine Revised Statutes, Title 17-A, § 260

Unlawful sexual contact[12]	Sexual contact with someone less than 14 years of age where the defendant is at least 3 years older than victim. [13]
Gross sexual assault[14]	Engaging in a sexual act with someone less than 14 years of age.

Note: These crimes are only applicable in cases where the defendant is not the victim's spouse.

B. Child Abuse Reporting Requirements

1. Inclusion of statutory rape in reporting requirements

Mandated reporters are required to report suspected child abuse.[15] The definition of child abuse includes sexual abuse, but it is specific to those responsible for the child.[16] However, Maine's reporting requirements include a specific provision that also requires mandated reporters to notify authorities if they have cause to suspect that a child has been abused by a person *not* responsible for the child.[17]

2. Mandatory reporters

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

Mandated reporters include the following individuals when acting in a professional capacity: physical and mental health providers; teachers, guidance counselors, and school officials; children's summer camp administrators and counselors; social workers; court-appointed special advocates or guardians ad litem for a child; homemakers; social service workers; child care personnel; law enforcement officials; clergy members;[18] and chairs of professional licensing boards that have jurisdiction over mandated reporters.[19]

3. Who to report to

In cases where the perpetrator of the suspected abuse is a person responsible for the victim, mandated reporters must immediately notify the Department of Human Services. If the alleged defendant is an individual not responsible for the care of the victim, a report must be made to the appropriate district attorney's office.[20] Initial reports should be made by telephone, and, if requested by the Department, followed by a written report within 48 hours.[21]

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[11] Sexual touching is defined as: any touching of the breasts, buttocks, groin or inner thigh, directly or through clothing, for the purpose of arousing or gratifying sexual desire. Maine Revised Statutes, Title 17-A, § 251.

[12] Maine Revised Statutes, Title 17-A, § 255-A

[13] Normally a Class C crime, this crime is a Class B crime if the sexual contact includes penetration. Maine Revised Statutes, Title 17-A, § 255-A.

[14] Maine Revised Statutes, Title 17-A, § 253

[15] Maine Revised Statutes, Title 22, § 4011-A

[16] Maine Revised Statutes, Title 22, § 4002

[17] Maine Revised Statutes, Title 22, § 4011-A

[18] Except for information received during confidential communications.

[19] Maine Revised Statutes, Title 22, § 4011-A

[20] Maine Revised Statutes, Title 22, § 4011-A

[21] Maine Revised Statutes, Title 22, § 4012

4. State response

The Department of Human Services is responsible for receiving and investigating reports of abuse perpetrated by someone responsible for the care of the victim.[22] All other reports are to be processed by the appropriate district attorney's office.[23]

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

[22] Maine Revised Statutes, Title 22, § 4004
[23] Maine Revised Statutes, Title 22, § 4011-A

MARYLAND

A. Statutory Rape—Criminal Offenses

An individual is deemed incapable of consent is he or she is less than 16 years of age.[1] However, engaging in voluntary sexual intercourse or sexual acts with a victim who is less than 16 years of age is legal as long as the defendant is less than 4 years older than the victim.[2]

Definition of Offenses

Offense	Definition
Sexual offense in the 4th degree[3]	Engaging in vaginal intercourse or a sexual act[4] with someone at least 14 years of age and less than 16 years of age where the defendant is at least 4 years older than the victim.
Sexual offense in the 3rd degree[5]	Engaging in sexual contact[6] with someone less than 14 years of age where the defendant is at least 4 years older than the victim. Engaging in vaginal intercourse or a sexual act with someone at least 14 years of age and less than 16 years of age where the defendant is at least 21 years of age.
Sexual offense in the 2nd degree[7]	Engaging in a sexual act with someone less than 14 years of age where the defendant is at least 4 years older than the victim.
2nd degree rape[8]	Engaging in a vaginal intercourse with someone less than 14 years of age where the defendant is at least 4 years older than the victim.

Cited in Estrada-Espinoza v. Mukasey, No. 05-75859 archived on October 22, 2008

B. Child Abuse Reporting Requirements

1. Inclusion of statutory rape in reporting requirements

Mandated reporters are required to report all instances of suspected abuse, including sexual abuse of a child.[9] However, sexual abuse is defined to only include those acts perpetrated by the victim's parent, household or family member, or someone else responsible for the victim's care.[10]

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[1] Maryland Code, Criminal Law, § 3-308
[2] Maryland Code, Criminal Law, § 3-304, § 3-306, § 3-308
[3] Maryland Code, Criminal Law, § 3-308
[4] Sexual act includes any of the following: analingus; cunnilingus; fellatio; anal intercourse, including penetration, however slight, of the anus; or an act in which an object penetrates, however slightly, into another individual's genital opening or anus that can reasonably be construed to be for sexual arousal or gratification, or for the abuse of either party. Maryland Code, Criminal Law, § 3-301.
[5] Maryland Code, Criminal Law, § 3-307
[6] Sexual contact is defined as: an intentional touching of the victim's or actor's genital, anal, or other intimate area for sexual arousal or gratification, or for the abuse of either party, including an act in which a part of an individual's body, except the penis, mouth, or tongue, penetrates, however slightly, into another individual's genital opening or anus. Maryland Code, Criminal Law, § 3-301.
[7] Maryland Code, Criminal Law, § 3-306
[8] Maryland Code, Criminal Law, § 3-304
[9] Maryland Code, Family Law, § 5-704, § 5-705
[10] Maryland Code, Family Law, § 5-701

2. Mandatory reporters

Mandated reporters include: health practitioners, police officers, educators, humans service workers, and any other individual who suspects that a child has been the victim of abuse. Lawyers and clergy members are not required to report abuse if they learn of it through in their professional capacity, and they are bound to maintain confidentiality. [11]

3. Who to report to

Health practitioners, police officers, educators, and humans service workers must make an oral report of all suspected abuse, as soon as possible, to the local office of the Department of Human Resources or the appropriate law enforcement agency. Within 48 of learning of the abuse, these mandated reporters must also file a written report with the Department and the local State's Attorney.[12]

All other mandated reporters are required to make a report, either orally or in writing, to the local office of the Department or the appropriate law enforcement agency.[13]

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

4. State response

The Department of Human Resources and law enforcement must notify one another of any reports they receive.[14] These two groups, along with the State's attorney are required to implement a joint investigative procedure for investigating reports of sexual abuse. The investigation of all reports of sexual abuse must be initiated within 24 hours of receipt.[15]

[11] Maryland Code, Family Law, § 5-704, § 5-705
[12] Maryland Code, Family Law, § 5-704
[13] Maryland Code, Family Law, § 5-705
[14] Maryland Code, Family Law, § 5-704
[15] Maryland Code, Family Law, § 5-706

MASSACHUSETTS

A. Statutory Rape—Criminal Offenses

A child under 16 years of age is unable to consent to sexual intercourse.[1]

Definition of Offenses

Offense	Definition
Rape and abuse of child[2]	Unlawful sexual intercourse or unnatural sexual intercourse with someone less than 16 years of age.

B. Child Abuse Reporting Requirements

1. Inclusion of statutory rape in reporting requirements

The Massachusetts General Laws require mandated reporters to report all instances where they have reasonable cause to suspect that a child is a victim of abuse, including sexual abuse. The reporting requirements do not include any provisions that indicates that it applies only to parents, guardians, or other individuals responsible for the welfare of the child.[3]

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

2. Mandatory reporters

Mandatory reporters include any of the following individuals who, in their professional capacity, suspect child abuse: physical and mental health providers; teachers; educational administrators; guidance or family counselors; child care workers; law enforcement officers; social workers; foster parents; members of the clergy;[4] and drug and alcoholism counselors.[5]

3. Who to report to

Mandated reports must make oral reports to the Department of Social Services in all cases of suspected abuse; they must make a written report within 48 hours of the initial report.[6]

4. State response

The Department of Social Services is responsible for investigating all reports of alleged child abuse. The Department is also required to notify the county district attorney of all reports. In cases where the alleged offense includes sexual assault, the Department must notify the appropriate law enforcement agency of the outcome of its investigation.[7]

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[1] Massachusetts General Laws, Chapter 265, § 23
[2] Massachusetts General Laws, Chapter 265, § 23
[3] Massachusetts General Laws, Chapter 119, § 51A
[4] Clergy members are not required to make reports if the suspicion is based on information obtained in confidence as part of the clergy member's religious duties.
[5] Massachusetts General Laws, Chapter 119, § 51A
[6] Massachusetts General Laws, Chapter 119, § 51A
[7] Massachusetts General Laws, Chapter 119, § 51B

MICHIGAN

A. Statutory Rape—Criminal Offenses

A child under 16 years of age is unable to consent to *sexual intercourse*.[1] However, *sexual contact* with a child at least 13 years of age and less than 16 years of age is illegal if the defendant is less than 5 years older than the victim.[2]

Definition of Offenses

Offense	Definition
4th degree criminal sexual conduct[3]	Engaging in sexual contact[4] with someone at least 13 years of age and less than 16 years of age where the defendant is at least 5 years older than the victim.
3rd degree sexual conduct[5]	Engaging in sexual penetration[6] with someone at least 13 years of age and less than 16 years of age.
2nd degree sexual conduct[7]	Engaging in sexual contact with someone less than 13 years of age.
1st degree sexual conduct[8]	Engaging in sexual penetration with someone less than 13 years of age.

Note: A person may not be prosecuted for any of these crimes solely because his or her spouse is less than 16 years of age.

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

B. Child Abuse Reporting Requirements

1. Inclusion of statutory rape in reporting requirements

Mandated reporters are required to report all instances where they have reasonable cause to suspect that a child is a victim of abuse, including sexual abuse.[9] However, child abuse is defined to only include those acts perpetrated by a parent, legal guardian, other person responsible for the child's health or welfare, teacher, or a member of the clergy.[10]

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[1] Michigan Compiled Laws, § 750.520d

[2] Michigan Compiled Laws, § 750.520e

[3] Michigan Compiled Laws, § 750.520e

[4] Sexual contact is defined as: the intentional touching of the victim's or actor's intimate parts (the primary genital area, groin, inner thigh, buttock, or breast of a human being) or the intentional touching of the clothing covering the immediate area of the victim's or actor's intimate parts, if that intentional touching can reasonably be construed as being for the purpose of sexual arousal or gratification or done for a sexual purpose. Michigan Compiled Laws, § 750.520a.

[5] Michigan Compiled Laws, § 750.520d

[6] Sexual penetration is defined as: sexual intercourse, cunnilingus, fellatio, anal intercourse, or any other 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, but emission of semen is not required. Michigan Compiled Laws, § 750.520a.

[7] Michigan Compiled Laws, § 750.520c

[8] Michigan Compiled Laws, § 750.520b

[9] Michigan Compiled Laws, § 722.623

[10] Michigan Compiled Laws, § 722.622

The statue also states that there is reasonable cause to suspect abuse if a child less than 12 years of age is pregnant or has a sexually transmitted disease—thereby necessitating a report.[11]

2. Mandatory reporters

Mandated reporters include: physical and mental health providers; social workers; school administrators, teachers and counselors; law enforcement officers; members of the clergy; regulated child care providers; and relevant employees of the Family Independence Agency.[12] Privileged communication between attorney and client or that made to a member of the clergy in his or her professional capacity is exempted from the reporting requirements.[13]

3. Who to report to

Mandated reporters must make an immediate oral report, by telephone or otherwise, of suspected abuse to the Family Independence Agency. This must be followed by a written report within 72 hours.[14]

4. State response

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

The Family Independence Agency is responsible for investigating reports of abuse. However, if the report includes allegations of sexual abuse or if the alleged defendant is someone not responsible for the child's well-being, the Agency must notify, seek the assistance of, and cooperate with the law enforcement agency in the county where the alleged abuse occurred within 24 hours of receiving the report.[15] The Agency is also required to inform the prosecuting attorney of allegations involving sexual abuse.[16] It is the responsibility of the prosecutor's office and the Agency in each county to establish procedures for involving law enforcement in their investigations.[17]

[11] Michigan Compiled Laws, § 722.623
[12] Michigan Compiled Laws, § 722.623
[13] Michigan Compiled Laws, § 722.631
[14] Michigan Compiled Laws, § 722.623
[15] Michigan Compiled Laws, § 722.628
[16] Michigan Compiled Laws, § 722.628b
[17] Michigan Compiled Laws, § 722.628

MINNESOTA

A. Statutory Rape—Criminal Offenses

Sexual acts with someone under 16 years of age are illegal, with the following exceptions:

- If the victim is less than 13 years of age and the defendant is no more than 3 years older than the victim[1]
- If the victim is at least 13 years of age and the defendant is no more than 2 years older than the victim.[2]

Definition of Offenses

Offense	Definition
4th degree criminal sexual conduct[3]	Engaging in sexual contact[4] with someone less than 13 years of age where the defendant is no more than 3 years older than the victim. Engaging in sexual contact with someone at least 13 years of age and less than 16 years of age where the defendant is more than 4 years older than the victim.
3rd degree criminal sexual conduct[5]	Engaging in sexual penetration[6] with someone less than 13 years of age where the defendant is no more than 3 years older than the victim. Engaging in sexual penetration with someone at least 13 years of age less and than 16 years of age where the defendant is more than 2 years older than the victim.
2nd degree criminal sexual conduct[7]	Engaging in sexual contact with someone less than 13 years of age where the defendant is more than 3 years older than the victim.
1st degree criminal sexual conduct[8]	Engaging in sexual penetration with someone less than 13 years of age where the defendant is more than 3 years older than the victim.

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

B. Child Abuse Reporting Requirements

1. Inclusion of statutory rape in reporting requirements

Mandated reporters are required to report all instances where they have reasonable cause to suspect that a child is a victim of sexual abuse. The definition of sexual abuse makes specific reference to the criminal sexual conduct statutes described in the previous section. However, sexual abuse is defined to only include those acts perpetrated by a person responsible for the

[1] Minnesota Statutes, § 609.342
[2] Minnesota Statutes, § 609.344
[3] Minnesota Statutes, § 609.345
[4] Sexual contact is defined as: the intentional touching by the defendant of the victim's intimate parts or the touching of the clothing covering the immediate area of the intimate parts. Minnesota Statutes, § 609.341.
[5] Minnesota Statutes, § 609.344
[6] Sexual penetration is defined to include any of the following whether or not emission of semen occurs: sexual intercourse, cunnilingus, fellatio, or anal intercourse; or any intrusion however slight into the genital or anal openings. Minnesota Statutes, § 609.341.
[7] Minnesota Statutes, § 609.343
[8] Minnesota Statutes, § 609.342

child's care, someone living in the same house as the child or related to the child, or someone in a position of authority. The one exception to this requirement is if a mandated reporter suspects that a defendant has sexually abused two or more children, not related to the defendant, in the past 10 years.[9]

2. Mandatory reporters

Mandated reporters include: physical and mental health practitioners, social service workers, hospital administrators, child care workers, educators, and law enforcement officials. Members of the clergy are required to report suspected abuse as long as they did not learn of it through a confession received in their professional capacity.[10]

3. Who to report to

Mandated reporters must make an oral report to the police department, the local welfare agency, the county agency responsible for child protective services, or the county sheriff within 24 hours of encountering a case of suspected abuse. They must follow the initial report with a written report within 72 hours.[11]

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

4. State response

Law enforcement and human services agencies must immediately notify one another of any reports of suspected abuse they receive. Each agency must designate a staff person who is responsible for ensuring that the proper entities are notified of reported abuse. In cases where the suspected abuse includes a violation of one of the crimes listed in the previous section, the local law enforcement and welfare agencies must coordinate their investigations. However, they are required to produce separate reports.[12]

[9] Minnesota Statutes, § 626.556
[10] Minnesota Statutes, § 626.556
[11] Minnesota Statutes, § 626.556
[12] Minnesota Statutes, § 626.556

MISSISSIPPI

A. Statutory Rape—Criminal Offenses

A child less than 14 years of age is unable to consent to sexual intercourse with a person more than 2 years older than him or her. A child between 14 and 16 years of age is unable to consent to sexual intercourse with a person more than 3 years older than him or her.[1]

Definition of Offenses

Offense	Definition
Touching, handling, etc., of a child[2]	Handling, touching, or rubbing someone less than 16 years of age by someone more than 18 years of age, for the purpose of gratifying his or her lust or indulging his or her depraved licentious sexual desires.
Sexual battery[3]	Engaging in sexual penetration[4] with someone at least 14 years of age and less than 16 years of age where the defendant is 17 years of age or older and more than 3 years older than the victim. Engaging in sexual penetration with someone less than 14 years of age where the defendant is more than 2 years older than the victim.
Statutory rape[5]	Sexual intercourse[6] with someone at least 14 years of age and less than 16 years of age where the defendant is at least 17 years of age, more than 3 years older than the victim, and not the victim's spouse. Sexual intercourse with someone less than 14 years of age where the defendant is more than 2 years older than the victim and not the victim's spouse.

Cited in Estrada-Espinoza v. Mukasey, No. 05-75856 archived on October 22, 2008

B. Child Abuse Reporting Requirements

1. Inclusion of statutory rape in reporting requirements

Mississippi's reporting requirements require mandated reporters to notify the proper authorities if they suspect that a child is a victim of abuse, including sexual abuse.[7] The definition of sexual abuse includes rape and molestation but does not specifically refer to any of the crimes in the previous section. The definition of abuse only includes crimes perpetrated by the parent, guardian, custodian, or other person responsible for the care or support of the child in question.[8]

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[1] Mississippi Code, § 97-3-65

[2] Mississippi Code, § 97-5-23

[3] Mississippi Code, § 97-3-95

[4] Sexual penetration is defined to include: cunnilingus, fellatio, buggery or pederasty, and penetration of the genital or anal openings of another person's body by any part of a person's body, and insertion of any object into the genital or anal openings of another person's body. Mississippi Code, § 97-3-97.

[5] Mississippi Code, § 97-3-65

[6] Sexual intercourse is defined as: a joining of the sexual organs of a male and female human being in which the penis of the male is inserted into the vagina of the female. Mississippi Code, § 97-3-65.

[7] Mississippi Code, § 43-21-353

[8] Mississippi Code, § 43-21-105

2. Mandatory reporters

Mandated reporters include: attorneys; physical and mental health providers; social workers; child care givers; ministers; law enforcement officers; public or private school employees; or any other persons having reasonable causes to suspect that a child has been abused.[9]

3. Who to report to

Mandated reporters must make an immediate oral report to the Department of Human Services (DHS), to be followed as soon thereafter as possible by a written report.[10]

4. State response

Upon receipt of a report of abuse, DHS must immediately notify the law enforcement agency in whose jurisdiction the abuse occurred and shall notify the appropriate prosecutor within 48 hours. DHS and law enforcement must investigate the abuse immediately and file a preliminary report with the appropriate prosecutor's office within 24 hours. Within 72 hours, DHS must also refer the case to the youth court intake unit, and where appropriate, the youth court prosecutor.[11] Upon receipt of the report, the intake unit must make a preliminary inquiry that can result in a request to DHS, the Department of Youth Services, or other qualified agency to make an investigation or report concerning the child and any other children in the same environment.[12]

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

[9] Mississippi Code, § 43-21-353
[10] Mississippi Code, § 43-21-353
[11] Mississippi Code, § 43-21-353
[12] Mississippi Code, § 43-21-357

MISSOURI

A. Statutory Rape—Criminal Offenses

A child less than 14 years of age is unable to consent to sexual intercourse regardless of the age of the defendant.[1] A child between 14 and 17 years of age is unable to consent to sexual intercourse with someone who is 21 years of age or older.[2]

The laws cited above offer scenarios where *sexual intercourse* with someone less than 17 years of age is legal. However a person is guilty of second degree child molestation (a misdemeanor) if he or she subjects a child who is less than 17 years of age to *sexual contact*—even if the defendant is less than 21 years of age.[3]

Definition of Offenses

Offense	Definition
2nd degree child molestation[4]	Sexual contact[5] with someone less than 17 years of age.
2nd degree statutory sodomy[6]	Deviate sexual intercourse[7] with someone less than 17 years of age where the defendant is at least 21 years of age.
2nd degree statutory rape[8]	Sexual intercourse[9] with someone less than 17 years of age where the defendant is at least 21 years of age.
1st degree child molestation[10]	Sexual contact with someone less than 14 years of age.
1st degree statutory sodomy[11]	Deviate sexual intercourse with someone less than 14 years of age.[12]
1st degree statutory rape[13]	Sexual intercourse with someone less than 14 years of age.[14]

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

[1] Missouri Revised Statutes, § 566.032
[2] Missouri Revised Statutes, § 566.034
[3] Missouri Revised Statutes, § 566.068
[4] Missouri Revised Statutes, § 566.068
[5] Sexual contact is defined as: any touching of another person with the genitals or any touching of the genitals or anus of another person, or the breast of a female person, or such touching through the clothing, for the purpose of arousing or gratifying sexual desire of any person. Missouri Revised Statutes , § 566.010.
[6] Missouri Revised Statutes, § 566.064
[7] Deviate sexual intercourse is defined as: any act involving the genitals of one person and the hand, mouth, tongue, or anus of another person or a sexual act involving the penetration, however slight, of the male or female sex organ or the anus by a finger, instrument or object done for the purpose of arousing or gratifying the sexual desire of any person. Missouri Revised Statutes , § 566.010.
[8] Missouri Revised Statutes, § 566.034
[9] Sexual intercourse is defined as: any penetration, however slight, of the female sex organ by the male sex organ, whether or not an emission results. Missouri Revised Statutes , § 566.010.
[10] Missouri Revised Statutes, § 566.067
[11] Missouri Revised Statutes, § 566.062
[12] The statute requires an increased prison sentence in cases where the victim is less than 12 years of age.
[13] Missouri Revised Statutes, § 566.032
[14] The statute requires an increased prison sentence in cases where the victim is less than 12 years of age.

Note: These crimes are only applicable in cases where the defendant and victim were not married to one another at the time of the offense.[15]

B. Child Abuse Reporting Requirements

1. Inclusion of statutory rape in reporting requirements

Mandated reporters are required to report all cases of suspected child abuse, including sexual abuse.[16] The statute defines abuse to only include those offenses perpetrated by someone responsible for the care of the victim.[17] However, the reporting requirement specifically states that, in the context of mandatory reporting, abuse includes acts perpetrated by anyone, regardless of their relationship to the victim.[18]

2. Mandatory reporters

Mandatory reporters include: physical and mental health practitioners; social workers; day care and other child care workers; corrections officers; teachers, principals, or other school officials; clergy members;[19] or other individuals responsible for the care of children.[20]

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

3. Who to report to

Mandatory reporters must make an oral report to the Division of Family Services in all cases in which they suspect that a child has been the victim of abuse. In cases involving sexual abuse or molestation, reports must be made within 24 hours.[21]

4. State response

The Division of Family Services is responsible for maintaining a telephone hotline capable of receiving reports. Upon receiving reports, the central office must forward to information to the local office. The Division is also required to contact the mandated reporter who made the initial report within 48 hours to ensure that the Division has all of the relevant information. The local office is responsible for determining how to approach the investigation of reports of suspected abuse. In cases where the abuse would constitute a criminal offense (including the sexual offenses listed in the previous section) and the suspected defendant is at least 21 years of age, the local office must immediately notify law enforcement.[22]

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[15] The exception does not apply to 1st degree child molestation. Missouri Revised Statutes, § 566.023.
[16] Missouri Revised Statutes, § 210.115
[17] Missouri Revised Statutes, § 210.110
[18] Missouri Revised Statutes, § 210.115
[19] Clergy members are not required to report suspected abuse if they learned of it through privileged communication made to them in their professional capacity. Missouri Revised Statutes, § 352.400
[20] Missouri Revised Statutes, § 210.115
[21] Missouri Revised Statutes, § 210.130
[22] Missouri Revised Statutes, § 210.145

MONTANA

A. Statutory Rape—Criminal Offenses

A child is deemed incapable of consent if he or she is less than 16 years of age.[1]

Definition of Offenses

Offense	Definition
Sexual intercourse without consent[2]	Sexual intercourse with someone less than 16 years of age where the defendant is not the victim's spouse.[3]
Sexual assault[4]	Sexual contact with someone less than 14 years of age where the defendant is 3 or more years older than the victim.

B. Child Abuse Reporting Requirements

1. Inclusion of statutory rape in reporting requirements

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

Mandatory reporters are required to report all instances of suspected child abuse.[5] The definition of child abuse, limited to offenses perpetrated by a person responsible for the child's welfare, does not include any reference to sexual abuse.[6,7]

2. Mandatory reporters

Mandated reporters include the following individuals who encounter cases of suspected abuse through their professional capacity: physical and mental health practitioners; school teachers, school employees, and other school officials; social workers; employees and operators of child-care facilities; foster care, residential, and institutional workers; peace officers and law enforcement officials; members of the clergy;[8] or employees of any entity that contracts with the Department of Public Health and Human Services to provide direct services to children.[9]

3. Who to report to

Mandated reporters must notify the Department of Public Health and Human Services or its local affiliate of any cases of suspected abuse.[10]

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[1] Montana Code Annotated, § 45-5-501
[2] Montana Code Annotated, § 45-5-503
[3] The penalty for this crime increases if the defendant is 3 or more years older than the victim.
[4] Montana Code Annotated, § 45-5-502
[5] Montana Code Annotated, § 41-3-201
[6] Montana Code Annotated, § 41-3-102
[7] The section of the law defining child abuse also includes a definition of sexual abuse. This definition includes specific reference to the crimes listed in the previous section. However, the reporting requirements make no mention of the responsibility of mandated reporters to notify authorities of sexual abuse.
[8] Clergy members are not required to make reports if the suspicion is based on information obtained in confidence as part of the their religious duties.
[9] Montana Code Annotated, § 41-3-201
[10] Montana Code Annotated, § 41-3-201

4. State response

The Department of Public Health and Human Services is responsible for determining the level of response required for each report of abuse it receives. In cases where the Department decides that an investigation is warranted, the investigation should be conducted by a social worker, the county attorney, or a peace officer.[11]

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

[11] Montana Code Annotated, § 41-3-202

NEBRASKA

A. Statutory Rape—Criminal Offenses

Individuals less than 16 years of age cannot consent to sexual acts with someone who is at least 19 years of age.[1]

Definition of Offenses

Offense	Definition
Debauching a minor[2]	Debauching or depraving morals by lewdly inducing someone less than 17 years of age to carnally know any other person.
Sexual assault of a child[3]	Sexual contact[4] with someone less than 15 years of age where the defendant is at least 19 years of age.
1st degree sexual assault[5]	Sexual penetration[6] with someone less than 16 years of age where the defendant is at least 19 years of age.

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

B. Child Abuse Reporting Requirements

1. Inclusion of statutory rape in reporting requirements

Mandatory reporters must report all cases where they have reasonable cause to believe that a child has been the victim of abuse.[7] Although the statutory definition of abuse does not make specific reference to the crimes listed in the previous section, it includes knowingly, intentionally, or negligently causing a minor child to be sexually abused.[8] The definition does not include any provisions that indicate that it applies only to defendants responsible for the care of the victim.

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[1] Nebraska Statutes Annotated, § 28-319

[2] Nebraska Statutes Annotated, § 28-805

[3] Nebraska Statutes Annotated, § 28-320.01

[4] Sexual contact is defined as: the intentional touching of the victim's sexual or intimate parts or the intentional touching of the victim's clothing covering the immediate area of the victim's sexual or intimate parts. Sexual contact shall also mean the touching by the victim of the defendant's sexual or intimate parts or the clothing covering the immediate area of the defendant's sexual or intimate parts when such touching is intentionally caused by the defendant. Sexual contact shall include only such conduct which can be reasonably construed as being for the purpose of sexual arousal or gratification of either party. Nebraska Statutes Annotated, § 28-318.

[5] Nebraska Statutes Annotated, § 28-319

[6] Sexual penetration is defined as: sexual intercourse in its ordinary meaning, cunnilingus, fellatio, anal intercourse, or any intrusion, however slight, of any part of the defendant's or victim's body or any object manipulated by the defendant into the genital or anal openings of the victim's body which can be reasonably construed as being for nonmedical or nonhealth purposes. Sexual penetration shall not require emission of semen. Nebraska Statutes Annotated, § 28-318.

[7] Nebraska Statutes Annotated, § 28-711

[8] Nebraska Statutes Annotated, § 28-710

2. Mandatory reporters

Mandatory reporters include any individual who has reasonable cause to believe that a child has been the victim of abuse. The statute makes specific reference to physicians, medical institutions, nurses, school employees, and social workers.[9]

3. Who to report to

The Department of Health and Human Services is required to maintain a statewide toll-free hotline to receive reports of abuse at all times. Mandated reporters must notify the Department (through this hotline) or the proper law enforcement agency of cases of abuse. Initial reports must be followed by more detailed written reports.[10]

4. State response

Law enforcement and the Department of Health and Human Services must notify one another within one business day of receiving a report. Law enforcement is responsible for investigating reports of child abuse and may request assistance from the Department.[11]

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

[9] Nebraska Statutes Annotated, § 28-711
[10] Nebraska Statutes Annotated, § 28-711
[11] Nebraska Statutes Annotated, § 28-713

NEVADA

A. Statutory Rape—Criminal Offenses

Any sexual activity with someone less than 16 years of age is illegal if the defendant is at least 18 years of age.[1]

Definition of Offenses

Offense	Definition
Lewdness with a child under 14 years[2]	Committing lewd or lascivious acts—not amounting to penetration—with someone less than 14 years of age with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of the defendant or the victim.
Statutory sexual seduction[3]	Statutory sexual seduction[4] of someone less than 16 years of age where the defendant is at least 18 years of age.[5]

B. Child Abuse Reporting Requirements

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

1. Inclusion of statutory rape in reporting requirements

Mandated reporters are required to report all cases of suspected child abuse, including sexual abuse.[6] The definition of sexual abuse makes specific reference to both of the crimes listed in the previous section.[7] However, the statute defines abuse to only include those cases where the abuse was either caused or allowed by a person responsible for the victim.[8]

2. Mandatory reporters

Mandated reporters include the following individuals who encounter cases of suspected abuse through their professional or occupational capacity: physical and mental health practitioners; hospital administrators and managers who are informed of suspected abuse by hospital staff; clergy members;[9] social workers; school administrators, teachers, librarians, and counselors; owners and employees of public or private facilities, institutions, or agencies providing care for children; foster care workers; law enforcement and probation officers; attorneys;[10] employees or volunteers of agencies or services that advise or provide referrals to persons regarding child

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[1] Nevada Revised Statutes, § 200.364

[2] Nevada Revised Statutes, § 201.230

[3] Nevada Revised Statutes, § 200.364, § 200.368

[4] Statutory sexual seduction includes: ordinary sexual intercourse, anal intercourse, cunnilingus, or fellatio; or any other sexual penetration with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of either of the persons. Nevada Revised Statutes, § 200.364.

[5] If the defendant is less than 21 years of age, the crime is a gross misdemeanor. If the defendant is 21 years of age or older, he or she is guilt of a category C felony. Nevada Revised Statutes, § 200.368.

[6] Nevada Revised Statutes, § 432B.220

[7] Nevada Revised Statutes, § 432B.100

[8] Nevada Revised Statutes, § 432B.020

[9] Clergy members who learned of the abuse through confession are exempted from the reporting requirements.

[10] Attorneys are not required to report if they learned of the abuse from a client who may be accused of the crime.

abuse and neglect; employees and volunteers at youth shelters; or any other person employed by an entity that provides organized activities for children.[11]

3. Who to report to

Within 24 hours of encountering a case of abuse, mandated reporters must make a report to an agency which provides child welfare services[12] or law enforcement.[13] The Division of Child and Family Services is required to maintain a toll free hotline capable of receiving reports 24 hours a day 7 days a week.[14] Mandated reporters can make reports to the hotline or by any other means of oral, written, or electronic communication.[15]

4. State response

The individual receiving the initial report of abuse must generate a written account of the report as soon as possible.[16] If a law enforcement agency receives the initial report, it must promptly notify an agency which provides child welfare services. Law enforcement, as well as an agency which provides child welfare services, must notify the appropriate licensing authority of any reports they receive. Within 3 days of a report, an agency which provides child welfare services is responsible for assessing whether an investigation is warranted. If the agency determines that an investigation is warranted, it must commence such an investigation within 3 days of completing the evaluation. Law enforcement and the investigating agency must cooperate in all investigations of abuse.[17]

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

[11] Nevada Revised Statutes, § 432B.220

[12] In a county with a population of less than 100,000, an "agency which provides child welfare services" refers to the local office of the Division of Child and Family Services. In a county with a population of 100,000 or more, the statute defines an "agency which provides child welfare services" as the agency of the county which provides or arranges for necessary child welfare services. Nevada Revised Statutes, § 432B.030.

[13] Nevada Revised Statutes, § 432B.220

[14] Nevada Revised Statutes, § 432B.200

[15] Nevada Revised Statutes, § 432B.230

[16] Nevada Revised Statutes, § 432B.230

[17] Nevada Revised Statutes, § 432B.260

NEW HAMPSHIRE

A. Statutory Rape—Criminal Offenses

A child under 16 years of age is unable to consent to sexual intercourse with anyone other than his or her spouse.[1]

Definition of Offenses

Offense	Definition
Felonious sexual assault[2]	Engaging in sexual penetration[3] with someone at least 13 years of age and less than 16 years of age where the defendant is not the victim's spouse. Engaging in sexual contact[4] with someone less than 13 years of age where the defendant is not the victim's spouse.
Aggravated felonious sexual assault[5]	Engaging in sexual penetration with someone less than 13 years of age.

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

B. Child Abuse Reporting Requirements

1. Inclusion of statutory rape in reporting requirements

Mandated reporters are required to report all cases of suspected child abuse, including sexual abuse.[6] However, the definition of sexual abuse does not make specific reference to the offenses listed in the previous section.[7] The reporting requirement does not include any provisions that indicate that it applies only to parents, guardians, or other individuals responsible for the welfare of the child.

2. Mandatory reporters

Mandatory reporters include: physical and mental health practitioners; hospital personnel; teachers, school officials, and school counselors; social workers; child and foster care workers; law enforcement officials; clergy members; and any other individual who suspects that a child has been the victim of abuse.[8]

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[1] New Hampshire Revised Statutes, § 632-A:3

[2] New Hampshire Revised Statutes, § 632-A:3

[3] Sexual penetration is defined as: sexual intercourse; cunnilingus; fellatio; anal intercourse; any intrusion, however slight, of any part of the actor's body or any object manipulated by the defendant into genital or anal openings of the victim's body; or any intrusion, however slight, of any part of the victim's body into genital or anal openings of the defendant's body. Emission is not required as an element of any form of sexual penetration. New Hampshire Revised Statutes, § 632-A:1.

[4] Sexual contact is defined as: the intentional touching whether directly, through clothing, or otherwise, of the victim's or defendant's sexual or intimate parts, including breasts and buttocks. Sexual contact includes only that aforementioned conduct which can be reasonably construed as being for the purpose of sexual arousal or gratification. New Hampshire Revised Statutes, § 632-A:1.

[5] New Hampshire Revised Statutes, § 632-A:2

[6] New Hampshire Revised Statutes, § 169-C:29

[7] New Hampshire Revised Statutes, § 169-C:3

[8] New Hampshire Revised Statutes, § 169-C:29

3. Who to report to

Mandated reporters must make an immediate oral report to the Department of Health and Human Services, followed by a written report—if requested by the Department—within 48 hours.[9]

4. State response

The Department of Health and Human Services must initiate an investigation within 72 hours of receiving a report of suspected abuse.[10] In cases where the alleged abuse involves sexual molestation or exploitation or the child has been the victim of a crime, the Department must immediately refer the case to law enforcement. The initial referral must be followed by a written report. The statutes require that the Department and law enforcement cooperate in their investigations of reported abuse.[11] This includes developing standardized protocol for joint investigations.[12]

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

[9] New Hampshire Revised Statutes, § 169-C:30
[10] New Hampshire Revised Statutes, § 169-C:34
[11] New Hampshire Revised Statutes, § 169-C:38
[12] New Hampshire Revised Statutes, § 169-C:30-a

NEW JERSEY

A. Statutory Rape—Criminal Offenses

Engaging in *sexual penetration* with someone under 16 years of age is illegal, except in cases where the victim is at least 13 years of age and the defendant is less than 4 years older than the victim. Engaging in *sexual penetration* with someone less than 13 years of age is illegal regardless of the defendant's age.[1]

Definition of Offenses

Offense	Definition
Criminal sexual contact[2]	Sexual contact[3] with someone at least 13 years of age and less than 16 years of age where the defendant is at least 4 years older than the victim.
Sexual assault[4]	Sexual contact with someone less than 13 years of age where the defendant is at least 4 years older than the victim. Sexual penetration[5] with someone at least 13 years of age and less than 16 years of age where the defendant is at least 4 years older than the victim.
Aggravated sexual assault[6]	Sexual penetration with someone less than 13 years of age.

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

B. Child Abuse Reporting Requirements

1. Inclusion of statutory rape in reporting requirements

Mandated reporters are required to report abuse, including sexual abuse.[7] The statute defines sexual abuse to only include those offenses perpetrated by a child's parent or caretaker.[8]

2. Mandatory reporters

Any individual who suspects that a child has been the victim of abuse is required to notify the appropriate authorities.[9]

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[1] New Jersey Permanent Statutes, § 2C:14-2

[2] New Jersey Permanent Statutes, § 2C:14-3

[3] Sexual contact is defined as: intentional touching by the victim or defendant, either directly or through clothing, of the victim's or defendant's intimate parts for the purpose of degrading or humiliating the victim or sexually arousing or sexually gratifying the defendant. Sexual contact of the defendant with himself must be in view of the victim whom the defendant knows to be present. New Jersey Permanent Statutes, § 2C:14-1.

[4] New Jersey Permanent Statutes, § 2C:14-2

[5] Sexual penetration is defined as: vaginal intercourse, cunnilingus, fellatio or anal intercourse between persons or insertion of the hand, finger or object into the anus or vagina either by the defendant or upon the defendant's instruction. The depth of insertion shall not be relevant as to the question of commission of the crime. New Jersey Permanent Statutes, § 2C:14-1.

[6] New Jersey Permanent Statutes, § 2C:14-2

[7] New Jersey Permanent Statutes, § 9:6-8.10

[8] New Jersey Permanent Statutes, § 9:6-8.84

[9] New Jersey Permanent Statutes, § 9:6-8.10

3. Who to report to

All reports of suspected child abuse shall be made immediately, via telephone or otherwise, to the Division of Youth and Family Services.[10]

4. State response

The Division of Youth and Family Services is required to forward all reports of abuse to its Central Registry in Trenton. The Division may request assistance from law enforcement if it deems it necessary to insure the safety of the child.[11]

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

[10] New Jersey Permanent Statutes, § 9:6-8.10
[11] New Jersey Permanent Statutes, § 9:6-8.11

NEW MEXICO

A. Statutory Rape—Criminal Offenses

Children who are less than 13 years of age are incapable of consent under all circumstances. Sexual activities with someone who is at least 13 years of age and less than 16 years of age are only legal if the defendant is less than 18 years of age and less than 4 years older than the victim.[1]

Definition of Offenses

Offense	Definition
Criminal sexual contact of a minor[2]	Criminal sexual contact[3] with someone less than 13 years of age.
4th degree criminal sexual penetration[4]	Criminal sexual penetration[5] with someone at least 13 years of age and less than 16 years of age where the defendant is at least 18 years of age, 4 years older than the victim, and not the victim's spouse.
1st degree criminal sexual penetration[6]	Criminal sexual penetration with someone less than 13 years of age.

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

B. Child Abuse Reporting Requirements

1. Inclusion of statutory rape in reporting requirements

Mandated reporters are required to report all cases of suspected child abuse, including sexual abuse.[7] The definition of sexual abuse makes specific reference to the crimes listed in the previous section. However, abuse is defined to only include those acts perpetrated by a child's parent, guardian, or custodian.[8]

2. Mandatory reporters

Mandatory reporters include: licensed physicians; residents or interns examining, attending, or treating children; law enforcement officers; judges; nurses; teachers and school officials; social

[1] New Mexico Statutes Annotated, § 30-9-11

[2] New Mexico Statutes Annotated, § 30-9-13

[3] Criminal sexual contact is defined as: unlawful and intentional touching of or applying force to the intimate parts of a minor or the unlawful and intentional causing of a minor to touch one's intimate parts (i.e., primary genital area, groin, buttocks, anus or breast). New Mexico Statutes Annotated, § 30-9-13.

[4] New Mexico Statutes Annotated, § 30-9-11

[5] Criminal sexual penetration is defined as: the unlawful and intentional causing of a person to engage in sexual intercourse, cunnilingus, fellatio or anal intercourse or the causing of penetration, to any extent and with any object, of the genital or anal openings of another, whether or not there is any emission. New Mexico Statutes Annotated, § 30-9-11.

[6] New Mexico Statutes Annotated, § 30-9-11

[7] New Mexico Statutes Annotated, § 32A-4-3

[8] New Mexico Statutes Annotated, § 32A-4-2

workers; members of the clergy;[9] or any other person who has reasonable suspicion that a child has been the victim of abuse.[10]

3. Who to report to

Mandated reporters must immediately report all suspected abuse to a local law enforcement agency; the county office of the Children, Youth, and Families Department; or, in cases involving an Indian child residing in Indian country, a tribal law enforcement or social services agency.[11]

4. State response

Law enforcement and county offices of the Children, Youth, and Families Department must inform one another immediately, via telephone, of any reports of suspected abuse. Both agencies must follow this initial report with written notification within 48 hours. Whichever agency receives the initial report is responsible for ensuring a prompt investigation.[12]

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

[9] Clergy members are not required to make reports if the suspicion is based on information obtained in confidence as part of the their religious duties.

[10] New Mexico Statutes Annotated, § 32A-4-3

[11] New Mexico Statutes Annotated, § 32A-4-3

[12] New Mexico Statutes Annotated, § 32A-4-3

NEW YORK

A. Statutory Rape—Criminal Offenses

An individual is deemed incapable of consent when he or she is less than 17 years of age.[1] Individuals are exempt from prosecution for *rape* or *criminal sexual acts* under the following circumstances:

- If the victim is between 15 and 17 years of age and the defendant is less than 21 years of age[2]
- If the victim is between 11 and 15 years of age and the defendant is less than 18 years of age or less than 4 years older than the victim[3]

However, engaging in sexual intercourse or deviate sexual intercourse with someone under 17 years is considered *sexual misconduct* (a misdemeanor) regardless of the age of the defendant.[4]

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

Definition of Offenses

Offense	Definition
3rd degree sexual abuse[5]	Sexual contact[6] with someone more than 14 years of age and less than 17 years of age where the defendant is at least 5 years older than the victim.
2nd degree sexual abuse[7]	Sexual contact with someone less than 14 years of age.
Sexual misconduct[8]	Engaging in sexual intercourse,[9] oral sexual conduct,[10] or anal sexual conduct[11] with someone less than 17 years of age.
3rd degree rape[12]	Engaging in sexual intercourse with someone less than 17 years of age where the defendant is at least 21 years of age.
3rd degree criminal sexual act[13]	Engaging in oral or anal sexual conduct with someone less than 17 years of age.
1st degree sexual abuse[14]	Sexual contact with someone less than 11 years of age.

[1] New York Penal Law, § 130.05
[2] New York Penal Law, § 130.25
[3] New York Penal Law, § 130.30 and § 130.35
[4] New York Penal Law, § 130.20
[5] New York Penal Law, § 130.55
[6] Sexual contact is defined as: any touching of the sexual or other intimate parts of a person, whether directly or through clothing, for the purpose of gratifying sexual desire of either party. New York Penal Law, § 130.00.
[7] New York Penal Law, § 130.60
[8] New York Penal Law, § 130.20
[9] Sexual intercourse is defined to have its ordinary meaning and occurs upon any penetration, however slight. New York Penal Law, § 130.00.
[10] Oral sexual conduct is defined as: conduct between persons consisting of contact between the mouth and the penis, the mouth and the anus, or the mouth and the vulva or vagina. New York Penal Law, § 130.00.
[11] Anal sexual conduct is defined as: conduct between persons consisting of contact between the penis and anus. New York Penal Law, § 130.00.
[12] New York Penal Law, § 130.25
[13] New York Penal Law, § 130.40

2nd degree rape[15]	Engaging in sexual intercourse with someone less than 15 years of age where the defendant is at least 18 years of age and 4 or more years older than the victim.
2nd degree criminal sexual act[16]	Engaging in oral or anal sexual conduct with someone less than 15 years of age where the defendant is at least 18 years of age and 4 or more years older than the victim.
1st degree rape[17]	Engaging in sexual intercourse with someone less than 11 years of age. Engaging in sexual intercourse with someone less than 13 years of age where the defendant is at least 18 years of age.
1st degree criminal sexual act[18]	Engaging in oral or anal sexual conduct with someone less than 11 years of age. Engaging in oral or anal sexual conduct with someone less than 13 years of age where the defendant is at least 18 years of age.

Note: Marriage is a defense to all of the offenses listed above if the act is only illegal due to the fact that the victim is less than 17 years of age.[19]

B. Child Abuse Reporting Requirements

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

1. *Inclusion of statutory rape in reporting requirements*

Mandated reporters are required to report all instances where they suspect that a child has been a victim of abuse.[20] The definition of abuse makes specific reference to offenses in the penal code, including those listed in the previous section. However, the definition only applies to those cases where a child's parent or other person responsible for his or her care committed the offense or allowed the offense to be committed.[21]

2. *Mandatory reporters*

Mandated reporters include persons in any of the following positions who encounter a case of abuse through their professional or official capacity: physical and mental health practitioners; social workers; marriage and family therapists; school officials; social services workers; day care providers; substance abuse counselors; law enforcement officials; and district attorneys and assistant district attorneys.[22]

3. *Who to report to*

The Office of Children and Family Services is required to maintain a statewide toll-free central register to receive reports of abuse at all times.[23] Mandated reporters must report all cases of suspected abuse to the central register (unless the local plan for child protective services

[14] New York Penal Law, § 130.65
[15] New York Penal Law, § 130.30
[16] New York Penal Law, § 130.45
[17] New York Penal Law, § 130.35
[18] New York Penal Law, § 130.50
[19] New York Penal Law, § 130.10
[20] New York Social Services Law, § 413
[21] New York Family Court Law, § 1012
[22] New York Social Services Law, § 413
[23] New York Social Services Law, § 422

provides that oral reports should be made to the local child protective service). This must be followed by a written report within 48 hours.[24]

4. State response

Local child protective service agencies that are designated to receive initial reports must immediately notify the central register of all reports they receive.[25] The central register must refer to the local child protective service for investigation all cases where the allegation, if true, would constitute a reportable offense. In cases where the reported offense would not be considered abuse but would constitute a crime (e.g., sex offenses perpetrated by someone other than the victim's parent), the entity receiving the report must immediately notify law enforcement or the district attorney.[26]

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

[24] New York Social Services Law, § 415
[25] New York Social Services Law, § 415
[26] New York Social Services Law, § 422

NORTH CAROLINA

A. Statutory Rape—Criminal Offenses

Engaging in sexual acts with someone less than 16 years of age is illegal,[1] with the following exceptions:

- If the victim is at least 13 years of age and the defendant is no more than 4 years older than the victim or is the victim's spouse.[2]
- If the victim is less than 13 years of age and the defendant is no more than 4 years older than the victim.[3]

Definition of Offenses

Offense	Definition
Indecent liberties between children[4]	For the purpose of arousing or gratifying sexual desire—taking or attempting to take immoral, improper, or indecent liberties with someone of either sex where the defendant is less than 16 years of age and at least 3 years older than the victim. For the purpose of arousing or gratifying sexual desire—committing or attempting to commit lewd or lascivious acts upon someone of either sex where the defendant is less than 16 years of age and at least 3 years older than the victim.
Taking indecent liberties with children[5]	For the purpose of arousing or gratifying sexual desire—taking or attempting to take immoral, improper, or indecent liberties with someone of either sex less than 16 years of age where the defendant is at least 16 years of age and at least 5 years older than the victim. Committing or attempting to commit lewd or lascivious acts upon someone of either sex less than 16 years of age where the defendant is at least 16 years of age and at least 5 years older than the victim.
Statutory rape or sexual offense of person who is 13, 14, or 15 years old[6]	Engaging in vaginal intercourse or a sexual act[7] with someone at least 13 years of age and less than 16 years of age where the defendant is more than 4 years older than the victim and not the victim's spouse.[8]
1st degree sexual offense[9]	Engaging in a sexual act with someone less than 13 years of age where the defendant is at least 12 years of age and at least 4 years older than the victim.

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

[1] North Carolina General Statutes, § 14-27.7 A
[2] North Carolina General Statutes, § 14-27.7 A
[3] North Carolina General Statutes, § 14-27.4
[4] North Carolina General Statutes, § 14-202.2
[5] North Carolina General Statutes, § 14-202.1
[6] North Carolina General Statutes, § 14-27.7 A
[7] Sexual act is defined as: cunnilingus, fellatio, analingus, or anal intercourse, but does not include vaginal intercourse. Sexual act also means the penetration, however slight, by any object into the genital or anal opening of another person's body: provided, that it shall be an affirmative defense that the penetration was for accepted medical purposes. North Carolina General Statutes, § 14-27.1.
[8] Normally a Class C felony, this crime become a Class B1 felony if the defendant is at least 6 years older than the victim.
[9] North Carolina General Statutes, § 14-27.4

1st degree rape[10]	Engaging in vaginal intercourse with someone less than 13 years of age where the defendant is at least 12 years of age and at least 4 years older than the victim.

B. Child Abuse Reporting Requirements

1. *Inclusion of statutory rape in reporting requirements*

Mandated reporters are required to report abuse, including sexual abuse.[11] The definition of sexual abuse makes specific reference to the crimes listed in the previous section. However, abuse is defined to only include those acts perpetrated by a child's parent, guardian, custodian, or caretaker.[12]

2. *Mandatory reporters*

Any person or institution that suspects that a child has been the victim of abuse must make a report to the appropriate authorities.[13]

3. *Who to report to*

Mandated reporters must report suspected abuse—orally, by telephone, or in writing—to the Director of the Department of Social Services in the county where the victim lives.[14]

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

4. *State response*

The Director of the Department of Social Services is responsible for initiating an investigation within 24 hours of receiving any report of suspected abuse.[15] If the initial investigation indicates that the victim was abused, the Director must notify the district attorney and the appropriate local law enforcement agency within 48 hours of receiving the report. Within 48 of receiving notification from the Department, the local law enforcement agency must begin a criminal investigation of the report. Law enforcement must coordinate with the Department in its investigation.[16]

[10] North Carolina General Statutes, § 14-27.2
[11] North Carolina General Statutes, § 7B-301
[12] North Carolina General Statutes, § 7B-101
[13] North Carolina General Statutes, § 7B-301
[14] North Carolina General Statutes, § 7B-301
[15] North Carolina General Statutes, § 7B-302
[16] North Carolina General Statutes, § 7B-307

NORTH DAKOTA

A. Statutory Rape—Criminal Offenses

It is illegal to engage in sexual activity with an individual who is less than 15 years of age regardless of the age of the defendant.[1] Any sexual activity with someone less than 18 years of age is illegal if the defendant is at least 18 years of age.[2]

Definition of Offenses

Offense	Definition
Corruption or solicitation of minors[3]	Engaging in, soliciting with the intent to engage in, or causing another to engage in a sexual act[4] with someone at least 15 years of age and less than 18 years of age where the defendant is at least 18 years of age.[5] Soliciting with the intent to engage in a sexual act with someone less than 15 years of age where the defendant is at least 18 years of age.
Sexual assault[6]	Sexual contact[7] with someone at least 15 years of age and less than 18 years of age where the defendant is at least 18 years of age.[8]
Gross sexual imposition[9]	Engaging in sexual contact or a sexual act with someone less than 15 years of age.[10]

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

B. Child Abuse Reporting Requirements

1. Inclusion of statutory rape in reporting requirements

Mandated reporters are required to report all cases where they know or have reasonable cause to suspect that a child has been a victim of abuse.[11] The definition of an abused child includes

[1] North Dakota Century Code, § 12.1-20-03

[2] North Dakota Century Code, § 12.1-20-05

[3] North Dakota Century Code, § 12.1-20-05

[4] Sexual act is defined as: sexual contact between human beings consisting of contact between the penis and the vulva, the penis and the anus, the mouth and the penis, the mouth and the vulva, or any other portion of the human body and the penis, anus, or vulva; or the use of an object which comes in contact with the victim's anus, vulva, or penis. Sexual contact between the penis and the vulva, the penis and the anus, any other portion of the human body and the anus or vulva, or an object and the anus, vulva, or penis of the victim, occurs upon penetration, however slight. Emission is not required. North Dakota Century Code, § 12.1-20-02.

[5] Normally a class A misdemeanor, this crime becomes a class C felony if the defendant is at least 22 years of age and engages in or causes another to engage in the sexual act under consideration.

[6] North Dakota Century Code, § 12.1-20-07

[7] Sexual contact is defined as: any touching, whether or not through the clothing or other covering, of the sexual or other intimate parts of the person, or the penile ejaculation or ejaculate or emission of urine or feces upon any part of the person, for the purpose of arousing or satisfying sexual or aggressive desires. North Dakota Century Code, § 12.1-20-02.

[8] This crime is a class A misdemeanor if the defendant is less than 22 years of age. If the defendant is at least 22 years of age, the offense becomes a class C felony.

[9] North Dakota Century Code, § 12.1-20-03

[10] This crime is a class A felony if it involves a sexual act and a class B felony if it involves sexual contact.

[11] North Dakota Century Code, § 50-25.1-03

the sexual offenses listed in the previous section. It does not include any provisions indicating that it only applies to persons responsible for the child's welfare.[12]

2. Mandatory reporters

Mandated reporters include persons in any of the following positions who encounter a case of abuse through their professional or official capacity: physical and mental health providers; school teachers, administrators, and counselors; addiction counselors; social workers; day care center and child care workers; members of the clergy;[13] and police or law enforcement officers.[14]

3. Who to report to

Mandated reporters must make an immediate oral or written report to the Department of Human Services (or its designee) if they know of or suspect that a child has been the victim of abuse. Oral reports must be followed by a written report within 48 hours upon the Department's request.[15]

4. State response

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

The Department of Human Services has the initial responsibility for the investigation of all reports of child abuse. In cases alleging the violation of a criminal statute involving sexual abuse, the Department must coordinate its investigation with the appropriate law enforcement agency.[16] In cases where the alleged defendant is not a person responsible for the child's welfare, the Department may refer the report to the appropriate law enforcement agency for investigation and disposition.[17]

[12] North Dakota Century Code, § 50-25.1-02

[13] Clergy members are not required to make reports if the suspicion is based on information obtained through his or her capacity as a spiritual adviser.

[14] North Dakota Century Code, § 50-25.1-03

[15] North Dakota Century Code, § 50-25.1-04

[16] North Dakota Century Code, § 50-25.1-05

[17] North Dakota Century Code, § 50-25.1-05.3

OHIO

A. Statutory Rape—Criminal Offenses

Engaging in sexual conduct with someone less than 13 years of age is illegal regardless of the age of the defendant (unless the defendant and victim are married and living together).[1] Sexual conduct with someone who is at least 13 years of age and less than 16 years of age is illegal if the defendant is at least 18 years of age and not the victim's spouse.[2]

Definition of Offenses

Offense	Definition
Importuning[3]	Soliciting someone less than 13 years of age to engage in sexual activity,[4] whether or not the defendant knows the age of the victim. Soliciting someone at least 13 years of age and less than 16 years of age to engage in sexual conduct[5] where the defendant is at least 18 years of age, 4 or more years older than the victim, and not the victim's spouse—whether or not the defendant knows the age of the victim.
Gross sexual imposition[6]	Sexual contact[7] with someone less than 13 years of age where the defendant is not the victim's spouse—whether or not the defendant knows the age of the victim.
Unlawful sexual conduct with a minor[8]	Engaging in sexual conduct with someone the defendant knows to be at least 13 years of age and less than 16 years of age (or is reckless in that regard) and the defendant is at least 18 years of age and not the victim's spouse.[9]
Rape[10]	Sexual conduct with someone less than 13 years of age where the defendant and victim are not married and living together— whether or not the defendant knows the age of the victim.

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

[1] Ohio Revised Code, § 2907.02

[2] The statute applies to cases where the defendant is at least 18 years of age when the offender knows the victim person is thirteen years of age or older but less than sixteen years of age, or the offender is reckless in that regard . Ohio Revised Code, § 2907.04.

[3] Ohio Revised Code, § 2907.07

[4] Sexual activity includes sexual conduct or sexual contact. Ohio Revised Code, § 2907.01.

[5] Sexual conduct is defined as: vaginal intercourse between a male and female; anal intercourse, fellatio, and cunnilingus between persons regardless of sex; and, without privilege to do so, the insertion, however slight, of any part of the body or any instrument, apparatus, or other object into the vaginal or anal cavity of another. Penetration, however slight, is sufficient to complete vaginal or anal intercourse. Ohio Revised Code, § 2907.01.

[6] Ohio Revised Code, § 2907.05

[7] Sexual contact is defined as: any touching of an erogenous zone of another, including without limitation the thigh, genitals, buttock, pubic region, or, if the person is a female, a breast, for the purpose of sexually arousing or gratifying either person. Ohio Revised Code, § 2907.01.

[8] Ohio Revised Code, § 2907.04

[9] Normally a 4th degree felony, this crime becomes a 3rd degree felony if the defendant is 10 or more years older than the victim; the crime is considered a misdemeanor if the defendant is less than 4 years older than the victim.

[10] Ohio Revised Code, § 2907.02

B. Child Abuse Reporting Requirements

1. Inclusion of statutory rape in reporting requirements

Mandated reporters are required to notify the appropriate authorities of all cases of suspected abuse.[11] The definition of abuse makes specific reference to children who are victims of sexual activity that constitutes a crime listed in the "Sexual Offenses" chapter of the statutes. The definition does not include any provisions that indicate that it applies only in those cases where the defendant was the victim's parent, guardian, or custodian.[12]

2. Mandatory reporters

Mandated reporters include the following individuals who encounter cases of suspected abuse through their professional or official capacity: physical and mental health providers; attorneys; child care administrators and employees; school teachers, employees, authorities; social workers; and clergy members.[13]

3. Who to report to

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

Mandated reporters must make an immediate report to the public children services agency (usually the Department of Job and Family Services) or a municipal or county peace officer in the county where the victim resides or where the suspected abuse occurred. Initial reports can be made by telephone or in person and, if requested, must followed by a written report.[14]

4. State response

The local public children services agency (usually the Department of Job and Family Services) is responsible for initiating investigations of reported abuse within 24 of receiving a report. The local public children services agency must coordinate its investigations with law enforcement—it must have a memorandum of understanding with law enforcement, the district attorney's office, juvenile judges, and any other relevant public children services agencies in the county.[15]

[11] Ohio Revised Code, § 2151.421
[12] Ohio Revised Code, § 2151.031
[13] Ohio Revised Code, § 2151.421
[14] Ohio Revised Code, § 2151.421
[15] Ohio Revised Code, § 2151.421

OKLAHOMA

A. Statutory Rape—Criminal Offenses

Sexual intercourse with someone less than 14 years of age is illegal regardless of the age of the defendant. Individuals over 14 years of age and less than 16 years of age can only consent to sexual intercourse with someone who is less than 18 years of age. In both cases, being married to the victim is an acceptable defense.[1]

Definition of Offenses

Offense	Definition
Lewd or indecent proposals or acts to child under 16[2]	In any indecent manner or in any manner relating to sexual matters or sexual interest—looking upon, touching, mauling, or feeling the body or private parts of someone under 16 years of age where the defendant is at least 3 years older than the victim.
2nd degree rape[3]	Rape[4] committed upon someone less than 14 years of age where the defendant is less than 18 years of age and not the victim's spouse. Rape committed upon someone over 14 years of age and less than 16 years of age where the defendant is at least 18 years of age and not the victim's spouse. Rape by instrumentation[5] committed upon someone over 14 years of age and less than 16 years of age where the defendant is at least 18 years of age.
1st degree rape[6]	Rape committed upon someone less than 14 years of age where the defendant is at least 18 years of age and not the victim's spouse. Rape by instrumentation committed upon someone less than 14 years of age.

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

B. Child Abuse Reporting Requirements

1. Inclusion of statutory rape in reporting requirements

Mandated reporters are required to report all cases in which they suspect a child has been the victim of abuse.[7] The statute defines abuse to include the crimes listed in the previous section, but it only applies to those cases where the crime was perpetrated by a person responsible for the child's health, safety, or welfare.[8]

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[1] Oklahoma Statutes, Title 21, § 45-1111 and § 45-1112

[2] Oklahoma Statutes, Title 21, § 45-1123

[3] Oklahoma Statutes, Title 21, § 45-1114

[4] Rape is defined as: an act of sexual intercourse involving vaginal or anal penetration accomplished with a male or female who is not the spouse of the defendant and who may be of the same or the opposite sex as the defendant. Oklahoma Statutes, Title 21, § 45-1111.

[5] Rape by instrumentation is defined as: an act in which any inanimate object or any part of the human body, not amounting to sexual intercourse is used in the carnal knowledge of another person and penetration of the anus or vagina occurs to that person. Oklahoma Statutes, Title 21, § 45-1111.1.

[6] Oklahoma Statutes, Title 21, § 45-1114

[7] Oklahoma Statutes, Title 10, § 7103

[8] Oklahoma Statutes, Title 10, § 7102

An additional reporting law specifically addresses the reporting of criminally inflicted injuries. It requires all health care professionals examining, attending, or treating a child who appears to be the victim of criminally injurious conduct to file a report with the proper authorities. The statute notes that criminally injurious conduct includes sexual offenses and does not include any provisions that indicate it only applies to person's responsible for the child.[9]

2. Mandatory reporters

The requirement to report criminally injurious conduct only applies to health care professionals who encounter abuse through their work examining, attending, or treating a child.[10] All individuals who suspect that a child has been the victim of abuse are required to make a report to the proper authorities.[11]

3. Who to report to

Reports of criminally injurious conduct should be made—orally—to the nearest law enforcement agency in the county in which the crime occurred.[12] All other reports of suspected abuse should be made—orally or in writing—to the Department of Human Services; oral reports should promptly be followed by written reports.[13]

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

4. State response

The Department of Human Services is responsible for investigating all reports that it receives of child abuse. If the Department determines that the abuse was not perpetrated by someone responsible for the child's health, safety, or welfare the case should be referred to the local law enforcement agency.[14]

[9] Oklahoma Statutes, Title 10, § 7104
[10] Oklahoma Statutes, Title 10, § 7104
[11] Oklahoma Statutes, Title 10, § 7103
[12] Oklahoma Statutes, Title 10, § 7104
[13] Oklahoma Statutes, Title 10, § 7103
[14] Oklahoma Statutes, Title 10, § 7003-1.1

OREGON

A. Statutory Rape—Criminal Offenses

An individual is deemed incapable of consent when he or she is less than 18 years of age.[1] Sexual intercourse with someone less than 18 years of age is legal if the victim is at least 15 years of age and the defendant is less than 3 years older than the victim.[2]

Definition of Offenses

Offense	Definition
Sexual misconduct[3]	Engaging in sexual intercourse[4] or deviate sexual intercourse[5] with an unmarried person less than 15 years of age. Engaging in sexual intercourse or deviate sexual intercourse with an unmarried person at least 15 years of age and less than 18 years of age where the defendant is at least 3 years older than the victim.
Contributing to the sexual delinquency of a minor[6]	Engaging in sexual intercourse with someone of the opposite sex or deviate sexual intercourse where the victim is less than 18 years of age and where the defendant is at least 18 years of age and at least 3 years older than the victim.
3rd degree sexual abuse[7]	Sexual contact[8] with someone less than 18 years of age where the defendant is at least 3 years older than the victim.
3rd degree rape[9]	Engaging in sexual intercourse with someone less than 16 years of age where the defendant is at least 3 years older than the victim.
1st degree sexual abuse[10]	Sexual contact with someone less than 14 years of age where the defendant is at least 3 years older than the victim.
2nd degree rape[11]	Engaging in sexual intercourse with someone less than 14 years of age where the defendant is at least 3 years older than the victim.
2nd degree unlawful sexual penetration[12]	Unlawful sexual penetration[13] of someone less than 14 years of age where the defendant is at least 3 years older than the victim.[14]

Cited in Estrada-Espinoza v. Mukasey, No. 05-75858 archived on October 22, 2008

[1] Oregon Revised Statutes, § 163.315
[2] Oregon Revised Statutes, § 163.345
[3] Oregon Revised Statutes, § 163.445
[4] Sexual intercourse has its ordinary meaning and occurs upon any penetration, however slight; emission is not required. Oregon Revised Statutes, § 163.305.
[5] Deviate sexual intercourse is defined as: sexual conduct between persons consisting of contact between the sex organs of one person and the mouth or anus of another. Oregon Revised Statutes, § 163.305.
[6] Oregon Revised Statutes, § 163.435
[7] Oregon Revised Statutes, § 163.415
[8] Sexual contact is defined as: any touching of the sexual or other intimate parts of a person or causing such person to touch the sexual or other intimate parts of the defendant for the purpose of arousing or gratifying the sexual desire of either party. Oregon Revised Statutes, § 163.305.
[9] Oregon Revised Statutes, § 163.355
[10] Oregon Revised Statutes, § 163.427
[11] Oregon Revised Statutes, § 163.365
[12] Oregon Revised Statutes, § 163.408
[13] Unlawful sexual penetration is as the: penetration of the victim's vagina, anus, or penis with any object other than the penis or mouth of the defendant. Oregon Revised Statutes, § 163.408.

1st degree rape[15]	Engaging in sexual intercourse with someone less than 12 years of age.
1st degree unlawful sexual penetration[16]	Unlawful sexual penetration of someone less than 12 years of age.

B. Child Abuse Reporting Requirements

1. Inclusion of statutory rape in reporting requirements

Mandatory reporters are required to report all cases in which they suspect someone they come in contact with has been abused or has abused a child.[17] The statutory definition of child abuse includes all of the offenses listed in the previous section. It does not include any provisions that indicated that it applies only to parents, guardians, or custodians of the child in question.[18]

2. Mandatory reporters

Mandatory reporters include: physical and mental health practitioners; school employees; peace officers; members of the clergy; social workers; foster care workers; attorneys; marriage and family therapists; court appointed special advocates; registered child care providers; employees of the Department of Human Services, State Commission on Children and Families, Child Care Division of the Employment Department, and Oregon Youth Authority; and employees of county health departments, community mental health and developmental disabilities programs, county juvenile departments, licensed child-caring agencies, or alcohol and drug treatment programs.[19] Psychiatrists, psychologists, attorneys, and members of the clergy are not required to report information legally considered to be privileged information.[20]

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

3. Who to report to

Mandated reporters must make an oral report to the local office of the Department of Human Services, the Department's designee, or a local law enforcement agency.[21]

4. State response

After receiving a report, the Department of Human Services and law enforcement must notify one another's local offices in the county where the report was made. Depending on their contract with the Department, designees of the Department should notify either law enforcement or the Department of reports.[22] All reports must be investigated immediately by

[14] The 3 year age differential only applies in those cases where the penetrating object was the defendant's hand or other body part.
[15] Oregon Revised Statutes, § 163.375
[16] Oregon Revised Statutes, § 163.411
[17] Oregon Revised Statutes, § 419B.010
[18] Oregon Revised Statutes, § 419B.005
[19] Oregon Revised Statutes, § 419B.005
[20] Oregon Revised Statutes, § 419B.010
[21] Oregon Revised Statutes, § 419B.015
[22] Oregon Revised Statutes, § 419B.015

either law enforcement or the Department. Law enforcement must notify the Department of all cases in which it finds cause to believe that abuse has occurred.[23]

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

[23] Oregon Revised Statutes, § 419B.020

PENNSYLVANIA

A. Statutory Rape—Criminal Offenses

Sexual intercourse with someone less than 13 years of age is illegal regardless of the age of the defendant.[1] Sexual intercourse with someone at least 13 years of age and less than 16 years of age is illegal unless the defendant is less than four years older than the victim or is the victim's spouse.[2]

Definition of Offenses

Offense	Definition
Indecent assault[3]	Indecent contact[4] with someone less than 13 years of age.[5] Indecent contact with someone at least 13 years of age and less than 16 years of age where the defendant is at least 4 years older than the victim and not the victim's spouse.
Aggravated indecent assault[6]	Aggravated indecent assault[7] of someone less than 13 years of age. Aggravated indecent assault of someone at least 13 years of age and less than 16 years of age where the defendant is at least 4 years older than the victim and not the victim's spouse.
Statutory sexual assault[8]	Engaging in sexual intercourse[9] with someone at least 13 years of age and less than 16 years of age where the defendant is at least 4 years older than the victim and not the victim's spouse.
Involuntary deviate sexual intercourse[10]	Engaging in deviate sexual intercourse[11] with someone less than 13 years of age. Engaging in deviate sexual intercourse with someone at least 13 years of age and less than 16 years of age where the defendant is at least 4 years older than the victim and not the victim's spouse.
Rape[12]	Engaging in sexual intercourse with someone less than 13 years of age.

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

[1] Pennsylvania Consolidated Statutes, Title 18, § 3121

[2] Pennsylvania Consolidated Statutes, Title 18, § 3122.1

[3] Pennsylvania Consolidated Statutes, Title 18, § 3126

[4] Indecent contact is defined as: any touching of the sexual or other intimate parts of the person for the purpose of arousing or gratifying sexual desire, in either person. Pennsylvania Consolidated Statutes, Title 18, § 3101.

[5] This offense is a misdemeanor of the first degree. If the victim is at least 13 years of age it is a misdemeanor of the second degree.

[6] Pennsylvania Consolidated Statutes, Title 18, § 3125

[7] Aggravated indecent assault is defined as: penetration, however slight, of the genitals or anus of a victim with a part of the defendant's body for any purpose other than good faith medical, hygienic or law enforcement procedures. Pennsylvania Consolidated Statutes, Title 18, § 3125.

[8] Pennsylvania Consolidated Statutes, Title 18, § 3122.1

[9] Sexual intercourse, in addition to its ordinary meaning, includes intercourse per os or per anus, with some penetration however slight; emission is not required. Pennsylvania Consolidated Statutes, Title 18, § 3101.

[10] Pennsylvania Consolidated Statutes, Title 18, § 3123

[11] Deviate sexual intercourse is defined as: Sexual intercourse per os or per anus between human beings and any form of sexual intercourse with an animal. The term also includes penetration, however slight, of the genitals or anus of another person with a foreign object for any purpose other than good faith medical, hygienic or law enforcement procedures. Pennsylvania Consolidated Statutes, Title 18, § 3101.

[12] Pennsylvania Consolidated Statutes, Title 18, § 3121

B. Child Abuse Reporting Requirements

1. Inclusion of statutory rape in reporting requirements

Mandated reporters are required to notify the proper authorities of all cases of suspected child abuse.[13] The definition of child abuse includes the sexual offenses listed in the previous section, but it only applies to cases where the defendant is the child's parent, a person responsible for the child, an individual living in the home of the child, or a paramour of the child's parent.[14]

2. Mandatory reporters

Mandatory reporters include all individuals who encounter a case of suspected abuse through their professional or official capacity. The statute exempts clergy who learn of abuse through confidential confession.[15]

3. Who to report to

The Department of Public Welfare is required to maintain a statewide toll-free hotline and central registry to receive and track reports of abuse.[16] All reports of suspected child abuse must be made immediately to the Department's hotline; reporters can also notify the county children and youth social service agency. Oral reports must be followed by written reports to the county agency within 48 hours of the initial notification.[17]

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

4. State response

The Department of Public Welfare must notify the children and youth social service agency in the county where the abuse allegedly occurred of all reports it receives and whether the statewide central registry indicates a prior report or current investigation.[18] The county agency should coordinate its investigation of alleged abuse with the appropriate county law enforcement agency.[19]

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[13] Pennsylvania Consolidated Statutes, Title 23, § 6311
[14] Pennsylvania Consolidated Statutes, Title 23, § 6303
[15] Pennsylvania Consolidated Statutes, Title 23, § 6311
[16] Pennsylvania Consolidated Statutes, Title 23, § 6332
[17] Pennsylvania Consolidated Statutes, Title 23, § 6313
[18] Pennsylvania Consolidated Statutes, Title 23, § 6334
[19] Pennsylvania Consolidated Statutes, Title 23, § 6346

RHODE ISLAND

A. Statutory Rape—Criminal Offenses

Children under 16 years of age are unable to consent to sexual penetration with someone 18 years of age or older.[1] Children under 14 years of age are unable to consent to sexual acts regardless of the age of the defendant.[2]

Definition of Offenses

Offense	Definition
3rd degree sexual assault[3]	Engaging in sexual penetration[4] with someone over 14 years of age and less than 16 years of age where the defendant is over 18 years of age.
2nd degree child molestation sexual assault[5]	Engaging in sexual contact[6] with someone 14 years of age or younger.
1st degree child molestation sexual assault[7]	Engaging in sexual penetration with someone 14 years of age or younger.

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

B. Child Abuse Reporting Requirements

1. Inclusion of statutory rape in reporting requirements

Mandatory reporters are required to notify the proper authorities if they suspect that a child has been the victim of abuse.[8] The definition of abuse, which include sexual abuse, makes specific reference to the sexual assault crimes listed in the previous section. However, the definition only applies to those cases where the defendant is someone responsible for the child's welfare or when someone responsible for the child's welfare allowed the act to be committed.[9] In addition to requiring reports of abuse as defined in the statute, mandated reporters are also required to report suspected abuse if the defendant is less than 18 years of age.[10]

Physicians and registered nurse practitioners are also required to make reports if they determine that someone under 12 years of age has a sexually transmitted disease.[11]

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[1] Rhode Island General Laws, § 11-37-6
[2] Rhode Island General Laws, § 11-37-8.1, § 11-37-8.3
[3] Rhode Island General Laws, § 11-37-6
[4] Sexual penetration is defined as: sexual intercourse, cunnilingus, fellatio, and anal intercourse, or any other intrusion, however slight, by any part of a person's body or by any object into the genital or anal openings of another person's body, or the victim's own body upon the defendant's instruction, but emission of semen is not required. Rhode Island General Laws, § 11-37-1.
[5] Rhode Island General Laws, § 11-37-8.3
[6] Sexual contact is defined as: intentional touching of the victim's or defendant's intimate parts, clothed or unclothed, if that intentional touching can be reasonably construed as intended by the defendant to be for the purpose of sexual arousal, gratification, or assault. Rhode Island General Laws, § 11-37-1.
[7] Rhode Island General Laws, § 11-37-8.1
[8] Rhode Island General Laws, § 40-11-3
[9] Rhode Island General Laws, § 40-11-2
[10] Rhode Island General Laws, § 40-11-3
[11] Rhode Island General Laws, § 40-11-6

2. Mandatory reporters

Any person with reasonable cause to suspect that a child has been the victim of abuse is required to make a report.[12]

3. Who to report to

The Department of Children, Youth, and Families is required to maintain a toll-free hotline to receive reports of abuse at all times. Mandated reporters are required to notify the Department, through the hotline or otherwise, within 24 hours of encountering a case of suspected of child abuse.[13] Physicians and registered nurse practitioners must make immediate oral reports—followed by a written report—to both the Department and a law enforcement agency.[14]

4. State response

The Department of Children, Youth, and Families has the primary responsibility for investigating reports of child abuse.[15] If it becomes apparent that the child was a victim of a sexual offense, the Department is required to immediately inform law enforcement.[16] Law enforcement must then continue the investigation and inform the Department or family court of its findings. If the law enforcement agency believes that a crime was committed, it must also report its findings to the Department of the Attorney General.[17]

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

[12] Rhode Island General Laws, § 40-11-3
[13] Rhode Island General Laws, § 40-11-3
[14] Rhode Island General Laws, § 40-11-6
[15] Rhode Island General Laws, § 40-11-3
[16] Rhode Island General Laws, § 40-11-7
[17] Rhode Island General Laws, § 40-11-9

SOUTH CAROLINA

A. Statutory Rape—Criminal Offenses

A child who is 14 years of age or less cannot consent to sexual activity, regardless of the age of the defendant. Sexual activity with someone who is at least 14 years of age and less than 16 years of age is illegal if the defendant is older than the victim.[1]

Definition of Offenses

Offense	Definition
Committing or attempting lewd act upon child under 16[2]	With the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of either party—willfully and lewdly committing or attempting to commit a lewd or lascivious act upon or with someone less than 16 years of age where the defendant is over 14 years of age.
2nd degree criminal sexual conduct with minors[3]	Engaging in sexual battery[4] with someone at least 11 years of age and less than 14 years of age. Engaging in sexual battery with someone who is at least 14 years of age and less than 16 years of age where the defendant is older than the victim and not the victim's spouse.
1st degree criminal sexual conduct with minors[5]	Engaging in sexual battery with someone less than 11 years of age.

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

Note: Sexual acts between minors are exempt from prosecution in cases where the victim and defendant are married to one another. However, this exemption is not applicable to marriages entered into by a male under 16 years of age or a female under 14 years of age.[6]

B. Child Abuse Reporting Requirements

1. Inclusion of statutory rape in reporting requirements

Mandated reporters are required to report all cases where they have reason to believe that a child has been the victim of abuse.[7] The definition of child abuse includes the sexual offenses listed in the previous section when the defendant is the parent, guardian, or other person responsible for the child's welfare.[8] However, the statutes also require mandated reporters to notify the proper authorities of cases where an act would be considered child abuse if not for

[1] South Carolina Code, § 16-3-655
[2] South Carolina Code, § 16-15-140
[3] South Carolina Code, § 16-3-655
[4] Sexual battery is defined as: 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. South Carolina Code, § 16-3-651.
[5] South Carolina Code, § 16-3-655
[6] South Carolina Code, § 16-3-658
[7] South Carolina Code, § 20-7-510
[8] South Carolina Code, § 20-7-490

the fact that the defendant was someone other than the parent, guardian, or other person responsible for the child's welfare.[9]

2. Mandatory reporters

Mandated reporters include the following individuals who encounter cases of suspected abuse through their professional capacity: physical and mental health practitioners; clergy members; school teachers, counselors, principals, assistant principals; social or public assistance workers; substance abuse treatment staff; childcare workers; law enforcement officers; and judges.[10] The statute exempts clergy members who learn of abuse through confession and information covered under the attorney-client privilege.[11]

3. Who to report to

If they suspect that a child has been the victim of abuse, mandated reporters must notify—orally, by telephone, or otherwise—the county Department of Social Services or a law enforcement agency in the county. Reports of abuse perpetrated by someone other than the parent, guardian, or other person responsible for the child's welfare should be made to the appropriate law enforcement agency. [12]

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

4. State response

The Department of Social Services or law enforcement can conduct investigations of alleged child abuse. It is law enforcement's responsibility to investigate alleged offenses committed by someone other than the parent, guardian, or other person responsible for the child's welfare. Law enforcement agencies are required to notify the county Department of any reports they receive.[13]

[9] South Carolina Code, § 20-7-510
[10] South Carolina Code, § 20-7-510
[11] South Carolina Code, § 20-7-550
[12] South Carolina Code, § 20-7-510
[13] South Carolina Code, § 20-7-510

SOUTH DAKOTA

A. Statutory Rape—Criminal Offenses

Children under 10 years of age are deemed incapable of consent regardless of the age of the defendant. Individuals who are less than 16 years of age can legally consent *sexual penetration* in cases where the defendant is less than 3 years older.[1] However, *sexual contact* with someone under 16 years of age is illegal regardless of the age of the defendant—unless the two individuals are married to one another.[2,3]

Definition of Offenses

Offense	Definition
Sexual contact with child under 16[4]	Sexual contact[5] with someone under 16 years of age where the defendant is not the victim's spouse.[6]
3rd degree rape[7]	Engaging in sexual penetration[8] with someone at least 10 years of age and less than 16 years of age where the defendant is at least 3 years older than the victim.
1st degree rape[9]	Engaging in sexual penetration with someone less than 10 years of age.
Criminal pedophilia[10]	Engaging in sexual penetration with someone less than 13 years of age where the defendant is at least 26 years of age.

Cited in Estrada-Espinoza v. Mukasey, No. 05-75890 archived on October 22, 2008

B. Child Abuse Reporting Requirements

1. Inclusion of statutory rape in reporting requirements

Mandated reporters are required to report all cases where they have reasonable cause to suspect abuse.[11] The definition of an abused child includes children who are subjected to sexual abuse,

[1] South Dakota Codified Laws, § 22-22-1

[2] South Dakota Codified Laws, § 22-22-7 and § 22-22-7.3

[3] In *State v. Darby, 556 N.W.2d 311, 127 (SD 1996)*, the South Dakota Supreme Court ruled that these two offenses can be mutually exclusive, "each requiring proof of an additional fact that the other does not." Similarly, in *State v. Brammer, 304 N.W.2d 111, 254 (SD 1981)*, the court found that sexual contact is a distinct offense from rape, asserting that the legislative intent of the sexual contact law was not to apply to touching incidental to rape. Also see: *King v. Solem, 383 N.W.2d 852, 379 (SD 1986); State v. Bachman, 446 N.W.2d 271, 157 (SD 1989)*.

[4] South Dakota Codified Laws, § 22-22-7 and § 22-22-7.3

[5] Sexual contact is defined as: any touching, not amounting to rape, of the breasts of a female or the genitalia or anus of any person with the intent to arouse or gratify the sexual desire of either party. South Dakota Codified Laws, § 22-22-7.1.

[6] Normally a Class 3 felony, this crime is treated as a Class 1 misdemeanor if the defendant is under 16 years of age or less than 3 years older than the victim.

[7] South Dakota Codified Laws, § 22-22-1

[8] Sexual penetration is defined as: an act, however slight, of sexual intercourse, cunnilingus, fellatio, anal intercourse, or any intrusion, however slight, of any part of the body or of any object into the genital or anal openings of another person's body. South Dakota Codified Laws, § 22-22-2.

[9] South Dakota Codified Laws, § 22-22-1

[10] South Dakota Codified Laws, § 22-22-30.1

[11] South Dakota Codified Laws, § 26-8A-3

molestation, or exploitation by their parent, guardian, custodian, or other person responsible for their care.[12]

2. Mandatory reporters

Mandatory reporters include: social workers; parole, court, and law enforcement officers; physical and mental health providers and other individuals who have contact with children through the performance of services as a hospital employee; school teachers, counselors, administrators, and other employees; licensed or registered child welfare providers; domestic abuse shelter employees and volunteers; and chemical dependency counselors.[13]

3. Who to report to

Mandatory reporters must make an immediate oral report of abuse—by telephone or otherwise—to the state's attorney of the county in which the child resides or is present, the Department of Social Services, or law enforcement. If requested by the reporter, the Department or law enforcement must provide the reporter with a written response—within 30 days of the initial report—acknowledging receipt of the report and stating whether the report will be investigated.[14]

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

4. State response

If a state's attorney's office or law enforcement officer receives the report, they must immediately notify the Department of Social Services,[15] which will serve as the central registry for reports of child abuse.[16] The Department or law enforcement must investigate the case upon receipt of a report. If the investigation indicates that the alleged abuse occurred, the state's attorney is responsible for taking appropriate action.[17]

[12] South Dakota Codified Laws, § 26-8A-2
[13] South Dakota Codified Laws, § 26-8A-3
[14] South Dakota Codified Laws, § 26-8A-8
[15] South Dakota Codified Laws, § 26-8A-8
[16] South Dakota Codified Laws, § 26-8A-10
[17] South Dakota Codified Laws, § 26-8A-9

TENNESSEE

A. Statutory Rape—Criminal Offenses

A child who is less than 13 years of age cannot consent to sexual activity, regardless of the age of the defendant.[1] Sexual activity with someone who is at least 13 years of age and less than 18 years of age is illegal if the defendant is 4 or more years older than the victim.[2]

Definition of Offenses

Offense	Definition
Statutory Rape[3]	Engaging in sexual penetration[4] with someone at least 13 years of age and less than 18 years of age where the defendant is at least 4 years older than the victim.[5]
Aggravated sexual battery[6]	Unlawful sexual contact[7] with someone less than 13 years of age.
Rape of a child[8]	Engaging in sexual penetration with someone less than 13 years of age.

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

B. Child Abuse Reporting Requirements

1. Inclusion of statutory rape in reporting requirements

Mandated reporters are required to report all instances where they have cause to believe that a child has been sexually abused.[9] The definition of child sexual abuse includes:[10]

- Aggravated sexual battery and rape of a child (listed in the previous section). These laws address sexual activity with children under 13 years of age and apply to all persons, regardless of their relationship with the child.
- A number of specific sexual acts[11] that constitute child sexual abuse. This section of the definition does not address the age of the victim and does not include any provisions that indicate that it applies only to persons responsible for the care and custody of the child.

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[1] Tennessee Code, § 39-13-522

[2] Tennessee Code, § 39-13-506

[3] Tennessee Code, § 39-13-506

[4] Sexual penetration is defined as: sexual intercourse, cunnilingus, fellatio, anal intercourse, or any other intrusion, however slight, of any part of a person's body or of any object into the genital or anal openings of the victim's, the defendant's, or any other person's body, but emission of semen is not required . Tennessee Code, § 39-13-501.

[5] Defendants less than 18 years of age who are charged with statutory rape must be tried as juveniles.

[6] Tennessee Code, § 39-13-504

[7] Sexual contact is defined as: intentional touching of the victim's, the defendant's, or any other person's intimate parts (primary genital area, groin, inner thigh, buttock, or breast), or the intentional touching of the clothing covering the immediate area of the victim's, the defendant's, or any other person's intimate parts, if that intentional touching can be reasonably construed as being for the purpose of sexual arousal or gratification. Tennessee Code, § 39-13-501.

[8] Tennessee Code, § 39-13-522

[9] Tennessee Code, § 37-1-605

[10] Tennessee Code, § 37-1-602

[11] These acts include: any penetration, however slight, of the vagina or anal opening of one person by the penis of another person, whether or not there is the emission of semen; any contact between the genitals or anal opening of one person and the mouth or

- Any of the acts described above if: (1) the victim is between 13 and 18 years of age; and (2) the defendant is the parent, guardian, relative, person residing in the victim's home, or other person responsible for the care and custody of the child.

Physicians or other persons who diagnose or treat a child 13 years of age or younger for any sexually transmitted disease are required to notify the Department of Health. Other individuals required to report under these guidelines include superintendents and managers of clinics, dispensaries, charitable institutions, and penal institutions.[12]

A 1996 law passed in Tennessee dealt specifically with the prevention of statutory rape and the reporting of this crime. It outlines two specific scenarios where individuals who encounter pregnant children are either required or encouraged to report the crime:

- If a physician or other person treating a pregnant woman less than 18 years of age learns that the alleged father is at least 4 years older than the woman (and not her legal spouse), the provider is *encouraged* to notify the judge having juvenile jurisdiction, the office of the sheriff, or the chief law enforcement official in the municipality where the child resides. Such a report can only be made with the consent of the patient or a parent, legal guardian, or custodian.[13]

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

- The Department of Human Services is required to report all cases where an applicant for child support or public assistance appears to be a victim of statutory rape. This requirement applies to cases where (1) an applicant is at least 13 years of age and less than 18 years of age and (2) the father of the applicant's child is at least 4 years older than the applicant.[14]

2. Mandatory reporters

Any person who knows or suspects that a child has been sexually abused is required to notify the proper authorities. The statute makes specific reference to: physical and mental health providers; school teachers or other school officials or personnel; judges; social workers, day care center workers, or other professional child care, foster care, residential, or institutional workers; and law enforcement officers.[15]

3. Who to report to

All reports of child sexual abuse must be made immediately to: the local office of the Department of Children's Services, the judge having juvenile jurisdiction, the office of the sheriff, or the chief law enforcement official in the municipality where the child resides.[16]

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tongue of another person; any intrusion by one person into the genitals or anal opening of another person, including the use of any object for this purpose, except that it shall not include acts intended for a valid medical purpose; The intentional touching of the genitals or intimate parts, including the breasts, genital area, groin, inner thighs, and buttocks, or the clothing covering them, of either the child or the defendant. Tennessee Code, § 37-1-602,

[12] Tennessee Code, § 37-1-403

[13] Tennessee Code, § 38-1-302

[14] Tennessee Code, § 38-1-305

[15] Tennessee Code, § 37-1-605

[16] Tennessee Code, § 37-1-605

Cases involving victims under 13 years of age found to be infected with a sexually transmitted disease should be reported to the Department of Health.[17]

Public assistance workers encountering applicants who they suspect to have been victims of statutory rape must notify the appropriate law enforcement agency and district attorney general.[18]

4. State response

The Department of Children's Services is required to be capable of receiving reports of abuse 24 hours a day, seven days a week.[19] In all cases involving child sexual abuse, the county director of the Department is required to notify and consult with the district attorney general where the abuse occurred.[20] Law enforcement officers and judges that receive reports must immediately notify the Department.[21] In addition, the Department of Health must notify the Department of Children's Services of any reports it receives involving children with a sexually transmitted disease.[22]

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

Each county must have a child protective team, convened by the Department upon receiving a report of child sexual abuse. These teams must include: one representative from the Department; one representative from the office of the district attorney general; one juvenile court officer or investigator from a court of competent jurisdiction; and one law enforcement officer from the county where the victim resides of where the alleged offense occurred. The team can also include a mental health professional and a child advocacy center representative.[23]

Teams are required to begin their investigations within 24 hours of the report.[24] If a team finds that the abuse occurred, it must give immediate oral notification to the appropriate district attorney general and law enforcement agency. Within three days, this should be followed by a written report.[25] Teams must also report their findings to the Department's abuse registry within 60 days of the initial report.[26]

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[17] Tennessee Code, § 37-1-403
[18] Tennessee Code, § 38-1-305
[19] Tennessee Code, § 37-1-606
[20] Tennessee Code, § 37-1-405
[21] Tennessee Code, § 37-1-605
[22] Tennessee Code, § 37-1-403
[23] Tennessee Code, § 37-1-607
[24] Tennessee Code, § 37-1-606
[25] Tennessee Code, § 37-1-607
[26] Tennessee Code, § 37-1-406

TEXAS

A. Statutory Rape—Criminal Offenses

Children less than 14 years of age are unable to consent to sexual acts regardless of the age of the defendant.[1] Sexual acts with children less than 17 years of age and at least 14 years of age are illegal if the defendant is more than 3 years older than the victim.[2]

Definition of Offenses

Offense	Definition
Indecency with a child[3]	Sexual contact[4] with someone less than 17 years of age where the defendant is 3 or more years older than the victim.[5]
Sexual assault[6]	Sexually assaulting[7] someone at least 14 years of age and less than 17 years of age where the defendant is 3 or more years older than the victim.
Aggravated sexual assault[8]	Sexually assaulting someone less than 14 years of age.

Note: Marriage is a defense to all of the offenses listed above.

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

B. Child Abuse Reporting Requirements

1. Inclusion of statutory rape in reporting requirements

Mandated reporters are required to report all instances where they have cause to believe that a child's health or welfare has been adversely affected as a result of abuse by *any* person.[9] The definition of abuse includes sexual conduct harmful to a child's mental, emotional, or physical welfare—making specific reference to the three crimes listed in the previous section.[10]

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[1] Texas Penal Code, § 22.021

[2] Texas Penal Code, § 22.011

[3] Texas Penal Code, § 21.11

[4] Sexual contact includes the following acts, if committed with the intent to arouse or gratify the sexual desire of either party: any touching by a person, including touching through clothing, of the anus, breast, or any part of the genitals of a child; or 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 a person. Texas Penal Code, § 21.11.

[5] Normally a second degree felony, this crime is reduced to a third degree felony if—with the intent to arouse or gratify the sexual desire of either party—the defendant exposes his or her anus or any part of the his or her genitals, knowing the victim is present; or causes the victim expose themselves in a similar manner.

[6] Texas Penal Code, § 22.011

[7] Sexual assault is defined as intentionally or knowingly: causing the penetration of the anus or sexual organ of the victim by any means; causing the penetration of the mouth of the victim by the sexual organ of the defendant; causing the sexual organ of the victim to contact or penetrate the mouth, anus, or sexual organ of another person, including the defendant; causing the anus of the victim to contact the mouth, anus, or sexual organ of another person, including the defendant; or causing the mouth of the victim to contact the anus or sexual organ of another person, including the defendant. Texas Penal Code, § 22.011.

[8] Texas Penal Code, § 22.021

[9] Texas Family Code, § 261.101

[10] Texas Family Code, § 261.001

2. Mandatory reporters

Any individual who has cause to believe that a child's health or welfare has been adversely affected by abuse must notify the proper authorities.

In addition, the statute specifically addresses the reporting requirements as they apply to "professionals" who encounter children they suspect to have been or may be a victim of abuse. The statute defines "professionals" as people who—in their official duties or duties for which a license or certification is required—have direct contact with children and are:

- licensed or certified by the state; *or*
- employees of a facility licensed, certified, or operated by the state

This includes: teachers, nurses, doctors, day-care employees, employees of a clinic or health care facility that provides reproductive services, juvenile probation officers, and juvenile detention or correctional officers.[11]

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

3. Who to report to

Individuals must report suspected child abuse to (1) any local or state law enforcement agency or (2) the agency designated by the court to be responsible for the protection of children. Mandated reporters must notify the Department of Protective and Regulatory Services in cases where the defendant is a person responsible for the care, custody, or welfare of the child.[12]

4. State response

The Department of Protective and Regulatory Services and the agency designated by the court to be responsible for the protection of children must notify the appropriate state or local law enforcement agency of all reports they receive.[13] Additionally, district attorneys can request notification from these agencies of cases of reported abuse allegedly occurring in their counties.[14] The Department is responsible for investigating cases involving a person responsible for the care, custody, or welfare of the victim. The appropriate state or local law enforcement agency is responsible for investigating all other reports of child abuse.[15]

[11] Texas Family Code, § 261.101
[12] Texas Family Code, § 261.103
[13] Texas Family Code, § 261.105
[14] Texas Family Code, § 261.1055
[15] Texas Family Code, § 261.301

UTAH

A. Statutory Rape—Criminal Offenses

Children under 16 years of age are deemed incapable of consent regardless of the age of the defendant.[1] Sexual intercourse with someone who is at least 16 years of age but less than 18 years of age is legal if the defendant is less than 10 years older than the victim.[2]

Definition of Offenses

Offense	Definition
Sexual abuse of a minor[3]	Sexual abuse[4] of someone at least 14 years of age and less than 16 years of age where the defendant is at least 7 years older than the victim.
Unlawful sexual conduct with a 16 or 17 year old[5]	Sexual conduct[6] with someone at least 16 years of age and less than 18 years of age where the defendant is 10 or more years older than the victim.
Unlawful sexual activity with a minor[7]	Sexual activity [8] with someone at least 14 years of age and less than 16 years of age.[9]
Sexual abuse of a child[10]	Sexual abuse of someone less than 14 years of age.[11]
Object rape of a child[12]	Object rape[13] of someone less than 14 years of age.
Rape of a child[14]	Sexual intercourse with someone less than 14 years of age.

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

Note: Marriage is a defense to all of the offenses listed above.[15]

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[1] Utah Code, § 76-5-402.1 and § 76-5-401

[2] Utah Code, § 76-5-401.2

[3] Utah Code, § 76-5-401.1

[4] Sexual abuse is defined as sexual acts, not amounting to unlawful sexual activity with a minor, including: touching the anus, buttocks, breast (in the case of a female) or any part of the genitals; otherwise taking indecent liberties; or causing the victim to take indecent liberties with the actor or another person, with the intent to cause substantial emotional or bodily pain to any person or with the intent to arouse or gratify the sexual desire of any person. Utah Code, § 76-5-401.1.

[5] Utah Code, § 76-5-401.2

[6] Sexual conduct is defined as: sexual intercourse; engaging in any sexual act involving the genitals of one person and the mouth or anus of another person; or penetrating, however slightly, the genital or anal opening by any foreign object, substance, instrument, or device, including a part of the human body, with the intent to cause substantial emotional or bodily pain to any person or with the intent to arouse or gratify the sexual desire of any person,. Utah Code, § 76-5-401.2.

[7] Utah Code, § 76-5-401

[8] The definition of sexual activity is the same as the definition of sexual conduct.

[9] Violation of this law is considered a 3rd degree felony unless the defendant is less than 4 years older than the victim, in which case it is a class B misdemeanor.

[10] Utah Code, § 76-5-404.1

[11] Sexual abuse becomes an aggravated offense if: the defendant was a stranger to the victim or made friends with the victim for the purpose of committing the offense; the accused, prior to sentencing for this offense, was previously convicted of any felony, or of a misdemeanor involving a sexual offense; or the accused caused the penetration, however slight, of the genital or anal opening of the child by any part or parts of the human body other than the genitals or mouth.

[12] Utah Code, § 76-5-402.3

[13] Object rape is defined as: penetration or touching, however slight, of the genital or anal opening by any foreign object, substance, instrument, or device, not including a part of the human body, with intent to cause substantial emotional or bodily pain to the child or with the intent to arouse or gratify the sexual desire of any person. Utah Code, § 76-5-402.3.

[14] Utah Code, § 76-5-402.1

B. Child Abuse Reporting Requirements

1. Inclusion of statutory rape in reporting requirements

Mandatory reporters are required to notify the proper authorities of all cases where they suspect that a child has been subjected to sexual abuse.[16] The defendant can be *any* person, including, but not limited to, a child, parent, guardian, or other person responsible for a child's care.[17]

The reporting requirement and definition of sexual abuse do not make specific reference to any of the offenses listed in the previous section. Sexual abuse is defined to mean acts or attempted acts of sexual intercourse, sodomy, or molestation directed towards someone under 18 years of age.[18] Under criminal law, sexual conduct with someone who is at least 16 years of age and less than 18 years of age is only illegal if the defendant is 10 or more years older than the victim. However, engaging in a sexual act with someone under 18 years of age is a reportable offense, regardless of the age of the defendant.

2. Mandatory reporters

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

Any person, including licensed health professionals, are required to make a report if they have reason to believe that a child has the victim of abuse. The statute exempts clergy who learn of abuse through confession.[19]

3. Who to report to

Mandated reporters must immediately notify the nearest peace officer, law enforcement agency, or office of the Division of Child and Family Services.[20] If requested by the Division, initial reports must be followed by a written report within 48 hours. [21]

4. State response

If the Division of Child and Family Services is the initial recipient of a report, it must immediately notify the appropriate law enforcement agency. Similarly, if a law enforcement agency is the initial recipient it must immediately notify the nearest office of the Division.[22] In addition, the Division must forward copies of written reports to the statewide central register.[23]

The Division is required to conduct an investigation upon receipt of all reports. Upon completion of the initial investigation the Division must notify the person who made the initial report. The statute urges the Division to utilize an interdisciplinary approach that involves

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[15] Utah Code, § 76-5-407
[16] Utah Code, § 62A-4a-403
[17] Utah Code, § 62A-4a-402
[18] Utah Code, § 62A-4a-402
[19] Utah Code, § 62A-4a-403
[20] Utah Code, § 62A-4a-403
[21] Utah Code, § 62A-4a-408
[22] Utah Code, § 62A-4a-403
[23] Utah Code, § 62A-4a-408

representatives from other relevant agencies (e.g., health, mental health, law enforcement). In cases in which law enforcement is conducting an investigation, the Division must assist in the investigation and not duplicate areas of the investigation already conducted.[24]

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

[24] Utah Code, § 62A-4a-409 and § 62A-4a-403

VERMONT

A. Statutory Rape—Criminal Offenses

According to the Vermont Statutes, children under the age of 16 are unable to consent to sexual acts unless the defendant is their spouse.[1] However, in 2000 the Vermont State Supreme Court ruled that this law is only applicable in cases where the defendant is at least 16 years of age.[2]

Definition of Offenses

Offense	Definition
Lewd or lascivious conduct with child[3]	With the intent of arousing, appealing to, or gratifying the lust, passions or sexual desires of either party—willfully and lewdly committing any lewd or lascivious act with someone less than 16 years of age.
Sexual assault[4]	Engaging in a sexual act[5] with someone less than 16 years of age where the defendant is not the victim's spouse (see the previous section for exceptions to this law).
Aggravated sexual assault[6]	Committing sexual assault upon someone less than 10 years of age where the defendant is at least 18 years of age.

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

B. Child Abuse Reporting Requirements

1. Inclusion of statutory rape in reporting requirements

Mandated reporters are required to report all instances of child abuse.[7] The definition of child abuse includes sexual abuse regardless of the defendant's relationship to the child. The definition of sexual abuse includes rape, molestation, and lewd and lascivious conduct involving a child.[8]

2. Mandatory reporters

Mandatory reporters include: physical and mental health providers; school superintendents, teachers, librarians, principals, and guidance counselors; day care workers; social workers; probation officers; camp owners, administrators, and counselors; clergy members;[9] and police officers.[10]

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[1] Vermont Statutes, Title 13, § 3252
[2] *In re* G.T., 758 A.2d 301 (Vt. 2000).
[3] Vermont Statutes, Title 13, § 2602
[4] Vermont Statutes, Title 13, § 3252
[5] Sexual act is defined as: conduct between persons consisting of contact between the penis and the vulva, the penis and the anus, the mouth and the penis, the mouth and the vulva, or any intrusion, however slight, by any part of a person's body or any object into the genital or anal opening of another. Vermont Statutes, Title 13, § 3251.
[6] Vermont Statutes, Title 13, § 3253
[7] Vermont Statutes, Title 33, § 4913
[8] Vermont Statutes, Title 33, § 4912
[9] The statute exempts clergy who learn of abuse through confession.
[10] Vermont Statutes, Title 33, § 4913

3. Who to report to

Mandated reporters must notify—orally or in writing—the Commissioner of Social and Rehabilitation Services of all cases of suspected abuse.[11]

4. State response

The Commissioner of Social and Rehabilitation Services must initiate an investigation within 72 hours of receiving any report of child abuse.[12]

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

[11] Vermont Statutes, Title 33, § 4914
[12] Vermont Statutes, Title 33, § 4915

VIRGINIA

A. Statutory Rape—Criminal Offenses

Sexual intercourse with someone less than 15 years of age is illegal regardless of the age of the defendant (unless the victim and defendant are married to one another).[1] It is illegal for individuals 18 years of age or older to engage in sexual intercourse with someone at least 15 years of age and less than 18 years of age unless the defendant and victim are married to one another.[2]

Definition of Offenses

Offense	Definition
Causing or encouraging acts rendering children delinquent, abused, etc.[3]	Engaging in consensual sexual intercourse with someone less than 18 years of age and at least 15 years of age where the defendant is at least 18 years of age and not the victim's spouse.[4]
Carnal knowledge of child between 13 and 15 years of age[5]	Carnally knowing[6] someone at least 13 years of age but less than 15 years of age.[7]
Rape[8]	Sexual intercourse with someone less than 13 years of age where the defendant is not the victim's spouse.

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

B. Child Abuse Reporting Requirements

1. Inclusion of statutory rape in reporting requirements

Mandated reporters are required to report all instances of child abuse.[9] The statutes define child abuse to include any sexual act in violation of the law, but it is limited to those acts perpetrated by the victim's parent or other person responsible for the child's care.[10]

2. Mandatory reporters

Mandated reporters include the following individuals who encounter cases of suspected abuse through their professional or official capacity: physical and mental health practitioners; social workers; probation officers; teachers and school employees; child care providers; law enforcement officers; professional staff members of any institution caring for children; court-

[1] Code of Virginia, § 18.2-61 and § 18.2-63
[2] Code of Virginia, § 18.2-371
[3] Code of Virginia, § 18.2-371
[4] This crime is a Class 1 misdemeanor.
[5] Code of Virginia, § 18.2-63
[6] Carnal knowledge is defined as: sexual intercourse, cunnilingus, fellatio, analingus, anal intercourse, and animate and inanimate object sexual penetration. Code of Virginia, § 18.2-63.
[7] This crime is a Class 4 felony if the defendant is at least 18 years of age. If the defendant is under 18 and at least 3 years older than the victim the crime is a Class 6 felony. If the defendant is under 18 and less than 3 years older than the victim than the defendant is guilty of a Class 4 misdemeanor.
[8] Code of Virginia, § 18.2-61
[9] Code of Virginia, § 63.2-1509
[10] Code of Virginia, § 63.2-100

appointed special advocates; and any person associated with or employed by any private organization responsible for the care, custody, or control of children.[11]

3. Who to report to

Mandated reporters must notify the Department of Social Services immediately if they suspect that a child has been the victim of abuse. Reporters can either make a report to the local Department or the statewide toll-free hotline maintained by the Department's central office.[12]

4. State response

The Department of Social Services is responsible for maintaining a toll-free hotline capable of receiving reports 24 hours-a-day, 7 days-a-week. The local office of the Department is responsible for the initial investigation of reported child abuse. If the Department receives a report of sexual abuse, it is required to notify the attorney for the Commonwealth and the local law enforcement agency. Additionally, local offices are encouraged to form multi-disciplinary teams for dealing with cases of child abuse. Team members should include representatives from the medical, mental health, social work, nursing, education, legal, and law enforcement professions. The statutes also require that the Department's local offices establish memoranda of understanding with law enforcement and the state's attorneys office.[13]

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

[11] Code of Virginia, § 63.2-1509
[12] Code of Virginia, § 63.2-1509
[13] Code of Virginia, § 63.2-1503

WASHINGTON

A. Statutory Rape—Criminal Offenses

Sexual intercourse with someone less than 16 years of age is illegal,[1] with the following exceptions:

- If the victim is at least 14 years of age and the defendant is less than 4 years older than the victim[2]
- If the victim is at least 12 years of age and less than 14 years of age and the defendant is less than 3 years older than the victim[3]
- If the victim is less than 12 years of age and the defendant is less than 2 years older than the victim[4]

Definition of Offenses

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

Offense	Definition
3rd degree child molestation[5]	Sexual contact[6] with someone at least 14 years of age and less than 16 years of age where the defendant is at least 4 years older than the victim.
3rd degree rape of a child[7]	Sexual intercourse[8] with someone at least 14 years of age and less than 16 years of age where the defendant is at least 4 years older than the victim.
2nd degree child molestation[9]	Sexual contact with someone at least 12 years of age and less than 14 years of age where the defendant is at least 3 years older than the victim.
2nd degree rape of a child[10]	Sexual intercourse with someone at least 12 years of age and less than 14 years of age where the defendant is at least 3 years older than the victim.
1st degree child molestation[11]	Sexual contact with someone less than 12 years of age where the defendant is at least 3 years older than the victim.
1st degree rape of a child[12]	Sexual intercourse with someone less than 12 years of age where the defendant is at least 2 years older than the victim.

[1] Revised Code of Washington, § 9A.44.079
[2] Revised Code of Washington, § 9A.44.079
[3] Revised Code of Washington, § 9A.44.076
[4] Revised Code of Washington, § 9A.44.073
[5] Revised Code of Washington, § 9A.44.089
[6] Sexual contact is defined as: 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. Revised Code of Washington, § 9A.44.010.
[7] Revised Code of Washington, § 9A.44.079
[8] Sexual intercourse is defined to include: its ordinary meaning, occurring upon any penetration, however slight; 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 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. Revised Code of Washington, § 9A.44.010.
[9] Revised Code of Washington, § 9A.44.086
[10] Revised Code of Washington, § 9A.44.076
[11] Revised Code of Washington, § 9A.44.083
[12] Revised Code of Washington, § 9A.44.073

Note: These crimes are only applicable in cases where the defendant and victim were not married to one another at the time of the offense.

B. Child Abuse Reporting Requirements

1. Inclusion of statutory rape in reporting requirements

Washington statutes require mandated reporters to report all instances where they suspect that a child has suffered harm as the result of child abuse.[13] The definition of child abuse includes sexual abuse, and it does not include any provisions that indicate that it applies only to parents, guardians, or custodians of the child in question. However, there is no mention of the offenses of the previous section, and the statutes do not define sexual abuse.[14]

2. Mandatory reporters

Mandatory reporters include: physical and mental health practitioners; law enforcement officers; professional school personnel; social service counselors; licensed or certified child care providers or their employees; employees of the Department of Social and Health Services; juvenile probation officers; placement and liaison specialists; responsible living skills program staff; HOPE center staff; or state family and children's ombudsman or any volunteer in the ombudsman's office.[15]

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

3. Who to report to

Mandatory reporters must notify the proper law enforcement agency or the Department of Social and Health Services within 48 hours of encountering a case of suspected abuse.[16] Initial reports may be made via telephone, and, if requested, must be followed by a written report.[17]

4. State response

The Department of Social and Health Services is required to notify law enforcement within 72 hours of receiving a report alleging sexual abuse and to follow the initial oral notification with a written report within 5 days.[18] The Department and law enforcement agencies are required to investigate all reports of abuse and report the results to the child protective services section of the Department.[19] All agencies that investigate child sexual abuse must have written protocols for handling the investigations. Coordinated investigations should include: the prosecutor's office, law enforcement, the Department, local advocacy groups, and any other local agency involved in the investigative process.[20]

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[13] Revised Code of Washington, § 26.44.030
[14] Revised Code of Washington, § 26.44.020
[15] Revised Code of Washington, § 26.44.030
[16] Revised Code of Washington, § 26.44.030
[17] Revised Code of Washington, § 26.44.040
[18] Revised Code of Washington, § 26.44.030
[19] Revised Code of Washington, § 26.44.050
[20] Revised Code of Washington, § 26.44.180

WEST VIRGINIA

A. Statutory Rape—Criminal Offenses

Children less than 16 years of age are deemed unable to consent,[1] with the following exceptions:

- If the victim is less than 16 years of age and the defendant is less than 16 years of age or less than 4 years older than the victim[2]
- If the victim is no more than 11 years of age and the defendant is less than 14 years of age[3]

Definition of Offenses

Offense	Definition
3rd degree sexual abuse[4]	Sexual contact[5] with someone less than 16 years of age where the defendant is at least 16 years of age and at least 4 years older than the victim.
1st degree sexual abuse[6]	Sexual contact with someone less than 11 years of age where the defendant is at least 14 years of age.
3rd degree sexual assault[7]	Engaging in sexual intercourse[8] or sexual intrusion[9] with someone less than 16 years of age where the defendant is at least 16 years of age or at least 4 years older than the victim.
1st degree sexual assault[10]	Engaging in sexual intercourse or sexual intrusion with someone less than 11 years of age where the defendant is at least 14 years of age.

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

Note: These crimes are only applicable in cases where the defendant and victim were not married to one another.

B. Child Abuse Reporting Requirements

1. Inclusion of statutory rape in reporting requirements

Mandated reporters are required to report all instances of child abuse.[11] The statutes define child abuse to include sexual abuse of any individual under 18 years of age perpetrated by the

[1] West Virginia Code, § 61-8B-2
[2] West Virginia Code, § 61-8B-5
[3] West Virginia Code, § 61-8B-3
[4] West Virginia Code, § 61-8B-9
[5] Sexual contact is defined as: any intentional touching, either directly or through clothing, of the anus or any part of the sex organs of another person, or the breasts of a female or intentional touching of any part of another person's body by the defendant's sex organs, where the touching is done for the purpose of gratifying the sexual desire of either party. West Virginia Code, § 61-8B-1.
[6] West Virginia Code, § 61-8B-7
[7] West Virginia Code, § 61-8B-5
[8] Sexual intercourse is defined as: any act between persons involving penetration, however slight, of the female sex organ by the male sex organ or involving contact between the sex organs of one person and the mouth or anus of another person. West Virginia Code, § 61-8B-1.
[9] Sexual intrusion is defined as: any act between persons involving penetration, however slight, of the female sex organ or of the anus of any person by an object for the purpose of degrading or humiliating the person so penetrated or for gratifying the sexual desire of either party. West Virginia Code, § 61-8B-1.
[10] West Virginia Code, § 61-8B-3

victim's parent, guardian, or custodian. Sexual abuse includes sexual intercourse, intrusion, or contact.[12]

2. Mandatory reporters

Mandated reporters include: physical and mental health practitioners; school teachers or other school personnel; social service workers; child care or foster care workers; emergency medical services personnel; peace officers or law enforcement officials; members of the clergy; circuit court judges; family law masters; employees of the Division of Juvenile Services; or magistrates.[13]

3. Who to report to

Mandated reporters must make a report to the local child protective services agency within 48 hours of encountering a case of suspected abuse. In cases where the suspected abuse includes sexual abuse, reporters must also notify the Division of Public Safety and any law enforcement agency with jurisdiction to investigate the alleged offense.[14] Initial reports may be made via telephone, and, if requested, must be followed by a written report within 48 hours.[15]

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

4. State response

The Department of Health and Human Services must maintain a 24 hour, 7 day-a-week hotline dedicated to receiving reports of suspected abuse.[16] The Department is also responsible for establishing or designating a local child protective services office in each county that is responsible for initiating investigations of reported child abuse.[17] These offices and the Department are required to notify the appropriate law enforcement agency and the prosecuting attorney in cases where the suspected abuse includes sexual abuse.[18]

[11] West Virginia Code, § 49-6A-2
[12] West Virginia Code, § 49-1-3
[13] West Virginia Code, § 49-6A-2
[14] West Virginia Code, § 49-6A-2
[15] West Virginia Code, § 49-6A-5
[16] West Virginia Code, § 49-6A-5
[17] West Virginia Code, § 49-6A-9
[18] West Virginia Code, § 49-6A-5

WISCONSIN

A. Statutory Rape—Criminal Offenses

Individuals under the age of 16 are deemed incapable of consent under all circumstances.[1] Sexual intercourse with someone who is at least 16 years of age and less than 18 years of age is illegal unless the defendant is the victim's spouse.[2]

Definition of Offenses

Offense	Definition
Sexual intercourse with a child age 16 or older[3]	Sexual intercourse[4] with someone at least 16 years of age and less than 18 years of age where the defendant is not the victim's spouse.
2nd degree sexual assault[5]	Sexual contact[6] or sexual intercourse with someone at least 13 years of age and less than 16 years of age.
1st degree sexual assault[7]	Sexual contact or sexual intercourse with someone less than 13 years of age.

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

B. Child Abuse Reporting Requirements

1. Inclusion of statutory rape in reporting requirements

Wisconsin's requirements regarding the reporting of child abuse make specific reference to sexual assault in the first and second degree. The definition of abuse does not include sexual intercourse with a child who is at least 16 years of age. The definition does not include any provisions that indicate that it applies only to persons responsible for the child in question.[8]

2. Mandatory reporters

Mandated reporters include the following individuals who encounter cases of suspected abuse through their professional duties: physical and mental health providers; social workers; marriage and family therapists; public assistance workers; school teachers, administrators, and

[1] Wisconsin Statutes Annotated, § 948.02

[2] Wisconsin Statutes Annotated, § 948.09

[3] Wisconsin Statutes Annotated, § 948.09

[4] Sexual intercourse is defined as: vulvar penetration as well as cunnilingus, fellatio, or anal intercourse between persons or any other intrusion, however slight, of any part of a person's body or of any object into the genital or anal opening either by the defendant or upon the defendant's instruction. The emission of semen is not required. Wisconsin Statutes Annotated, § 948.01.

[5] Wisconsin Statutes Annotated, § 948.02

[6] Sexual contact is defined as: intentional touching by either party, either directly or through clothing by the use of any body part or object, of either party's intimate parts for the purpose of sexually degrading or sexually humiliating the complainant or sexually arousing or gratifying the defendant; OR intentional penile ejaculation or intentional emission of urine or feces by the defendant upon any part of the body clothed or unclothed of the victim for the purpose of sexually degrading or sexually humiliating the victim or for the purpose of sexually arousing or gratifying the defendant. Wisconsin Statutes Annotated, § 948.01.

[7] Wisconsin Statutes Annotated, § 948.02

[8] Wisconsin Statutes Annotated, § 48.02

counselors; child-care workers and day care providers; alcohol and drug abuse counselors; police and law enforcement officers; and court-appointed special advocates.[9]

Health care practitioners that provide children with family planning services, pregnancy testing, obstetrical health care or screening, or diagnosis and treatment for a sexually transmitted disease are exempted from the reporting requirements unless they have reason to suspect that:

- The sexual acts occurred, or are likely to occur, with the child's caregiver; or
- The child suffers from a mental illness or deficiency that renders the child incapable of understanding the consequences of his or her actions; or
- The child, because of his or her age or immaturity, is incapable of understanding the nature or consequences of sexual intercourse or contact; or
- The other participant in the sexual acts is exploiting the child; or
- The child's participation in the sexual acts is not voluntary.[10]

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

3. Who to report to

Mandated reporters who suspect that a child has been abused must make an immediate report—by telephone or in person—to the county Department of Human Services (or, in a county with a population of at least 500,000, a licensed child welfare agency under contract with the Department); the sheriff; or the city, village, or town police department.[11]

4. State response

Law enforcement must notify the county Department of Human Services (or, in a county with a population of at least 500,000, a licensed child welfare agency under contract with the Department) within 12 hours of receiving a report of child abuse. The Department must notify the appropriate law enforcement agency of reports it receives alleging sexual abuse. In cases involving sexual abuse, the Department and law enforcement must coordinate with one another in the investigation. Within 60 days of receiving a report, law enforcement or the Department must determine whether the alleged abuse occurred and must notify the reporter of what actions have been taken as a result of the report. If the investigation indicates that reported action is a criminal offense, the case must be referred to the district attorney.[12]

[9] Wisconsin Statutes Annotated, § 48.981
[10] Wisconsin Statutes Annotated, § 48.981
[11] Wisconsin Statutes Annotated, § 48.981
[12] Wisconsin Statutes Annotated, § 48.981

WYOMING

A. Statutory Rape—Criminal Offenses

An individual less than 16 years of age is unable to consent to sexual activities with a person 4 or more years older than him or her.[1]

Definition of Offenses

Offense	Definition
3rd degree sexual assault[2]	Inflicting sexual intrusion[3] on someone less than 16 years of age where the defendant is at least 4 years older than the victim. Sexual contact,[4] without inflicting sexual intrusion, with someone less than 14 years of age where the defendant is at least 18 years of age. Sexual contact, without inflicting sexual intrusion, with someone less than 12 years of age, where the defendant is at least 4 years older than the victim.
2nd degree sexual assault[5]	Inflicting sexual intrusion on someone less than 12 years of age, where the defendant is at least 4 years older than the victim.

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

B. Child Abuse Reporting Requirements

1. Inclusion of statutory rape in reporting requirements

Mandatory reporters are required to report all instances where they suspect that a child has been abused or observe any child being subjected to conditions or circumstances that would reasonably result in abuse.[6] The definition of abuse includes the commission, or allowing the commission, of any sexual offense against a child (including the crimes listed in the previous section). It does not include any provisions that indicate that it applies only to persons responsible for a child's welfare.[7]

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[1] Wyoming Statutes, § 6-2-304

[2] Wyoming Statutes, § 6-2-304

[3] Sexual intrusion is defined as: any intrusion, however slight, by any object or any part of a person's body, except the mouth, tongue or penis, into the genital or anal opening of another person's body if that sexual intrusion can reasonably be construed as being for the purposes of sexual arousal, gratification or abuse; OR sexual intercourse, cunnilingus, fellatio, analingus or anal intercourse with or without emission. Wyoming Statutes, § 6-2-301.

[4] Sexual contact is defined as: touching, with the intention of sexual arousal, gratification or abuse, of the victim's intimate parts by the defendant, or of the defendant's intimate parts by the victim, or of the clothing covering the immediate area of the victim's or defendant's intimate parts. Wyoming Statutes, § 6-2-301.

[5] Wyoming Statutes, § 6-2-303

[6] Wyoming Statutes, § 14-3-205

[7] Wyoming Statutes, § 14-3-202

2. Mandatory reporters

Any individual who suspects that a child has been abused or observes any child being subjected to conditions or circumstances that would reasonably result in abuse is required to notify the appropriate authorities.[8]

3. Who to report to

Mandated reporters are required to make immediate reports to law enforcement or the field or regional offices of the Department of Family Services in all cases of suspected abuse.[9] Initial reports must be followed by a more detailed written report.[10]

4. State response

The Department of Family Services, through its field or regional offices, is responsible for investigating all reports of alleged abuse. It must initiate the investigation within 24 hours of receiving a report. In its investigation, the Department is required to work in concert with prosecution and law enforcement.[11]

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

[8] Wyoming Statutes, § 14-3-205
[9] Wyoming Statutes, § 14-3-205
[10] Wyoming Statutes, § 14-3-206
[11] Wyoming Statutes, § 14-3-204