

# Fifty State Survey of Vulnerable Persons Statutes

## NIC/WCL Project on Addressing Prison Rape

ALABAMA	
<b>Statute</b> (Alabama)	ALA. CODE § 38-9-7 (West 2008) <u>Violations; penalties</u>
<b>Coverage</b> (Alabama)	ALA. CODE § 38-9-2 (West 2008) <u>Definitions</u>  ALA. CODE § 13A-5-6 (West 2008) <u>Sentences of imprisonment for felonies.</u>  ALA. CODE § 13A-5-7 (West 2008) <u>Sentences of imprisonment for misdemeanors and violations.</u>  ALA. CODE § 38-9-7 (West 2008) <u>Violation: penalties</u>
<b>Definitions</b> (Alabama)	ALA. CODE § 38-9-2 (West 2008) <u>Definitions</u>  For the purposes of this chapter, the following terms shall have the following meanings:  (1) <u>Abuse</u> . The infliction of physical pain, injury, or the willful deprivation by a caregiver or other person of services necessary to maintain mental and physical health.

### NOTES:

\*While not reflected on this chart, most states have enhanced penalties for sexual assault/battery/or other relevant statutes where the victim is considered “vulnerable”

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<b>Definitions Cont'd</b> (Alabama)	<p>(2) <u>Adult in need of protective services.</u> A person 18 years of age or older whose behavior indicates that he or she is mentally incapable of adequately caring for himself or herself and his or her interests without serious consequences to himself or herself or others, or who, because of physical or mental impairment, is unable to protect himself or herself from abuse, neglect, exploitation, sexual abuse, or emotional abuse by others, and who has no guardian, relative, or other appropriate person able, willing, and available to assume the kind and degree of protection and supervision required under the circumstances.</p> <p>(3) <u>Caregiver.</u> An individual who has the responsibility for the care of a protected person as a result of family relationship or who has assumed the responsibility for the care of the person voluntarily, by contract or as a result of the ties of friendship.</p> <p>(6) <u>Emotional Abuse.</u> The willful or reckless infliction of emotional or mental anguish or the use of a physical or chemical restraint, medication or isolation as punishment or as a substitute for treatment or care of any protected person.</p> <p>(7) <u>Employee of Nursing Home.</u> A person permitted to perform work in a nursing home by the nursing home administrator or by a person or an entity with an ownership interest in the facility, or by both. A person shall be considered an employee whether or not he or she receives compensation for the work performed.</p> <p>(8) <u>Exploitation.</u> The expenditure, diminution, or use of the property, assets, or resources of a protected person without the express voluntary consent of that person or his or her legally authorized representative.</p> <p>(9) <u>Intentionally.</u> A person acts intentionally with respect to a result or to conduct described by a statute defining an offense, when his or her purpose is to cause that result or to engage in that conduct.</p> <p>(10) <u>Interested Person.</u> Any adult relative, friend, or guardian of a protected person, or any official or representative of a public or private agency, corporation, or association concerned with his or her welfare.</p>
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<b>Definitions Cont'd</b> (Alabama)	<p>12. <u>Neglect</u>. The failure of a caregiver to provide food, shelter, clothing, medical services, or health care for the person unable to care for himself or herself; or the failure of the person to provide these basic needs for himself or herself when the failure is the result of the persons' mental or physical inability.</p> <p>13. <u>Nursing Facility</u>. A facility which is licensed as a nursing home by the Alabama Department of Public Health pursuant to Article 2, Chapter 21, Title 22.</p> <p>14. <u>Other like Incapacities</u>. Those conditions incurred as the result of accident or mental or physical illness, producing a condition which substantially impairs an individual from adequately providing for his or her own care or protecting his or her own interests or protecting himself or herself from physical or mental injury or abuse.</p> <p>16. <u>Physical injury</u>. Impairment of physical condition or substantial pain.</p> <p>17. <u>Protected person</u>. Any person over 18 years of age subject to protection under this chapter or any person, including, but not limited to, persons who are senile, mentally ill, developmentally disabled, or mentally retarded, or any person over 18 years of age that is mentally or physically incapable of adequately caring for himself or herself and his or her interests without serious consequences to himself or herself or others.</p> <p>19. <u>Recklessly</u>. A person acts recklessly with respect to a result or to a circumstance described by a statute defining an offense when he or she is aware of and consciously disregards a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk shall be of such nature and degree that its disregard constitutes a gross deviation from the standard conduct that a reasonable person would observe in the situation. A person who creates a risk but is unaware of that risk solely by reason of voluntary intoxication, as defined in subdivision (e)(2) of Section 13A--3--2, acts recklessly with respect thereto.</p> <p>21. <u>Serious physical injury</u>. Physical injury which creates a risk of death, or which causes serious and protracted</p>
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<b>Penalties</b> <i>(Alabama)</i>	<p>ALA. CODE § 38-9-7 (West 2008)  <u>Violations; penalties.</u></p> <p>(b) Any person who intentionally abuses or neglects a person in violation of this chapter shall be guilty of a Class B felony if the intentional abuse or neglect causes serious physical injury.</p> <p>ALA. CODE § 13A-5-6 (West 2008)  <u>Sentences of imprisonment for felonies.</u></p> <p>(a) Sentences for felonies shall be for a definite term of imprisonment, which imprisonment includes hard labor, within the following limitations:  (2) For a Class B Felony, not more than 20 years or less than 2 years.</p> <p>ALA. CODE § 38-9-7 (West 2008)  <u>Violations; penalties.</u></p> <p>(c) Any person who recklessly abuses or neglects a person in violation of this chapter shall be guilty of a Class C felony if the reckless abuse or neglect causes serious physical injury.</p> <p>ALA. CODE § 13A-5-6 (West 2008)  <u>Sentences of imprisonment for felonies.</u></p>

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<b>Penalties Cont'd</b> <i>(Alabama)</i>	<p>(a) Sentences for felonies shall be for a definite term of imprisonment, which imprisonment includes hard labor, within the following limitations:  (3) For a Class C felony, not more than 10 years or less than 1 year and 1 day.</p> <p>ALA. CODE § 38-9-7 (West 2008)  <u>Violations; penalties.</u></p> <p>(d) Any person who intentionally abuses or neglects a person in violation of this chapter, shall be guilty of a Class C felony if the intentional abuse or neglect causes physical injury.</p> <p>ALA. CODE § 13A-5-6 (West 2008)  <u>Sentences of imprisonment for felonies.</u></p> <p>(a) Sentences for felonies shall be for a definite term of imprisonment, which imprisonment includes hard labor, within the following limitations:  (3) For a Class C felony, not more than 10 years or less than 1 year and 1 day.</p> <p>ALA. CODE 38-9-7 (West 2008)  <u>Violations; penalties.</u></p> <p>(e) Any person who recklessly abuses or neglects a person in violation of this chapter, shall be guilty of a Class A misdemeanor if the reckless abuse or neglect causes physical injury.</p> <p>ALA. CODE § 13A-5-7 (West 2008)  <u>Sentences of imprisonment for misdemeanors and violations.</u></p> <p>(a) Sentences for misdemeanors shall be a definite term of imprisonment in the county jail or to hard labor for the county,</p>
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<b>Applicability to Youth</b> <i>(Alabama)</i>	<p>The above statutes are not applicable to youth</p>
<b>ALASKA</b>	
<b>Statute</b> <i>(Alaska)</i>	<p>A.S. § 11.51.200 (West 2008)  <u>Endangering the welfare of a vulnerable adult in the first degree.</u></p>

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<b>Statute Cont'd</b> <i>(Alaska)</i>	<p>A.S. § 11.51.210 (West 2008)  <u>Endangering the welfare of a vulnerable adult in the second degree.</u></p> <p>A.S. § 11.41.410 (West 2008)  <u>Sexual assault in the first degree.</u></p> <p>A.S. § 11.41.420 (West 2008)  <u>Sexual assault in the second degree.</u></p> <p>A.S. § 11.41.420 (West 2008)  <u>Sexual assault in the third degree.</u></p>
<b>Coverage</b> <i>(Alaska)</i>	<p>A.S. § 11.51.200 (West 2008)  <u>Endangering the welfare of a vulnerable adult in the first degree.</u></p> <p>(a) A person commits the crime of endangering the welfare of a vulnerable adult in the first degree if the person</p> <ol style="list-style-type: none"> <li>(1) intentionally abandons the vulnerable adult in any place under circumstances creating a substantial risk of physical injury to the vulnerable adult and the vulnerable adult is in the person's care <ol style="list-style-type: none"> <li>(A) by contract or authority of law; or</li> <li>(B) in a facility or program that is required by law to be licensed by the state; or</li> </ol> </li> <li>(2) violates AS 11.51.210 and, as a result of the violation, the vulnerable adult suffers serious physical injury.</li> </ol> <p>A.S. § 11.51.210 (West 2008)  <u>Endangering the welfare of a vulnerable adult in the second degree.</u></p> <p>(a) A person commits the crime of endangering the welfare of a vulnerable adult in the second degree if the person fails</p>

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<p><b>Coverage Cont'd</b> (Alaska)</p>	<p>without lawful excuse to provide support for the vulnerable adult and the vulnerable adult is in the person's care</p> <p>(1) by contract or authority of law; or</p> <p>(2) in a facility or program that is required by law to be licensed by the state.</p> <p>(b) As used in this section, "support" includes necessary food, care, clothing, shelter, and medical attention. There is no failure to provide medical attention to a vulnerable adult if the vulnerable adult is provided treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination of which the vulnerable adult is a member or adherent, provided the vulnerable adult consents to the treatment through spiritual means only, and the treatment is administered by an accredited practitioner of the church or denomination.</p> <p>A.S. § 11.41.410 (West 2008) <u>Sexual assault in the first degree.</u></p> <p>(a) An offender commits the crime of sexual assault in the first degree if</p> <p>(1) the offender engages in sexual penetration with another person without consent of that person;</p> <p>(2) the offender attempts to engage in sexual penetration with another person without consent of that person and causes serious physical injury to that person;</p> <p>(3) the offender engages in sexual penetration with another person</p> <p>(A) who the offender knows is mentally incapable; and</p> <p>(B) who is the offender's care</p> <p>(i) by authority of law; or</p> <p>(ii) in a facility or program that is required by law to be licensed by the state; or</p> <p>(4) the offender engages in sexual penetration with a person who the offender knows is unaware that a sexual act is being committed and</p> <p>(A) the offender is a health care worker; and</p> <p>(B) the offense takes place during the course of professional treatment of the victim</p>
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<p><b>Coverage</b> <b>Cont'd</b> (Alaska)</p>	<p>A.S. § 11.41.420 (West 2008) <u>Sexual assault in the second degree.</u></p> <p>(a) An offender commits the crime of sexual assault in the second degree if</p> <ul style="list-style-type: none"> <li>(1) the offender engages in sexual contact with another person without consent of that person;</li> <li>(2) the offender engages in sexual contact with a person <ul style="list-style-type: none"> <li>(A) who the offender knows is mentally incapable; and</li> <li>(B) who is in the offender's care <ul style="list-style-type: none"> <li>(i) by authority of law; or</li> <li>(ii) in a facility or program that is required by law to be licensed by the state;</li> </ul> </li> </ul> </li> <li>(3) the offender engages in sexual penetration with a person who the offender knows is <ul style="list-style-type: none"> <li>(A) mentally incapable;</li> <li>(B) incapacitated; or</li> <li>(C) unaware that a sexual act is being committed; or</li> </ul> </li> <li>(4) the offender engages in sexual contact with a person who the offender knows is unaware that a sexual act is being committed and <ul style="list-style-type: none"> <li>(A) the offender is a health care worker; and</li> <li>(B) the offense takes place during the course of professional treatment of the victim.</li> </ul> </li> </ul> <p>A.S. § 11.41.420 (West 2008) <u>Sexual assault in the third degree.</u></p> <p>(a) An offender commits the crime of sexual assault in the third degree if the offender</p> <ul style="list-style-type: none"> <li>(1) engages in sexual contact with a person who the offender know is <ul style="list-style-type: none"> <li>(A) mentally incapable;</li> <li>(B) incapacitated; or</li> <li>(C) unaware that a sexual act is being committed;</li> </ul> </li> </ul>
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<b>Definitions</b> (Alaska)	<p>A.S. § 47.24.900 (West 2008)</p> <p>(1) <u>abandonment</u> means desertion of a vulnerable adult by a caregiver;</p> <p>(2) <u>abuse</u> means</p> <p style="padding-left: 20px;">(A) the willful, intentional, or reckless nonaccidental, and nontherapeutic infliction of physical pain, injury, or mental distress; or</p> <p style="padding-left: 20px;">(B) sexual assault under AS 11.41.410 or 11.41.420;</p> <p>(3) <u>caregiver</u> means</p> <p style="padding-left: 20px;">(A) a person who is providing care to a vulnerable adult as a result of a family relationship, or who has assumed responsibility for the care of a vulnerable adult voluntarily, by contract, or by court order; or</p> <p style="padding-left: 20px;">(B) an employee of an out-of-home care facility who provides care to 1 or more vulnerable adults;</p> <p>(4) <u>decision making capacity</u> means the ability to understand and appreciate the nature and consequences of a decision and the ability to reach and communicate an informed decision;</p> <p>(6) <u>designee</u> means another state agency or a community-based program, individual, or provider of supportive services that has been licensed, or authorized by agreement with the department, to provide one or more services to vulnerable adults;</p>

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<p><b>Definitions</b> <b>Cont'd</b> (Alaska)</p>	<p>(7) <u>exploitation</u> means unjust or improper use of another person or another person's resources for one's own profit or advantage;</p> <p>(8) <u>incapacitated person</u> means a person whose ability to receive and evaluate information or to communicate decisions is impaired to the extent that the person lacks the ability to provide or arrange for the essential requirements for the person's physical health or safety without court-ordered assistance;</p> <p>(9) <u>neglect</u> means the intentional failure by a caregiver to provide essential care or services necessary to maintain the physical and mental health of the vulnerable adult;</p> <p>(12) <u>public home care provider</u> has the meaning given in AS 47.05.017(c);</p> <p>(15) <u>unable to consent</u> means refusal to, or inability to, accept services because</p> <ul style="list-style-type: none"> <li>(A) the person is an incapacitated person or apparently is an incapacitated person;</li> <li>(B) of coercion by a fear of reprisal from the perpetrator of abandonment, exploitation, abuse, or neglect;</li> <li>(C) of dependency on the perpetrator of abandonment, exploitation, abuse, or neglect for services, care, or support; or</li> <li>(D) of an inability to perceive that refusal to consent results in an imminent and substantial danger of deal or irreparable harm to self or others;</li> </ul> <p>(16) <u>vulnerable adult</u> means a person 18 years of age or older who, because of physical or mental impairment, is unable to meet the person's own needs or to seek help without assistance.</p> <p>A.S. § 47.05.017 (West 2008) <u>Home care providers.</u></p> <p>(c) In this section, <u>public home care provider</u> means a person who is paid by the state, or by an entity that has contracted with</p>
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<b>Definitions Cont'd</b> <i>(Alaska)</i>	(ii) that are a necessary part of a search for a person committed to the custody of the Department of Corrections or the Department of Health and Social Services;
<b>Penalties</b> <i>(Alaska)</i>	<p>A.S. § 11.51.200 (West 2008)  <u>Endangering the welfare of a vulnerable adult in the first degree.</u></p> <p>(b) Endangering the welfare of a vulnerable adult in the first degree is a class C felony.</p> <p>A.S. § 12.55.125 (West 2008)  <u>Sentences of imprisonment for felonies.</u></p> <p>(e) Except as provided in (i) of this section, a defendant convicted of a class C felony may be sentenced to a definite term of imprisonment of not more than 5 years, and shall be sentenced to a definite term within the following presumptive ranges, subject to adjustment as provided in AS 12.55.155-12.55.175.</p> <p>Alaska Stat. § 11.51.210 (West 2008)  <u>Endangering the welfare of a vulnerable adult in the second degree.</u></p> <p>(c) Endangering the welfare of a vulnerable adult in the second degree is a class A misdemeanor.</p> <p>A.S. § 12.55.135 (West 2008)  <u>Sentences of imprisonment for misdemeanors.</u></p> <p>(a) A defendant convicted of a class A misdemeanor may be sentenced to a definite term of imprisonment of not more than 1 year.</p>

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**\*\* Some states use child abuse statutes to address the vulnerability of youth under 18; those are not reflected in this chart. However for states that consider youth as a vulnerable persons under these specific statutes are noted here.**

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## NIC/WCL Project on Addressing Prison Rape

<b>Penalties Cont'd</b> <i>(Alaska)</i>	<p>A.S. § 11.41.410 (West 2008)  <u>Sexual assault in the first degree.</u></p> <p>(b) Sexual assault in the first degree is an unclassified felony and is punishable as provided in AS 12.55.</p> <p>A.S. § 12.55.125 (West 2008)  <u>Sentences of imprisonment for felonies.</u></p> <p>(i) A defendant convicted of          (1) sexual assault in the first degree, sexual abuse of a minor in the first degree, or promoting prostitution in the first degree under AS 11.66.110(a)(2) may be sentenced to a definite term of imprisonment of not more than 99 years and shall be sentenced to a definite term within the following presumptive ranges, subject to adjustment as provided in AS 12.55.155-12.55-175</p> <p>(A) if the offense is a first felony conviction, the offense does not involve circumstances described in (B) of this paragraph, and the victim was          (ii) 13 years of age or older, 20 to 30 years;          (B) if the offense is a first felony conviction and the defendant possessed a firearm, used a dangerous instrument, or caused serious physical injury during the commission of the offense, 25 to 35 years;          (C) if the offense is a second felony conviction and does not involve circumstances described in (D) of this paragraph, 30 to 40 years;          (D) if the offense is a second felony conviction and the defendant has a prior conviction for a sexual felony, 35 to 45 years;          (E) if the offense is a third felony conviction and the defendant is not subject to sentencing under (F) of this paragraph or (I) of this section, 40 to 60 years;          (F) if the offense is a third felony conviction, the defendant is not subject to sentencing under (I) of this section, and the defendant has 2 prior convictions for sexual felonies, 99 years.</p>
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<b>Penalties Cont'd</b> <i>(Alaska)</i>	<p>A.S. § 11.41.420 (West 2008)  <u>Sexual assault in the second degree.</u></p> <p>(b) Sexual assault in the second degree is a class B felony.</p> <p>A.S. § 12.55.125 (West 2008)  <u>Sentences of imprisonment for felonies.</u></p> <p>(3) sexual assault in the second degree, sexual abuse of a minor in a second degree, unlawful exploitation of a minor, or distribution of child pornography may be sentenced to a definite term of imprisonment of not more than 99 years and shall be sentenced to a definite term within the following presumptive ranges, subject to adjustment as provided in AS 12.55.155-12.55.175:</p> <p>(A) if the offense is a first felony conviction, 5 to 15 year;          (B) if the offense is a second felony conviction and does not involve circumstances described in (C) of this paragraph, 10 to 25 years.          (C) if the offense if a second felony conviction and the defendant has a prior conviction for a sexual felony, 15 to 30 years;          (D) if the offense is a third felony conviction and does not involve circumstances described in (E) of this paragraph, 20 to 35 years;          (E) if the offense is a third felony conviction and the defendant has 2 prior convictions for sexual felonies, 99 years.</p> <p>A.S. §11.41.420 (West 2008)  <u>Sexual assault in the third degree.</u></p> <p>(b) Sexual assault in the third degree is a class C felony.</p> <p>A.S. § 12.55.125 (West 2008)</p>
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<b>Penalties Cont'd</b> <i>(Alaska)</i>	<u>Sentences of imprisonment for felonies.</u>  (4) sexual assault in the third degree, incest, indecent exposure in the first degree, possession of child pornography, or attempt, conspiracy, or solicitation to commit sexual assault in the second degree, sexual abuse of a minor in the second degree, unlawful exploitation of a minor, or distribution of child pornography, may be sentenced to a definite term of imprisonment of not more than 99 years and shall be sentenced to a definite term within the following presumptive ranges, subject to adjustment as provided in A.S. 12.55.155-12.55.175:  (A) if the offense is a first felony conviction, 2 to 12 years; (B) if the offense is a second felony conviction and does not involve circumstances described in (C) of a this paragraph, 8 to 15 years; (C) if the offense is a second felony conviction and the defendant has a prior conviction for a sexual felony, 12 to 20 years; (D) if the offense if a third felony conviction and does not involve circumstances described in (E) of this paragraph, 15 to 25 years; (E) if the offense is a third felony conviction and the defendant has two prior convictions for sexual felonies, 99 years.
<b>Applicability to Youth</b> <i>(Alaska)</i>	The above statutes are not applicable to youth
<b>ARIZONA</b>	
<b>Statute</b> <i>(Arizona)</i>	A.R.S. § 13-3623 (West 2008) <u>Child or vulnerable adult abuse; emotional abuse; classifications; exceptions; definitions.</u>

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<p><b>Coverage</b> (<i>Arizona</i>)</p>	<p>A.R.S. § 13-3623 (West 2008)  <u>Child or vulnerable adult abuse; emotional abuse; classification; exception; definitions.</u></p> <p>A. Under circumstances likely to produce death or serious physical injury, any person who causes a child or vulnerable adult to suffer physical injury or, having the care or custody of a child or vulnerable adult, who causes or permits the person or health of the child or vulnerable adult to be injured or who causes or permits a child or vulnerable adult to be placed in a situation where the person or health of the child or vulnerable adult is endangered is guilty of an offense as follows:</p> <p>B. Under circumstances other than those likely to produce death or serious physical injury to a child or vulnerable adult, any person who causes a child or vulnerable adult to suffer physical injury or abuse or, having the care of custody of a child or vulnerable adult, who causes or permits the person or health of the child or vulnerable adult to be injured or who causes or permits a child or vulnerable adult to be placed in a situation where the person or health of the child or vulnerable adult is endangered is guilty of an offense as follows:</p> <p>C. For the purpose of subsection A and B of this section, the terms endangered and abuse include but are not limited to circumstances in which a child or vulnerable adult is permitted to enter or remain in any structure or vehicle in which volatile, toxic or flammable chemicals are found or equipment is possessed by any person for the purpose of manufacturing a dangerous drug in violation of § 13-3407, subsection A, paragraph 3 and 4. Notwithstanding any other provision of this section, a violation committed under the circumstances described in this subsection does not require that a person have care or custody of the child or vulnerable adult.</p> <p>D. A person who intentionally or knowingly engages in emotional abuse of a vulnerable adult who is a patient or resident in any setting in which health care, health-related services or assistance with one or more of the activities of daily living is provided or, having the care of custody of a vulnerable adult, who intentionally or knowingly subjects or permits the vulnerable adult to be subjected to emotional abuse is guilty of a class 6 felony.</p> <p>E. This section does not apply to:</p>
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<b>Coverage Cont'd</b> <i>(Arizona)</i>	<ol style="list-style-type: none"> <li>1. A health care provider as defined in § 36-3201 who permits a patient refuses that care directly or through a health care directive as defined in § 36-3201, through a surrogate pursuant to § 36-3231 or through a court appointed guardian as provided in the title 14, chapter 5, article 3.</li> <li>2. A vulnerable adult who is being furnished spiritual treatment through prayer alone and who would not otherwise be considered to be abused, neglected or endangered if medical treatment were being furnished.</li> </ol>
<b>Definitions</b> <i>(Arizona)</i>	<p>A.R.S. § 13-3623 (West 2008)  <u>Child or vulnerable adult abuse; emotional abuse; classification; exception; definitions.</u></p> <p>F. For the purposes of this section:</p> <ol style="list-style-type: none"> <li>1. <u>Abuse</u>, when used in a reference to a child, means abuse as defined in § 8-201, except for those acts in the definition that are declared unlawful by another statute of this title and, when used in reference to a vulnerable adult, means: <ol style="list-style-type: none"> <li>(a) Intentional infliction of physical harm.</li> <li>(b) Injury caused by criminal negligent acts or omissions.</li> <li>(c) Unlawful imprisonment, as described in § 13-303.</li> <li>(d) Sexual abuse or sexual assault.</li> </ol> </li> <li>2. <u>Child</u> means an individual who is under 18 years of age.</li> <li>3. <u>Emotional abuse</u> means a pattern of ridiculing or demeaning a vulnerable adult, making derogatory remarks to a vulnerable adult, verbally harassing a vulnerable adult or threatening to inflict physical or emotional harm on a vulnerable adult.</li> <li>4. <u>Physical injury</u> means the impairment of physical condition and includes any skin bruising, pressure sores, bleeding, failure to thrive, malnutrition, dehydration, burns, fracture of any bone, subdural hematoma, soft tissue swelling, injury to any internal organ or any physical condition that imperils health or welfare.</li> <li>5. <u>Serious physical injury</u> means physical injury that creates a reasonable risk of death or that causes serious or permanent disfigurement, serious impairment of health or loss or protracted impairment of the function of any bodily organ or limb.</li> <li>6. <u>Vulnerable adult</u> means an individual who is eighteen years of age or older and who is unable to protect himself from abuse, neglect or exploitation by others because of a mental or physical impairment.</li> </ol>

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<b>Definitions</b> <b>Cont'd</b> <i>(Arizona)</i>	<p>A.R.S. § 13-3201 (West 2008)  <u>Definitions</u></p> <p>5. <u>Health care directive</u> means a document drafted in a substantial compliance with this chapter, including a mental health care power of attorney, to deal with a persons' future health care decisions.</p> <p>7. <u>Health care provider</u> means a natural person who is licensed under title 32, chapter 13, 15, 17 or 25, a hospice as defined in § 36-401 that is licensed under chapter 4 of this title or an organization that is licensed under this title, that renders health care designed to prevent, diagnose or treat illness or injury and that employs persons licensed under title 32, chapter 13, 15, 17 or 25.</p> <p>13. <u>Surrogate</u> means a person authorized to make health care decisions for a patient by a power of attorney, a court order or the provisions of § 36-3231.</p> <p>A.R.S. § 13-1401 (West 2008)  <u>Sexual Abuse; classifications.</u></p> <p>A. A person commits <u>sexual abuse</u> by intentionally or knowingly engaging in sexual contact with any person 15 or more years of age without consent of that person or with any person who is under 15 years of age if the sexual contact involves only the female breast.</p> <p>A.R.S. § 13-1406 (West 2008)  <u>Sexual assault; classification; increased punishment.</u></p> <p>A. A person commits <u>sexual assault</u> by intentionally or knowingly engaging in sexual intercourse or oral sexual contact with any person without consent of such person.</p>
<b>Penalties</b> <i>(Arizona)</i>	<p>A.R.S. § 13-3623 (West 2008)  <u>Child or vulnerable adult abuse; emotional abuse; classification; exception; definitions.</u></p>

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<p><b>Penalties Cont'd</b> (<i>Arizona</i>)</p>	<p>A. 1. If done intentionally or knowingly, the offense is a class 2 felony and if the victim is under 15 years of age it is punishable pursuant to 13-604.01.</p> <p>A.R.S. § 13-701 (West 2008) <u>Sentence of imprisonment for felony; presentence report.</u></p> <p>A. A sentence of imprisonment for a felony shall be a definite term of years and the person sentenced, unless otherwise provided by law, shall be committed to the custody of the state department of corrections. B. No prisoner may be transferred to the custody of the state department of corrections without a certified copy of the judgment and sentence, signed by the sentencing judge, and a copy of a recent presentence investigation report unless the court has waived preparation of the report. C. Except for increased penalties for repeat offenders, as provided in section 13-604, the term of imprisonment for a felony shall be determined as follows for a first offense: 1. For a class 2 felony, 5 years.</p> <p>A.R.S. § 13-3623 (West 2008) <u>Child or vulnerable adult abuse; emotional abuse; classification; exception; definitions.</u></p> <p>A. 2. If done recklessly, the offense is a class 3 felony.</p> <p>A.R.S. § 13-701 (West 2008) <u>Sentence of imprisonment for felony; presentence report.</u></p> <p>C. Except as provided in § 13-604 the term of imprisonment for a felony shall be determined as follows for a first offense: 2. For a class 3 felony, 3 and ½ years.</p>
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<b>Penalties Cont'd</b> (Arizona)	<p>A.R.S. § 13-3623 (West 2008)  <u>Child or vulnerable adult abuse; emotional abuse; classification; exception; definitions.</u></p> <p>A.3. If done with criminal negligence, the offense is a class 4 felony.</p> <p>A.R.S. § 13-701 (West 2008)  <u>Sentence of imprisonment for felony; presentence report.</u></p> <p>C. Except as provided in § 13-604 the term of imprisonment for a felony shall be determined as follows for a first offense:  3. For a class 3 felony, 2 and ½ years.</p> <p>A.R.S. § 13-3623 (West 2008)  <u>Child or vulnerable adult abuse; emotional abuse; classification; exception; definitions.</u></p> <p>B.1. If done intentionally or knowingly, the offense is a class 4 felony.</p> <p>A.R.S. § 13-701 (West 2008)  <u>Sentence of imprisonment for felony; presentence report.</u></p> <p>C. Except as provided in § 13-604 the term of imprisonment for a felony shall be determined as follows for a first offense:  3. For a class 4 felony, 2 and ½ years.</p> <p>A.R.S. § 13-3623 (West 2008)  <u>Child or vulnerable adult abuse; emotional abuse; classification; exception; definitions.</u></p> <p>B. 2. If done recklessly, the offense is a class 5 felony.</p>
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<b>Penalties Cont'd</b> <i>(Arizona)</i>	<p>A.R.S. § 13-701 (West 2008)  <u>Sentence of imprisonment for felony; presentence report.</u></p> <p>C. Except as provided in § 13-604 the term of imprisonment for a felony shall be determined as follows for a first offense:  4. For a class 5 felony, 1 and ½ years.</p> <p>A.R.S. § 13-3623 (West 2008)  <u>Child or vulnerable adult abuse; emotional abuse; classification; exception; definitions.</u></p> <p>B.3. If done with criminal negligence, the offense is a class 6 felony.</p> <p>A.R.S. § 13-701 (West 2008)  <u>Sentence of imprisonment for felony; presentence report.</u></p> <p>C. Except as provided in § 13-604 the term of imprisonment for a felony shall be determined as follows for a first offense:  5. For a class 6 felony, 1 year.</p>
<b>Applicability to Youth</b> <i>(Arizona)</i>	<p>A.R.S. § 13-3623 (West 2008) cover youth under 18 years of age. If the victim is under 15 years of age it is punishable pursuant to 13-604.01 (West 2008).</p>
<b>ARKANSAS</b>	
<b>Statute</b> <i>(Arkansas)</i>	<p>A.C.A. § 5-28-103 (West 2008)  <u>Criminal penalties for abuse, neglect, or exploitation of endangered or impaired person</u></p>

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<b>Statute Cont'd</b> <i>(Arkansas)</i>	<p>A.C.A. § 5-27-201 (West 2008)  <u>Endangering welfare of incompetent person – first degree</u></p> <p>A.C.A. § 5-27-202 (West 2008)  <u>Endangering welfare of incompetent person – second degree</u></p> <p>A.C.A. § 5-28-101 (West 2008)</p>
<b>Coverage</b> <i>(Arkansas)</i>	<p>A.C.A. § 5-28-103 (West 2008)  <u>Criminal penalties for abuse, neglect, or exploitation of endangered or impaired person</u></p> <p>(a) It is unlawful for any person or caregiver to abuse, neglect, or exploit any endangered person or impaired person subject to protection under a provision of this chapter.</p> <p>A.C.A. § 5-27-201 (West 2008)  <u>Endangering welfare of incompetent person – first degree</u></p> <p>(a) A person commits the offense of endangering the welfare of an incompetent person in the first degree if, being a parent, guardian, person legally charged with care or custody of an incompetent person, or a person charged with supervision of an incompetent person, he or she purposely:</p> <ol style="list-style-type: none"> <li>(1) Engages in conduct creating a substantial risk of death or serious physical injury to an incompetent person; or</li> <li>(2) Deserts the incompetent person under circumstances creating a substantial risk of death or serious physical injury.</li> </ol> <p>A.C.A. § 5-27-201 (West 2008)  <u>Endangering welfare of incompetent person – second degree</u></p>

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<b>Coverage Cont'd</b> <i>(Arkansas)</i>	<p>(a) (1) A person commits the offense of endangering the welfare of an incompetent person in the second degree if he or she knowingly engages in conduct creating a substantial risk of serious harm to the physical or mental welfare of a person known by the actor to be an incompetent person.</p> <p>A.C.A. § 5-27-203 (West 2008)  <u>(Endangering the welfare of an incompetent person in the third degree</u></p> <p>(a)(1) A person commits the offense of endangering the welfare of an incompetent person in the third degree if the person recklessly engages in conduct creating a substantial risk of serious harm to the physical or mental welfare of a person known by the actor to be an incompetent person.</p>
<b>Definitions</b> <i>(Arkansas)</i>	<p>A.C.A. § 5-27-201 (West 2008)  <u>Endangering welfare of incompetent person – second degree</u></p> <p>(2) As used in this section, <u>serious harm to the physical or mental welfare of a person</u> means physical or mental injury that causes:</p> <ul style="list-style-type: none"> <li>(A) Protracted disfigurement;</li> <li>(B) Protracted impairment of physical or mental health; or</li> <li>(C) Loss or protracted impairment of the function of any bodily member or organ.</li> </ul> <p>A.C.A. § 5-28-101 (West 2008)  <u>Definitions</u></p> <p>As used in this chapter:</p> <p>(1) <u>Abuse</u> means:</p> <ul style="list-style-type: none"> <li>(A) Any purposeful and unnecessary physical act that inflicts pain on or causes injury to an endangered person or an impaired</li> </ul>

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<b>Definitions</b> <b>Cont'd</b> <i>(Arkansas)</i>	<p>person;</p> <p>(B) Any purposeful or demeaning act that a reasonable person would believe subjects an endangered person or an impaired person, regardless of age, ability to comprehend, or disability, to ridicule or psychological injury in a manner likely to provoke fear or alarm;</p> <p>(C) Any purposeful threat that a reasonable person would find credible and non-frivolous to inflict pain on or cause injury to an endangered person or an impaired person except in the course of medical treatment or for justifiable cause; or</p> <p>(D) With regard to any adult long--term care facility resident by a caregiver, any purposeful infliction of injury, unreasonable confinement, intimidation, or punishment with resulting physical harm, pain, or mental anguish;</p> <p>(2) <u>Adult maltreatment</u> means adult abuse, exploitation, neglect, physical abuse, or sexual abuse;</p> <p>(3) <u>Caregiver</u> means a related or unrelated person, owner, agent, high managerial agent of a public or private organization, or a public or private organization that has the responsibility for the protection, care, or custody of an adult endangered person or an adult impaired person as a result of assuming the responsibility voluntarily, by contract, through employment, or by order of the court;</p> <p>(4) <u>Endangered person</u> means:</p> <p>(A) An adult who:</p> <p>(i) is found to be in a situation or condition that poses an imminent risk of death or serious bodily harm to the adult; and</p> <p>(ii) Demonstrates a lack of capacity to comprehend the nature and consequences of remaining in that situation or condition;</p> <p>or</p> <p>(B) A long--term care facility resident who:</p> <p>(i) Is found to be in a situation or condition which poses an imminent risk of death or serious bodily harm to the person; and</p> <p>(ii) Demonstrates a lack of capacity to comprehend the nature and consequences of remaining in that situation or condition;</p> <p>(5) <u>Exploitation</u> means:</p> <p>(A) The illegal or unauthorized use or management of an adult endangered person's or an adult impaired person's funds,</p>
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## Fifty State Survey of Vulnerable Persons Statutes

### NIC/WCL Project on Addressing Prison Rape

<b>Definitions Cont'd</b> <i>(Arkansas)</i>	<p>assets, or property or the use of an adult endangered person's or an adult impaired person's, power or attorney, or guardianship for the profit or advantage of the actor or another person; or</p> <p>(B) Misappropriation of property of an adult long-term care facility resident which means the deliberate misplacement, exploitation, or wrongful, temporary, or permanent use of an adult long-term care facility resident's belongings or money without the adult long-term care facility resident's consent;</p> <p>(6) <u>Imminent danger to health or safety</u> means a situation in which death or severe bodily injury could reasonably be expected to occur without intervention;</p> <p>(7)(A) <u>Impaired person</u> means a person 18 years of age or older who as a result of mental or physical impairment is unable to protect himself or herself from abuse, sexual abuse, neglect, or exploitation, and is a consequence of this inability to protect himself or herself is endangered.</p> <p>(B) For purpose of this chapter, a long-term care facility resident is presumed to be an "impaired person";</p> <p>(8) <u>Long-term care facility</u> means:</p> <p>(A) A nursing home;</p> <p>(B) A residential care facility</p> <p>(C) A post-acute head injury retraining and residential facility;</p> <p>(D) Any facility that provides long-term medical or personal care;</p> <p>(E) An intermediate care facility for the mentally retarded; or</p> <p>(F) An assisted-living facility</p> <p>(9) <u>Long-term care facility resident</u> means a person, regardless of age, living in a long-term care facility;</p> <p>(10) <u>Long-term care facility resident maltreatment</u> means abuse, exploitation, neglect, physical abuse, or sexual abuse of a long-term care facility resident;</p>
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<b>Definitions</b> <b>Cont'd</b> <i>(Arkansas)</i>	<p>(11) <u>Neglect</u> means:</p> <p>(A) An act or omission by an endangered person or an impaired person, for example, self-neglect; or</p> <p>(B) A purposeful act or omission by a caregiver responsible for the care and supervision of an adult endangered person or an adult impaired person that constitutes negligently failing to:</p> <p>(i) Provide necessary treatment, rehabilitation, care, food, clothing, shelter, supervision, or medical services to an adult endangered person or an adult impaired person;</p> <p>(ii) Report a health problem or a change in a health problem or a change in the health condition of an adult endangered person or an adult impaired person to the appropriate medical personnel;</p> <p>(iii) Carry out a prescribed treatment plan; or</p> <p>(iv) Provide a good or service necessary to avoid physical harm, mental anguish, or mental illness as defined in regulations promulgated by the Office of Long-Term Care of the Division of Medical Services of the Department of Health and Human Services to an adult long-term care facility resident;</p> <p>(12) <u>Physical injury</u> means the:</p> <p>(A) Impairment of a physical condition; or</p> <p>(B) Infliction of substantial pain;</p> <p>(13) <u>Serious bodily harm</u> means:</p> <p>(A) Physical abuse;</p> <p>(B) Sexual abuse;</p> <p>(C) Physical injury; or</p> <p>(D) Serious physical injury as defined in this chapter;</p> <p>(15) <u>Sexual abuse</u> means deviate sexual activity, sexual conduct, or sexual intercourse, as those terms are defined in § 5-14-101, with another person who is incapable or consent because he or she is</p> <p>(A) Mentally defective, as defined in § 5-14-101;</p> <p>(B) Mentally incapacitated, as defined in § 5-14-101; or</p>
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<b>Definitions Cont'd</b> <i>(Arkansas)</i>	<p>(C) Physically helpless, as defined in § 5-14-101.</p> <p>A.C.A. §5-14-101 (West 2008)</p> <p><u>Definitions</u></p> <p>(1) <u>Deviate sexual activity</u> means any act or sexual gratification involving:</p> <p>(A) The penetration, however, slight, of the anus or mouth of a person by the penis of another person; or</p> <p>(B) The penetration, however slight, of the labia majora or anus of a person by any body member or foreign instrument manipulated by another person;</p> <p>(4) (A) <u>Mentally defective</u> means that a person suffers from a mental disease or defect that renders the person:</p> <p>(i) Incapable of understanding the nature and consequences of a sexual act; or</p> <p>(ii) Unaware a sexual act is occurring.</p> <p>(B) A determination that a person is mentally defective shall not be based solely on the person's intelligence quotient;</p> <p>(5) <u>Mentally incapacitated</u> means that a person is temporarily incapable of appreciating or controlling the person's conduct as a result of the influence of a controlled or intoxicating substance:</p> <p>(A) Administered to the person without the person's consent; or</p> <p>(B) That renders the person unaware a sexual act is occurring;</p> <p>(6) <u>Physically helpless</u> means that a person is:</p> <p>(A) Unconscious;</p> <p>(B) Physically unable to communicate a lack of consent; or</p> <p>(C) Rendered unaware a sexual act is occurring;</p> <p>(9) <u>Sexual contact</u> means 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; and</p>
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<b>Definitions</b> <b>Cont'd</b> <i>(Arkansas)</i>	<p>(10) <u>Sexual intercourse</u> means penetration, however, slight, of the labia majora by a penis.</p> <p>A.C.A. § 5-14-101 (West 2008)</p> <p>(11) "Minor" means a person who is less than eighteen (18) years of age.</p> <p>A.C.A. § 5-25-101 (West 2008)</p> <p><u>Definitions</u></p> <p>(3)(A) <u>Incompetent</u> means any person unable to care for himself or herself because of physical or mental disease or defect.</p> <p>(B) The status embraced by "incompetent" may or may not exist regardless of any adjudication regarding incompetency</p>
<b>Penalties</b> <i>(Arkansas)</i>	<p>A.C.A. § 5-28-103 (West 2008)</p> <p><u>Criminal penalties for abuse, neglect, or exploitation of endangered or impaired person</u></p> <p>(b)(1) If the abuse causes serious physical injury or a substantial risk of death, any person or caregiver who purposely abuses an endangered person or an impaired person is guilty of a Class B felony.</p> <p>A.C.A. § 5-4-401 (West 2008)</p> <p><u>Felonies, incarceration</u></p> <p>(a) A defendant convicted of a felony shall receive a determinate sentence according to the following limitations:</p> <p>(3) For a Class B felony, the sentence shall be not less than 5 years nor more than 20 years.</p>

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<b>Penalties Cont'd</b> <i>(Arkansas)</i>	<p>A.C.A. § 5-28-103 (West 2008)  <u>Criminal penalties for abuse, neglect, or exploitation of endangered or impaired person</u></p> <p>(b)(2) If the abuse causes physical injury, any person or caregiver who purposely abuses an adult endangered person or an adult impaired person in violation of a provision of this chapter is guilty of a Class D felony.</p> <p>A.C.A. § 5-4-401 (West 2008)  <u>Felonies, incarceration</u></p> <p>(a) A defendant convicted of a felony shall receive a determinate sentence according to the following limitations:  (5) For a Class D felony, the sentence shall not exceed 6 years;</p> <p>A.C.A. § 5-28-103 (West 2008)  <u>Criminal penalties for abuse, neglect, or exploitation of endangered or impaired person</u></p> <p>(c)(1) Any person or caregiver who neglects an adult endangered person or an adult impaired person in violation of a provision of this chapter, causing serious physical injury or substantial risk of death, is guilty of a Class D felony.</p> <p>A.C.A. § 5-4-401 (West 2008)  <u>Felonies, incarceration</u></p> <p>(a) A defendant convicted of a felony shall receive a determinate sentence according to the following limitations:  (5) For a Class D felony, the sentence shall not exceed 6 years;</p> <p>A.C.A. § 5-28-103 (West 2008)  <u>Criminal penalties for abuse, neglect, or exploitation of endangered or impaired person</u></p>
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<b>Penalties Cont'd</b> <i>(Arkansas)</i>	<p>(c)(2) Any person or caregiver who neglects an adult endangered person or an adult impaired person in violation of a provision of this chapter, causing physical injury, is guilty of a Class B misdemeanor.</p> <p>A.C.A. § 5-4-401 (West 2008)  <u>Felonies, incarceration</u></p> <p>(b) A defendant convicted of a misdemeanor may be sentenced according to the following limitations:  (2) For a Class B misdemeanor, the sentence shall not exceed 90 days;</p> <p>A.C.A. § 5-28-103 (West 2008)  <u>Criminal penalties for abuse, neglect, or exploitation of endangered or impaired person</u></p> <p>(d) Any person or caregiver who abuses an adult endangered person or an adult impaired person is guilty of a Class B misdemeanor.</p> <p>A.C.A. § 5-4-401 (West 2008)  <u>Felonies, incarceration</u></p> <p>(b) A defendant convicted of a misdemeanor may be sentenced according to the following limitations:  (2) For a Class B misdemeanor, the sentence shall not exceed 90 days;</p> <p>A.C.A. § 5-27-201 (West 2008)  <u>Endangering welfare of incompetent person – first degree</u></p> <p>(b) Endangering the welfare of an incompetent person in the first degree is a Class D felony.</p> <p>A.C.A. § 5-4-401 (West 2008)</p>
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<b>Penalties Cont'd</b> <i>(Arkansas)</i>	<p><u>Felonies, incarceration</u></p> <p>(a) A defendant convicted of a felony shall receive a determinate sentence according to the following limitations:            (5) For a Class D felony, the sentence shall not exceed 6 years;</p> <p>A.C.A. § 5-27-201 (West 2008)  <u>Endangering welfare of incompetent person – second degree</u></p> <p>(b) Endangering the welfare of an incompetent person in the second degree is a Class A misdemeanor.</p> <p>A.C.A. § 5-4-401 (West 2008)  <u>Felonies, incarceration</u></p> <p>(b) A defendant convicted of a misdemeanor may be sentenced according to the following limitations:            (1) For a Class A misdemeanor, the sentence shall not exceed 1 years;</p> <p>A.C.A. § 5-27-203 (West 2008)  <u>Endangering the welfare of an incompetent person in the third degree</u></p> <p>(b) Endangering the welfare of an incompetent person in the third degree is a Class B misdemeanor.</p> <p>A.C.A. § 5-4-401 (West 2008)  <u>Felonies, incarceration</u></p> <p>(b) A defendant convicted of a misdemeanor may be sentenced according to the following limitations:            (2) For a Class B misdemeanor, the sentence shall not exceed 90 days;</p>
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## NIC/WCL Project on Addressing Prison Rape

<b>Penalties Cont'd</b> <i>(Arkansas)</i>	<p>2009 Arkansas Laws Act 748 (S.B. 410) (West 2008) amends the following statutes:</p> <p>A.C.A. § 5-14-124 (West 2008)  (a) A person commits sexual assault in the first degree if the person engages in sexual intercourse or deviate sexual activity with <del>another person who is less than eighteen (18) years of age and</del> <b>a minor</b> who is not the actor's spouse and the actor is:  SECTION 11. The introductory language of Arkansas Code § 5-14-125(a)(4)(A) is amended to read as follows to reflect the definition of "minor" added to § 5- 14-101 by this act:</p> <p>A.C.A. § 5-14-125 (West 2008)  (4)(A) Engages in sexual contact with <del>another person who is less than eighteen (18) years of age</del> <b>a minor</b> and the actor is:  SECTION 12. The introductory language of Arkansas Code § 5-14-125(a)(5)(A) is amended to read as follows to reflect the definition of "minor" added to § 5- 14-101 by this act:</p> <p>A.C.A. § 5-14-125 (West 2008)  (5)(A) Being <del>less than eighteen (18) years of age</del> <b>a minor</b>, engages in sexual contact with another person who is: SECTION 13. The introductory language of Arkansas Code § 5-14-125(b)(2) is amended to read as follows to reflect the definition of "minor" added to § 5- 14-101 by this act:</p> <p>A.C.A. § 5-14-125 (West 2008)  (2) Sexual assault in the second degree is a Class D felony if committed by a <del>person less than eighteen (18) years of age</del> <b>minor</b> with another person who is: SECTION 14. The introductory language of Arkansas Code § 5-14-126(a)(2)(A) is amended to read as follows to reflect the definition of "minor" added to § 5- 14-101 by this act:</p> <p>A.C.A. § 5-14-126 (West 2008)  (2)(A) Being <del>under eighteen (18) years of age</del> <b>a minor</b>, engages in sexual intercourse or deviate sexual activity with another person who is: SECTION 15. Arkansas Code § 5-14-132(c) and (d) are amended to read as follows to clarify the scope of a</p>
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<b>Penalties Cont'd</b> ( <i>Arkansas</i> )	criminal offense, clarify references, and make stylistic changes
<b>Applicability to Youth</b> ( <i>Arkansas</i> )	The above statutes are not applicable to youth
<b>CALIFORNIA</b>	
<b>Statute</b> ( <i>California</i> )	<p>CA. PENAL § 368 (West 2008)  <u>Crimes against elder or dependent adults</u></p> <p>CAL. RULES OF COURT, RULE 4.421 (West 2008)</p> <p>CA. HLTH. &amp; S § 1250 (West 2008)  <u>Definitions</u></p>
<b>Coverage</b> ( <i>California</i> )	<p>CA. PENAL § 368 (West 2008)  <u>Crimes against elder or dependent adults</u></p> <p>(a) The Legislature finds and declares that crimes against elders and dependent adults are deserving of special consideration and protection, not unlike the special protections provided for minor children, because elders and dependent adults may be confused, on various medications, mentally or physically impaired, or incompetent, and therefore less able to protect themselves, to understand or report criminal conduct, or to testify in court proceedings on their own behalf.</p>

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<b>Coverage Cont'd</b> <i>(California)</i>	<p>(b) (1) Any person who knows or reasonably should know that a person is an elder or dependent adult and who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any elder or dependent adult to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any elder or dependent adult, willfully causes or permits the person or health of the elder or dependent adult to be injured, or willfully causes or permits the elder or dependent adult to be placed in a situation in which his or her person or health is endangered, is punishable by imprisonment in a county jail not exceeding 1 year, or by a fine not to exceed 6,000, or by both that fine and imprisonment, or by imprisonment in the state prison for 2, 3, or 4 years.</p> <p>(c) Any person who knows or reasonably should know that a person is an elder or dependent adult and who, under circumstances or conditions other than those likely to produce great bodily harm or death, willfully causes or permits any elder or dependent adult to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any elder or dependent adult, willfully causes or permits the person or health of the elder or dependent adult to be injured or willfully causes or permits the elder or dependent adult to be placed in a situation in which his or her person or health may be endangered, is guilty of a misdemeanor. A second or subsequent violation of this subdivision is punishable by a fine not to exceed \$2,000, or by imprisonment in a county jail not to exceed 1 year, or by both that fine and imprisonment.</p> <p>(d) Any person who is not a caretaker who violates any provision of law proscribing theft, embezzlement, forgery, or fraud, or who violate Section 530.5 proscribing identity theft, with respect to the property or personal identifying information of an elder or a dependent adult, and who knows or reasonably should know that the victim is an elder or a dependent adult, punishable by imprisonment in a county jail not exceeding 1 year, or in the state prison for 2, 3, or 4 years, when the moneys, labor, goods, services, or real or personal property taken or obtained is of a value exceeding \$400; and by a fine not exceeding \$1,000, by imprisonment in a county jai not exceeding 1 year, or by both that fine and imprisonment, when the moneys, labor, goods services, or real personal property taken or obtained is of a value of not exceeding \$400.</p> <p>(e) Any caretaker of an elder or a dependent adult who violates any provision of law proscribing theft, embezzlement, forgery, or fraud, or who violates Section 530.5 proscribing identity theft, with respect to the property or personal identifying</p>
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<b>Coverage Cont'd</b> <i>(California)</i>	<p>information of that elder or dependent adult, is punishable by imprisonment in a county jail not exceeding 1 year, or in the state prison for 2, 3, or 4 years when the moneys, labor, goods, services, or real or personal property taken or obtained is of a value exceeding \$400, and by a fine not exceeding \$1,000, by imprisonment in a county jail not exceeding 1 year, or by both that fine and imprisonment, when the moneys, labor, goods, services, or real or personal property taken or obtained is of a value not exceeding \$400.</p>
<b>Definitions</b> <i>(California)</i>	<p>CA. PENAL § 368 (West 2008)  <u>Crimes against elder or dependent adults</u></p> <p>(g) As used in this section, <u>elder</u> means any person who is 65 years of age or older.</p> <p>(h) As used in this section, <u>dependent adult</u> means any person who is between the ages of 18 and 64, who has physical or mental limitations which restrict his or her ability to carry out normal activities or to protect his or her rights, including, but not limited to, persons who have physical or developmental disabilities or whose physical or mental abilities have diminished because of age. Dependent adult includes any person between the ages of 18 and 64 who is admitted as an inpatient to a 24-hour health facility, as defined in Sections 1250, 1250.2, and 1250.3 of the Health and Safety Code.</p> <p>(i) As used in this section, <u>caretaker</u> means any person who has the care, custody, or control of, or who stands in a position of trust with, an elder or a dependent adult.</p> <p>CA. HLTH. &amp; S § 1250 (West 2008)  <u>Definitions</u></p> <p>As used in this chapter, <u>health facility</u> means any facility, place, or building that is organized, maintained, and operated for the diagnosis, care, prevention, and treatment of human illness, physical or mental, including convalescence and rehabilitation and including care during and after pregnancy, or for any one or more of these purposes, for one or more persons, to which the persons are admitted for a 24-hour stay or longer, and includes the following types:</p>

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<b>Definitions Cont'd (California)</b>	<p>(j)(1) <u>Correctional treatment center</u> means a health facility operated by the Department of Corrections, the Department of the Youth Authority, or a county, city, or city and county law enforcement agency that, as determined by the state department, provides inpatient health services to that portion of the inmate population who do not require a general acute care level of basic services. This definition shall not apply to those areas of a law enforcement facility that houses inmates or wards that may be receiving outpatient services and are housed separately for reasons of improved access to health care, security, and protection. The health services provided by a correctional treatment center shall include, but are not limited to, all of the following basic services: physician and surgeon, psychiatrist, psychologist, nursing, pharmacy, and dietary. A correctional treatment center may provide the following services: laboratory, radiology, perinatal, and any other services approved by the state department.</p> <p>(2) Outpatient surgical care with anesthesia may be provided, if the correctional treatment center meets the same requirements as a surgical clinic licensed pursuant to Section 1204, with the exception of the requirement that patients remain less than 24 hours.</p> <p>(3) Correctional treatment centers shall maintain written service agreements with general acute care hospitals to provide for those inmates physical health needs that cannot be met by the correctional treatment center.</p> <p>(4) Physician and surgeon services shall be readily available in a correctional treatment center on a 24-hour basis.</p> <p>(5) It is not the intent of the Legislature to have a correctional treatment center supplant the general acute care hospitals at the California Medical Facility, the California Men's Colony, and the California Institution for Men. This subdivision shall not be construed to prohibit the Department of Corrections from obtaining a correctional treatment center license at these sites.</p> <p>CA. HLTH. &amp; S § 1250.2 (West 2008)  <u>Psychiatric health facility as § 1250 health facility; outpatient services; medicare participation</u></p>
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<b>Definitions Cont'd</b> <i>(California)</i>	<p>(a) As defined in Section 1250, <u>health facility</u> includes a "psychiatric health facility," defined to mean a health facility, licensed by the State Department of Mental Health, that provides 24-hour inpatient care for mentally disordered, incompetent, or other persons described in Division 5 (commencing with Section 5000) or Division 6 (commencing with Section 6000) of the Welfare and Institutions Code. This care shall include, but not be limited to, the following basic services: psychiatry, clinical psychology, psychiatric nursing, social work, rehabilitation, drug administration, and appropriate food services for those persons whose physical health needs can be met in an affiliated hospital or in outpatient settings.</p> <p>It is the intent of the Legislature that the psychiatric health facility shall provide a distinct type of service to psychiatric patients in a 24-hour acute inpatient setting. The State Department of Mental Health shall require regular utilization reviews of admission and discharge criteria and lengths of stay in order to assure that these patients are moved to less restrictive levels of care as soon as appropriate.</p>
<b>Penalties</b> <i>(California)</i>	<p>CA. HLTH. &amp; S § 368 (West 2008)  <u>Crimes against elder or dependent adults</u></p> <p>(b)(1) Any person who knows or reasonably should know that a person is an elder or dependent adult and who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any elder or dependent adult to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any elder or dependent adult, willfully causes or permits the person or health of the elder or dependent adult to be injured, or willfully causes or permits the elder or dependent adult to be placed in a situation in which his or her person or health is endangered, is punishable by imprisonment in a county jail not exceeding 1 year, or by a fine not to exceed \$ 6,000, or by both that fine and imprisonment, or by imprisonment in the state prison for two, three, or four years.</p> <p>(2) If in the commission of an offense described in paragraph (1), the victim suffers great bodily injury, the defendant shall receive an additional term in the state prison as follows:</p> <p>(A) 3 years if the victim is under 70 years of age.</p> <p>(B) 5 years if the victim is 70 years of age or older.</p> <p>(3) If in the commission of an offense described in paragraph (1), the defendant proximately causes the death of the victim, the defendant shall receive an additional term in the state prison as follows:</p>

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### NIC/WCL Project on Addressing Prison Rape

<b>Penalties Cont'd</b> <i>(California)</i>	<p>(A) 5 years if the victim is under 70 years of age.          (B) 7 years if the victim is 70 years of age or older.</p> <p>(c) Any person who knows or reasonably should know that a person is an elder or dependent adult and who, under circumstances or conditions other than those likely to produce great bodily harm or death, willfully causes or permits any elder or dependent adult to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any elder or dependent adult, willfully causes or permits the person or health of the elder or dependent adult to be injured or willfully causes or permits the elder or dependent adult to be placed in a situation in which his or her person or health may be endangered, is guilty of a misdemeanor. A second or subsequent violation of this subdivision is punishable by a fine not to \$ 2,000, or by imprisonment in a county jail not to exceed 1 year, or by both that fine and imprisonment.</p> <p>(d) Any person who is not a caretaker who violates any provision of law proscribing theft, embezzlement, forgery, or fraud, or who violate Section 530.5 proscribing identity theft, with respect to the property or personal identifying information of an elder or a dependent adult, and who knows or reasonably should know that the victim is an elder or a dependent adult, punishable by imprisonment in a county jail not exceeding 1 year, or in the state prison for 2, 3, or 4 years, when the moneys, labor, goods, services, or real or personal property taken or obtained is of a value exceeding \$400; and by a fine not exceeding \$1,000, by imprisonment in a county jai not exceeding 1 year, or by both that fine and imprisonment, when the moneys, labor, goods services, or real personal property taken or obtained is of a value of not exceeding \$400.</p> <p>(e) Any caretaker of an elder or a dependent adult who violates any provision of law proscribing theft, embezzlement, forgery, or fraud, or who violates Section 530.5 proscribing identity theft, with respect to the property or personal identifying information of that elder or dependent adult, is punishable by imprisonment in a county jail not exceeding 1 year, or in the state prison for 2, 3, or 4 years when the moneys, labor, goods, services, or real or personal property taken or obtained is of a value exceeding \$400, and by a fine not exceeding \$1,000, by imprisonment in a county jail not exceeding 1 year, or by both that fine and imprisonment, when the moneys, labor, goods, services, or real or personal property taken or obtained is of a value not exceeding \$400.</p>
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<b>Penalties Cont'd</b> <i>(California)</i>	<p>(f) Any person who commits the false imprisonment of an elder or a dependent adult by the use of violence, menace, fraud, or deceit is punishable by imprisonment in the state prison for 2, 3, or 4 years.</p> <p>(j) Nothing in this section shall preclude prosecution under both this section and Section 187 or 12022.7 or any other provision of law. However, a person shall not receive an additional term of imprisonment under both paragraphs (2) and (3) of subdivision (b) for any single offense, nor shall a person receive an additional term of imprisonment under both Section 12022.7 and paragraph (2) or (3) of subdivision (b) for any single offense.</p> <p>(k) In any case in which a person is convicted of violating these provisions, the court may require him or her to receive appropriate counseling as a condition of probation. Any defendant ordered to be placed in a counseling program shall be responsible for paying the expense of his or her participation in the counseling program as determined by the court. The court shall take into consideration the ability of the defendant to pay, and no defendant shall be denied probation because of his or her inability to pay.</p> <p>CAL. RULES OF COURT, RULE 4.421 (West 2008)  <u>Circumstances in aggravation.</u></p> <p>Circumstances in aggravation include factors relating to the crime and factors relating to the defendant.</p> <p>(a) Facts relating to the crime          Factors relating to the crime, whether or not charged or chargeable as enhancements, including the fact that:</p> <p>(3) The victim was particularly vulnerable.</p>
<b>Applicability to Youth</b> <i>(California)</i>	<p>The above statutes are not applicable to youth</p>

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COLORADO	
<b>Statute</b> (Colorado)	<p>C.R.S.A. § 18-6.5-102 (West 2008) <u>Definitions</u></p> <p>C.R.S.A. § 26-3.1-101 (West 2008) <u>Definitions</u></p> <p>C.R.S.A. § 27-10.5-102 (West 2008) <u>Definitions</u></p> <p>C.R.S.A. § 24-34-301 (West 2008) <u>Definitions</u></p> <p>C.R.S.A. § 18-1-501 (West 2008) <u>Definitions</u></p> <p>C.R.S.A. § 18-3-202 (West 2008) <u>Assault in the first degree</u></p> <p>C.R.S.A. § 18-3-203 (West 2008) <u>Assault in the second degree</u></p> <p>C.R.S.A. § 18-3-204 (West 2008)</p>

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<b>Statute Cont'd</b> <i>(Colorado)</i>	<u>Assault in the third degree</u>  C.R.S.A. § 18-3-402 (West 2008) <u>Sexual assault</u>  C.R.S.A. § 18-6.5-103 (West 2008) <u>Crimes against at-risk adults and at-risk juveniles -- classifications</u>  C.R.S.A. § 18-1.3-401 (West 2008) <u>Felonies classified-- presumptive penalties</u>  C.R.S.A. § 18-1.3-501 (West 2008) <u>Misdemeanors classified—penalties</u>
<b>Coverage</b> <i>(Colorado)</i>	C.R.S.A. § 18-6.5-103 (West 2008) <u>Crimes against at-risk adults and at-risk juveniles -- classifications</u>  (1) Crimes against at-risk adults and at-risk juveniles shall be as prescribed in this section.  (2) Any person whose conduct amounts to criminal negligence, as defined in section 18-1-501(3) commits: (3)(a) Any person who commits a crime of assault in the first degree, as such crime is described in section 18-3-202, and the victim is an at-risk adult or an at-risk juvenile commits a class 4 felony if the circumstances described in section 18-3-202(2)(a) are present and a class 2 felony if such circumstances are not presents. (b) Any person who commits a crime of assault in the second degree, as such crime is described in section 18-3-203, and the victim is at-risk adult or an at-risk juvenile commits a class 5 felony if the circumstances described in section 18-3-203(2)(a) are present and a class 3 felony if such circumstances are not present.

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<b>Coverage Cont'd</b> <i>(Colorado)</i>	<p>(c) Any person who commits a crime of assault in the third degree, as such crime is described in section 18-3-204 , and the victim is an at-risk adult or an at-risk juvenile commits a class 8 felony.</p> <p>(6) Any person who knowingly neglects an at-risk adult or an at-risk juvenile or knowingly acts in a manner likely to be injurious to the physical or mental welfare of an at-risk adult or an at-risk juvenile commits a class 1 misdemeanor.</p> <p>(7)(a) Any person who commits a crime of sexual assault, as such crime is described in section 18-3-402, sexual assault in the first degree, as such crime was described in section 18-3-402, as it existed prior to July 1, 2000, and the victim is an at-risk adult or an at-risk juvenile commits a class 2 felony.</p> <p>(b) Any person who commits a crime of sexual assault in the second degree, as it existed prior to July 1, 2000, and the victim is an at-risk adult or an at-risk juvenile, commits a class 3 felony.</p> <p>(c) Any person who commits unlawful sexual contact, as such crime is described in section 18-3-404 or sexual assault in the third degree, as such crime was described in section 18-3-404, as it existed prior to July 1, 2000, and the victim is an at-risk adult or an at-risk juvenile, commits a class 6 felony; except that the person commits a class 3 felony if the person compels the victim to submit by use of such force, intimidation, or threat as specified in section 18-3-402(4)(a), (4)(b), or (4)(c), or if the actor engages in conduct described in section 18-3-404(1)(g) or (1.5)</p> <p>(d) Any person who commits sexual assault on a child, as such crime is described in section 18-3-405, and the victim is an at-risk juvenile, commits a class 3 felony; except that, if the circumstances described in section 18-3-405(2)(a), (2)(b), (2)(c), or 2(d) are present, the person commits a class 2 felony.</p> <p>(e) Any person who commits sexual assault on a child by one in a position of trust, as such crime is described in section 18-3-405.3, and the victim is an at-risk juvenile, commits a class 2 felony if the victim is less than 15 years of age or a class 3 felony if the victims is 15 years of age or older but less than 18 years of age.</p> <p>(f) Any person who commits sexual assault on a client by a psychotherapist, as such crime is described in section 18-3-405.5, and the victim is an at-risk adult or an at-risk juvenile, commits a class 3 felony if the circumstances described in section 18-3-405.5(1) exist or a class 6 felony if such circumstances are not present.</p> <p>(8) For purposes of subsection (3) to (7) of this section, commission of the offense described in said subsections shall include</p>
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<b>Coverage Cont'd</b> (Colorado)	the attempt, solicitation, or conspiracy to commit such offenses.
<b>Definitions</b> (Colorado)	<p>C.R.S.A. § 18-6.5-102 (West 2008) <u>Definitions</u></p> <p>As used in this article, unless the context otherwise requires:</p> <p>(1) <u>At-risk adult</u> means any person who is 60 years of age or older or any person who is 18 years of age or older and is a person with a disability as said term is defined in subsection (3) of this section.</p> <p>(1.5) <u>At-risk juvenile</u> means any person who is under the age of 18 years and is a person with a disability as said term is defined in subsection (3) of this section.</p> <p>(2) <u>Neglect</u> has the same meaning as set forth in section 26-3.1-101 (4)(b), C.R.S.</p> <p>(3) A <u>person with a disability</u> means any person who:</p> <ul style="list-style-type: none"> <li>(a) Is impaired because of the loss of or permanent loss of use of a hand or foot or because of blindness or the permanent impairment of vision of both eyes to such a degree as to constitute virtual blindness; or</li> <li>(b) Is unable to walk, see, hear, or speak; or</li> <li>(c) Is unable to breathe without mechanical assistance; or</li> <li>(d) Is developmentally disabled as defined in section 27-10.5-102 (11), C.R.S.; or</li> <li>(e) Is mentally ill as the term is defined in section 27-10-102(7), C.R.S.; or</li> <li>(f) Is mentally impaired as the term is defined in section 24-34-301(2.5)(b) (III), C.R.S.; or</li> <li>(g) Is blind as that term is defined in section 26-2-103(3), C.R.S.; or</li> <li>(h) Is receiving care and treatment for a developmental disability under article 10.5 of title 27, C.R.S.</li> </ul>

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<p><b>Definitions Cont'd</b> (Colorado)</p>	<p>(3.5) <u>Position of trust</u> means assuming a responsibility, duty, or fiduciary relationship toward an at-risk adult or at-risk juvenile.</p> <p>(4) Any subsection, or portion of a subsection, of this section declared to be unconstitutional or otherwise invalid shall not impair the remaining provisions of this section.</p> <p>C.R.S.A. § 26-3.1-101 (West 2008) <u>Definitions</u></p> <p>(b) Caretaker neglect which occurs when adequate food, clothing, shelter, psychological care, physical care, medical care, or supervision is not secured for the at-risk adult or is not provided by a caretaker in a timely manner and with the degree of care that a reasonable person in the same situation would exercise; except that the withholding of artificial nourishment in accordance with the “Colorado Medical Treatment Decision Act,” article 18 of title 15, C.R.S., shall not be considered as abuse.</p> <p>C.R.S.A. § 27-10.5-102 (West 2008) <u>Definitions</u></p> <p>(11)(a) <u>Developmental disability</u> means a disability that is manifested before the person reaches 22 years of age, which constitutes a substantial disability to the affected individual, and is attributable to mental retardation or related conditions which include cerebral palsy, epilepsy, autism, or other neurological conditions when such conditions result in impairment of general intellectual functioning or adaptive behavior similar to that of a person with mental retardation. Unless otherwise specifically stated, the federal definition of developmental disability found in 42 U.S.C sec. 15001 et seq. shall be apply.</p> <p>(b) <u>Person with a developmental disability</u> means a person determined by a community centered board to have a developmental disability and shall include a child with a development delay.</p> <p>(c) Child with a developmental delay means:</p> <p>(I) A person less than 5 years of age with delayed developmental as defined by the department; or</p>
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<b>Definitions Cont'd</b> <i>(Colorado)</i>	<p>(II) A person less than 5 of age who is at risk of having a developmental disability as defined by the department.</p> <p>Note: C.R.S.A. § 27-10-102 (7) defining “mentally ill” as cross referenced in C.R.S.A. § 18-6.5-102(3)(e) has been repealed, however Colo. Rev. Stat. § 27-10-102 (8.5) (2006) provides a definition of “person with a mental illness.”</p> <p>C.R.S.A. § 27-10-102 (West 2008)  <u>Definitions</u></p> <p>(8.5) <u>Person with a mental illness</u> means a person with one or more substantial disorders of the cognitive, volitional, or emotional processes that grossly impairs judgment or capacity to recognize reality or to control behavior. Developmental disability is insufficient to either justify or exclude a finding of mental illness within the provisions of this article.</p> <p>C.R.S.A. § 24-34-301 (West 2008)  <u>Definitions</u></p> <p>(2.5)(b)(III) The term <u>mental impairment</u> as used in subparagraphs (I) and (II) of this paragraph (b) shall mean any mental or psychological disorder such as developmental disability, organic brain syndrome, mental illness, or specific learning disabilities.</p> <p>C.R.S.A. § 18-1-501 (West 2008)  <u>Definitions</u></p> <p>(3) <u>Blind</u> means any individual who has not more than ten percent visual acuity in the better eye with correction, or not more than 20/200 central visual acuity in the better eye with correction, or a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than twenty degrees.</p> <p>C.R.S.A. § 18-1-501 (West 2008)</p>
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<p><b>Definitions Cont'd</b> (Colorado)</p>	<p><u>Definitions</u></p> <p>(3) <u>Criminal negligence</u>. A person acts with criminal negligence when, through a gross deviation from the standard of care that a reasonable person would exercise, he fails to perceive a substantial and unjustifiable risk that a result will occur or that a circumstances exists.</p> <p>C.R.S.A. § 18-3-202 (West 2008) <u>Assault in the first degree</u></p> <p>(1) A person commits the crime of assault in the first degree if:</p> <p>(a) With intent to cause serious bodily injury to another person, he causes serious bodily injury to any person by means of a deadly weapon; or</p> <p>(b) With intent to disfigure another person seriously and permanently, or to destroy, amputate, or disable permanently a member or organ of his body, he causes such injury to any person; or</p> <p>(c) Under circumstances manifesting extreme indifference to the value of human life, he knowingly engages in conduct which creates a grave risk or death to another person, and thereby causes serious bodily injury to any person; or</p> <p>C.R.S.A. § 18-3-203 (West 2008) <u>Assault in the second degree</u></p> <p>(1) A person commits the crime of assault in the second degree if:</p> <p>(b) With intent to cause bodily injury to another person, he or she causes such injury to any person by means of a deadly weapon; or</p> <p>(c) He recklessly causes serious bodily injury to another person by means of a deadly weapon; or</p> <p>(e) For a purpose other than lawful medical or therapeutic treatment, he intentionally causes stupor, unconsciousness, or other physical or mental impairment or injury to another person by administering to him, without his consent, a drug, substance, or preparation capable of producing the intended harm; or</p>
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<b>Definitions</b> <b>Cont'd</b> <i>(Colorado)</i>	<p>C.R.S.A. § 18-3-204 (West 2008)  <u>Assault in the third degree</u></p> <p>A person commits the crime of assault in the third degree if the person knowingly or recklessly causes bodily injury to another person or with criminal negligence the person causes bodily injury to another person by means of a deadly weapon. Assault in the third degree is a class 1 misdemeanor and is an extraordinary risk crime that is subject to the modified sentencing range specified in section 18-1.3-501(3)</p> <p>C.R.S.A. § 18-3-402 (West 2008)  <u>Sexual assault</u></p> <p>(1) Any actor who knowingly inflicts sexual intrusion or sexual penetration on a victim commits <u>sexual assault</u> if:</p> <ul style="list-style-type: none"> <li>(a) The actor causes submission of the victim by means of sufficient consequence reasonably calculated to cause submission against the victim's will; or</li> <li>(b) The actor knows that the victim is incapable of appraising the nature of the victim's conduct;</li> <li>(c) The actor knows that the victim submits erroneously, believing the actor to be the victim's spouse; or</li> <li>(d) At the time of the commission of the act, the victim is less than 15 years of age and the actor is at least 4 years older than the victim and is not the spouse of the victim; or</li> <li>(e) At the time of the commission of the act, the victim is at least 15 years of age but less than 17 years of age and the actor is at least 10 years older than the victim and is not the spouse of the victim; or</li> <li>(f) The victim is in custody of law or detained in a hospital or other institution and the actor has supervisory or disciplinary authority over the victim and uses this position of authority or coerces the victim to submit, unless the act is incident to a lawful search; or</li> <li>(g) The actor, while purporting to offer a medical services, engages in treatment or examination of a victim for other than a bona fide medical purpose or in a manner substantially inconsistent with reasonable medical practices;</li> <li>(h) The victim is physically helpless and the actor knows that victim is physically helpless and the victim has not consented.</li> </ul>
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<b>Penalties</b> <i>(Colorado)</i>	<p>C.R.S.A. § 18-6.5-103 (West 2008)  <u>Crimes against at-risk adults and at-risk juveniles -- classifications</u></p> <p>(2) Any person whose conduct amounts to criminal negligence, as defined in section 18-1-501(3) commits:  (a) A class 4 felony if such negligence results in the death of an at-risk adult or an at-risk juvenile;</p> <p>C.R.S.A. § 18-1.3-401 (West 2008)  <u>Felonies classified-- presumptive penalties</u></p> <p>(V)(A) As to any person sentenced for a felony committed on or after July 1, 1993, felonies are divided into six classes which are distinguished from one another by the following presumptive ranges of penalties which are authorized upon conviction:  For a class 4 felony a minimum sentence of 2 years, a maximum sentence of 6 years, and a mandatory sentence of 5 years.</p> <p>C.R.S.A. § 18-6.5-103 (West 2008)  <u>Crimes against at-risk adults and at-risk juveniles -- classifications</u></p> <p>(2) Any person whose conduct amounts to criminal negligence, as defined in section 18-1-501(3) commits:  (b) A class 5 felony if such negligence results in serious bodily injury to an at-risk adult or an at-risk juvenile; and</p> <p>C.R.S.A. § 18-1.3-401 (West 2008)  <u>Felonies classified-- presumptive penalties</u></p> <p>(V)(A) As to any person sentenced for a felony committed on or after July 1, 1993, felonies are divided into six classes which are distinguished from one another by the following presumptive ranges of penalties which are authorized upon conviction:  For a class 5 felony a minimum sentence of 1 year, a maximum sentence 3 years, and a mandatory sentence of 2 years.</p> <p>Colo. Rev. Stat. § 18-6.5-103 (West 2008)</p>
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<b>Penalties Cont'd</b> <i>(Colorado)</i>	<p><u>Crimes against at-risk adults and at-risk juveniles -- classifications</u></p> <p>(2) Any person whose conduct amounts to criminal negligence, as defined in section 18-1-501(3) commits:  (c) A class 6 felony if such negligence results in bodily injury to an at-risk adult or an at-risk juvenile.</p> <p>C.R.S.A. § 18-1.3-401 (West 2008)  <u>Felonies classified-- presumptive penalties</u></p> <p>(V)(A) As to any person sentenced for a felony committed on or after July 1, 1993, felonies are divided into six classes which are distinguished from one another by the following presumptive ranges of penalties which are authorized upon conviction:  For a class 6 felony a minimum sentence of 1 year, a maximum sentence of 18 months, and a mandatory sentence of 1 year.</p> <p>C.R.S.A. § 18-6.5-103 (West 2008)  <u>Crimes against at-risk adults and at-risk juveniles -- classifications</u></p> <p>(3)(a) Any person who commits a crime of assault in the first degree, as such crime is described in section 18-3-202, and the victim is an at-risk adult or an at-risk juvenile commits a class 4 felony if the circumstances described in section 18-3-202(2)(a) are present and a class 2 felony if such circumstances are not presents.</p> <p>C.R.S.A. § 18-1.3-401 (West 2008)  <u>Felonies classified-- presumptive penalties</u></p> <p>(V)(A) As to any person sentenced for a felony committed on or after July 1, 1993, felonies are divided into six classes which are distinguished from one another by the following presumptive ranges of penalties which are authorized upon conviction:  For a class 4 felony a minimum sentence of 2 years, a maximum sentence of 6 years, and a mandatory sentence of 3 years.  For a class 2 felony a minimum sentence of 8 years, a maximum sentence of 24 years, and a mandatory sentence of 5 years.</p>
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<b>Penalties Cont'd</b> <i>(Colorado)</i>	<p>C.R.S.A. § 18-6.5-103 (West 2008)  <u>Crimes against at-risk adults and at-risk juveniles -- classifications</u></p> <p>(3)(b) Any person who commits a crime of assault in the second degree, as such crime is described in section 18-3-203, and the victim is at-risk adult or an at-risk juvenile commits a class 5 felony if the circumstances described in section 18-3-203(2)(a) are present and a class 3 felony if such circumstances are not present.</p> <p>C.R.S.A. § 18-1.3-401 (West 2008)  <u>Felonies classified-- presumptive penalties</u></p> <p>(V)(A) As to any person sentenced for a felony committed on or after July 1, 1993, felonies are divided into six classes which are distinguished from one another by the following presumptive ranges of penalties which are authorized upon conviction:  For a class 5 felony a minimum sentence of 1 year, a maximum sentence of 18 months, and a mandatory sentence of 1 year.  For a class 3 felony a minimum sentence of 4 years, a maximum sentence of 12 years, and a mandatory sentence of 5 years.</p> <p>C.R.S.A. § 18-6.5-103 (West 2008)  <u>Crimes against at-risk adults and at-risk juveniles -- classifications</u></p> <p>(3)(c) Any person who commits a crime of assault in the third degree, as such crime is described in section 18-3-204 , and the victim is an at-risk adult or an at-risk juvenile commits a class 8 felony.</p> <p>C.R.S.A. § 18-6.5-103 (West 2008)  <u>Crimes against at-risk adults and at-risk juveniles -- classifications</u></p> <p>(6) Any person who knowingly neglects an at-risk adult or an at-risk juvenile or knowingly acts in a manner likely to be injurious to the physical or mental welfare of an at-risk adult or an at-risk juvenile commits a class 1 misdemeanor.</p>
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<p><b>Penalties Cont'd</b> (Colorado)</p>	<p>C.R.S.A. § 18-1.3-401 (West 2008) <u>Felonies classified-- presumptive penalties</u></p> <p>(V)(A) As to any person sentenced for a felony committed on or after July 1, 1993, felonies are divided into six classes which are distinguished from one another by the following presumptive ranges of penalties which are authorized upon conviction: For a class 3 felony a minimum sentence of 4 years, a maximum sentence of 12 years, and a mandatory sentence of 5 years.</p> <p>C.R.S.A. § 18-6.5-103 (West 2008) <u>Crimes against at-risk adults and at-risk juveniles -- classifications</u></p> <p>(7)(c) Any person who commits unlawful sexual contact, as such crime is described in section 18-3-404 or sexual assault in the third degree, as such crime was described in section 18-3-404, as it existed prior to July 1, 2000, and the victim is an at-risk adult or an at-risk juvenile, commits a class 6 felony; except that the person commits a class 3 felony if the person compels the victim to submit by use of such force, intimidation, or threat as specified in section 18-3-402(4)(a), (4)(b), or (4)(c), or if the actor engages in conduct described in section 18-3-404(1)(g) or (1.5)</p> <p>C.R.S.A. § 18-1.3-401 (West 2008) <u>Felonies classified-- presumptive penalties</u></p> <p>(V)(A) As to any person sentenced for a felony committed on or after July 1, 1993, felonies are divided into six classes which are distinguished from one another by the following presumptive ranges of penalties which are authorized upon conviction: For a class 6 felony a minimum sentence of 1 year, a maximum sentence of 18 months, a mandatory sentence of 1 year. For a class 3 felony a minimum sentence of 4 years, a maximum sentence of 12 years, and a mandatory sentence of 5 years.</p> <p>C.R.S.A. § 18-6.5-103 (West 2008) <u>Crimes against at-risk adults and at-risk juveniles -- classifications</u></p>
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<p><b>Penalties Cont'd</b> (Colorado)</p>	<p>(7)(d) Any person who commits sexual assault on a child, as such crime is described in section 18-3-405, and the victim is an at-risk juvenile, commits a class 3 felony; except that, if the circumstances described in section 18-3-405(2)(a), (2)(b), (2)(c), or 2(d) are present, the person commits a class 2 felony.</p> <p>C.R.S.A. § 18-1.3-401 (West 2008) <u>Felonies classified-- presumptive penalties</u></p> <p>(V)(A) As to any person sentenced for a felony committed on or after July 1, 1993, felonies are divided into six classes which are distinguished from one another by the following presumptive ranges of penalties which are authorized upon conviction: For a class 3 felony a minimum sentence of 4 years, a maximum sentence of 12 years, and a mandatory sentence of 5 years. For a class 2 felony a minimum of 1 year, a maximum sentence of 18 months, and a mandatory sentence of 1 year.</p> <p>C.R.S.A. § 18-6.5-103 (West 2008) <u>Crimes against at-risk adults and at-risk juveniles -- classifications</u></p> <p>(7)(e) Any person who commits sexual assault on a child by one in a position of trust, as such crime is described in section 18-3-405.3, and the victim is an at-risk juvenile, commits a class 2 felony if the victim is less than 15 years of age or a class 3 felony if the victims is 15 years of age or older but less than 18 years of age.</p> <p>C.R.S.A. § 18-1.3-401 (West 2008) <u>Felonies classified-- presumptive penalties</u></p> <p>(V)(A) As to any person sentenced for a felony committed on or after July 1, 1993, felonies are divided into six classes which are distinguished from one another by the following presumptive ranges of penalties which are authorized upon conviction: For a class 2 felony a minimum sentence of 8 years, a maximum sentence of 24 years, and a mandatory sentence of 5 years. For a class 3 felony a minimum sentence of 4 years, a maximum sentence of 12 years, and a mandatory sentence of 5 years.</p>
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<b>Applicability to Youth</b> <i>(Colorado)</i>	<p>C.R.S.A. § 18-6.5-103 (West 2008)  <u>Crimes against at-risk adults and at-risk juveniles</u></p> <p>This statute applies to youth under the age of 18 with a disability.</p>
<b>CONNECTICUT</b>	

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<p><b>Statute</b> (Connecticut)</p>	<p>C.G.S.A. § 53a-321 (West 2008) <u>Abuse in the first degree: Class C felony</u></p> <p>C.G.S.A. § 53a-322 (West 2008) <u>Abuse in the second degree: Class D felony</u></p> <p>C.G.S.A. § 53a-323 (West 2008) <u>Abuse in the third degree: Class A misdemeanor</u></p> <p>C.G.S.A. § 53a-59a (West 2008) <u>Assault of an elderly, blind, disabled, pregnant or mentally retarded person in the first degree: Class B felony: Five years not suspendable</u></p>
<p><b>Statute Cont'd</b> (Connecticut)</p>	<p>C.G.S.A. § 53a-60b (West 2008) <u>Assault of an elderly, blind, disabled, pregnant or mentally retarded person in the second degree: Class D felony: Two years not suspendable</u></p> <p>C.G.S.A. § 53a-61a (West 2008) <u>Assault of an elderly, blind, disabled, pregnant or mentally retarded person in the third degree: Class A misdemeanor: One year not suspendable</u></p>
<p><b>Coverage</b> (Connecticut)</p>	<p>C.G.S.A. § 53a-321 (West 2008) <u>Abuse in the first degree: Class C felony</u></p> <p>(a) A person is guilty of abuse in the first degree when such person intentionally commits abuse of an elderly, blind, disabled or mentally retarded person and causes serious physical injury to such elderly, blind, disabled or mentally retarded person.</p>

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<b>Coverage</b> <b>Cont'd</b> <i>(Connecticut)</i>	<p>C.G.S.A. § 53a-322 (West 2008)  <u>Abuse in the second degree: Class D felony</u></p> <p>(a) A person is guilty of abuse in the second degree when such person:            (1) Intentionally commits abuse of an elderly, blind, disabled or mentally retarded person and causes physical injury to such elderly, blind, disabled or mentally retarded person, or            (2) knowingly commits abuse of an elderly, blind, disabled or mentally retarded person and causes serious physical injury to such elderly, blind, disabled or mentally retarded person.</p> <p>C.G.S.A. § 53a-323 (West 2008)  <u>Abuse in the third degree: Class A misdemeanor</u></p> <p>(a) A person is guilty of abuse in the third degree when such person            (1) knowingly commits abuse of an elderly, blind, disabled or mentally retarded person and causes physical injury to such elderly, blind, disabled or mentally retarded person, or            (2) recklessly commits abuse of an elderly, blind, disabled or mentally retarded person and causes physical injury to such elderly, blind, disabled or mentally retarded person.</p> <p>C.G.S.A. § 53a-59a (West 2008)  <u>Assault of an elderly, blind, disabled, pregnant or mentally retarded person in the first degree: Class B felony: Five years not suspendable</u></p> <p>(a) A person is guilty of assault of an elderly, blind, disabled, pregnant or mentally retarded person in the first degree, when such person commits assault in the first degree under section 53a-59(a)(2), 53a-59(a)(3) or 53a-59(a)(5) and (1) the victim of such assault has attained at least 60 years of age, is blind or physically disabled, as defined in section 1-1f, or is pregnant, or</p>
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<b>Coverage Cont'd</b> <i>(Connecticut)</i>	<p>(2) the victim of such assault is a person with mental retardation, as defined in section 1-1g, and the actor is not a person with mental retardation.</p> <p>(b) No person shall be found guilty of assault in the first degree and assault of an elderly, blind, disabled, pregnant or mentally retarded person in the first degree upon the same incident of assault but such person may be charged and prosecuted for both such offenses upon the same information.</p> <p>(c) In any prosecution for an offense under this section based on the victim being pregnant it shall be an affirmative defense that the actor, at the time such actor engaged in the conduct constituting the offense, did not know the victim was pregnant. In any prosecution for an offense under this section based on the victim being a person with mental retardation, it shall be an affirmative defense that the actor, at the time such actor engaged in the conduct constituting the offense, did not know the victim was a person with mental retardation.</p> <p>C.G.S.A. § 53a-60b (West 2008)</p> <p><u>Assault of an elderly, blind, disabled, pregnant or mentally retarded person in the second degree: Class D felony: Two years not suspendable</u></p> <p>(a) A person is guilty of assault of an elderly, blind, disabled, pregnant or mentally retarded person in the second degree when such person commits assault in the second degree under section 53a-60 or larceny in the second degree under section 53a-123(a)(3) and (1) the victim of such assault or larceny has attained at least 60 years of age, is blind or physically disabled, as defined in section 1-1f, or is pregnant, or (2) the victim of such assault or larceny is a person with mental retardation, as defined in section 1-1g, and the actor is not a person with mental retardation.</p> <p>(b) No person shall be found guilty of assault in the second degree or larceny in the second degree under section 53a-123(a)(3) and assault of an elderly, blind, disabled, pregnant or mentally retarded person in the second degree upon the same incident of assault or larceny, as the case may be, but such person may be charged and prosecuted for all such offenses upon the same information.</p> <p>(c) In any prosecution for an offense under this section based on the victim being pregnant it shall be an affirmative defense</p>
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<b>Definitions</b> <i>(Connecticut)</i>	<p>Conn. Gen. Stat § 53a-320 (West 2008)  <u>Definitions</u></p> <p>For the purposes of sections 53a--320 to 53a--323, inclusive:</p>

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<b>Definitions Cont'd</b> <i>(Connecticut)</i>	<p>(1) <u>Person</u> means any natural person, corporation, partnership, limited liability company, unincorporated business or other business entity;</p> <p>(2) <u>Elderly person</u> means any person who is 60 years of age or older;</p> <p>(3) <u>Blind person</u> means any person who is blind, as defined in section 1-1f;</p> <p>(4) <u>Disabled person</u> means any person who is physically disabled, as defined in section 1-1f;</p> <p>(5) <u>Mentally retarded person</u> means any person with mental retardation, as defined in section 1-1g;</p> <p>(6) <u>Abuse</u> means any repeated act or omission that causes physical injury or serious physical injury to an elderly, blind, disabled or mentally retarded person, except when (A) the act or omission is a part of the treatment and care, and in furtherance of the health and safety, of the elderly, blind, disabled or mentally retarded person, or (B) the act or omission is based upon the instructions, wishes, consent, refusal to consent or revocation of consent of an elderly, blind, disabled or mentally retarded person, or the legal representative of an incapable elderly, blind, disabled or mentally retarded person. For purposes of this subdivision, <u>repeated</u> means an act or omission that occurs on two or more occasions;</p> <p>(7) <u>Intentionally</u> means "intentionally" as defined in subdivision (11) of section 53a--3;</p> <p>Conn. Gen. Stat § 53a-3 (West 2008)  <u>Definitions</u></p> <p>(3) <u>Physical injury</u> means impairment of physical condition or pain;</p> <p>(4) <u>Serious physical injury</u> means physical injury which creates a substantial risk of death, or which causes serious disfigurement, serious impairment of health or serious loss or impairment of the function of any bodily organ;</p>
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<b>Definitions</b> <b>Cont'd</b> <i>(Connecticut)</i>	<p>(11) A person acts <u>intentionally</u> with respect to a result or to conduct described by a statute defining an offense when his conscious objective is to cause such result or to engage in such conduct;</p> <p>(12) A person acts <u>knowingly</u> with respect to conduct or to a circumstances described by a statute defining an offense when he is aware that his conduct is or such nature of that such circumstances exists;</p> <p>(13) A person acts <u>recklessly</u> with respect to a result or to a circumstance described by a statute defining an offense when he is aware of and consciously disregards a substantial and unjustifiable risk that such result will occur or that such circumstance exists. The risk must be such nature and degree that disregarding it constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation;</p> <p>Conn. Gen. Stat § 1-1f (West 2008)  <u>"Blind", "physically disabled" defined.</u></p> <p>For purposes of sections 3-10e, 4a-60, subdivision (12) of section 38a-816 and sections 46a-58, 46a-60, 46a-64, 46a-70 to 46a-73, inclusive, 46a-75, 46a-76 and 52-175a:</p> <p>(a) An individual is <u>blind</u> if his central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or if his visual acuity is greater than 20/200 but is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees;</p> <p>(b) An individual is <u>physically disabled</u> if he has any chronic physical handicap, infirmity or impairment, whether congenital or resulting from bodily injury, organic processes or changes or from illness, including, but not limited to, epilepsy, deafness or hearing impairment or reliance on a wheelchair or other remedial appliance or device.</p> <p>Conn. Gen. Stat § 1-1g (West 2008)</p>
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### NIC/WCL Project on Addressing Prison Rape

<b>Definitions Cont'd</b> <i>(Connecticut)</i>	<p><u>"Mental retardation" defined.</u></p> <p>(a) For the purposes of sections 4a-60, 17a-274, 17a-281, 38a-816, 45a-669 to 45a-684, inclusive, 46a-51, 53a-59a, 53a-60b, 53a-60c and 53a-61a, <u>mental retardation</u> means a significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period.</p> <p>(b) As used in subsection (a) of this section, <u>general intellectual functioning</u> means the results obtained by assessment with one or more of the individually administered general intelligence tests developed for that purpose and standardized on a significantly adequate population and administered by a person or persons formally trained in test administration; "significantly subaverage" means an intelligence quotient more than two standard deviations below the mean for the test; "adaptive behavior" means the effectiveness or degree with which an individual meets the standards of personal independence and social responsibility expected for the individual's age and cultural group; and "developmental period" means the period of time between birth and the eighteenth birthday.</p>
<b>Penalties</b> <i>(Connecticut)</i>	<p>Conn. Gen. Stat § 53a-321 (West 2008)  <u>Abuse in the first degree: Class C felony</u></p> <p>(b) Abuse in the first degree is a class C felony.</p> <p>Conn. Gen. Stat § 53a-35a (West 2008)  <u>Imprisonment for any felony committed on or after July 1, 1981: Definite sentences; terms authorized</u></p> <p>For any felony committed on or after July 1, 1981, the sentence of imprisonment shall be a definite sentence and the term shall be fixed by the court as follows: (7) for a class C felony, a term not less than 1 year nor more than 10 years,</p> <p>Conn. Gen. Stat § 53a-322 (West 2008)  <u>Abuse in the second degree: Class D felony</u></p>

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<b>Penalties Cont'd</b> <i>(Connecticut)</i>	<p>(b) Abuse in the second degree is a class D felony.</p> <p>Conn. Gen. Stat § 53a-35a (West 2008)  <u>Imprisonment for any felony committed on or after July 1, 1981: Definite sentences; terms authorized</u></p> <p>For a felony committed on or after July 1, 1981, the sentence of imprisonment shall be a definite sentence and the term shall be fixed by the court as follows: (8) for a class D felony, a term not less than 1 year nor more than 5 years</p> <p>Conn. Gen. Stat § 53a-323 (West 2008)  <u>Abuse in the third degree: Class A misdemeanor</u></p> <p>(b) Abuse in the third degree is a class A misdemeanor.</p> <p>Conn. Gen. Stat § 53a-36 (West 2008)  <u>Imprisonment for misdemeanor: Maximum and minimum sentences</u></p> <p>A sentence of imprisonment for a misdemeanor shall be a definite sentence and the term shall be fixed by the court as follows:          (1) For a class A misdemeanor, a term not to exceed 1 year</p> <p>Conn. Gen. Stat § 53a-59a (West 2008)  <u>Assault of an elderly, blind, disabled, pregnant or mentally retarded person in the first degree: Class B felony: Five years not suspendable</u></p> <p>(d) Assault of an elderly, blind, disabled, pregnant or mentally retarded person in the first degree is a class B felony and any person found guilty under this section shall be sentenced to a term of imprisonment of which 5 years of the sentence imposed may not be suspended or reduced by the court.</p>
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<b>Penalties Cont'd</b> <i>(Connecticut)</i>	<p>Conn. Gen. Stat § 53a-35a (West 2008)  <u>Imprisonment for any felony committed on or after July 1, 1981: Definite sentences; terms authorized</u></p> <p>For any felony committed on or after July 1, 1981, the sentence of imprisonment shall be a definite sentence and the term shall be fixed by the court as follows: (6) for a class B felony other than manslaughter in the first degree with a firearm under section 53a-55, a term not less than 1 year nor more than 20 years, except that for a conviction under section 53-59(a)(1), 53a-59a, 53a-70a, 53a-94a, 53a-101(a)(1) or 53a-134(a)(2), the term shall be not less than 5 years nor more than 20 years:</p> <p>Conn. Gen. Stat § 53a-60b (West 2008)  <u>Assault of an elderly, blind, disabled, pregnant or mentally retarded person in the second degree: Class D felony: Two years not suspendable</u></p> <p>(d) Assault of an elderly, blind, pregnant or mentally retarded person in the second degree is a class D felony and any person found guilty under this section shall be sentenced to a term of imprisonment of which 2 years of the sentence imposed by not be suspended or reduced by the court.</p> <p>Conn. Gen. Stat § 53a-35a (West 2008)  <u>Imprisonment for any felony committed on or after July 1, 1981: Definite sentences; terms authorized</u></p> <p>For any felony committed on or after July 1, 1981, the sentence of imprisonment shall be a definite sentence and the term shall be fixed by the court as follows: (8) for a class D felony, a term not less than 1 year nor more than 5 years, except that for a conviction under section 53a-60b or 53a-217, the term shall be not less than 3 years nor more than 5 years, and for a conviction under section 53a-216, the term shall be 5 years;</p> <p>Conn. Gen. Stat § 53a-61a (West 2008)  <u>Assault of an elderly, disabled, pregnant or mentally retarded person in the third degree: Class A misdemeanor: One year not</u></p>
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	<p><u>suspendable.</u></p> <p>(d) Assault of an elderly, blind, disabled, pregnant or mentally retarded person in the third degree is a class A misdemeanor and any person found guilty under this section shall be sentenced to a term of imprisonment of 1 year which shall not be suspended or reduced.</p> <p>Conn. Gen. Stat § 53a-36 (West 2008)</p> <p><u>Imprisonment for misdemeanor: Maximum and minimum sentences</u></p> <p>A sentence of imprisonment for a misdemeanor shall be a definite sentence and the term shall be fixed by the court as follows:          (1) For a class A misdemeanor, a term not to exceed 1 year except that when a person is found guilty under section 53a-61a(a)(3) or 53a-61a, the term shall be 1 year and such sentence shall not be suspended or reduced</p>
<b>Applicability to Youth</b> <i>(Connecticut)</i>	<p>Conn. Gen. Stat §1-1g (West 2008)</p>
<b>DELAWARE</b>	
<b>Statute</b> <i>(Delaware)</i>	<p>11 DEL. C. § 1105 (West 2008)</p> <p><u>Endangering the welfare of an incompetent person; class A misdemeanor</u></p> <p>31 DEL. C. § 3913 (West 2008)</p> <p><u>Violations</u></p>

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<b>Statute Cont'd</b> <i>(Delaware)</i>	<p>31 DEL. C. § 3902 (West 2008)  <u>Definitions</u></p> <p>11 DEL. C. § 4206 (West 2008)  <u>Sentence for misdemeanors</u></p> <p>11 DEL. C. § 4205 (West 2008)  <u>Sentence for felonies.</u></p>
<b>Coverage</b> <i>(Delaware)</i>	<p>11 DEL. C. § 1105 (West 2008)  <u>Endangering the welfare of an incompetent person; class A misdemeanor</u></p> <p>A person is guilty of endangering the welfare of an incompetent person when the person knowingly acts in a manner likely to be injurious to the physical or mental welfare of one who is unable to care for oneself because of mental disease or defect.</p> <p>31 DEL. C. § 3913 (West 2008)  <u>Violations</u></p> <p>(a) Any person who knowingly or recklessly abuses, neglects, exploits or mistreats an infirm adult shall be guilty of a class A misdemeanor.</p> <p>(c) Any person who knowingly or recklessly abuses, neglects, exploits or mistreats an infirm adult, and causes bodily harm, permanent disfigurement or permanent disability shall be guilty of a class D felony.</p>
<b>Definitions</b> <i>(Delaware)</i>	<p>31 DEL. C. § 3902 (West 2008)  <u>Definitions</u></p> <p>As used in this chapter:</p>

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<b>Definitions Cont'd</b> <i>(Delaware)</i>	<p>(1) <u>Infirm adult</u> shall mean any person 18 years of age or over who, because of physical or mental disability, is substantially impaired in the ability to provide adequately for the person's own care and custody.</p> <p>(2) <u>Physical or mental disability</u> shall include any physical or mental disability and shall include, but not be limited to, mental retardation, brain damage, physical degeneration, deterioration, senility, disease, habitual drunkenness or addiction to drugs, and mental or physical infirmity.</p> <p>(3) <u>Substantially impaired</u> in the ability to provide adequately for the person's own care and custody" means the infirm person is unable to perform or obtain for himself or herself essential services.</p> <p>(5) <u>Exploitation</u> means the illegal or improper use or abuse of an infirm person, the infirm person's resources or the infirm person's rights, by another person, whether for profit or other advantage.</p> <p>(6) <u>Incapacitated person</u> means a person for whom a guardian of person or property, or both, shall be appointed, under § 3914(a) of Title 12.</p> <p>(8) <u>Hazardous living condition</u> means a mode of life which contains a substantial risk of physical injury, or mental distress, or exploitation.</p> <p>(16) <u>Abuse</u> means:  a. Physical abuse by unnecessarily inflicting pain or injury on an infirm adult; or  b. A pattern of emotional abuse, which includes, but is not limited to, ridiculing or demeaning an infirm adult making derogatory remarks to an infirm adult or cursing or threatening to inflict physical or emotional harm on an infirm adult.</p> <p>(17) <u>Caregiver</u> means any adult who has assumed the permanent or temporary care, custody or responsibility for the supervision of an infirm adult.</p>
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<b>Definitions</b> <b>Cont'd</b> <i>(Delaware)</i>	<p>(18) <u>Mistreatment</u> means the failure to provide appropriate physical or emotional care to an infirm adult, including the inappropriate use of medications, isolation or physical or chemical restraints on or of an infirm adult.</p> <p>(19) <u>Neglect</u> means:</p> <ul style="list-style-type: none"> <li>a. Lack of attention by a caregiver to physical needs of an infirm adult including but not limited to toileting, bathing, meals and safety;</li> <li>b. Failure by a caregiver to carry out a treatment plan prescribed by a health care professional for an infirm adult; or</li> <li>c. Intentional and permanent abandonment or desertion in any place of an infirm adult by a caregiver who does not make reasonable efforts to ensure that essential services, as defined in this section, will be provided for said infirm adult.</li> </ul>
<b>Penalties</b> <i>(Delaware)</i>	<p>11 DEL. C. § 1105 (West 2008)  <u>Endangering the welfare of an incompetent person; class A misdemeanor</u></p> <p>Endangering the welfare of an incompetent person is a class A misdemeanor.</p> <p>11 DEL. C. § 4206 (West 2008)  <u>Sentence for misdemeanors</u></p> <p>(a) The sentence for a class A misdemeanor may include up to 1 year incarceration at Level V and such fine up to \$2,300, restitution or other conditions as the court deems appropriate</p> <p>31 DEL. C. § 3913 (West 2008)  <u>Violations</u></p>

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<b>Penalties Cont'd</b> <i>(Delaware)</i>	<p>(a) Any person who knowingly or recklessly abuses, neglects, exploits or mistreats an infirm adult shall be guilty of a class A misdemeanor.</p> <p>(c) Any person who knowingly or recklessly abuses, neglects, exploits or mistreats an infirm adult, and causes bodily harm, permanent disfigurement or permanent disability shall be guilty of a class D felony. Where the abuse, mistreatment or neglect results in death, such person shall be guilty of a class A felony.</p> <p>11 DEL. C. § 4205 (West 2008)  <u>Sentence for felonies.</u></p> <p>(a) A sentence of incarceration for a felony shall be a definite sentence.</p> <p>(b) The term of incarceration which the court may impose for a felony is fixed as follows:</p> <p style="padding-left: 40px;">(1) For a class A felony not less than 15 years up to life imprisonment to be served at Level V except for conviction of first-degree murder in which event § 4209 of this title shall apply.</p> <p style="padding-left: 40px;">(4) For a class D felony up to 8 years to be served at Level V.</p> <p>11 DEL. C. § 4206 (West 2008)  <u>Sentence for misdemeanors</u></p> <p>(a) The sentence for a class A misdemeanor may include up to 1 year incarceration at Level V and such fine up to \$2,300, restitution or other conditions as the court deems appropriate</p>
<b>Applicability to Youth</b> <i>(Delaware)</i>	<p>11 DEL. C. § 1105 (West 2008)  <u>Endangering the welfare of an incompetent person; class A misdemeanor</u></p> <p>May apply to youth</p>

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DISTRICT OF COLUMBIA	
<b>Statute</b> <i>(District of Columbia)</i>	<p>D.C. ST. § 22-933 (West 2008)  <u>Criminal Abuse of a Vulnerable Adult</u></p> <p>D.C. ST. § 22-934 (West 2008)  <u>Criminal Negligence</u></p> <p>D.C. ST. § 22-935 (West 2008)  <u>Exception</u></p> <p>D.C. ST. § 22-932 (West 2008)  <u>Definitions</u></p> <p>D.C. ST. § 22-936 (West 2008)  <u>Penalties</u></p>
<b>Coverage</b> <i>(District of Columbia)</i>	<p>D.C. ST. § 22-933 (West 2008)  <u>Criminal abuse of a vulnerable adult</u></p> <p>A person is guilty of criminal abuse of a vulnerable adult if that person intentionally or knowingly:</p> <p>(1) Inflicts or threatens to inflict physical pain or injury by hitting, slapping, kicking, pinching, biting, pulling hair or other corporal means;</p>

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<p><b>Coverage Cont'd</b> (District of Columbia)</p>	<p>(2) Uses repeated or malicious oral or written statements that would be considered by a reasonable person to be harassing or threatening; or</p> <p>(3) Imposes unreasonable confinement or involuntary seclusion, including but not limited to, the forced separation from other persons against his or her will or the directions of any legal representative.</p> <p>D.C. ST. § 22-934 (West 2008) <u>Criminal negligence</u></p> <p>A person who knowingly, willfully or through a wanton, reckless or willful indifference fails to discharge a duty to provide care and services necessary to maintain the physical and mental health of a vulnerable adult, including but not limited to providing adequate food, clothing, medicine, shelter, supervision and medical services, that a reasonable person would deem essential for the well-being of the vulnerable adult is guilty of criminal negligence.</p> <p>D.C. ST. § 22-935 (West 2008) <u>Exception</u></p> <p>A person shall not be considered to commit an offense of abuse or neglect under this chapter for the sole reason that he provides or permits to be provided treatment by spiritual means through prayer alone in accordance with a religious method of healing, in lieu of medical treatment, to the vulnerable adult to whom he has a duty of care with the express consent or in accordance with the practice of the vulnerable adult.</p>
<p><b>Definitions</b> (District of Columbia)</p>	<p>D.C. ST. § 22-932 (West 2008) <u>Definitions</u></p> <p>For the purpose of this chapter <u>vulnerable adult</u> means a person 18 years of age or older who has a physical or mental</p>

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<b>Definitions</b> <b>Cont'd</b> <i>(District of Columbia)</i>	condition which substantially impairs the person from adequately providing for his or her own care or protection.
<b>Penalties</b> <i>(District of Columbia)</i>	D.C. ST. § 22-936 (West 2008) <u>Penalties</u>  (a) A person who commits the offense of criminal abuse or criminal neglect of a vulnerable person shall be subject to a fine of up to \$1000, imprisoned for not more than 180 days, or both. (b) A person who commits the offense of criminal abuse or criminal neglect of a vulnerable adult which causes serious bodily injury or severe mental distress shall be subject to a fine of up to \$100,000, imprisoned up to 10 years, or both. (c) A person who commits the offense of criminal abuse or criminal neglect of a vulnerable adult which causes permanent bodily harm or death shall be subject to a fine of up to \$250,000, imprisoned up to 20 years, or both.
<b>Applicability to Youth</b> <i>(District of Columbia)</i>	The above statutes are not applicable to youth
<b>FLORIDA</b>	
<b>Statute</b> <i>(Florida)</i>	FL. ST. § 825.102 (West 2008) <u>Abuse, aggravated abuse, and neglect of an elderly person or disabled adult; penalties</u>

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<b>Statute Cont'd</b> <i>(Florida)</i>	<p>FL. ST. § 825.1025 (West 2008)  <u>Lewd or lascivious offenses committed upon or in the presence of an elderly person or disabled person</u></p> <p>FL. ST. § 825.101 (West 2008)  <u>Definitions</u></p> <p>FL. ST. § 825.102 (West 2008)  <u>Abuse, aggravated abuse, and neglect of an elderly person or disabled adult; penalties</u></p> <p>FL. ST. § 775.082 (West 2008)  <u>Penalties; applicability of sentencing structures; mandatory minimum sentences for certain reoffenders previously released from prison</u></p> <p>FL. ST. § 775.083 (West 2008)  <u>Fines</u></p>
<b>Coverage</b> <i>(Florida)</i>	<p>FL. ST. § 825.102 (West 2008)  <u>Abuse, aggravated abuse, and neglect of an elderly person or disabled adult; penalties</u></p> <p>(1) "Abuse of an elderly person or disabled adult" means:              (a) Intentional infliction of physical or psychological injury upon an elderly person or disabled adult;              (b) An intentional act that could reasonably be expected to result in physical or psychological injury to an elderly person or disabled adult; or              (c) Active encouragement of any person to commit an act that results or could reasonably be expected to result in physical or psychological injury to an elderly person or disabled adult.</p> <p>(2) "Aggravated abuse of an elderly person or disabled adult" occurs when a person:</p>

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<b>Coverage Cont'd</b> <i>(Florida)</i>	<p>(a) Commits aggravated battery on an elderly person or disabled adult;</p> <p>(b) Willfully tortures, maliciously punishes, or willfully and unlawfully cages, an elderly person or disabled adult; or</p> <p>(c) Knowingly or willfully abuses an elderly person or disabled adult and in so doing causes great bodily harm, permanent disability, or permanent disfigurement to the elderly person or disabled adult.</p> <p>(3)(a) "Neglect of an elderly person or disabled adult" means:</p> <ol style="list-style-type: none"> <li>1. A caregiver's failure or omission to provide an elderly person or disabled adult with the care, supervision, and services necessary to maintain the elderly person's or disabled adult's physical and mental health, including, but not limited to, food, nutrition, clothing, shelter, supervision, medicine, and medical services that a prudent person would consider essential for the well-being of the elderly person or disabled adult; or</li> <li>2. A caregiver's failure to make a reasonable effort to protect an elderly person or disabled adult from abuse, neglect, or exploitation by another person.</li> </ol> <p>Neglect of an elderly person or disabled adult may be based on repeated conduct or on a single incident or omission that results in, or could reasonably be expected to result in, serious physical or psychological injury, or a substantial risk of death, to an elderly person or disabled adult.</p> <p>FL. ST. § 825.1025 (West 2008)</p> <p><u>Lewd or lascivious offenses committed upon or in the presence of an elderly person or disabled person</u></p> <p>(2)(a) "Lewd or lascivious battery upon an elderly person or disabled person" occurs when a person encourages, forces, or entices an elderly person or disabled person to engage in sadomasochistic abuse, sexual bestiality, prostitution, or any other act involving sexual activity, when the person knows or reasonably should know that the elderly person or disabled person either lacks the capacity to consent or fails to give consent.</p> <p>(3)(a) "Lewd or lascivious molestation of an elderly person or disabled person" occurs when a person intentionally touches in a lewd or lascivious manner the breasts, genitals, genital area, or buttocks, or the clothing covering them, of an elderly person</p>
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<b>Coverage Cont'd</b> <i>(Florida)</i>	<p>or disabled person when the person knows or reasonably should know that the elderly person or disabled person either lacks the capacity to consent or fails to give consent.</p> <p>(4)(a) "Lewd or lascivious exhibition in the presence of an elderly person or disabled person" occurs when a person, in the presence of an elderly person or disabled person:</p> <ol style="list-style-type: none"> <li>1. Intentionally masturbates;</li> <li>2. Intentionally exposes his or her genitals in a lewd or lascivious manner; or</li> <li>3. Intentionally commits any other lewd or lascivious act that does not involve actual physical or sexual contact with the elderly person or disabled person, including but not limited to, sadomasochistic abuse, sexual bestiality, or the simulation of any act involving sexual activity, when the person knows or reasonably should know that the elderly person or disabled person either lacks the capacity to consent or fails to give consent to having such act committed in his or her presence.</li> </ol>
<b>Definitions</b> <i>(Florida)</i>	<p>FL. ST.§ 825.101 (West 2008)  <u>Definitions</u></p> <p>(4) <u>Disabled adult</u> means a person 18 years of age or older who suffers from a condition of physical or mental incapacitation due to a developmental disability, organic brain damage, or mental illness, or who has one or more physical or mental limitations that restrict the person's ability to perform the normal activities of daily living.</p> <p>(5) <u>Elderly person</u> means a person 60 years of age or older who is suffering from the infirmities of aging as manifested by advanced age or organic brain damage, or other physical, mental, or emotional dysfunction, to the extent that the ability of the person to provide adequately for the person's own care or protection is impaired</p> <p>(9) <u>Lacks capacity to consent</u> means an impairment by reason of mental illness, developmental disability, organic brain disorder, physical illness or disability, chronic use of drugs, chronic intoxication, short-term memory loss, or other cause, that causes an elderly person or disabled adult to lack sufficient understanding or capacity to make or communicate reasonable decisions concerning the elderly person's or disabled adult's person or property.</p>

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<p><b>Definitions</b> <b>Cont'd</b> <i>(Florida)</i></p>	<p>FL. ST. § 825.1025 (West 2008) <u>Lewd or lascivious offenses committed upon or in the presence of an elderly person or disabled person</u></p> <p>(1) As used in this section, <u>sexual activity</u> means the 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; however, sexual activity does not include an act done for a bona fide medical purpose.</p> <p>FL. ST. § 415.102 (West 2008) <u>Definitions of the terms used in §§ 415.101–415.113</u></p> <p>(1) <u>Abuse</u> means any willful act or threatened act by a relative, caregiver, or household member which causes or is likely to cause significant impairment to a vulnerable adult's physical, mental, or emotional health. Abuse includes acts and omissions.</p> <p>(2) <u>Alleged perpetrator</u> means a person who has been named by a reporter as the person responsible for abusing, neglecting, or exploiting a vulnerable adult.</p> <p>(3) <u>Capacity to consent</u> means that a vulnerable adult has sufficient understanding to make and communicate responsible decisions regarding the vulnerable adult's person or property, including whether or not to accept protective services offered by the department.</p> <p>(4) <u>Caregiver</u> means a person who has been entrusted with or has assumed the responsibility for frequent and regular care of or services to a vulnerable adult on a temporary or permanent basis and who has a commitment, agreement, or understanding with that person or that person's guardian that a caregiver role exists. "Caregiver" includes, but is not limited to, relatives, household members, guardians, neighbors, and employees and volunteers of facilities as defined in subsection (8) For the purpose of departmental investigative jurisdiction, the term "caregiver" does not include law enforcement officers or employees of municipal or county detention facilities or the Department of Corrections while acting in an official capacity.</p>
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<p><b>Definitions</b> <b>Cont'd</b> <i>(Florida)</i></p>	<p>(6) <u>Department</u> means the Department of Children and Family Services.</p> <p>(8) <u>Facility</u> means any location providing day or residential care or treatment for vulnerable adults. The term "facility" may include, but is not limited to, any hospital, state institution, nursing home, assisted living facility, adult family-care home, adult day care center, residential facility licensed under chapter 393, adult day training center, or mental health treatment center.</p> <p>(9) <u>False report</u> means a report of abuse, neglect, or exploitation of a vulnerable adult to the central abuse hotline which is not true and is maliciously made for the purpose of:</p> <ul style="list-style-type: none"> <li>(a) Harassing, embarrassing, or harming another person;</li> <li>(b) Personal financial gain for the reporting person;</li> <li>(c) Acquiring custody of a vulnerable adult; or</li> <li>(d) Personal benefit for the reporting person in any other private dispute involving a vulnerable adult.</li> </ul> <p>The term "false report" does not include a report of abuse, neglect, or exploitation of a vulnerable adult which is made in good faith to the central abuse hotline.</p> <p>(11) <u>Guardian</u> means a person who has been appointed by a court to act on behalf of a person; a preneed guardian, as provided in chapter 744; or a health care surrogate expressly designated as provided in chapter 765.</p> <p>(12) <u>In-home services</u> means the provision of nursing, personal care, supervision, or other services to vulnerable adults in their own homes.</p> <p>(15) <u>Neglect</u> means the failure or omission on the part of the caregiver or vulnerable adult to provide the care, supervision, and services necessary to maintain the physical and mental health of the vulnerable adult, including, but not limited to, food, clothing, medicine, shelter, supervision, and medical services, which a prudent person would consider essential for the well-being of a vulnerable adult. The term <u>neglect</u> also means the failure of a caregiver or vulnerable adult to make a reasonable</p>
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<b>Definitions</b> <b>Cont'd</b> <i>(Florida)</i>	<p>effort to protect a vulnerable adult from abuse, neglect, or exploitation by others. <u>Neglect</u> is repeated conduct or a single incident of carelessness which produces or could reasonably be expected to result in serious physical or psychological injury or a substantial risk of death.</p> <p>(22) <u>Psychological injury</u> means an injury to the intellectual functioning or emotional state of a vulnerable adult as evidenced by an observable or measurable reduction in the vulnerable adult's ability to function within that person's customary range of performance and that person's behavior.</p> <p>(24) <u>Sexual abuse</u> means acts of a sexual nature committed in the presence of a vulnerable adult without that person's informed consent. "Sexual abuse" includes, but is not limited to, the acts defined in s. 794.011(1)(h), fondling, exposure of a vulnerable adult's sexual organs, or the use of a vulnerable adult to solicit for or engage in prostitution or sexual performance. "Sexual abuse" does not include any act intended for a valid medical purpose or any act that may reasonably be construed to be normal caregiving action or appropriate display of affection.</p> <p>(25) <u>Victim</u> means any vulnerable adult named in a report of abuse, neglect, or exploitation.</p> <p>(26) <u>Vulnerable adult</u> means a person 18 years of age or older whose ability to perform the normal activities of daily living or to provide for his or her own care or protection is impaired due to a mental, emotional, long-term physical, or developmental disability or dysfunctioning, or brain damage, or the infirmities of aging.</p> <p>(27) <u>Vulnerable adult in need of services</u> means a vulnerable adult who has been determined by a protective investigator to be suffering from the ill effects of neglect not caused by a second party perpetrator and is in need of protective services or other services to prevent further harm.</p>
<b>Penalties</b> <i>(Florida)</i>	<p>FL. ST.§ 825.102 (West 2008)</p> <p><u>Abuse, aggravated abuse, and neglect of an elderly person or disabled adult; penalties</u></p>

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<b>Penalties Cont'd</b> <i>(Florida)</i>	<p>(1)(c) A person who knowingly or willfully abuses an elderly person or disabled adult without causing great bodily harm, permanent disability, or permanent disfigurement to the elderly person or disabled adult commits a felony of the third degree.</p> <p>FL. ST.§ 775.082 (West 2008)  <u>Penalties; applicability of sentencing structures; mandatory minimum sentences for certain reoffenders previously released from prison</u></p> <p>(3)(d) For a felony of the third degree, by a term of imprisonment not exceeding 5 years.</p> <p>FL. ST.§ 775.083 (West 2008)  <u>Fines</u></p> <p>(1) A person who has been convicted of an offense other than a capital felony may be sentenced to pay a fine in addition to any punishment described in s. 775.082; when specifically authorized by statute, he or she may be sentenced by pay a fine in lieu of any punishment described in s. 775.082. A person who has been convicted of a noncriminal violation may be sentenced to pay a fine. Fines for designated crimes and for noncriminal violations shall not exceed:  (c) \$5,000, when the conviction is of a felony of the third degree</p> <p>FL. ST.§ 825.102 (West 2008)  <u>Abuse, aggravated abuse, and neglect of an elderly person or disabled adult; penalties</u></p> <p>(2)(c) A person who commits aggravated abuse of an elderly person or disabled adult commits a felony of the second degree.</p> <p>FL. ST.§ 775.082 (West 2008)  <u>Penalties; applicability of sentencing structures; mandatory minimum sentences for certain reoffenders previously released from prison</u></p>
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<b>Applicability to Youth</b> (Florida)	The above statutes are not applicable to youth
<b>GEORGIA</b>	
<b>Statute</b> (Georgia)	<p>GA. CODE ANN. § 30-5-8 (West 2008)  <u>Unlawful Acts</u></p> <p>GA. CODE ANN. § 16-5-100 (West 2008)  <u>Cruelty to a person who is 65 years of age or older</u></p> <p>GA. CODE ANN. § 30-5-3 (West 2008)</p>

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<b>Statute Cont'd</b> <i>(Georgia)</i>	<u>Definitions</u>  GA. CODE ANN. § 31-8-81 (West 2008) <u>Definitions</u>  GA. CODE ANN. § 16-6-5.1 (West 2008) <u>Sexual Assault</u>
<b>Coverage</b> <i>(Georgia)</i>	GA. CODE ANN. § 30-5-8 (West 2008) <u>Unlawful Acts</u>  (a)(1) In addition to any other provision of law, the abuse, neglect, or exploitation of any disabled adult or elder person shall be unlawful. (c) Any violation of this Code section shall constitute a separate offense.  GA. CODE ANN. § 16-5-100 (West 2008) <u>Cruelty to a person who is 65 years of age or older</u>  (a) A guardian of other person supervising the welfare of or having immediate charge or custody of a person who is 65 years of age or older commits the offense of cruelty to a person who is 64 years of age or older when the person willfully deprives a person who is 65 years of age or older of health care, shelter, or necessary sustenance to the extent that the health or well-being of a person who is 65 years of age or older is jeopardized.  (b) The provisions of this Code section shall not apply to a physician nor any person acting under a physician's direction nor to a hospital, skilled nursing facility, hospice, nor any agent or employee thereof who is in good faith following a course of

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<b>Definitions</b> (Georgia)	<p>GA. CODE ANN. § 30-5-3 (West 2008)</p> <p><u>Definitions</u></p> <p>As used in this chapter, the term:</p> <p>(1) <u>Abuse</u> means the willful infliction of physical pain, physical injury, mental anguish, unreasonable confinement, or the willful deprivation of essential services to a disabled adult or elder person.</p> <p>(2) <u>Caretaker</u> means a person who has the responsibility for the care of a disabled adult or elder person as a result of family relationship, contract, voluntary assumption of that responsibility, or by operation of law.</p> <p>(6) <u>Disabled adult</u> means a person 18 years of age or older who is not a resident of a long--term care facility, as defined in Article 4 of Chapter 8 of Title 31, but who is mentally or physically incapacitated.</p> <p>(7) <u>Disabled adult in need of protective services</u> means a disabled adult who is subject to abuse, neglect, or exploitation as a result of that adult's mental or physical incapacity.</p> <p>(7.1) <u>Elder person</u> means a person 65 years of age or older who is not a resident of a long-term care facility as defined in Article 4 of Chapter 8 of Title 31.</p> <p>(8) <u>Essential services</u> means social, medical, psychiatric, or legal services necessary to safeguard the disabled adult's or elder person's rights and resources and to maintain the physical and mental well-being of such person. These services shall include, but not be limited to, the provision of medical care for physical and mental health needs, assistance in personal hygiene, foods,</p>

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<p><b>Definitions</b> <b>Cont'd</b> (Georgia)</p>	<p>clothing, adequately heated and ventilated shelter, and protection from health and safety hazards but shall not include the taking into physical custody of a disabled adult or elder person without that person's consent.</p> <p>(10) <u>Neglect</u> means the absence or omission of essential services to the degree that it harms or threatens with harm the physical or emotional health of a disabled adult or elder person.</p> <p>(11) <u>Protective services</u> means services necessary to protect a disabled adult or elder person from abuse, neglect, or exploitation. Such services shall include, but not be limited to, evaluation of the need for services and mobilization of essential services on behalf of a disabled adult or elder person.</p> <p>GA. CODE ANN. § 16-6-5-.1 (West 2008) <u>Sexual Assault</u></p> <p>(a) As used in this Code section, the term:</p> <p>(1) "Actor" means a person accused of sexual assault.</p> <p>(2) "Intimate parts" means the genital area, groin, inner thighs, buttocks, or breasts of a person.</p> <p>(4) "Sexual contact" means any contact between the actor and a person not married to the actor involving the intimate parts of either person for the purpose of sexual gratification of the actor.</p> <p>GA. CODE ANN. § 31-8-81 (West 2008) <u>Definitions</u></p> <p>(3) <u>Long-term care facility</u> or <u>facility</u> means any skilled nursing home, intermediate care home, personal care home, or</p>
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**\*While not reflected on this chart, most states have enhanced penalties for sexual assault/battery/or other relevant statutes where the victim is considered "vulnerable"**

**\*\* Some states use child abuse statutes to address the vulnerability of youth under 18; those are not reflected in this chart. However for states that consider youth as a vulnerable persons under these specific statutes are noted here.**

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<b>Definitions Cont'd</b> <i>(Georgia)</i>	community living arrangement now or hereafter subject to regulation and licensure by the department.
<b>Penalties</b> <i>(Georgia)</i>	<p>GA. CODE ANN. § 30-5-8 (West 2008)  <u>Unlawful Acts</u></p> <p>(a)(2) Except as otherwise provided in Title 16, any person violating the provisions of this subsection shall be guilty of a felony and, upon conviction, shall be punished by imprisonment for not less than one nor more than 5 years</p> <p>GA. CODE ANN. § 16-5-100 (West 2008)  <u>Cruelty to a person who is 65 years of age or older</u></p> <p>(c) A person convicted of the offense of cruelty to a person who is 65 years of age or older as provided in this Code section shall be punished by imprisonment for not less than 1 nor more than 20 years.</p> <p>GA. CODE ANN. § 16-6-5-.1 (West 2008)  <u>Sexual Assault</u></p> <p>(b) A person convicted of sexual assault shall be punished by imprisonment for not less than ten nor more than 30 years; provided, however, that any person convicted of the offense of sexual assault under this subsection of a child under the age of 14 years shall be punished by imprisonment for not less than 25 nor more than 50 years. Any person convicted under this subsection of the offense of sexual assault shall, in addition, be subject to the sentencing and punishment provisions of Code Section 17-10-6.2.</p>

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<b>Applicability to Youth</b> (Georgia)	The above statutes are not applicable to youth
<b>GUAM</b>	
<b>Statute</b> (Guam)	<p>9 G.C.A. § 31.40 (West 2008) <u>Abuse of An Incompetent; Defined &amp; Punished</u></p> <p>9 G.C.A. § 80.30 (West 2008) <u>Duration of Imprisonment</u></p> <p>9 G.C.A. § 80.34 (West 2008) <u>Misdemeanor &amp; Petty Misdemeanor Sentences</u></p>
<b>Coverage</b> (Guam)	<p>9 G.C.A. § 31.40 (West 2008) <u>Abuse of An Incompetent; Defined &amp; Punished</u></p> <p>(a) A person is guilty of abuse of an incompetent &amp; when:  (1) he subjects an incompetent to cruel mistreatment; or  (2) having an incompetent in his care of custody or under his control, he:  (A) deserts that incompetent with intent to abandon him;  (B) subjects that incompetent to cruel mistreatment; or  (C) unreasonably causes or permits the physical or emotional health of that incompetent to be endangered.</p>

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<b>Definitions</b> <i>(Guam)</i>	<p>9 G.C.A. § 31.40 (West 2008)  <u>Abuse of An Incompetent; Defined &amp; Punished</u></p> <p>(b) As used in this Section, <u>incompetent</u> means a person who is unable to care for himself because of old age, or because of physical or mental illness, disease or defect.</p>
<b>Penalties</b> <i>(Guam)</i>	<p>9 G.C.A. § 31.40 (West 2008)  <u>Abuse of An Incompetent; Defined &amp; Punished</u></p> <p>(c) Abuse of an incompetent is a felony of the third degree when it is committed under circumstances likely to result in death or serious bodily injury. Otherwise, it is a misdemeanor.</p> <p>9 G.C.A. § 80.30 (West 2008)  <u>Duration of Imprisonment</u></p> <p>Except as otherwise provided by law, a person who has been convicted of a felony may be sentenced to imprisonment as follows:  (c) In the case of a felony of the third degree, the court may impose a sentence of not more than 5 years.</p> <p>9 G.C.A. § 80.34 (West 2008)  <u>Misdemeanor &amp; Petty Misdemeanor Sentences</u></p> <p>Except as otherwise provided by § 80.36, a person who has been convicted of a misdemeanor or a petty misdemeanor may be sentenced to imprisonment, as follows:  (a) in the case of a misdemeanor, the court shall set a maximum term not to exceed one (1) year;</p>

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<b>HAWAII</b>	
<b>Statute</b> (Hawaii)	<p>H.R.S. § 709-905 (West 2008) <u>Endangering the welfare of an incompetent person</u></p> <p>H.R.S. § 346-222 (West 2008) <u>Definitions</u></p> <p>H.R.S. § 321-36 (West 2008)</p> <p>H.R.S. § 302A-481 (West 2008) Definitions</p> <p>H.R.S. § 346-82 (West 2008)</p> <p>H.R.S. § 706-663 (West 2008) <u>Sentence of imprisonment for misdemeanor and petty misdemeanor</u></p>
<b>Coverage</b> (Hawaii)	<p>H.R.S. § 709-905 (West 2008) <u>Endangering the welfare of an incompetent person</u></p>

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<b>Coverage Cont'd</b> <i>(Hawaii)</i>	<p>(1) A person commits the offense of endangering the welfare of an incompetent person if he knowingly acts in a manner likely to be injurious to the physical or mental welfare of a person who is unable to care for himself because of physical or mental disease, disorder, or defect.</p>
<b>Definitions</b> <i>(Hawaii)</i>	<p>H.R.S. § 346-222 (West 2008)</p> <p><u>Definitions</u></p> <p>“Abuse” means any of the following, separately or in combination:</p> <ol style="list-style-type: none"> <li>(1) Physical abuse;</li> <li>(2) Psychological abuse;</li> <li>(3) Sexual abuse;</li> <li>(4) Financial exploitation;</li> <li>(5) Caregiver neglect; or</li> <li>(6) Self-neglect;</li> </ol> <p>each as further defined in this chapter. Abuse does not include, and a determination of abuse shall not be based solely on, physical, psychological, or financial conditions that result when a <u>vulnerable adult</u> seeks, or when a caregiver provides or permits to be provided, treatment with the express consent of the vulnerable adult or in accordance with the vulnerable adult's religious or spiritual practices</p> <p>“Capacity” means the ability to understand and appreciate the nature and consequences of making decisions concerning one's person or to communicate these decisions.</p> <p>“Caregiver” means any person who has knowingly and willingly assumed, on a part-time or full-time basis, the care, supervision, or physical control of, or who has a legal or contractual duty to care for the health, safety, and welfare of a vulnerable adult.</p> <p>“Caregiver neglect” means the failure of a caregiver to exercise that degree of care for a vulnerable adult that a reasonable</p>

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<b>Definitions Cont'd (Hawaii)</b>	<p>person with the responsibility of a caregiver would exercise within the scope of the caregiver's assumed, legal or contractual duties, including but not limited to the failure to:</p> <ol style="list-style-type: none"> <li>(1) Assist with personal hygiene;</li> <li>(2) Protect the vulnerable adult from abandonment;</li> <li>(3) Provide, in a timely manner, necessary food, shelter, or clothing;</li> <li>(4) Provide, in a timely manner, necessary health care, access to health care, prescribed medication, psychological care, physical care, or supervision;</li> <li>(5) Protect the vulnerable adult from dangerous, harmful, or detrimental drugs, as defined in section 712-1240; provided that this paragraph shall not apply to drugs that are provided to the vulnerable adult pursuant to the direction or prescription of a practitioner, as defined in section 712-1240;</li> <li>(6) Protect the vulnerable adult from health and safety hazards; or</li> <li>(7) Protect the vulnerable adult from abuse by third parties.</li> </ol> <p>“Physical abuse” means:</p> <ol style="list-style-type: none"> <li>(1) The nonaccidental infliction of physical or bodily injury, pain, or impairment, including but not limited to hitting, slapping, causing burns or bruises, poisoning, or improper physical restraint; or</li> <li>(2) Causing physical injuries that are not justifiably explained or where the history given for an injury is at variance with the degree or type of injury.</li> </ol> <p>“Protective services plan” means a specific written plan, prepared by the department, that sets forth the specific services and treatment to be provided to a vulnerable adult</p> <p>“Psychological abuse” means the infliction of mental or emotional distress by use of threats, insults, harassment, humiliation, provocation, intimidation, or other means that profoundly confuse or frighten a vulnerable adult.</p> <p>“Self-neglect” means:</p>
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<b>Definitions</b> <b>Cont'd</b> <i>(Hawaii)</i>	<p>(1) A vulnerable adult's inability or failure, due to physical or mental impairment, or both, to perform tasks essential to caring for oneself, including but not limited to:</p> <p>(A) Obtaining essential food, clothing, shelter, and medical care;</p> <p>(B) Obtaining goods and services reasonably necessary to maintain minimum standards of physical health, mental health, emotional well-being, and general safety; or</p> <p>(C) Management of one's financial assets and obligations to accomplish the activities in subparagraphs (A) and (B); and</p> <p>(2) The vulnerable adult appears to lack sufficient understanding or capacity to make or communicate responsible decisions and appears to be exposed to a situation or condition that poses an immediate risk of death or serious physical harm.</p> <p>“Sexual abuse” means nonconsensual sexual contact or conduct caused by another person, including but not limited to:</p> <p>(1) Sexual assault, molestation, sexual fondling, incest, or prostitution;</p> <p>“Vulnerable adult” means a person eighteen years of age or older who, because of mental, developmental, or physical impairment, is unable to:</p> <p>(1) Communicate or make responsible decisions to manage the person's own care or resources;</p> <p>(2) Carry out or arrange for essential activities of daily living; or</p> <p>(3) Protect oneself from abuse, as defined in this part.</p> <p>H.R.S. § 346-82 (West 2008)</p> <p>(1) “Elder” means any person as may otherwise be defined by the department, who desires and needs counseling, guidance, and assistance to modify or resolve the social, economic, educational, recreational, physical, or mental problem that impedes the person's personal functioning and well-being.</p> <p>(2) “Day care center for elder disabled and aged persons” means a place maintained and operated by an individual, organization, or agency for the purpose of providing supportive and protective care to a disabled or aged person with or</p>
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<b>Definitions</b> <b>Cont'd</b> <i>(Hawaii)</i>	<p>without charging a fee during the attendant working day. The term “day care center” includes place designated for group care for four or more adults or a family home providing care for two or three adults. The term “disabled and aged persons” refers to persons who live with a spouse, relative, or friend but who require temporary supervision and care during the absence of people from the home or residence.</p> <p>Nothing in section 346-83 shall be construed to include a relative caring for another relative; a neighbor or friend caring for an adult by mutual choice and agreement; or any center or facility conducted primarily or solely for educational, social, recreational, athletic or other group functions that may provide for twenty-four-hour boarding, personal, or nursing care accommodation.</p> <p>HRS § 321-36 (West 2008)</p> <p>“Infants in need of extra services” include infants who are ill or handicapped or the result of a multiple birth.</p> <p>“Secondary prevention programs” mean programs directed at recognizing, assessing, and achieving change in high risk situations so that abuse and neglect do not occur.</p> <p>HRS § 302A-481 (West 2008)  Definitions</p> <p>“Caregiver” means any person who is at least eighteen years of age and:</p> <p>(1) Related by blood, marriage, or adoption to the minor, including a person who is entitled to an award of custody pursuant to section 571-46(a)(2) but is not the legal custodian or guardian of the minor;</p> <p>(2) Has resided with the minor for a continuous immediate preceding period of six months or more.</p>
<b>Penalties</b> <i>(Hawaii)</i>	<p>H.R.S. § 709-905 (West 2008)</p> <p><u>Endangering the welfare of an incompetent person</u></p>

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<b>Penalties Cont'd</b> <i>(Hawaii)</i>	<p>(2) Endangering the welfare of an incompetent person is a misdemeanor.</p> <p>H.R.S. § 706-663 (West 2008)  <u>Sentence of imprisonment for misdemeanor and petty misdemeanor</u></p> <p>After consideration of the factors to be considered when imposing a sentence as set forth in sections 706-606 and 706-621, the court may sentence a person who has been convicted of a misdemeanor or a petty misdemeanor to imprisonment for a definite term to be fixed by the court and not to exceed one year in the case of a misdemeanor or thirty days in the case of a petty misdemeanor.</p>
<b>Applicability to Youth</b> <i>(Hawaii)</i>	<p>The above statutes are not applicable to youth</p>
<b>IDAHO</b>	
<b>Statute</b> <i>(Idaho)</i>	<p>I.C. § 18-1505 (West 2008)  <u>Abuse, exploitation or neglect of a vulnerable adult</u></p> <p>I.C. § 18-1505A (West 2008)  <u>Abandoning a vulnerable adult</u></p> <p>I.C. § 18-1505B (West 2008)  <u>Sexual abuse and exploitation of a vulnerable adult</u></p>

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<b>Statute Cont'd</b> (Idaho)	I.C. § 18-113 (West 2008) <u>Punishment for misdemeanor</u>
<b>Coverage</b> (Idaho)	<p>I.C. § 18-1505 (West 2008) <u>Abuse, exploitation or neglect of a vulnerable adult</u></p> <p>(1) Any person who abuses or neglects a vulnerable adult under circumstances likely to produce great bodily harm or death is guilty of a felony punishable by imprisonment for not more than 10 years and not more than \$ 25,000 fine.</p> <p>(2) Any person who abuses or neglects a vulnerable adult under circumstances other than those likely to produce great bodily harm or death is guilty of a misdemeanor.</p> <p>(3) Any person who exploits a vulnerable adult is guilty of a misdemeanor, unless the monetary damage from such exploitation exceeds \$1,000, in which case the person is guilty of a felony punishable by imprisonment for not more than 10 years and not more than a \$25,000 fine.</p> <p>(5) Nothing in this section shall be construed to mean a person is abused, neglected or exploited for the sole reason he is relying upon treatment by spiritual means through prayer alone in accordance with the tenets and practices of a recognized church or religious denomination; nor shall the provisions of this section be construed to require any medical care or treatment in contravention of the stated or implied objection of such a person.</p> <p>(6) Nothing in this section shall be construed to mean that an employer or supervisor of a person who abuses, exploits or neglects a vulnerable adult may be prosecuted unless there is direct evidence of a violation of this statute by the employer or supervisor.</p> <p>I.C. § 18-1505A (West 2008) <u>Abandoning a vulnerable adult</u></p>

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<p><b>Coverage</b> <b>Cont'd</b> <i>(Idaho)</i></p>	<p>(1) A person who abandons a vulnerable adult, as that term is defined in section 18-1505, Idaho Code, in deliberate disregard of the vulnerable adult's safety or welfare, regardless of whether the vulnerable adult suffered physical harm from the act of abandonment, shall be guilty of a felony and shall be imprisoned in the state prison for a period not in excess of 5 years, or by a fine not exceeding \$5,000, or by both such fine and imprisonment. It shall not be a defense to prosecution under the provisions of this section that the perpetrator lacked the financial ability to means to provide food, clothing, shelter or medical care reasonably necessary to sustain the life and health of a vulnerable adult.</p> <p>I.C. § 18-1505B (West 2008) <u>Sexual abuse and exploitation of a vulnerable adult</u></p> <p>(1) It is a felony for any person, with the intent of arousing, appealing to or gratifying the lust, passion or sexual desires of such person, a vulnerable adult or a third party, to:</p> <p>(a) Commit any lewd or lascivious act or acts upon or with the body or any part or member thereof of a vulnerable adult including, but not limited to: 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;</p> <p>(b) Involve a vulnerable adult in any act of bestiality or sadomasochism as defined in section 18-1507, Idaho Code; or</p> <p>(c) Cause or have sexual contact with a vulnerable adult, not amounting to lewd conduct as defined in paragraph (a) of this subsection.</p> <p>(4) It shall be a felony for any person to commit sexual exploitation of a vulnerable adult if, for any commercial purpose, as defined in section 18-1507, Idaho Code, he knowingly:</p> <p>(a) Causes, induces or permits vulnerable adult to engage in or be used in any explicit sexual conduct as defined in section 18-1507, Idaho Code; or</p> <p>(b) Prepares, arranges for, publishes, produces, makes, sells, finances, offers, exhibits, advertises, deals in, possess or distributes sexually exploitive material as defined in section 18-1507 Idaho Code, depicting a vulnerable adult engaged in, observing, or being used for explicit sexual conduct.</p>
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<b>Definitions</b> <i>(Idaho)</i>	<p>I.C. § 18-1505 (West 2008)  <u>Abuse, exploitation or neglect of a vulnerable adult</u></p> <p>(4) As used in this section:</p> <p>(a) <u>Abuse</u> means the intentional or negligent infliction of physical pain, injury or mental injury. Intentional abuse shall be punished under subsection (1) or (2) of this section depending upon the harm inflicted. Abuse by negligent infliction shall only be punished under subsection (2) of this section.</p> <p>(b) "Caretaker" means any individual or institution that is responsible by relationship, contract or court order to provide food, shelter or clothing, medical or other life-sustaining necessities to a vulnerable adult.</p> <p>(c) "Exploitation" or "exploit" means an action which may include, but is not limited to, the unjust or improper use of a vulnerable adult's financial power of attorney, funds, property or resources by another person for profit or advantage.</p> <p>(d) "Neglect" means failure of a caretaker to provide food, clothing, shelter or medical care to a vulnerable adult, in such a manner as to jeopardize the life, health and safety of the vulnerable adult.</p> <p>(e) "Vulnerable adult" means a person eighteen (18) years of age or older who is unable to protect himself from abuse, neglect or exploitation due to physical or mental impairment which affects the person's judgment or behavior to the extent that he lacks sufficient understanding or capacity to make or communicate or implement decisions regarding his person, funds, property or resources.</p> <p>I.C. § 18-1505A (West 2008)  <u>Abandoning a vulnerable adult</u></p> <p>(2) As used in this section <u>abandon</u> means the desertion or willful forsaking of a vulnerable adult by any individual, caretaker as defined by subsection (4)(b) or section 18-1505, Idaho Code, or entity which has assumed responsibility for the care of a</p>
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### NIC/WCL Project on Addressing Prison Rape

<b>Definitions</b> <b>Cont'd</b> <i>(Idaho)</i>	<p>vulnerable adult by contract, receipt of payment of care, any relationship arising from blood or marriage wherein the vulnerable adult has become the dependent of another or by order of a court of competent jurisdiction; provided that abandon shall not mean the termination of services to a vulnerable adult by a physician licensed under chapter 18, title 54, Idaho Code, or anyone under direct supervision, where the physician determines, in the exercise of his professional judgment, that termination of such services is in the best interests of the patient.</p> <p>I.C. § 18-1505B (West 2008)  <u>Sexual abuse and exploitation of a vulnerable adult</u></p> <p>(2) For the purposes of this section:</p> <p>(a) "Sexual contact" means any physical contact between a vulnerable adult and any person or between vulnerable adults, which is caused by the actor, or the actor causing the vulnerable adult to have self-contact;</p> <p>(b) "Sexually exploitative material" means any photograph, motion picture, videotape, print, negative, slide or other mechanically, electronically or chemically reproduced visual material that depicts a vulnerable adult engaged in, participating in, observing or being used for explicit sexual conduct;</p> <p>(c) "Vulnerable adult" is as defined in section 18-1505, Idaho Code.</p>
<b>Penalties</b> <i>(Idaho)</i>	<p>I.C. § 18-1505 (West 2008)  <u>Abuse, exploitation or neglect of a vulnerable adult</u></p> <p>(1) Any person who abuses or neglects a vulnerable adult under circumstances likely to produce great bodily harm or death is guilty of a felony punishable by imprisonment for not more than 10 years and not more than \$ 25,000 fine.</p> <p>I.C. § 18-1505 (West 2008)</p>

#### NOTES:

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<b>Penalties Cont'd</b> <i>(Idaho)</i>	<p><u>Abuse, exploitation or neglect of a vulnerable adult</u></p> <p>(2) Any person who abuses or neglects a vulnerable adult under circumstances other than those likely to produce great bodily harm or death is guilty of a misdemeanor.</p> <p>I.C. § 18-113 (West 2008)  <u>Punishment for misdemeanor</u></p> <p>(1) Except in cases where a different punishment is prescribed in this code, every offense declared to be a misdemeanor, is punishable by imprisonment in a county jail not exceeding 6 months, or by a fine not exceeding \$1,000 or by both.</p> <p>(2) In addition to any other punishment prescribed for misdemeanors in specific statutes of the Idaho Code, the court may also impose a fine of up to \$1,000. This paragraph shall not apply if the specific misdemeanor statute provides for the imposition of a fine.</p> <p>I.C. § 18-1505 (West 2008)  <u>Abuse, exploitation or neglect of a vulnerable adult</u></p> <p>(3) Any person who exploits a vulnerable adult is guilty of a misdemeanor, unless the monetary damage from such exploitation exceeds \$1,000, in which case the person is guilty of a felony punishable by imprisonment for not more than 10 years and not more than a \$25,000 fine.</p> <p>I.C. § 18-1505A (West 2008)  <u>Abandoning a vulnerable adult</u></p> <p>(1) Any person who abandons a vulnerable adult, as that term is defined in section 18-1505, Idaho Code, in deliberate disregard of the vulnerable adult's safety or welfare, regardless of whether the vulnerable adult suffered physical harm from</p>
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<b>Penalties Cont'd</b> <i>(Idaho)</i>	<p>the act of abandonment, shall be guilty of a felony and shall be imprisoned in the state prison for a period not in excess of five (5) years, or by a fine not exceeding five thousand dollars (\$5,000), or by both such fine and imprisonment. It shall not be a defense to prosecution under the provisions of this section that the perpetrator lacked the financial ability or means to provide food, clothing, shelter or medical care reasonably necessary to sustain the life and health of a vulnerable adult.</p> <p>I.C. § 18-1505B (West 2008)  <u>Sexual abuse and exploitation of a vulnerable adult</u></p> <p>(3) Sexual abuse of a vulnerable adult is a felony and shall be punishable by imprisonment in the state prison for a period not to exceed 25 years or by a fine not to exceed \$25,000, or by both such fine and imprisonment.</p> <p>I.C. § 18-1505B (West 2008)  <u>Sexual abuse and exploitation of a vulnerable adult</u></p> <p>(6) Sexual exploitation of a vulnerable adult shall be punishable by imprisonment in the state prison for a period not to exceed 15 years or by a fine not to exceed \$25,000, or by both such fine and imprisonment.</p>
<b>Applicability to Youth</b> <i>(Idaho)</i>	<p>The above statutes are not applicable to youth</p>
<b>ILLINOIS</b>	
<b>Statute</b> <i>(Illinois)</i>	<p>720 I.L.C.S. 5/12-21 (West 2008)  <u>Criminal abuse or neglect of an elderly person or person with a disability</u></p>

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<b>Statute Cont'd</b> <i>(Illinois)</i>	730 I.L.C.S. 5/5-8-1 (West 2008) <u>Sentence of Imprisonment for Felony</u>
<b>Coverage</b> <i>(Illinois)</i>	720 I.L.C.S. 5/12-21 (West 2008) <u>Criminal abuse or neglect of an elderly person or person with a disability</u>  (a) A person commits the offense of criminal abuse or neglect of an elderly person or person with a disability when he or she is a caregiver and he or she knowingly: (1) performs acts that cause the elderly person or person with a disability's life to be endangered, health to be injured, or pre-existing physical or mental condition to deteriorate; or (2) fails to perform acts that he or she knows or reasonably should know are necessary to maintain or preserve the life or health of the elderly person or person with a disability and such failure causes the elderly person or person with a disability's life to be endangered, health to be injured or pre-existing physical or mental condition to deteriorate; or (3) abandons the elderly person or person with a disability; or (4) physically abuses, harasses, intimidates, or interferes with the personal liberty of the elderly person or person with a disability or exposes the elderly person or person with a disability to willful deprivation.  (c) Nothing in this Section shall be construed to limit the remedies available to the victim under the Illinois Domestic Violence Act.  (d) Nothing in this Section shall be construed to impose criminal liability on a person who has made a good faith effort to provide for the health and personal care of an elderly person or person with a disability, but through no fault of his own has been unable to provide such care.  (e) Nothing in this Section shall be construed as prohibiting a person from providing treatment by spiritual means through prayer alone and care consistent therewith in lieu of medical care and treatment in accordance with the tenets and practices of

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<b>Coverage Cont'd</b> <i>(Illinois)</i>	<p>any church or religious denomination of which the elderly person or person with a disability is a member</p> <p>(f) It is not a defense to criminal abuse or neglect of an elderly person or person with a disability that the accused reasonably believed that the victim was not an elderly person or person with a disability.</p>
<b>Definitions</b> <i>(Illinois)</i>	<p>720 I.L.C.S. 5/12-21 (West 2008)</p> <p><u>Criminal abuse or neglect of an elderly person or person with a disability</u></p> <p>(b) For purposes of this Section:</p> <p>(1) <u>Elderly person</u> means a person 60 years of age or older who is incapable of adequately providing for his own health and personal care.</p> <p>(2) <u>Person with a disability</u> means a person who suffers from a permanent physical or mental impairment, resulting from disease, injury, functional disorder or congenital condition which renders such person incapable of adequately providing for his own health and personal care.</p> <p>(3) <u>Caregiver</u> means a person who has a duty to provide for an elderly person or person with a disability's health and personal care, at such person's place of residence, including but not limited to, food and nutrition, shelter, hygiene, prescribed medication and medical care and treatment. <u>Caregiver</u> shall include:</p> <p>(A) a parent, spouse, adult child or other relative by blood or marriage who resides with or resides in the same building with or regularly visits the elderly person or person with a disability, knows or reasonably should know of such person's physical or mental impairment and knows or reasonably should know that such person is unable to adequately provide for his own health and personal care;</p> <p>(B) a person who is employed by the elderly person or person with a disability or by another to reside with or regularly visit the elderly person or person with a disability and provide for such person's health and personal care;</p> <p>(C) a person who has agreed for consideration to reside with or regularly visit the elderly person or person with a disability and provide for such person's health and personal care; and</p>

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<b>Definitions</b> <b>Cont'd</b> <i>(Illinois)</i>	<p>(D) a person who has been appointed by a private or public agency or by a court of competent jurisdiction to provide for the elderly person or person with a disability's health and personal care.</p> <p><u>Caregiver</u> shall not include a long-term care facility licensed or certified under the Nursing Home Care Act or any administrative, medical or other personnel of such a facility, or a health care provider who is licensed under the Medical Practice Act of 1987 and renders care in the ordinary course of his profession.</p> <p>(4) <u>Abandon</u> means to desert or knowingly forsake an elderly person or person with a disability under circumstances in which a reasonable person would continue to provide care and custody</p> <p>(5) Willful deprivation has the meaning ascribed to it in paragraph (15) of Section 103 of the Illinois Domestic Violence Act of 1986.</p>
<b>Penalties</b> <i>(Illinois)</i>	<p>720 I.L.C.S. 5/12-21 (West 2008)  <u>Criminal abuse or neglect of an elderly person or person with a disability</u></p> <p>Criminal abuse or neglect of an elderly person or person with a disability is a Class 3 felony.</p> <p>730 I.L.C.S. 5/5-8-1 (West 2008)  <u>Sentence of Imprisonment for Felony</u></p> <p>(a) Except as otherwise provided in the statute defining the offense, a sentence of imprisonment for a felony shall be a determinate sentence set by the court under this Section, according to the following limitations:          (6) for a Class 3 felony, the sentence shall be not less than 2 years and not more than 5 years;</p> <p>720 I.L.C.S. 5/12-21 (West 2008)  <u>Criminal abuse or neglect of an elderly person or person with a disability</u></p>

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<b>Penalties Cont'd</b> <i>(Illinois)</i>	<p>Criminal neglect of an elderly person or person with a disability is a Class 2 felony if the criminal neglect results in the death of the person neglected for which the defendant, if sentenced to a term of imprisonment, shall be sentenced to a term of not less than 3 years and not more than 14 years.</p> <p>730 I.L.C.S. 5/5-8-1 (West 2008)  <u>Sentence of Imprisonment for Felony</u></p> <p>(a) Except as otherwise provided in the statute defining the offense, a sentence of imprisonment for a felony shall be a determinate sentence set by the court under this Section, according to the following limitations:  (5) for a Class 2 felony, the sentence shall be not less than 3 years and not more than 7 years;</p>
<b>Applicability to Youth</b> <i>(Illinois)</i>	<p>720 I.L.C.S. 5/12-21 (West 2008)  <u>Criminal abuse or neglect of an elderly person or person with a disability</u></p> <p>This statute does not exclude youth from its definition of “person with a disability” and therefore may be construed as including youth with disabilities.</p>
<b>INDIANA</b>	
<b>Statute</b> <i>(Indiana)</i>	<p>I.C. § 35-42-2-1 (West 2008)  <u>Battery</u></p> <p>I.C. § 12-10-3-2 (West 2008)  <u>"Endangered adult" defined</u></p>

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<b>Statute Cont'd</b> <i>(Indiana)</i>	<p>I.C. § 35-50-3-3 (West 2008)  <u>Class B misdemeanor</u></p> <p>I.C. § 35-50-2-7  <u>Class D felony</u></p>
<b>Coverage</b> <i>(Indiana)</i>	<p>I.C. § 35-42-2-1 (West 2008)  <u>Battery</u></p> <p>Sec. 1. (a) A person who knowingly or intentionally touches another person in a rude, insolent, or angry manner commits battery, a Class B misdemeanor. However, the offense is:</p> <p>(2) a Class D felony if it results in bodily injury to:</p> <p>(C) a person of any age who is mentally or physically disabled and is committed by a person having the care of the mentally or physically disabled person, whether the care is assumed voluntarily or because of a legal obligation;</p> <p>(E) an endangered adult (as defined in IC 12-10-3-2);</p>
<b>Definitions</b> <i>(Indiana)</i>	<p>I.C. § 12-10-3-2 (West 2008)  <u>"Endangered adult" defined</u></p> <p>(b) For purposes of IC 12-10-3-17, IC 35-42-2-1, and IC 35-46-1-13, <u>endangered adult</u> means an individual who is:</p> <p>(1) at least eighteen (18) years of age;</p> <p>(2) incapable by reason of mental illness, mental retardation, dementia, or other physical or mental incapacity of managing or directing the management of the individual's property or providing or directing the provision of self-care; and</p> <p>(3) harmed or threatened with harm as a result of:</p> <p>(A) neglect; or</p>

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<b>Definitions Cont'd</b> <i>(Indiana)</i>	<p>(B) battery.</p> <p>(c) An individual is not an endangered adult solely:</p> <p>(1) for the reason that the individual is being provided spiritual treatment in accordance with a recognized religious method of healing instead of specified medical treatment if the individual would not be considered to be an endangered adult if the individual were receiving the medical treatment; or</p> <p>(2) on the basis of being physically unable to provide self care when appropriate care is being provided.</p>
<b>Penalties</b> <i>(Indiana)</i>	<p>I.C. § 35-42-2-1 (West 2008)  <u>Battery</u></p> <p>Sec. 1. (a) A person who knowingly or intentionally touches another person in a rude, insolent, or angry manner commits battery, a Class B misdemeanor.</p> <p>I.C. § 35-50-3-3 (West 2008)  <u>Class B misdemeanor</u></p> <p>A person who commits a Class B misdemeanor shall be imprisoned for a fixed term of not more than one hundred eighty (180) days; in addition, he may be fined not more than one thousand dollars (\$1,000)</p> <p>I.C. § 35-42-2-1 (West 2008)  <u>Battery</u></p> <p>However, the offense is:</p> <p>(2) a Class D felony if it results in bodily injury to:</p> <p>I.C. § 35-50-2-7 (West 2008)</p>

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<b>Penalties Cont'd</b> <i>(Indiana)</i>	<u>Class D felony</u>  Sec. 7. (a) A person who commits a Class D felony shall be imprisoned for a fixed term of between 6 months and 3 years, with the advisory sentence being 1 ½ years. In addition, the person may be fined not more than \$10,000.
<b>Applicability to Youth</b> <i>(Indiana)</i>	I.C. § 35-42-2-1 (West 2008) <u>Battery</u>  Applies to youth who are mentally or physically disabled.
<b>IOWA</b>	
<b>Statute</b> <i>(Iowa)</i>	I.C.A. § 726.8 (West 2008) <u>Wanton neglect or nonsupport of a dependent adult</u>  I.C.A. § 235B.2 (West 2008) <u>Definitions</u>  I.C.A. § 135C.1 (West 2008) <u>Definitions</u>  I.C.A. § 726.8 (West 2008) <u>Wanton neglect or nonsupport of a dependent adult</u>

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<b>Coverage</b> <i>(Iowa)</i>	<p>I.C.A. § 726.8 (West 2008)  <u>Wanton neglect or nonsupport of a dependent adult</u></p> <p>1. A caretaker commits wanton neglect of a dependent adult if the caretaker knowingly acts in a manner likely to be injurious to the physical, mental, or emotional welfare of a dependent adult. Wanton neglect of a dependent adult is a serious misdemeanor.</p> <p>2. A person who has legal responsibility either through contract or court order for support of a dependent adult and who fails or refuses to provide support commits nonsupport.</p> <p>3. A person alleged to have committed wanton neglect or nonsupport of a dependent adult shall be charged with the respective offense unless a charge may be brought based upon a more serious offense, in which case the charge of the more serious offense shall supersede the less serious charge.</p>
<b>Definitions</b> <i>(Iowa)</i>	<p>I.C.A. § 235B.2 (West 2008)  <u>Definitions</u></p> <p>As used in this chapter, unless the context otherwise requires:</p> <p>1. <u>Caretaker</u> means a related or nonrelated person who has the responsibility for the protection, care, or custody of a dependent adult as a result of assuming the responsibility voluntarily, by contract, through employment, or by order of the court.</p> <p>4. <u>Dependent adult</u> means a person 18 years or age or older who is unable to protect the person's own interests or unable to adequately perform or obtain services necessary to meet essential human needs as a result of a physical or mental condition which requires assistance from another, or as defined by departmental rule.</p> <p>5.a. <u>Dependent adult abuse</u> means:</p> <p>(1) Any of the following as a result of the willful or negligent acts or omissions of a caretaker:</p>

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<b>Definitions Cont'd</b> <i>(Iowa)</i>	<p>(a) Physical injury to, or injury which is at a variance with the history given of the injury, or unreasonable confinement, unreasonable punishment, or assault of a dependent adult.</p> <p>(b) The commission of a sexual offense with or against a dependent adult.</p> <p>(3) <u>Sexual exploitation</u> of a dependent adult who is a resident of a health care facility, as defined in section 135C.1, by a caretaker providing services to or employed by the health care facility, whether within the health care facility or at a location outside of the health care facility.</p> <p><u>Sexual exploitation</u> means any consensual or nonconsensual sexual conduct with a dependent adult for the purpose of arousing or satisfying the sexual desires of the caretaker or dependent adult, which includes but is not limited to kissing; touching of the clothed or unclothed inner thigh, breast, groin, buttock, anus, pubes, or genitals; or a sex act. Sexual exploitation does not include touching which is part of a necessary examination, treatment, or care by a caretaker acting within the scope of the practice or employment of the caretaker; the exchange of a brief touch or hug between the dependent adult and a caretaker for the purpose of reassurance, comfort, or casual friendship; or touching between spouses.</p> <p>5.b. <u>Dependent adult abuse</u> does not include any of the following:</p> <p>(1) Circumstances in which the dependent adult declines medical treatment if the dependent adult holds a belief or is an adherent of a religion whose tenets and practices calls for reliance on spiritual means in place of reliance on medical treatment.</p> <p>(2) Circumstances in which the dependent adult's caretaker, acting in accordance with the dependent adult's stated or implied consent, declines medical treatment if the dependent adult holds a belief or is an adherent of a religion whose tenets and practices call for reliance on spiritual means in place of reliance on medical treatment</p> <p>(3) The withholding or withdrawing of health care from a dependent adult who is terminally ill in the opinion of a licensed physician, when the withholding or withdrawing of health care is done at the request of the dependent adult or at the request of the dependent adult's next of kin, attorney, or guardian pursuant to the applicable procedures under chapter 125, 144A, 144B, 222, 229, or 633.</p>
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<b>Definitions</b> <b>Cont'd</b> <i>(Iowa)</i>	<p>12. <u>Recklessly</u> means that a person acts or fails to act with respect to a material element of a public offense, when the person is aware of and consciously disregards a substantial and unjustifiable risk that the material element exists or will result from the act or omission. The risk must be of such a nature and degree that disregard of the risk constitutes a gross deviation from the standard conduct that a reasonable person would observe in the situation.</p> <p>13. <u>Serious injury</u> means a disabling mental illness, or a bodily injury which creates a substantial risk of death or which causes serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.</p> <p>I.C.A. § 135C.1 (West 2008)  <u>Definitions</u></p> <p>6. <u>Health care facility</u> or <u>facility</u> means a residential care facility, a nursing facility, an intermediate care facility for persons with mental illness, or an intermediate care facility for persons with mental retardation.</p>
<b>Penalties</b> <i>(Iowa)</i>	<p>I.C.A. § 726.8 (West 2008)  <u>Wanton neglect or nonsupport of a dependent adult</u></p> <p>1. Wanton neglect of a dependent adult is a serious misdemeanor.</p> <p>I.C.A. § 903.1 (West 2008)  <u>Maximum sentence for misdemeanants</u></p> <p>1.b. For a serious misdemeanor, there shall be a fine of at least \$315 but not to exceed \$1,874. In addition may also order imprisonment not to exceed 1 year.</p> <p>I.C.A. § 726.8 (West 2008)  <u>Wanton neglect or nonsupport of a dependent adult</u></p>

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<b>Penalties Cont'd</b> <i>(Iowa)</i>	<p>Nonsupport is a class “D” felony.</p> <p>I.C.A. § 902.9 (West 2008)  <u>Maximum sentence for felons</u></p> <p>The maximum sentence for any person convicted of a felony shall be that prescribed by statute or, if not prescribed by statute, if other than a class “A” felony shall be determined as follows:  5. A class “D” felon, not an habitual offender, shall be confined for no more than 5 years, and in addition shall be sentenced to a fine of at least \$7,000 but not more than \$10,000.</p>
<b>Applicability to Youth</b> <i>(Iowa)</i>	<p>The above statutes are not applicable to youth</p>
<b>KANSAS</b>	
<b>Statute</b> <i>(Kansas)</i>	<p>K.S.A. § 21-3437 (West 2008)  <u>Mistreatment of a dependent adult</u></p> <p>K.S.A. § 21-3425 (West 2008)  <u>Mistreatment of a confined person</u></p> <p>K.S.A. § 39-923 (West 2008)  <u>Definitions</u></p>

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### NIC/WCL Project on Addressing Prison Rape

<b>Statute Cont'd</b> <i>(Kansas)</i>	<p>class A misdemeanor, a sum not exceeding \$2,500.</p> <p>K.S.A. § 21-4704 (West 2008)  <u>Sentencing guidelines; grid for nondrug crimes; authority and responsibility of sentencing court; presumptive disposition; nongrid crime</u></p>
<b>Coverage</b> <i>(Kansas)</i>	<p>K.S.A. § 21-3437 (West 2008)  <u>Mistreatment of a dependent adult</u></p> <p>(a) Mistreatment of a dependent adult is knowingly and intentionally committing one or more of the following acts:  (1) Infliction of physical injury, unreasonable confinement or cruel punishment upon a dependent adult;  (3) omitting or depriving treatment, goods or services by a caretaker or another person which are necessary to maintain physical or mental health of a dependent adult.  (b) No dependent adult is considered to be mistreated for the sole reason that such dependent adult relies upon or is being furnished treatment by spiritual means through prayer in lieu of medical treatment in accordance with the tenets and practices of a recognized church or religious denomination of which such dependent adult is a member or adherent.</p> <p>K.S.A. § 21-3425 (West 2008)  <u>Mistreatment of a confined person</u></p> <p>Mistreatment of a confined person is the intentional abuse, neglect or ill--treatment of any person, who is detained or confined and who is physically disabled, mentally ill or mentally retarded or whose detention or confinement is involuntary, by any law enforcement officer or by any person in charge of or employed by the owner or operator of any correctional institution or any public or private hospital or nursing home.</p> <p>Mistreatment of a confined person is a class A person misdemeanor.</p>

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<b>Definitions</b> <i>(Kansas)</i>	<p>K.S.A. § 21-3437 (West 2008)  <u>Mistreatment of a dependent adult</u></p> <p>(c) For purposes of this section: <u>Dependent adult</u> means an individual 18 years of age or older who is unable to protect their own interest. Such term shall include:</p> <ul style="list-style-type: none"> <li>(1) Any resident of an adult care home including but not limited to those facilities defined by K.S.A. 39-923 and amendments thereto;</li> <li>(2) any adult cared for in a private residence;</li> <li>(3) any individual kept, cared for, treated, boarded or otherwise accommodated in a medical care facility;</li> <li>(4) any individual with mental retardation or a developmental disability receiving services through a community mental retardation facility or residential facility;</li> <li>(5) any individual with a developmental disability receiving services provided by a community service provider as provided in the developmental disability reform act; or</li> <li>(6) any individual kept, cared for, treated, boarded or otherwise accommodated in a state psychiatric hospital or state institution for the mentally retarded.</li> </ul> <p>K.S.A. § 39-923 (West 2008)  <u>Definitions</u></p> <p>(a) As used in this act:</p> <ul style="list-style-type: none"> <li>(1) <u>Adult care home</u> means any nursing facility, nursing facility for mental health, intermediate care facility for the mentally retarded, assisted living facility, residential health care facility, home plus, boarding care home and adult day care facility, all of which classifications of adult care homes are required to be licensed by the secretary of aging.</li> </ul> <p>(b) The term <u>adult care home</u> shall not include institutions operated by federal or state governments, except institutions operated by the Kansas commission on veterans affairs, hospitals or institutions for the treatment and care of psychiatric</p>
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<b>Definitions</b> <b>Cont'd</b> <i>(Kansas)</i>	<p>patients, child care facilities, maternity centers, hotels, offices of physicians or hospices which are certified to participate in the medicare program under 42 code of federal regulations, chapter IV, section 418.1 et seq. and amendments thereto and which provide services only to hospice patients.</p>
<b>Penalties</b> <i>(Kansas)</i>	<p>K.S.A. § 21-3437 (West 2008)  <u>Mistreatment of a dependent adult</u></p> <p>(d) (1) Mistreatment of a dependent adult as defined in subsection (a)(1) is a severity level 6, person felony.</p> <p>K.S.A. § 21-3437 (West 2008)</p> <p>(a) A person who has been convicted of a felony may, in addition to the sentence authorized by law, be ordered to pay a fine which shall be fixed by the court as follows:          (3) For any felony ranked in severity levels 6 through 10 of the nondrug grid as provided in K.S.A. 21-4704 and amendments thereto or in severity level 4 of the drug grid as provided in K.S.A. 21-4705 and amendments thereto, a sum not exceeding \$100,000.</p> <p>K.S.A. § 21-3437 (West 2008)  <u>Mistreatment of a dependent adult</u></p> <p>(d)(6) Mistreatment of a dependent adult as defined in subsection (a)(3) is a class A person misdemeanor.</p> <p>K.S.A. § 21-3437 (West 2008)</p> <p>(b) A person who has been convicted of a misdemeanor, in addition to or instead of imprisonment authorized by law, may be sentenced to pay a fine which shall be fixed by the court as follows:          (1) For a class A misdemeanor, a sum not exceeding \$2,500.</p>

#### NOTES:

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<b>Penalties Cont'd</b> <i>(Kansas)</i>	<p>K.S.A. § 21-3425 (West 2008)  <u>Mistreatment of a confined person</u></p> <p>Mistreatment of a confined person is a class A misdemeanor.</p> <p>K.S.A. § 21-3437 (West 2008)</p> <p>(b) A person who has been convicted of a misdemeanor, in addition to or instead of imprisonment authorized by law, may be sentenced to pay a fine which shall be fixed by the court as follows:  (1) For a class A misdemeanor, a sum not exceeding \$2,500.</p> <p>K.S.A. § 21-4704 (West 2008)  <u>Sentencing guidelines; grid for nondrug crimes; authority and responsibility of sentencing court; presumptive disposition; nongrid crime</u></p> <p>(a) For purposes of sentencing, the following sentencing guidelines grid for nondrug crimes shall be applied in felony cases for crimes committed on or after July 1, 1993:</p> <p>(b) The provisions of this section shall be applicable to the sentencing guidelines grid for nondrug crimes. Sentences expressed in such grid represent months of imprisonment.</p> <p>(c) The sentencing guidelines grid is a two-dimensional crime severity and criminal history classification tool. The grid's vertical axis is the crime severity scale which classifies current crimes of conviction. The grid's horizontal axis is the criminal history scale which classifies criminal histories.</p> <p>(d) The sentencing guidelines grid for nondrug crimes as provided in this section defines presumptive punishments for felony</p>
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<b>Penalties Cont'd</b> ( <i>Kansas</i> )	<p>convictions, subject to judicial discretion to deviate for substantial and compelling reasons and impose a different sentence in recognition of aggravating and mitigating factors as provided in this act. The appropriate punishment for a felony conviction should depend on the severity of the crime of conviction when compared to all other crimes and the offender's criminal history.</p> <p>(1) The sentencing court has discretion to sentence at any place within the sentencing range. The sentencing judge shall select the center of the range in the usual case and reserve the upper and lower limits for aggravating and mitigating factors insufficient to warrant a departure.</p> <p>(2) In presumptive imprisonment cases, the sentencing court shall pronounce the complete sentence which shall include the prison sentence, the maximum potential reduction to such sentence as a result of good time and the period of postrelease supervision at the sentencing hearing. Failure to pronounce the period of postrelease supervision shall not negate the existence of such period of postrelease supervision.</p> <p>(3) In presumptive nonprison cases, the sentencing court shall pronounce the prison sentence as well as the duration of the nonprison sanction at the sentencing hearing.</p> <p>(f) Each grid block states the presumptive sentencing range for an offender whose crime of conviction and criminal history place such offender in that grid block. If an offense is classified in a grid block below the dispositional line, the presumptive disposition shall be nonimprisonment. If an offense is classified in a grid block above the dispositional line, the presumptive disposition shall be imprisonment. If an offense is classified in grid blocks 5-H, 5-I or 6-G, the court may impose an optional nonprison sentence upon making the following findings on the record:</p> <p>(1) An appropriate treatment program exists which is likely to be more effective than the presumptive prison term in reducing the risk of offender recidivism; and</p> <p>(2) the recommended treatment program is available and the offender can be admitted to such program within a reasonable period of time; or</p> <p>(3) the nonprison sanction will serve community safety interests by promoting offender reformation.</p> <p>(h) When a firearm is used to commit any person felony, the offender's sentence shall be presumed imprisonment. The court may impose an optional nonprison sentence upon making a finding on the record that the nonprison sanction will serve</p>
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<b>Penalties Cont'd</b> <i>(Kansas)</i>	<p>community safety interests by promoting offender reformation. Any decision made by the court regarding the imposition of the optional nonprison sentence shall not be considered a departure and shall not be subject to appeal.</p> <p>(j)(1) The sentence for any persistent sex offender whose current convicted crime carries a presumptive term of imprisonment shall be double the maximum duration of the presumptive imprisonment term. The sentence for any persistent sex offender whose current conviction carries a presumptive nonprison term shall be presumed imprisonment and shall be double the maximum duration of the presumptive imprisonment term.</p> <p>(2) Except as otherwise provided in this subsection, as used in this subsection, "persistent sex offender" means a person who (A)(i) Has been convicted in this state of a sexually violent crime, as defined in K.S.A. 22-3717 and amendments thereto; and (ii) at the time of the conviction under paragraph (A) (i) has at least one conviction for a sexually violent crime, as defined in K.S.A. 22-3717 and amendments thereto in this state or comparable felony under the laws of another state, the federal government or a foreign government; or (B) (i) has been convicted of rape, K.S.A. 21-3502, and amendments thereto; and (ii) at the time of the conviction under paragraph (B) (i) has at least one conviction for rape in this state or comparable felony under the laws of another state, the federal government or a foreign government.</p> <p>(3) Except as provided in paragraph (2) (B), the provisions of this subsection shall not apply to any person whose current convicted crime is a severity level 1 or 2 felony.</p>
<b>Applicability to Youth</b> <i>(Kansas)</i>	<p>The above statutes are not applicable to youth</p>
<b>KENTUCKY</b>	
<b>Statute</b> <i>(Kentucky)</i>	<p>K.R.S. § 508.100 (West 2008)  <u>Criminal abuse in the first degree</u></p>

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<b>Statute Cont'd</b> <i>(Kentucky)</i>	<p>K.R.S. § 508.110 (West 2008)  <u>Criminal abuse in the second degree</u></p> <p>K.R.S. § 508.120 (West 2008)  <u>Criminal abuse in the third degree</u></p> <p>K.R.S. § 508.090 (West 2008)  <u>Definitions for KRS 508.100 to 508.120</u></p> <p>K.R.S. § 532.060 (West 2008)  <u>Sentence of imprisonment for felony</u></p>
<b>Coverage</b> <i>(Kentucky)</i>	<p>K.R.S. § 508.100 (West 2008)  <u>Criminal abuse in the first degree</u></p> <p>(1) A person is guilty of criminal abuse in the first degree when he intentionally abuses another person or permits another person of whom he has actual custody to be abused and thereby:</p> <ul style="list-style-type: none"> <li>(a) Causes serious physical injury; or</li> <li>(b) Places him in a situation that may cause him serious physical injury; or</li> <li>(c) Causes torture, cruel confinement or cruel punishment; to a person 12 years of age or less, or who is physically helpless or mentally helpless.</li> </ul> <p>K.R.S. §508.110 (West 2008)  <u>Criminal abuse in the second degree</u></p> <p>(1) A person is guilty of criminal abuse in the second degree when he wantonly abuses another person or permits another</p>

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<b>Coverage</b> <b>Cont'd</b> <i>(Kentucky)</i>	<p>person of whom he has actual custody to be abused and thereby:</p> <ul style="list-style-type: none"> <li>(a) Causes serious physical injury; or</li> <li>(b) Places him in a situation that may cause him serious physical injury; or</li> <li>(c) Causes torture, cruel confinement or cruel punishment; to a person 12 years of age or less, or who is physically helpless or mentally helpless.</li> </ul> <p>K.R.S. § 508.120 (West 2008)  <u>Criminal abuse in the third degree</u></p> <p>(1) A person is guilty of criminal abuse in the third degree when he recklessly abuses another person or permits another person of whom he has actual custody to be abused and thereby:</p> <ul style="list-style-type: none"> <li>(a) Causes serious physical injury; or</li> <li>(b) Places him in a situation that may cause him serious physical injury; or</li> <li>(c) Causes torture, cruel confinement or cruel punishment; to a person 12 years of age or less, or who is physically helpless or mentally helpless.</li> </ul>
<b>Definitions</b> <i>(Kentucky)</i>	<p>K.R.S. § 508.090 (West 2008)  <u>Definitions for KRS 508.100 to 508.120</u></p> <p>The following definitions apply in KRS 508.100 to 508.120 unless the context otherwise requires:</p> <ul style="list-style-type: none"> <li>(1) <u>Abuse</u> means the infliction of physical pain, injury, or mental injury, or the deprivation of services by a person which are necessary to maintain the health and welfare of a person, or a situation in which an adult, living alone, is unable to provide or obtain for himself the services which are necessary to maintain his health or welfare.</li> <li>(2) <u>Physically helpless</u> and <u>mentally helpless</u> means a person who lacks substantial capacity to defend himself or solicit protection from law enforcement agencies.</li> </ul>

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<b>Penalties Cont'd</b> <i>(Kentucky)</i>	<u>Criminal abuse in the third degree</u>  (2) Criminal abuse in the second degree is a Class A misdemeanor.  K.R.S. § 532.090 (West 2008) <u>Sentence of imprisonment for misdemeanor</u>  A sentence of imprisonment for a misdemeanor shall be a definite term and shall be fixed within the following maximum limitations: (1) For a Class A misdemeanor, the term shall not exceed 12 months
<b>Applicability to Youth</b> <i>(Kentucky)</i>	Youth 12 years of age or less are covered by this statute
<b>LOUISIANA</b>	
<b>Statute</b> <i>(Louisiana)</i>	LSA-R.S. § 14:35.2 (West 2008) <u>Simple battery of the infirm</u>  LSA-R.S. § 14:93.5 (West 2008) <u>Sexual battery of the infirm</u>  LSA-Ch.C. Art. 116 (West 2008) <u>Definitions</u>

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<b>Statute Cont'd</b> <i>(Louisiana)</i>	<p>LSA-Ch.C. Art. 811.3 (West 2008)  <u>Definitions</u></p> <p>LSA-Ch.C. § 14:41 (West 2008)  <u>Rape; defined</u></p> <p>LSA-R.S. § 14:43.1 (West 2008)  <u>Sexual battery</u></p> <p>LSA-Ch.C. § 14:42 (West 2008)  <u>Aggravated Rape</u></p>
<b>Coverage</b> <i>(Louisiana)</i>	<p>LSA-R.S. § 14:35.2 (West 2008)  <u>Simple battery of the infirm</u></p> <p>A. Simple battery of the infirm is a battery committed against an infirm, disabled, or aged person who is incapable of consenting to the battery due to either of the following:  (1) Advanced age.  (2) Unsoundness of mind, stupor, abnormal condition of the mind, or other mental or developmental disability, regardless of the age of the victim.</p> <p>LSA-R.S. § 14:93.5 (West 2008)  <u>Sexual battery of the infirm</u></p> <p>A. Sexual battery of the infirm is the intentional engaging in any of the sexual acts listed in Subsection B with another person, who is not the spouse of the offender, when:</p>

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<b>Coverage Cont'd</b> <i>(Louisiana)</i>	<p>(1) The offender compels the victim, who is physically incapable of preventing the act because of advanced age or physical infirmity, to submit by placing the victim in fear of receiving bodily harm.</p> <p>(2) The victim is incapable of resisting or of understanding the nature of the act by reason of stupor or abnormal condition of the mind produced by an intoxicating, narcotic or anesthetic agent administered by or with the privity of the offender.</p> <p>(3) The victim has such incapacity, by reason of stupor or abnormal condition of mind from any cause, and the offender knew or should have known of the victim's incapacity.</p> <p>(4) The victim is incapable, through unsoundness of mind, whether temporary or permanent, of understanding the nature of the act, and the offender knew or should have known of the victim's incapacity.</p> <p>C. Normal medical treatment and normal sanitary care shall not be construed as an offense under the provisions of this Section.</p>
<b>Definitions</b> <i>(Louisiana)</i>	<p>LSA-Ch.C. Art. 116 (West 2008)</p> <p>(3) "Child" means a person who has not attained the age of eighteen years, except as it is specially defined by a Title of this Code.</p> <p>(9.1) "Juvenile crime victim" means a person, under the age of seventeen, against whom a felony offense against the person has been committed.</p> <p>LSA-Ch.C. Art. 811.3 (West 2008)</p> <p>(3) "Juvenile crime victim" means a person, under the age of seventeen, against whom an offense against the person that is a felony has been committed.</p> <p>LSA-Ch.C. § 14:42 (West 2008)</p> <p><u>Aggravated Rape</u></p> <p>A. Aggravated rape is a rape committed upon a person sixty-five years of age or older or where the anal, oral, or vaginal</p>

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<b>Definitions Cont'd</b> <i>(Louisiana)</i>	<p>sexual intercourse is deemed to be without lawful consent of the victim because it is committed under any one or more of the following circumstances:</p> <p>(1) When the victim resists the act to the utmost, but whose resistance is overcome by force.</p> <p>(2) When the victim is prevented from resisting the act by threats of great and immediate bodily harm, accompanied by apparent power of execution.</p> <p>(3) When the victim is prevented from resisting the act because the offender is armed with a dangerous weapon.</p> <p>(4) When the victim is under the age of thirteen years. Lack of knowledge of the victim's age shall not be a defense.</p> <p>(5) When two or more offenders participated in the act.</p> <p>(6) When the victim is prevented from resisting the act because the victim suffers from a physical or mental infirmity preventing such resistance.</p> <p>LSA-Ch.C. § 14:42 (West 2008)  <u>Aggravated Rape</u></p> <p>(C)(2) "Mental infirmity" means a person with an intelligence quotient of seventy or lower.</p> <p>LSA-R.S. § 14:43.1 (West 2008)  <u>Sexual battery</u></p> <p>A. Sexual battery is the intentional engaging in any of the following acts with another person where the offender acts without the consent of the victim, or where the act is consensual but the other person, who is not the spouse of the offender, has not yet attained fifteen years of age and is at least three years younger than the offender.</p>
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#### NOTES:

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### NIC/WCL Project on Addressing Prison Rape

<b>Definitions</b> <b>Cont'd</b> <i>(Louisiana)</i>	<p>LSA-R.S. § 14:35.2 (West 2008)  <u>Simple battery of the infirm</u></p> <p>B. For purposes of this Section, <u>infirm, disabled, or aged person</u> shall include but not be limited to any individual who is a resident of a nursing home, mental retardation facility, mental health facility, hospital, or other residential facility, or any individual who is sixty years of age or older. Lack of knowledge of the person's age shall not be a defense.</p> <p>LSA-R.S. § 14:93.5 (West 2008)  <u>Sexual battery of the infirm</u></p> <p>B. For purposes of this section, <u>sexual acts</u> mean the following:  (1) The 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  (2) The touching of the anus or genitals of the offender by the victim using any instrumentality or any part of the body of the victim.</p>
<b>Penalties</b> <i>(Louisiana)</i>	<p>LSA-R.S. § 14:35.2 (West 2008)  <u>Simple battery of the infirm</u></p> <p>C. Whoever commits the crime of battery of the infirm shall be fined not more than \$500 and imprisoned not less than 30 days nor more than 6 months, or both.</p> <p>LSA-R.S. § 14:93.5 (West 2008)  <u>Sexual battery of the infirm</u></p> <p>D. Whoever commits the crime of sexual battery of the infirm shall be punished by imprisonment, with or without hard labor,</p>

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<b>Penalties Cont'd</b> <i>(Louisiana)</i>	<p>for not more than 10 years.</p> <p>(1) Whoever commits the crime of aggravated rape shall be punished by life imprisonment at hard labor without benefit of parole, probation, or suspension of sentence.</p> <p>(2) However, if the victim was under the age of thirteen years, as provided by Paragraph A(4) of this Section:</p> <p>(a) And if the district attorney seeks a capital verdict, the offender shall be punished by death or life imprisonment at hard labor without benefit of parole, probation, or suspension of sentence, in accordance with the determination of the jury. The provisions of C.Cr.P. Art. 782 relative to cases in which punishment may be capital shall apply.</p> <p>(b) And if the district attorney does not seek a capital verdict, the offender shall be punished by life imprisonment at hard labor without benefit of parole, probation, or suspension of sentence. The provisions of C.Cr.P. Art. 782 relative to cases in which punishment is necessarily confinement at hard labor shall apply.</p> <p>LSA-R.S § 14: 43.1. Sexual battery</p> <p>(c)(3)Whoever commits the crime of sexual battery on a victim under the age of thirteen years when the offender is seventeen years of age or older shall be punished by imprisonment at hard labor for not less than twenty-five years nor more than ninety-nine years. At least twenty-five years of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence.</p>
<b>Applicability to Youth</b> <i>(Louisiana)</i>	<p>LSA-R.S. § 14:43.1 (West 2008)</p> <p><u>Sexual battery</u></p>

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MAINE	
<b>Statute</b> (Maine)	<p>17-A M.R.S.A. § 555 (West 2008) <u>Endangering welfare of dependent person</u></p> <p>17-A M.R.S.A. § 557 (West 2008) <u>Other defenses</u></p> <p>17-A M.R.S.A. § 253 (West 2008) <u>Gross sexual misconduct</u></p> <p>17-A M.R.S.A. § 1252 (West 2008) <u>Imprisonment for crimes other than murder</u></p> <p>17-A M.R.S.A. § 253 (F) (West 2008)</p>
<b>Coverage</b> (Maine)	<p>17-A M.R.S.A. § 253 (West 2008) <u>Gross sexual misconduct</u></p> <p>2. A person is guilty of gross sexual assault if that person engages in a sexual act with another person and:</p> <p>A. The actor has substantially impaired the other person's power to appraise or control the other person's sexual acts by furnishing, as defined in section 1101, subsection 18, paragraph A, administering or employing drugs, intoxicants or other similar means. Violation of this paragraph is a Class B crime;</p> <p>B. The actor compels or induces the other person to engage in the sexual act by any threat. Violation of this paragraph is a</p>

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<b>Coverage Cont'd</b> <i>(Maine)</i>	<p>Class B crime;</p> <p>C. The other person suffers from <u>mental disability</u> that is reasonably apparent or known to the actor, and which in fact renders the other person substantially incapable of appraising the nature of the contact involved or of understanding that the person has the right to deny or withdraw consent. Violation of this paragraph is a Class B crime;</p> <p>D. The other person is unconscious or otherwise physically incapable of resisting and has not consented to the sexual act. Violation of this paragraph is a Class B crime;</p> <p>E. The other person, not the actor's spouse, is under official supervision as a probationer, a parolee, a sex offender on supervised release, a prisoner on supervised community confinement status or a juvenile on community reintegration status or is detained in a hospital, prison or other institution, and the actor has supervisory or disciplinary authority over the other person. Violation of this paragraph is a Class B crime;</p> <p>F. The other person, not the actor's spouse, has not in fact attained the age of 18 years and is a student enrolled in a private or public elementary, secondary or special education school, facility or institution and the actor is a teacher, employee or other official having instructional, supervisory or disciplinary authority over the student. Violation of this paragraph is a Class C crime;</p> <p>G. The other person, not the actor's spouse, has not attained the age of 18 years and is a resident in or attending a children's home, day care facility, residential child care facility, drug treatment center, camp or similar school, facility or institution regularly providing care or services for children, and the actor is a teacher, employee or other person having instructional, supervisory or disciplinary authority over the other person. Violation of this paragraph is a Class C crime;</p> <p>H. The other person has not in fact attained the age of 18 years and the actor is a parent, stepparent, foster parent, guardian or other similar person responsible for the long-term care and welfare of that other person. Violation of this paragraph is a Class B crime;</p>
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<p><b>Coverage Cont'd</b> (Maine)</p>	<p>I. The actor is a psychiatrist, a psychologist or licensed as a social worker or purports to be a psychiatrist, a psychologist or licensed as a social worker to the other person and the other person, not the actor's spouse, is a patient or client for mental health therapy of the actor. As used in this paragraph, "mental health therapy" means psychotherapy or other treatment modalities intended to change behavior, emotions or attitudes, which therapy is based upon an intimate relationship involving trust and dependency with a substantial potential for vulnerability and abuse. Violation of this paragraph is a Class C crime; or</p> <p>J. The actor owns, operates or is an employee of an organization, program or residence that is operated, administered, licensed or funded by the Department of Health and Human Services and the other person, not the actor's spouse, receives services from the organization, program or residence and the organization, program or residence recognizes the other person as a person with mental retardation. It is an affirmative defense to prosecution under this paragraph that the actor receives services for mental retardation or is a person with mental retardation as defined in Title 34-B, section 5001, subsection 3. Violation of this paragraph is a Class C crime.</p> <p>17-A M.R.S.A. § 555 (West 2008) <u>Endangering welfare of dependent person</u></p> <p>1. A person is guilty of endangering the welfare of a dependent person if:</p> <p style="padding-left: 20px;">A. The person recklessly endangers the health, safety or mental welfare of a dependent person who is unable to perform self—care because of advanced age or physical or mental disease, disorder or defect. Violation of this paragraph is a Class D crime; or</p> <p style="padding-left: 20px;">B. The person intentionally or knowingly endangers the health, safety or mental welfare of a dependent person who is unable to perform self--care because of advanced age or physical or mental disease, disorder or defect. Violation of this paragraph is a Class C crime.</p> <p>17-A M.R.S.A. § 557 (West 2008)</p>
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<b>Coverage Cont'd</b> <i>(Maine)</i>	<u>Other defenses</u>  For the purpose of this chapter, a person who in good faith provides treatment for a child or dependent person by spiritual means through prayer may not for that reason alone be determined to have knowingly endangered the welfare of that child or dependent person
<b>Definitions</b> <i>(Maine)</i>	17-A M.R.S.A. § 555 (West 2008) <u>Endangering welfare of dependent person</u>  3. As used in this section, <u>endangers</u> includes a failure to act only when the defendant has a legal duty to protect the health, safety or mental welfare of the dependent person. For purposes of this section, a legal duty may be inferred if the defendant has assumed responsibility for the care of the dependent person.
<b>Penalties</b> <i>(Maine)</i>	17-A M.R.S.A. § 555 (West 2008) <u>Endangering welfare of dependent person</u>  1. A person is guilty of endangering the welfare of a dependent person if: A. The person recklessly endangers the health, safety or mental welfare of a dependent person who is unable to perform self—care because of advanced age or physical or mental disease, disorder or defect. Violation of this paragraph is a Class D crime; or  17-A M.R.S.A. § 1252 (West 2008) <u>Imprisonment for crimes other than murder</u>  1. In the case of a person convicted of a crime other than murder, the court may sentence to imprisonment for a definite term as provided for in this section, unless the statute which the person is convicted of violating expressly provides that the fine and imprisonment penalties it authorizes may not be suspended, in which case the convicted person shall be sentenced to

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<b>Penalties Cont'd</b> <i>(Maine)</i>	<p>imprisonment and required to pay the fine authorized therein. Except as provided in subsection 7, the place of imprisonment must be as follows.</p> <p>2. The court shall set the term of imprisonment of follows:</p> <p style="padding-left: 20px;">D. In the case of a Class D crime, the court shall set a definite period of less than 1 year;</p> <p>17-A M.R.S.A. § 555 (West 2008)  <u>Endangering welfare of dependent person</u></p> <p>1. A person is guilty of endangering the welfare of a dependent person if:</p> <p style="padding-left: 20px;">B. The person intentionally or knowingly endangers the health, safety or mental welfare of a dependent person who is unable to perform self--care because of advanced age or physical or mental disease, disorder or defect. Violation of this paragraph is a Class C crime.</p> <p>17-A M.R.S.A. § 1252 (West 2008)  <u>Imprisonment for crimes other than murder</u></p> <p>1. In the case of a person convicted of a crime other than murder, the court may sentence to imprisonment for a definite term as provided for in this section, unless the statute which the person is convicted of violating expressly provides that the fine and imprisonment penalties it authorizes may not be suspended, in which case the convicted person shall be sentenced to imprisonment and required to pay the fine authorized therein. Except as provided in subsection 7, the place of imprisonment must be as follows.</p> <p>2. The court shall set the term of imprisonment of follows:</p> <p style="padding-left: 20px;">B. In the case of a Class B crime, the court shall set a definite period not to exceed 10 years;</p> <p style="padding-left: 20px;">C. In the case of a Class C crime, the court shall set a definite period not to exceed 5 years;</p> <p style="padding-left: 20px;">D. In the case of a Class D crime, the court shall set a definite period of less than one year;</p>
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<b>Applicability to Youth</b> (Maine)	17-A M.R.S.A. (West 2008) <u>Gross sexual misconduct</u>
<b>MARYLAND</b>	
<b>Statute</b> (Maryland)	MD. CRIM. LAW § 3-604 (West 2008) <u>Abuse or neglect of a vulnerable adult</u>
<b>Coverage</b> (Maryland)	MD. CRIM. LAW § 3-604 (West 2008) <u>Abuse or neglect of a vulnerable adult</u>  Prohibited (b)(1) A caregiver, a parent, or other person who has permanent or temporary care or responsibility for the supervision of a vulnerable adult may not cause abuse or neglect of the vulnerable adult that: (i) results in the death of the vulnerable adult; (ii) causes serious physical injury to the vulnerable adult; or (iii) involves sexual abuse of the vulnerable adult. (2) A household member or family member may not cause abuse or neglect of a vulnerable adult that: (i) results in the death of the vulnerable adult; (ii) causes serious physical injury to the vulnerable adult; or (iii) involves sexual abuse of the vulnerable adult

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<b>Definitions</b> <i>(Maryland)</i>	<p>MD. CRIM. LAW § 3-604 (West 2008)</p> <p><u>Abuse or neglect of a vulnerable adult</u></p> <p>Definitions</p> <p>(a)(1) In this section and §§ 3-605 and 3-606 of this subtitle the following words have the meanings indicated.</p> <p>(2)(i) <u>Abuse</u> means that sustaining of physical pain or injury by a vulnerable adult as a result of cruel or inhumane treatment or as a result of a malicious act under circumstances that indicate that the vulnerable adult's health or welfare is harmful or threatened.</p> <p>(ii) <u>Abuse</u> includes the sexual abuse of a vulnerable adult.</p> <p>(iii) <u>Abuse</u> does not include an accepted medical or behavioral procedure ordered by a health care provider authorized to practice under the Health Occupation's Article of § 13-516 of the Education Article acting within the scope of the health care provider's practice.</p> <p>(3) <u>Caregiver</u> means a person under a duty of care for a vulnerable adult because of a contractual undertaking to provide care.</p> <p>(4) <u>Family member</u> means a relative of a vulnerable adult by blood, marriage, adoption, or the marriage of a child.</p> <p>(5) <u>Household</u> means the location:</p> <p>(i) in which the vulnerable adult resides;</p> <p>(ii) where the abuse or neglect of a vulnerable adult is alleged to have taken place; or</p> <p>(iii) where the person suspected of abusing or neglecting a vulnerable adult resides.</p> <p>(6) <u>Household member</u> means an individual who lives with or is a regular presence in a home of a vulnerable adult at the time of the alleged abuse or neglect.</p> <p>(7)(i) <u>Neglect</u> means the intentional failure to provide necessary assistance and resources for the physical needs of a vulnerable adult, including:</p>
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<b>Definitions</b> <b>Cont'd</b> <i>(Maryland)</i>	<ol style="list-style-type: none"> <li>1. food;</li> <li>2. clothing;</li> <li>3. toileting;</li> <li>4. essential medical treatment;</li> <li>5. shelter, or</li> <li>6. supervision</li> </ol> <p>(ii) <u>Neglect</u> does not include the provisions of nonmedical remedial care and treatment for the healing of injury or disease that is:</p> <p>(8) <u>Serious physical injury</u> means physical injury that:</p> <ol style="list-style-type: none"> <li>(i) creates a substantial risk of death; or</li> <li>(ii) causes permanent or protracted serious: <ol style="list-style-type: none"> <li>1. disfigurement;</li> <li>2. loss of the function of any bodily member or organ; or</li> <li>3. impairment of the function of any bodily member or organ.</li> </ol> </li> </ol> <p>(9) (i) <u>Sexual abuse</u> means an act that involves sexual molestation or exploitation of a vulnerable adult.</p> <p>(ii) "Sexual abuse" includes:</p> <ol style="list-style-type: none"> <li>1. incest;</li> <li>2. rape;</li> <li>3. sexual offense in any degree;</li> <li>4. sodomy; and</li> <li>5. unnatural or perverted sexual practices.</li> </ol> <p>(10) <u>Vulnerable adult</u> means an adult who lacks the physical or mental capacity to provide for the adult's daily needs.</p>
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<b>Penalties</b> <i>(Maryland)</i>	MD. CRIM. LAW § 3-604 (West 2008) <u>Abuse or neglect of a vulnerable adult</u>  Penalty (c) A person who violates this section is guilty of the felony of abuse or neglect of a vulnerable adult in the first degree and on conviction is subject to imprisonment not exceeding 10 years or a fine not exceeding \$10,000 or both. Sentencing (d) A sentence imposed under this section shall be in addition to any other sentence imposed for a conviction arising from the same facts and circumstances unless the evidence required to prove each crime is substantially identical.
<b>Applicability to Youth</b> <i>(Maryland)</i>	The above statutes are not applicable to youth
<b>MASSACHUSETTS</b>	
<b>Statute</b> <i>(Massachusetts)</i>	M.G.L.A. 265 § 15A (West 2008) <u>Assault and battery with dangerous weapon; victim sixty or older; punishment; subsequent offenses</u>  M.G.L.A. 265 § 13B (West 2008) <u>Indecent assault and battery on child under age of 14; penalties</u>  M.G.L.A. 265 § 13B 3/4 (West 2008) <u>Commission of indecent assault and battery on a child under the age of 14 by certain previously convicted offenders; penalties</u>

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<b>Statute Cont'd</b> <i>(Massachusetts)</i>	<p>M.G.L.A. 265 § 13F (West 2008)  <u>Indecent assault and battery on mentally retarded person; assault and battery</u></p> <p>M.G.L.A. 265 § 13H (West 2008)  <u>Indecent assault and battery on person fourteen or older; penalties</u></p> <p>M.G.L.A. 265 § 13J (West 2008)  <u>Assault and battery upon a child; penalties</u></p> <p>M.G.L.A. 265 § 13K (West 2008)  <u>Assault and battery upon an elderly or disabled person; definitions; penalties</u></p> <p>M.G.L.A. 265 § 13L (West 2008)  <u>Wanton or reckless behavior creating a risk of serious bodily injury or sexual abuse to a child; duty to act; penalty</u></p> <p>M.G.L.A. 265 § 23 (West 2008)  <u>Rape and abuse of child</u></p>
<b>Coverage</b> <i>(Massachusetts)</i>	<p>M.G.L.A. 265 § 13F (West 2008)  <u>Indecent assault and battery on mentally retarded person; assault and battery</u></p> <p>Whoever commits an indecent assault and battery on a mentally retarded person knowing such person to be mentally retarded for the first offense by punished by imprisonment in the state prison for not less than 5 years or not more than 10 year; and for a second or subsequent offense, by imprisonment in the state prison for not less than 10 years. Except in the case of a conviction for the first offense for violation of this section, the imposition or execution of the sentence shall not be suspended, and no probation or parole shall be granted until the minimum imprisonment herein provided for the offense shall have been served. This section shall not apply to the commission of an indecent assault and battery by a mentally retarded person up</p>

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<p><b>Coverage Cont'd</b> (Massachusetts)</p>	<p>another mentally retarded person.</p> <p>Whoever commits an assault and battery on a mentally retarded person knowing such person to be mentally retarded shall be for the first offense by punished by imprisonment in a house or correction for not more than 2 and one-half years or by imprisonment in the state prison for not more than 5 years; and, for a second or subsequent offense, by imprisonment in the state prison for not more than retarded person upon another mentally retarded person.</p> <p>M.G.L.A. 265 § 13H (West 2008)  <u>Indecent assault and battery on person fourteen or older; penalties</u></p> <p>Whoever commits an indecent assault and battery on a person who has attained age 14 shall be punished by imprisonment in the state prison for not more than 5 years, or by imprisonment for not more than 2 and one-half years in a jail or house of correction.</p> <p>Whoever commits an indecent assault and battery on an elder or person with a disability, as defined in section 13K, shall be punished by imprisonment in the state prison for not more than 10 years, or by imprisonment in the house of correction for note</p> <p>M.G.L.A. 265 § 13K (West 2008)  <u>Assault and battery upon an elderly or disabled person; definitions; penalties</u></p> <p>(a1/2) Whoever commits an assault and battery upon an elder or person with a disability shall be punished by imprisonment in the state prison for not more than 3 years or by imprisonment in a house of correction for not more than 2 1/2 years, or by a fine of not more than \$1,000, or both such fine and imprisonment.</p> <p>(b) Whoever commits an assault and battery upon an elder or person with a disability and by such assault and battery causes bodily injury shall be punished by imprisonment in the state prison for not more than 5 years or in the house of correction for not more than 2 and one-half years or by a fine of not more than \$1,000 or by both such fine and imprisonment.</p>
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**NOTES:**

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**\*While not reflected on this chart, most states have enhanced penalties for sexual assault/battery/or other relevant statutes where the victim is considered “vulnerable”**

**\*\* Some states use child abuse statutes to address the vulnerability of youth under 18; those are not reflected in this chart. However for states that consider youth as a vulnerable persons under these specific statutes are noted here.**

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### NIC/WCL Project on Addressing Prison Rape

<p><b>Coverage</b> <b>Cont'd</b> <i>(Massachusetts)</i></p>	<p>(c) Whoever commits an assault and battery upon an elder or person with a disability and by such assault and battery causes serious bodily injury shall be punished by imprisonment in the state prison for not more than 10 years or in the house of correction for not more than 2 and one-half years or by a fine of not more than \$5,000 or by both such fine and imprisonment.</p> <p>(d) Whoever, being a caretaker of an elder or person with a disability, wantonly or recklessly permits bodily injury to such elder or person with a disability, or wantonly or recklessly permits another to commit an assault and battery upon such elder or person with a disability which assault and battery causes bodily injury, shall be punished by imprisonment in the state prison for not more than 5 years or in the house of correction for not more than 2 and one-half years or by a fine of not more than \$5,000 or by both such fine and imprisonment.</p> <p>(d1/2) Whoever, being a caretaker of an elder or person with a disability, wantonly or recklessly commits or permits another to commit abuse, neglect or mistreatment upon such elder or person with a disability, shall be punished by imprisonment in the state prison for not more than 3 years, or imprisonment in the house of correction for not more than 2 1/2 years, or by a fine of not more than \$5,000, or by both such fine and imprisonment.</p> <p>(e) Whoever, being a caretaker of an elder or person with a disability, wantonly or recklessly permits serious bodily injury to such elder or person with a disability, or wantonly or recklessly permits another to commit an assault and battery upon such elder or person with a disability which assault and battery causes serious bodily injury, shall be punished by imprisonment in the state prison for not more than 10 years or by imprisonment in the house of correction for not more than 2 and one-half years or by a fine of not more than \$10,000 or by both such fine and imprisonment.</p> <p>(f) Conduct shall not be construed to be wanton or reckless conduct under this section if directed by a competent elder or person with a disability, or for the sole reason that, in lieu of medical treatment, an elder or person with a disability is being furnished or relies upon treatment by spiritual means through prayer if such treatment is in accordance with the tenets and practices of the established religious tradition of such elder or person with a disability, and is provided at the direction of such elder or person with a disability, who shall be competent, or pursuant to the direction of a person who is properly designated a health care proxy under chapter two hundred and one D.</p>
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**NOTES:**

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## NIC/WCL Project on Addressing Prison Rape

<b>Definitions</b> <i>(Massachusetts)</i>	<p>M.G.L.A. 265 § 13K (West 2008)</p> <p><u>Assault and battery upon an elderly or disabled person; definitions; penalties</u></p> <p>(a) For the purpose of this section the following words shall, unless the context requires otherwise, have the following meanings:</p> <p><u>Abuse</u>, physical contact which either harms or creates a substantial likelihood of harm.</p> <p><u>Bodily injury</u>, substantial impairment of the physical condition, including, but not limited to, any burn, fracture of any bone, subdural hematoma, injury to any internal organ, or any injury which occurs as the result of repeated harm to any bodily function or organ, including human skin.</p> <p><u>Caretaker</u>, a person with responsibility for the care of an elder or person with a disability, which responsibility may arise as the result of a family relationship, or by a fiduciary duty imposed by law, or by a voluntary or contractual duty undertaken on behalf of such elder or person with a disability. A person may be found to be a caretaker under this section only if a reasonable person would believe that such person's failure to fulfill such responsibility would adversely affect the physical health of such elder or person with a disability. Minor children and adults adjudicated incompetent by a court of law may not be deemed to be caretakers under this section.</p> <p>(iii) <u>Responsibility arising from a contractual duty</u>, it may be inferred that a person who receives monetary or personal benefit or gain as a result of a bargained-for agreement to be responsible for providing primary and substantial assistance for the care of an elder or person with a disability is a caretaker.</p> <p>(iv) <u>Responsibility arising out of the voluntary assumption of the duties of caretaker</u>, it may be inferred that a person who has voluntarily assumed responsibility for providing primary and substantial assistance for the care of an elder or person with a disability is a caretaker if the person's conduct would lead a reasonable person to believe that failure to provide such care would adversely affect the physical health of the elder or person with a disability, and at least one of the following criteria is</p>
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### NOTES:

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### NIC/WCL Project on Addressing Prison Rape

<b>Definitions</b> <b>Cont'd</b> <i>(Massachusetts)</i>	<p>met: (i) the person is living in the household of the elder or person with a disability, or present in the household on a regular basis; or (ii) the person would have reason to believe, as a result of the actions, statements or behavior of the elder or person with a disability, that he is being relied upon for providing primary and substantial assistance for physical care.</p> <p><u>Elder</u>, a person sixty years of age or older.</p> <p><u>Mistreatment</u>, the use of medications or treatments, isolation, or physical or chemical restraints which harms or creates a substantial likelihood of harm.</p> <p><u>Neglect</u>, the failure to provide treatment or services necessary to maintain health and safety and which either harms or creates a substantial likelihood of harm.</p> <p><u>Person with disability</u>, a person with a permanent or long term physical or mental impairment that prevents or restricts the individual's ability to provide for his or her own care or protection.</p> <p><u>Serious bodily injury</u>, bodily injury which results in a permanent disfigurement, protracted loss or impairment of a bodily function, limb or organ, or substantial risk of death.</p> <p>M.G.L.A. 265 § 13J (West 2008)</p> <p><u>Assault and battery upon a child; penalties</u></p> <p>For the purposes of this section, the following words shall, unless the context indicates otherwise, have the following meanings:</p> <p>“<u>Bodily injury</u>”, substantial impairment of the physical condition including any burn, fracture of any bone, subdural hematoma, injury to any internal organ, any injury which occurs as the result of repeated harm to any bodily function or organ including human skin or any physical condition which substantially imperils a child's health or welfare.</p>
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#### NOTES:

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### NIC/WCL Project on Addressing Prison Rape

<b>Definitions Cont'd</b> <i>(Massachusetts)</i>	<p><u>“Child”</u>, any person under fourteen years of age.</p> <p><u>“Person having care and custody”</u>, a parent, guardian, employee of a home or institution or any other person with equivalent supervision or care of a child, whether the supervision is temporary or permanent.</p> <p><u>“Substantial bodily injury”</u>, bodily injury which creates a permanent disfigurement, protracted loss or impairment of a function of a body member, limb or organ, or substantial risk of death.</p> <p>M.G.L.A. 265 § 13L.  <u>Wanton or reckless behavior creating a risk of serious bodily injury or sexual abuse to a child; duty to act; penalty</u></p> <p>For the purposes of this section, the following words shall have the following meanings:</p> <p><u>“Child”</u>, any person under 18 years of age.</p> <p><u>“Serious bodily injury”</u>, bodily injury which results in a permanent disfigurement, protracted loss or impairment of a bodily function, limb or organ, or substantial risk of death.</p> <p><u>“Sexual abuse”</u>, an indecent assault and battery on a child under 14 under section 13B of chapter 265; indecent assault and battery on a person age 14 or over under section 13H of said chapter 265; rape under section 22 of said chapter 265; rape of a child under 16 with force under section 22A of said chapter 265; rape and abuse of a child under section 23 of said chapter 265; assault with intent to commit rape under section 24 of said chapter 265; and assault of a child with intent to commit rape under section 24B of said chapter 265.</p>
<b>Penalties</b> <i>(Massachusetts)</i>	<p>M.G.L.A. 265 § 13F (West 2008)  <u>Indecent assault and battery on mentally retarded person; assault and battery</u></p>

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<b>Penalties Cont'd</b> <i>(Massachusetts)</i>	<p>Whoever commits an indecent assault and battery on a mentally retarded person knowing such person to be mentally retarded for the first offense by punished by imprisonment in the state prison for not less than 5 years or not more than 10 year; and for a second or subsequent offense, by imprisonment in the state prison for not less than 10 years. Except in the case of a conviction for the first offense for violation of this section, the imposition or execution of the sentence shall not be suspended, and no probation or parole shall be granted until the minimum imprisonment herein provided for the offense shall have been served. This section shall not apply to the commission of an indecent assault and battery by a mentally retarded person up another mentally retarded person.</p> <p>M.G.L.A. 265 § 13F (West 2008)  <u>Indecent assault and battery on mentally retarded person; assault and battery</u></p> <p>Whoever commits an assault and battery on a mentally retarded person knowing such person to be mentally retarded shall be for the first offense by punished by imprisonment in a house or correction for not more than 2 and 1 1/2 years or by imprisonment in the state prison for not more than 5 years; and, for a second or subsequent offense, by imprisonment in the state prison for not more than retarded person upon another mentally retarded person.</p> <p>M.G.L.A. 265 § 13H (West 2008)  <u>Indecent assault and battery on person fourteen or older; penalties</u></p> <p>Whoever commits an indecent assault and battery on a person who has attained age 14 shall be punished by imprisonment in the state prison for not more than 5 years, or by imprisonment for not more than 2 and one-half years in a jail or house of correction.</p> <p>M.G.L.A. 265 § 13H (West 2008)  <u>Indecent assault and battery on person fourteen or older; penalties</u></p> <p>Whoever commits an indecent assault and battery on an elder or person with a disability, as defined in section 13K, shall be</p>
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#### NOTES:

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<b>Penalties Cont'd</b> <i>(Massachusetts)</i>	<p>punished by imprisonment in the state prison for not more than 10 years, or by imprisonment in the house of correction for not more than 2 1/2 years, and whoever commits a second or subsequent such offense shall be punished by imprisonment in the state prison for not more than 20 years.</p> <p>M.G.L.A. 265 § 13K (West 2008)  <u>Assault and battery upon an elderly or disabled person; definitions; penalties</u></p> <p>(a1/2) Whoever commits an assault and battery upon an elder or person with a disability shall be punished by imprisonment in the state prison for not more than 3 years or by imprisonment in a house of correction for not more than 2 1/2 years, or by a fine of not more than \$1,000, or both such fine and imprisonment.</p> <p>M.G.L.A. 265 § 13K (West 2008)  <u>Assault and battery upon an elderly or disabled person; definitions; penalties</u></p> <p>(b) Whoever commits an assault and battery upon an elder or person with a disability and by such assault and battery causes bodily injury shall be punished by imprisonment in the state prison for not more than 5 years or in the house of correction for not more than 2 and one-half years or by a fine of not more than \$1,000 or by both such fine and imprisonment.</p> <p>M.G.L.A. 265 § 13K (West 2008)  <u>Assault and battery upon an elderly or disabled person; definitions; penalties</u></p> <p>(c) Whoever commits an assault and battery upon an elder or person with a disability and by such assault and battery causes serious bodily injury shall be punished by imprisonment in the state prison for not more than 10 years or in the house of correction for not more than 2 and one-half years or by a fine of not more than \$5,000 or by both such fine and imprisonment.</p> <p>M.G.L.A. 265 § 13K (West 2008)  <u>Assault and battery upon an elderly or disabled person; definitions; penalties</u></p>
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**NOTES:**

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<b>Penalties Cont'd</b> <i>(Massachusetts)</i>	<p>(d) Whoever, being a caretaker of an elder or person with a disability, wantonly or recklessly permits bodily injury to such elder or person with a disability, or wantonly or recklessly permits another to commit an assault and battery upon such elder or person with a disability which assault and battery causes bodily injury, shall be punished by imprisonment in the state prison for not more than 5 years or in the house of correction for not more than 2 and one-half years or by a fine of not more than \$5,000 or by both such fine and imprisonment.</p> <p>M.G.L.A. 265 § 13K (West 2008)  <u>Assault and battery upon an elderly or disabled person; definitions; penalties</u></p> <p>(d1/2) Whoever, being a caretaker of an elder or person with a disability, wantonly or recklessly commits or permits another to commit abuse, neglect or mistreatment upon such elder or person with a disability, shall be punished by imprisonment in the state prison for not more than 3 years, or imprisonment in the house of correction for not more than 2 1/2 years, or by a fine of not more than \$5,000, or by both such fine and imprisonment.</p> <p>M.G.L.A. 265 § 13K (West 2008)  <u>Assault and battery upon an elderly or disabled person; definitions; penalties</u></p> <p>(e) Whoever, being a caretaker of an elder or person with a disability, wantonly or recklessly permits serious bodily injury to such elder or person with a disability, or wantonly or recklessly permits another to commit an assault and battery upon such elder or person with a disability which assault and battery causes serious bodily injury, shall be punished by imprisonment in the state prison for not more than 10 years or by imprisonment in the house of correction for not more than 2 and one-half years or by a fine of not more than \$10,000 or by both such fine and imprisonment.</p> <p>M.G.L.A. 265 § 13B (West 2008)  <u>Indecent assault and battery on child under age of 14; penalties</u></p>
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<b>Penalties Cont'd</b> <i>(Massachusetts)</i>	<p>Whoever commits an indecent assault and battery on a child under the age of 14 shall be punished by imprisonment in the state prison for not more than 10 years, or by imprisonment in the house of correction for not more than 2 1/2 years. A prosecution commenced under this section shall neither be continued without a finding nor placed on file. In a prosecution under this section, a child under the age of 14 years shall be deemed incapable of consenting to any conduct of the defendant for which such defendant is being prosecuted.</p> <p>M.G.L.A. 265 § 15A (West 2008)  <u>Assault and battery with dangerous weapon; victim sixty or older; punishment; subsequent offenses</u></p> <p>(a) Whoever commits assault and battery upon a person sixty years or older by means of a dangerous weapon shall be punished by imprisonment in the state prison for not more than ten years or by a fine of not more than one thousand dollars or imprisonment in jail for not more than two and one-half years.</p> <p>M.G.L.A. 265 § § 13J (West 2008)  <u>Assault and battery upon a child; penalties</u></p> <p>(b) Whoever commits an assault and battery upon a child and by such assault and battery causes bodily injury shall be punished by imprisonment in the state prison for not more than five years or imprisonment in the house of correction for not more than two and one-half years.</p> <p>Whoever commits an assault and battery upon a child and by such assault and battery causes substantial bodily injury shall be punished by imprisonment in the state prison for not more than fifteen years or imprisonment in the house of correction for not more than two and one-half years.</p> <p>Whoever, having care and custody of a child, wantonly or recklessly permits bodily injury to such child or wantonly or recklessly permits another to commit an assault and battery upon such child, which assault and battery causes bodily injury, shall be punished by imprisonment for not more than two and one-half years in the house of correction.</p>
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<b>Penalties Cont'd</b> <i>(Massachusetts)</i>	<p>Whoever, having care and custody of a child, wantonly or recklessly permits substantial bodily injury to such child or wantonly or recklessly permits another to commit an assault and battery upon such child, which assault and battery causes substantial bodily injury, shall be punished by imprisonment in the state prison for not more than five years, or by imprisonment in a jail or house of correction for not more than two and one-half years.</p> <p>M.G.L.A. 265 §13L (West 2008)  <u>Wanton or reckless behavior creating a risk of serious bodily injury or sexual abuse to a child; duty to act; penalty</u></p> <p>Whoever wantonly or recklessly engages in conduct that creates a substantial risk of serious bodily injury or sexual abuse to a child or wantonly or recklessly fails to take reasonable steps to alleviate such risk where there is a duty to act shall be punished by imprisonment in the house of correction for not more than 2 1/2 years.</p> <p>M.G.L.A. 265 § 13B (West 2008)  <u>Indecent assault and battery on child under fourteen; penalties; subsequent offenses; eligibility for parole, etc.</u></p> <p>Whoever commits an indecent assault and battery on a child under the age of fourteen shall be punished by imprisonment in the state prison for not more than ten years, or by imprisonment in a jail or house of correction for not more than two and one-half years; and whoever commits a second or subsequent such offense shall be punished by imprisonment in the state prison for life or any term of years; provided, however, that a prosecution commenced under the provisions of this section shall not be placed on file or continued without a finding..... In a prosecution under this section, a child under the age of fourteen years shall be deemed incapable of consenting to any conduct of the defendant for which said defendant is being prosecuted.</p> <p>M.G.L.A. 265 § 13B 3/4 (West 2008)  <u>Commission of indecent assault and battery on a child under the age of 14 by certain previously convicted offenders; penalties</u></p> <p>Whoever commits an indecent assault and battery on a child under the age of 14 and has been previously convicted of or</p>
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<b>Penalties Cont'd</b> <i>(Massachusetts)</i>	<p>adjudicated delinquent or as a youthful offender for: indecent assault and battery on a child under 14 as set forth in section 13B; aggravated indecent assault and battery on a child under 14 as set forth in section 13B 1/2 ; indecent assault and battery on a person 14 or older as set forth in section 13H; assault of a child with intent to commit rape as set forth in section 24B; rape of a child with force as set forth in section 22A; aggravated rape of a child with force as set forth in section 22B; rape and abuse of a child as set forth in section 23; aggravated rape and abuse of a child as set forth in section 23A; rape as set forth in section 22 or; a like violation of the laws of another state, the United States or a military, territorial or Indian tribal authority, shall be punished by imprisonment in the state prison for life or for any term of years, but not less than 15 years.</p> <p>M.G.L.A. 265 § 13B 3/4 (West 2008)  <u>Commission of indecent assault and battery on a child under the age of 14 by certain previously convicted offenders; penalties</u></p> <p>Whoever commits an indecent assault and battery on a child under the age of 14 and has been previously convicted of or adjudicated delinquent or as a youthful offender for: indecent assault and battery on a child under 14 as set forth in section 13B; aggravated indecent assault and battery on a child under 14 as set forth in section 13B 1/2 ; indecent assault and battery on a person 14 or older as set forth in section 13H; assault of a child with intent to commit rape as set forth in section 24B; rape of a child with force as set forth in section 22A; aggravated rape of a child with force as set forth in section 22B; rape and abuse of a child as set forth in section 23; aggravated rape and abuse of a child as set forth in section 23A; rape as set forth in section 22 or; a like violation of the laws of another state, the United States or a military, territorial or Indian tribal authority, shall be punished by imprisonment in the state prison for life or for any term of years, but not less than 15 years.</p> <p>M.G.L.A. 265 § 23 (West 2008)  <u>Rape and abuse of child</u></p> <p>Whoever unlawfully has sexual intercourse or unnatural sexual intercourse, and abuses a child under 16 years of age, shall be punished by imprisonment in the state prison for life or for any term of years or, except as otherwise provided, for any term in a jail or house of correction.</p>
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#### NOTES:

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<b>Applicability to Youth</b> (Massachusetts)	M.G.L.A. 265 §§ 13J (West 2008) <u>Assault and battery upon a child; penalties</u>
<b>MICHIGAN</b>	
<b>Statute</b> (Michigan)	<p>M.C.L.A. § 750.145n (West 2008) <u>Vulnerable adult abuse; degrees; penalties; reasonable actions to prevent harm; actions pursuant to power of attorney</u></p> <p>M.C.L.A. § 330.1400 (West 2008) <u>Definitions</u></p> <p>M.C.L.A. § 333.20106 (West 2008) <u>Definitions</u></p> <p>M.C.L.A. § 750.145m (West 2008) <u>Definitions</u></p>
<b>Coverage</b> (Michigan)	<p>M.C.L.A. § 750.145n (West 2008) <u>Vulnerable adult abuse; degrees; penalties; reasonable actions to prevent harm; actions pursuant to power of attorney</u></p> <p>(1) A caregiver is guilty of vulnerable adult abuse in the first degree if the caregiver intentionally causes serious physical harm or serious mental harm to a vulnerable adult. Vulnerable adult abuse in the first degree is a felony punishable by imprisonment for not more than 15 years or a fine of not more than \$10,000.00, or both.</p>

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### NIC/WCL Project on Addressing Prison Rape

<b>Coverage Cont'd</b> <i>(Michigan)</i>	<p>(2) A caregiver or other person with authority over the vulnerable adult is guilty of vulnerable adult abuse in the second degree if the reckless act or reckless failure to act of the caregiver or other person with authority over the vulnerable adult causes serious physical harm or serious mental harm to a vulnerable adult. Vulnerable adult abuse in the second degree is a felony punishable by imprisonment for not more than 4 years or a fine of not more than \$5,000.00, or both.</p> <p>(3) A caregiver is guilty of vulnerable adult abuse in the third degree if the caregiver intentionally causes physical harm to a vulnerable adult. Vulnerable adult abuse in the third degree is a misdemeanor punishable by imprisonment for not more than 2 years or a fine of not more than \$2,500.00, or both.</p> <p>(4) A caregiver or other person with authority over the vulnerable adult is guilty of vulnerable adult abuse in the fourth degree if the reckless act or reckless failure to act of the caregiver or other person with authority over a vulnerable adult causes physical harm to a vulnerable adult. Vulnerable adult abuse in the fourth degree is a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both.</p> <p>(5) This section does not prohibit a caregiver or other person with authority over a vulnerable adult from taking reasonable action to prevent a vulnerable from being harmed or from harming others.</p>
<b>Definitions</b> <i>(Michigan)</i>	<p>M.C.L.A. § 750.145m (West 2008)</p> <p><u>Definitions</u></p> <p>As used in this chapter:</p> <p>(c) <u>Caregiver</u> means an individual who directly cares for or has physical custody of a vulnerable adult.</p> <p>(k) <u>Other person with authority over a vulnerable adult</u> includes, but is not limited to, a person with authority over a vulnerable adult in that part of a hospital that is a hospital long-term care unit, but does not include a person with authority over a vulnerable adult in that part of a hospital that is not a hospital long-term care unit. As used in this subdivision,</p>

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### NIC/WCL Project on Addressing Prison Rape

<b>Definitions</b> <b>Cont'd</b> <i>(Michigan)</i>	<p>"hospital" and "hospital long-term care unit" mean those terms as defined in section 20106 of the public health code, MCL 333.20106.</p> <p>(n) <u>Physical harm</u> means any injury to a vulnerable adult's physical condition.</p> <p>(p) <u>Reckless act or reckless failure to act</u> means conduct that demonstrates a deliberate disregard of the likelihood that the natural tendency of the act or failure to act is to cause physical harm, serious physical harm, or serious mental harm.</p> <p>(r) <u>Serious physical harm</u> means a physical injury that threatens the life of a vulnerable adult, that cause substantial bodily disfigurement or that seriously impairs the functioning or well-being of the vulnerable adult.</p> <p>(s) <u>Serious mental harm</u> means a mental injury that results in a substantial alteration of mental functioning that is manifested in a visibly demonstrable manner.</p> <p>(u) <u>vulnerable adult</u> means 1 or more of the following:</p> <ul style="list-style-type: none"> <li>(i) An individual age 18 or over who, because of age, developmental disability, mental illness, or physical disability requires supervision or personal care or lacks the personal and social skills required to live independently.</li> <li>(ii) An adult as defined in section (3)(1)(b) of the adult foster care facility licensing act, MCL 400.703.</li> <li>(iii) An adult as defined in section 11(b) of the social welfare act, MCL 400.11</li> </ul> <p>M.C.L.A. § 330.1400 (West 2008)</p> <p><u>Definitions</u></p> <p>As used in this chapter, unless the context requires otherwise:</p> <p>(g) <u>Mental illness</u> means a substantial disorder of thought or mood that significant impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life.</p>
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#### NOTES:

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<b>Definitions</b> <b>Cont'd</b> <i>(Michigan)</i>	<p>M.C.L.A. § 333.20106 (West 2008)</p> <p><u>Definitions</u></p> <p>(5) <u>Hospital</u> means a facility offering inpatient, overnight care, and services for observation, diagnosis, and active treatment of an individual with a medical, surgical, obstetric, chronic, or rehabilitative condition requiring the daily direction or supervision of a physician. Hospital does not include a mental health hospital licensed or operated by the department of community health or a hospital operated by the department of corrections.</p> <p>(6) <u>Hospital long-term care unit</u> means a nursing care facility, owned and operated by and as part of a hospital, providing organized nursing care and medical treatment to 7 or more unrelated individuals suffering or recovering from illness, injury, or infirmity.</p>
<b>Penalties</b> <i>(Michigan)</i>	<p>M.C.L.A. § 750.145n (West 2008)</p> <p><u>Vulnerable adult abuse; degrees; penalties; reasonable actions to prevent harm; actions pursuant to power of attorney</u></p> <p>(1) A caregiver is guilty of vulnerable adult abuse in the first degree if the caregiver intentionally causes serious physical harm or serious mental harm to a vulnerable adult. Vulnerable adult abuse in the first degree is a felony punishable by imprisonment for not more than 15 years or a fine of not more than \$10,000.00, or both.</p> <p>M.C.L.A. § 750.145n (West 2008)</p> <p><u>Vulnerable adult abuse; degrees; penalties; reasonable actions to prevent harm; actions pursuant to power of attorney</u></p> <p>(2) A caregiver or other person with authority over the vulnerable adult is guilty of vulnerable adult abuse in the second degree if the reckless act or reckless failure to act of the caregiver or other person with authority over the vulnerable adult causes serious physical harm or serious mental harm to a vulnerable adult. Vulnerable adult abuse in the second degree is a felony punishable by imprisonment for not more than 4 years or a fine of not more than \$5,000.00, or both.</p>

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<b>Penalties Cont'd</b> <i>(Michigan)</i>	<p>M.C.L.A. § 750.145n (West 2008)  <u>Vulnerable adult abuse; degrees; penalties; reasonable actions to prevent harm; actions pursuant to power of attorney</u></p> <p>(3) A caregiver is guilty of vulnerable adult abuse in the third degree if the caregiver intentionally causes physical harm to a vulnerable adult. Vulnerable adult abuse in the third degree is a misdemeanor punishable by imprisonment for not more than 2 years or a fine of not more than \$2,500.00, or both.</p> <p>M.C.L.A. § 750.145n (West 2008)  <u>Vulnerable adult abuse; degrees; penalties; reasonable actions to prevent harm; actions pursuant to power of attorney</u></p> <p>(4) A caregiver or other person with authority over the vulnerable adult is guilty of vulnerable adult abuse in the fourth degree if the reckless act or reckless failure to act of the caregiver or other person with authority over a vulnerable adult causes physical harm to a vulnerable adult. Vulnerable adult abuse in the fourth degree is a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both.</p>
<b>Applicability to Youth</b> <i>(Michigan)</i>	<p>The above statutes are not applicable to youth</p>
<b>MINNESOTA</b>	
<b>Statute</b> <i>(Minnesota)</i>	<p>M.S.A. § 609.224 (West 2008)  <u>Assault in the fifth degree</u></p> <p>M.S.A. § 609.23 (West 2008)</p>

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<b>Statute Cont'd</b> <i>(Minnesota)</i>	<u>Mistreatment of persons confined</u>  M.S.A. § 609.2325 (West 2008) <u>Criminal abuse</u>  M.S.A. § 609.233 (West 2008) <u>Criminal Neglect</u>  Subd. 6. Maltreatment. (West 2008)
<b>Coverage</b> <i>(Minnesota)</i>	M.S.A. § 609.224 (West 2008) <u>Assault in the fifth degree</u>  Subdivision 1. Misdemeanor. Whoever does any of the following commits an assault and is guilty of a misdemeanor: (1) commits an act with intent to cause fear in another of immediate bodily harm or death; or (2) intentionally inflicts or attempts to inflict bodily harm upon another.  Subd. 2. Gross misdemeanor. (c) A caregiver, as defined in section 609.232, who is an individual and who violates the provisions of subdivision 1 against a vulnerable adult, as defined in section 609.232, is guilty of a gross misdemeanor and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both.  M.S.A. § 609.23 (West 2008) <u>Mistreatment of persons confined</u>  Whoever, being in charge of or employed in any institution, whether public or private, intentionally abuses or ill-treats any

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<b>Coverage Cont'd</b> <i>(Minnesota)</i>	<p>person confined therein who is mentally or physically disabled or who is involuntarily confined therein by order of court or other duly constituted authority may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000 or both.</p> <p>M.S.A. § 609.2325 (West 2008)  <u>Criminal abuse</u></p> <p>Subdivision 1. Crimes.</p> <p>(a) A caregiver who, with intent to produce physical or mental pain or injury to a vulnerable adult, subjects a vulnerable adult to any aversive or deprivation procedure, unreasonable confinement, or involuntary seclusion, is guilty of criminal abuse and may be sentenced as provided in subdivision 3.</p> <p>This paragraph does not apply to therapeutic conduct.</p> <p>(b) A caregiver, facility staff person, or person providing services in a facility who engages in sexual contact or penetration, under circumstances other than those meeting the definition of criminal sexual conduct in the first through fourth degrees, with a resident, patient, or client of the facility is guilty of criminal abuse and may be sentenced as provided in subdivision 3.</p> <p>Subd. 2. Exemptions. For the purposes of this section, a vulnerable adult is not abused for the sole reason that:</p> <p>(1) the vulnerable adult or a person with authority to make health care decisions for the vulnerable adult under sections 144.651, 144A.44, chapter 145B, 145C, or 252A, or sections 253B.03 or 524.5-101 to 524.5-502, refuses consent or withdraws consent, consistent with that authority and within the boundary of reasonable medical practice, to any therapeutic conduct, including any care, service, or procedure to diagnose, maintain, or treat the physical or mental condition of the vulnerable adult or, where permitted under law, to provide nutrition and hydration parenterally or through intubation; this paragraph does not enlarge or diminish rights otherwise held under law by:</p> <p>(i) a vulnerable adult or a person acting on behalf of a vulnerable adult, including an involved family member, to consent to or refuse consent for therapeutic conduct; or</p>
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<p><b>Coverage Cont'd</b> (Minnesota)</p>	<p>(ii) a caregiver to offer or provide or refuse to offer or provide therapeutic conduct;</p> <p>(2) the vulnerable adult, a person with authority to make health care decisions for the vulnerable adult, or a caregiver in good faith selects and depends upon spiritual means or prayer for treatment or care of diseases or remedial care of the vulnerable adult in lieu of medical care, provided that this is consistent with the prior practice or belief of the vulnerable adult or with the expressed intentions of the vulnerable adult; or</p> <p>(3) the vulnerable adult, who is not impaired in judgment or capacity by mental or emotional dysfunction or undue influence, engages in consensual sexual contact with: (i) a person, including a facility staff person, when a consensual sexual personal relationship existed prior to the caregiving relationship; or (ii) a personal care attendant, regardless of whether the consensual sexual personal relationship existed prior to the caregiving relationship.</p> <p>M.S.A. § 609.233 (West 2008) <u>Criminal Neglect</u></p> <p>Subdivision 1. Crime. A caregiver or operator who intentionally neglects a vulnerable adult or knowingly permits conditions to exist that result in abuse or neglect of a vulnerable adult is guilty of a gross misdemeanor. For purposes of this section “abuse” has the meaning given in section 626. 5572, subdivision 2, and “neglect” means a failure to provide a vulnerable adult with necessary food, clothing, shelter, health care, or supervision.</p> <p>Sudb. 2. Exemptions. A vulnerable adult is not neglected for the sole reason that:</p> <p>(1) the vulnerable adult or a person with authority to make health care decisions for the vulnerable adult under section 144.652, 144A.22, 253B.03, or 524I5-101 to 524.5-502, or chapter 145B, 145C, or 252A, refuses consent or withdraws consent, consistent with that authority and within the boundary of reasonable medical practice, to any therapeutic conduct, including any care, service, or procedure to diagnose, maintain, or treat the physical or mental condition of the vulnerable</p>
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<b>Coverage Cont'd</b> <i>(Minnesota)</i>	<p>adult or, where permitted under law, to provide nutrition and hydration parenterally or through intubation; this paragraph does not enlarge or diminish rights otherwise held under law by:</p> <p>(i) a vulnerable adult or a person acting on behalf of a vulnerable adult, including an involved family member, to consent to or refuse consent for therapeutic conduct; or</p> <p>(ii) a caregiver to offer or provide or refuse to offer or provide therapeutic conduct;</p> <p>(2) the vulnerable adult, a person with authority to make health care decisions for the vulnerable adult, or a caregiver in good faith selects and depends upon spiritual means or prayer for treatment or care of diseases or remedial care of the vulnerable adult in lieu of medical care, provided that this is consistent with the prior practice or belief of the vulnerable adult or with the expressed intentions of the vulnerable adult; or</p> <p>(3) the vulnerable adult, who is not impaired in judgment or capacity by mental or emotional dysfunction or undue influence, engages in consensual sexual contact with: (i) a person including a facility staff person when a consensual sexual personal relationship existed prior to the caregiving relationship; or (ii) a personal care attendant, regardless of whether the consensual sexual personal relationship existed prior to the caregiving relationship.</p>
<b>Definitions</b> <i>(Minnesota)</i>	<p>M.S.A. § 609.232 (West 2008)  <u>Crimes against vulnerable adults; definitions</u></p> <p>Subdivision 1. Scope.  As used in sections 609.2325, 609.233, 609.2335, and 609.234, the terms defined in this section have the meanings given.</p> <p>Subd. 2. Caregiver.  <u>Caregiver</u> means an individual or facility who has responsibility for the care of a vulnerable adult as a result of a family relationship, or who has assumed responsibility for all or a portion of the care of a vulnerable adult voluntarily, by contract, or by agreement.</p>

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<b>Definitions Cont'd</b> <i>(Minnesota)</i>	<p>Subd. 11. Vulnerable adult.</p> <p>"Vulnerable adult" means any person 18 years of age or older who:</p> <p>(1) is a resident inpatient of a facility;</p> <p>(2) receives services at or from a facility required to be licensed to serve adults under sections 245A.01 to 245A.15, except that a person receiving outpatient services for treatment of chemical dependency or mental illness, or one who is committed as a sexual psychopathic personality or as a sexually dangerous person under chapter 253B, is not considered a vulnerable adult unless the person meets the requirements of clause (4);</p> <p>(3) receives services from a home care provider required to be licensed under section 144A.46; or from a person or organization that exclusively offers, provides, or arranges for personal care assistant services under the medical assistance program as authorized under sections 256B.04, subdivision 16, 256B.0625, subdivision 19a, 256B.0651-to 256B.0656 and 256B.0659; or</p> <p>(4) regardless of residence or whether any type of service is received, possesses a physical or mental infirmity or other physical, mental, or emotional dysfunction: (i) that impairs the individual's ability to provide adequately for the individual's own care without assistance, including the provision of food, shelter, clothing, health care, or supervision; and (ii) because of the dysfunction or infirmity and the need for assistance, the individual has an impaired ability to protect the individual from maltreatment. Sec. 20. Minnesota Statutes 2008, section 626.5572, subdivision 6, is amended to read: Subd. 6. Facility.</p> <p>(a) "Facility" means a hospital or other entity required to be licensed under sections 144.50 to 144.58; a nursing home required to be licensed to serve adults under section 144A.02; a residential or nonresidential facility required to be licensed to serve adults under sections 245A.01 to 245A.16; a home care provider licensed or required to be licensed under section 144A.46; a hospice provider licensed under sections 144A.75 to 144A.755; or a person or organization that exclusively offers, provides,</p>
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<b>Definitions</b> <b>Cont'd</b> <i>(Minnesota)</i>	<p>or arranges for personal care assistant services under the medical assistance program as authorized under sections 256B.04, subdivision 16, 256B.0625, subdivision 19a, 256B.0651-to 256B.0656, and 256B.0659.</p> <p>(b) For home care providers and personal care attendants, the term facility refers to the provider or person or organization that exclusively offers, provides, or arranges for personal care services, and does not refer to the client's home or other location at which services are rendered.</p> <p>Subd. 6. Maltreatment. (West 2008)  <u>Maltreatment</u> means any of the following:  (1) abuse under section 609.2325;  (2) neglect under section 609.233; or  (3) financial exploitation under section 609.2335.</p> <p>Subd. 10. Therapeutic conduct.  <u>Therapeutic conduct</u> means the provision of program services, health care, or other personal care services done in good faith in the interests of the vulnerable adult by: (1) an individual, facility or employee, or person providing services in a facility under the rights, privileges, and responsibilities conferred by state license, certification, or registration; or (2) a caregiver.</p> <p>M.S.A. § 626.5572 (West 2008)  <u>Criminal abuse, Definitions</u></p> <p>Subdivision 1. Scope.  For the purpose of section 626.557, the following terms have the meanings given them, unless otherwise specified.</p> <p>Subd. 2. Abuse. <u>Abuse</u> means:  (a) An act against a vulnerable adult that constitutes a violation of, an attempt to violate, or aiding and abetting a violation of:  (1) assault in the first through fifth degrees as defined in sections 609.221 to 609.224</p>
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<b>Definitions</b> <b>Cont'd</b> <i>(Minnesota)</i>	<p>(2) the use of drugs to injure or facilitate crime as defined in section 609.235;</p> <p>(3) the solicitation, inducement, and promotion of prostitution as defined in section 609.322; and</p> <p>(4) criminal sexual conduct in the first through fifth degrees as defined in sections 609.342 to 609.3451.</p> <p>A violation includes any action that meets the elements of the crime, regardless of whether there is a criminal proceeding or conviction.</p> <p>(b) Conduct which is not an accident or therapeutic conduct as defined in this section, which produces or could reasonably be expected to produce physical pain or injury or emotional distress including, but not limited to, the following:</p> <p>(1) hitting, slapping, kicking, pinching, biting, or corporal punishment of a vulnerable adult;</p> <p>(2) use of repeated or malicious oral, written, or gestured language toward a vulnerable adult or the treatment of a vulnerable adult which would be considered by a reasonable person to be disparaging, derogatory, humiliating, harassing, or threatening;</p> <p>(3) use of any aversive or deprivation procedure, unreasonable confinement, or involuntary seclusion, including the forced separation of the vulnerable adult from other persons against the will of the vulnerable adult or the legal representative of the vulnerable adult; and</p> <p>(4) use of any aversive or deprivation procedures for persons with developmental disabilities or related conditions not authorized under section 245.825.</p> <p>(c) Any sexual contact or penetration as defined in section 609.341, between a facility staff person or a person providing services in the facility and a resident, patient, or client of that facility.</p> <p>(d) The act of forcing, compelling, coercing, or enticing a vulnerable adult against the vulnerable adult's will to perform services for the advantage of another.</p> <p>(e) For purposes of this section, a vulnerable adult is not abused for the sole reason that the vulnerable adult or a person with authority to make health care decisions for the vulnerable adult under sections 144.651, 144A.44, chapter 145B, 145C or 252A, or section 253B.03 or 524.5-313, refuses consent or withdraws consent, consistent with that authority and within the boundary of reasonable medical practice, to any therapeutic conduct, including any care, service, or procedure to diagnose,</p>
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<b>Penalties</b> <i>(Minnesota)</i>	<p>M.S.A. § 609.224 (West 2008)  <u>Assault in the fifth degree</u></p> <p>Subdivision 1. Misdemeanor.          Whoever does any of the following commits an assault and is guilty of a misdemeanor:</p> <p>M.S.A. § 609.224 (West 2008)  <u>Assault in the fifth degree</u></p> <p>Subd. 2. Gross misdemeanor.          (c) A caregiver, as defined in section 609.232, who is an individual and who violates the provisions of subdivision 1 against a vulnerable adult, as defined in section 609.232, is guilty of a gross misdemeanor and may be sentenced to imprisonment for not more than 1 year or to payment of a fine of not more than \$3,000, or both.</p> <p>M.S.A. § 609.23 (West 2008)  <u>Mistreatment of persons confined</u></p> <p>Whoever, being in charge of or employed in any institution, whether public or private, intentionally abuses or ill-treats any person confined therein who is mentally or physically disabled or who is involuntarily confined therein by order of court or other duly constituted authority may be sentenced to imprisonment for not more than 1 year or to payment of a fine of not more than \$3,000, or both.</p> <p>M.S.A. § 609.2325 (West 2008)  <u>Criminal abuse</u></p> <p>Subd. 3. Penalties.          (a) A person who violates subdivision 1, paragraph (a), may be sentenced as follows:</p>
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#### NOTES:

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**\*While not reflected on this chart, most states have enhanced penalties for sexual assault/battery/or other relevant statutes where the victim is considered “vulnerable”**

**\*\* Some states use child abuse statutes to address the vulnerability of youth under 18; those are not reflected in this chart. However for states that consider youth as a vulnerable persons under these specific statutes are noted here.**

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### NIC/WCL Project on Addressing Prison Rape

<b>Penalties Cont'd</b> <i>(Minnesota)</i>	<p>(1) if the act results in the death of a vulnerable adult, imprisonment for not more than 15 years or payment of a fine of not more than \$30,000, or both;</p> <p>M.S.A. § 609.2325 (West 2008)  <u>Criminal abuse</u></p> <p>Subd. 3. Penalties.  (a) A person who violates subdivision 1, paragraph (a), may be sentenced as follows:  (2) if the act results in great bodily harm, imprisonment for not more than 10 years or payment of a fine of not more than \$20,000, or both;</p> <p>M.S.A. § 609.2325 (West 2008)  <u>Criminal abuse</u></p> <p>Subd. 3. Penalties.  (a) A person who violates subdivision 1, paragraph (a), may be sentenced as follows:  (3) if the act results in substantial bodily harm or the risk of death, imprisonment for not more than five years or payment of a fine of not more than \$10,000, or both;</p> <p>M.S.A. § 609.2325 (West 2008)  <u>Criminal abuse</u></p> <p>Subd. 3. Penalties.  (a) A person who violates subdivision 1, paragraph (a), may be sentenced as follows:  (4) in other cases, imprisonment for not more than 1 year or payment of a fine of not more than \$3,000, or both.</p> <p>M.S.A. § 609.2325 (West 2008)</p>
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<b>Penalties Cont'd</b> <i>(Minnesota)</i>	<u>Criminal abuse</u>  (b) A person who violates subdivision 1, paragraph (b), may be sentenced to imprisonment for not more than 1 year or to payment of a fine of not more than \$3,000, or both.  M.S.A. § 609.233 (West 2008) <u>Criminal Neglect</u>  Subdivision 1. Crime. A caregiver or operator who intentionally neglects a vulnerable adult or knowingly permits conditions to exist that result in abuse or neglect of a vulnerable adult is guilty of a gross misdemeanor.
<b>Applicability to Youth</b> <i>(Minnesota)</i>	The above statutes are not applicable to youth
<b>MISSISSIPPI</b>	
<b>Statute</b> <i>(Mississippi)</i>	MISS. CODE ANN. § 43-47-18 (West 2008) <u>Sexual battery or fondling of vulnerable adult</u>  MISS. CODE ANN. § 43-47-19 (West 2008) <u>Abuse, neglect and exploitation forbidden</u>  MISS. CODE ANN. § 97-3-97 (West 2008) <u>Sexual battery, definitions</u>

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<b>Coverage</b> <i>(Mississippi)</i>	<p>MISS. CODE ANN. § 43-47-18 (West 2008)  <u>Sexual battery or fondling of vulnerable adult</u></p> <p>(1)(a) A person who engages in sexual penetration with a vulnerable adult is guilty of sexual batter if the person is a volunteer at, or an employee of, or contracted to work for, a health care facility in which the vulnerable adult is a patient or resident.</p> <p>(b) A person who engages in sexual penetration with a vulnerable adult is guilty of sexual battery if the person is in a position of trust or authority over the vulnerable adult, including, without limitation, the vulnerable adult's teacher, counselor, physician, psychiatrist, psychologist, nurse, certified nursing assistant, direct care worker, technical assistant, minister, priest, physical therapist, chiropractor, legal guardian, parent, stepparent, other relative, caretaker or conservator.</p> <p>(2)(a) Any person who, for the purpose of gratifying the person's lust, or indulging the person's depraved licentious sexual desires, shall handle, touch or rub with hands or any part of the person's body or any member thereof, any vulnerable adult, with our without the vulnerable adult's consent when the person is a volunteer at, or an employee of, or contracted to work for, a health care facility in which the vulnerable adult is a patient or resident, shall be guilty of a felony and, upon conviction thereof, shall be fined in a sum not less than \$1,000 nor more than \$5,000 or be committed to the custody of the Department of Corrections not less than 2 nor more than 15 years, or be punished by both fine and imprisonment, at the discretion of the court</p> <p>(b) Any person who, for the purpose of gratifying the person's lust, or indulging the person's depraved licentious sexual desires, shall handle, touch or rub with hands or any part of the person's body or any member thereof, any vulnerable adult, with our without the vulnerable adult's consent when the person occupies a position of trust or authority over the vulnerable adult, shall be guilty of a felony and, upon conviction thereof, shall be fined in a sum not less than \$1,000 nor more than \$5,000 or be committed to the custody of the Department of Corrections not less than 2 nor more than 15 years, or be punished by both fine and imprisonment, at the discretion of the court. A person in a position of trust or authority over the vulnerable adult includes, without limitation, the vulnerable adult's teacher, counselor, physician, psychiatrist, psychologist, nurse, certified nursing assistant, direct care worker, technical assistant, minister, priest, physical therapist, chiropractor, legal guardian, parent, stepparent, other relative, caretaker or conservator.</p>
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<b>Coverage Cont'd</b> <i>(Mississippi)</i>	<p>MISS. CODE ANN. § 43-47-19 (West 2008)  <u>Abuse, neglect and exploitation forbidden</u></p> <p>(1) It shall be unlawful for any person to abuse, neglect or exploit any vulnerable adult.</p> <p>(2)(a) Any person who willfully commits an act or willfully omits the performance of any duty, which act or omission contributes to, tends to contribute to, or results in physical pain, injury, mental anguish, unreasonable confinement or deprivation of services which are necessary to maintain the mental and physical health of a vulnerable adult, or neglect, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed \$1000.00 or by imprisonment not to exceed 1 year in the county jail, or by both such fine and imprisonment. Any accepted medical procedure performed in the usual scope of practice shall not be a violation of this subsection.</p> <p>(3) Any person who willfully inflicts physical pain or injury upon a vulnerable adult shall be guilty of felonious abuse or batter, or both, of a vulnerable adult and, upon conviction thereof, may be punished by imprisonment in the State Penitentiary for not more than 20 years.</p> <p>(4) Nothing contained in this section shall prevent proceedings against a person under any statute of this state or municipal ordinance defining any act as a crime or misdemeanor.</p>
<b>Definitions</b> <i>(Mississippi)</i>	<p>MISS. CODE ANN. § 43-47-5 (West 2008)  <u>Definitions</u></p> <p>For the purposes of this chapter, the following words shall have the meanings ascribed herein unless the context otherwise requires:</p> <p>(a) <u>Abuse</u> means the willful or nonaccidental infliction of physical pain, injury or mental anguish on a vulnerable adult, the unreasonable confinement of a vulnerable adult, or the willful deprivation by a caretaker of services which are necessary to maintain the mental and physical health of a vulnerable adult. <u>Abuse</u> includes sexual abuse. <u>Abuse</u> shall not mean conduct</p>

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<p><b>Definitions</b> <b>Cont'd</b> <i>(Mississippi)</i></p>	<p>which is a part of the treatment and care of, and in furtherance of the health and safety of a patient or resident of a care facility. "Abuse" includes, but is not limited to, a single incident.</p> <p>(b) <u>Care facility</u> means:</p> <ul style="list-style-type: none"> <li>(i) Any institution or place for the aged or infirm</li> <li>(ii) Any long-term care facility;</li> <li>(iii) Any hospital, a</li> <li>(iv) Any home health agency;</li> <li>(v) Any hospice</li> </ul> <p>(c) <u>Caretaker</u> means an individual, corporation, partnership or other organization which has assumed the responsibility for the care of a vulnerable adult, but shall not include the Division of Medicaid, a licensed hospital, or a licensed nursing home within the state.</p> <p>(k) <u>Neglect</u> means either the inability of a vulnerable adult who is living alone to provide for himself the food, clothing, shelter, health care or other services which are necessary to maintain his mental and physical health, or failure or a caretaker to supply the vulnerable adult with the food, clothing, shelter, health care, supervision or other services which are reasonably prudent person would do to maintain the vulnerable adult's mental and physical health. Neglect includes, but is not limited to, a single incident.</p> <p>(m) <u>Sexual penetration</u> shall have the meaning ascribed in Section 97-3-97 (West 2008)</p> <p>(n) <u>Vulnerable adult</u> means a person 18 years of age or older or any minor whose ability to perform the normal activities of daily living or to provide for his or her own care or protection is impaired due to a mental, emotional, physical or developmental disability or dysfunction, or brain damage or the infirmities of aging. The term <u>vulnerable adult</u> also includes all residents or patients, regardless of age, in a care facility for the purposes of Sections 43-47-19 and 43-47-37 only. The department shall not be prohibited from investigating, and shall have the authority and responsibility to</p>
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### NIC/WCL Project on Addressing Prison Rape

<b>Definitions</b> <b>Cont'd</b> <i>(Mississippi)</i>	<p>fully investigate, in accordance with the provisions of this chapter, any allegation of abuse, neglect, or exploitation regarding a patient in a care facility, if the alleged abuse, neglect or exploitation occurred at a private residence.</p> <p>MISS. CODE ANN. § 97-3-97 (West 2008)  <u>Sexual battery, definitions</u></p> <p>(a) Sexual penetration includes cunnilingus, fellatio, buggery or pederasty, any 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.</p>
<b>Penalties</b> <i>(Mississippi)</i>	<p>MISS. CODE ANN. § 43-47-18 (West 2008)  <u>Sexual battery or fondling of vulnerable adult</u></p> <p>(1)(c) Every person who is convicted of sexual battery under this subsection (1) shall be imprisoned in the custody of the State Department of Corrections for a period of not more than 30 years, and for a second or subsequent such offense shall be imprisoned in the custody of the State Department of Corrections for a period of not more than 40 years.</p> <p>MISS. CODE ANN. § 43-47-18 (West 2008)  <u>Sexual battery or fondling of vulnerable adult</u></p> <p>(2)(a) Any person who, for the purpose of gratifying the person's lust, or indulging the person's depraved licentious sexual desires, shall handle, touch or rub with hands or any part of the person's body or any member thereof, any vulnerable adult, with our without the vulnerable adult's consent when the person is a volunteer at, or an employee of, or contracted to work for, a health care facility in which the vulnerable adult is a patient or resident, shall be guilty of a felony and, upon conviction thereof, shall be fined in a sum not less than \$1,000 nor more than \$5,000 or be committed to the custody of the Department of Corrections not less than 2 nor more than 15 years, or be punished by both fine and imprisonment, at the discretion of the</p>

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<b>Penalties Cont'd</b> <i>(Mississippi)</i>	<p>court</p> <p>MISS. CODE ANN. § 43-47-18 (West 2008)  <u>Sexual battery or fondling of vulnerable adult</u></p> <p>(2)(b) Any person who, for the purpose of gratifying the person's lust, or indulging the person's depraved licentious sexual desires, shall handle, touch or rub with hands or any part of the person's body or any member thereof, any vulnerable adult, with our without the vulnerable adult's consent when the person occupies a position of trust or authority over the vulnerable adult, shall be guilty of a felony and, upon conviction thereof, shall be fined in a sum not less than \$1,000 nor more than \$5,000 or be committed to the custody of the Department of Corrections not less than 2 nor more than 15 years, or be punished by both fine and imprisonment, at the discretion of the court. A person in a position of trust or authority over the vulnerable adult includes, without limitation, the vulnerable adult's teacher, counselor, physician, psychiatrist, psychologist, nurse, certified nursing assistant, direct care worker, technical assistant, minister, priest, physical therapist, chiropractor, legal guardian, parent, stepparent, other relative, caretaker or conservator.</p> <p>MISS. CODE ANN. § 43-47-19 (West 2008)  <u>Abuse, neglect and exploitation forbidden</u></p> <p>(1) It shall be unlawful for any person to abuse, neglect or exploit any vulnerable adult.  (2)(a) Any person who willfully commits an act or willfully omits the performance of any duty, which act or omission contributes to, tends to contribute to, or results in physical pain, injury, mental anguish, unreasonable confinement or deprivation of services which are necessary to maintain the mental and physical health of a vulnerable adult, or neglect, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed \$1000.00 or by imprisonment not to exceed 1 year in the county jail, or by both such fine and imprisonment. Any accepted medical procedure performed in the usual scope of practice shall not be a violation of this subsection.</p> <p>MISS. CODE ANN. § 43-47-19 (West 2008)</p>
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<b>Applicability to Youth</b> <i>(Mississippi)</i>	The above statutes are not applicable to youth
<b>MISSOURI</b>	
<b>Statute</b> <i>(Missouri)</i>	V.A.M.S. § 565.210 (West 2008) <u>Vulnerable person abuse, first degree</u>  V.A.M.S. § 565.212 (West 2008) <u>Vulnerable person abuse, second degree</u>  V.A.M.S. § 565.214 (West 2008) <u>Vulnerable person abuse, third degree--certain actions not abuse</u>  V.A.M.S. § 565.180 (West 2008) <u>Elder abuse in the first degree--penalty</u>

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<b>Statute Cont'd</b> <i>(Missouri)</i>	<p>V.A.M.S. § 565.182 (West 2008)  <u>Elder abuse in the second degree--penalty</u></p> <p>V.A.M.S. § 565.182 (West 2008)  <u>Elder abuse in the third degree--penalty</u></p> <p>V.A.M.S. § 630.005 (West 2008)  <u>Definitions</u></p>
<b>Coverage</b> <i>(Missouri)</i>	<p>V.A.M.S. § 565.210 (West 2008)  <u>Vulnerable person abuse, first degree</u></p> <p>1. A person commits the crime of vulnerable person abuse in the first degree if he or she attempts to kill or knowingly causes or attempts to cause serious physical injury to, a vulnerable person, as defined in section 630.005, RSMo.</p> <p>V.A.M.S. § 565.212 (West 2008)  <u>Vulnerable person abuse, second degree</u></p> <p>1. A person commits the crime of vulnerable person abuse in the second degree if he or she:          (1) Knowingly causes or attempts to cause physical injury to a vulnerable person, as defined in section 630.005, RSMo, by means of a deadly weapon or dangerous instrument; or          (2) Recklessly causes serious physical injury to any vulnerable person, as defined in section 630.005, RSMo.</p> <p>V.A.M.S. § 565.214 (West 2008)  <u>Vulnerable person abuse, third degree--certain actions not abuse</u></p> <p>1. A person commits the crime of vulnerable person abuse in the third degree if he or she:</p>

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<b>Coverage Cont'd</b> <i>(Missouri)</i>	<p>(1) Knowingly causes or attempts to cause physical contact with any vulnerable person as defined in section 630.005, RSMo, knowing the other person will regard the contact as harmful or offensive; or</p> <p>(2) Purposely engages in conduct involving more than one incident that causes grave emotional distress to a vulnerable person, as defined in section 630.005, RSMo. The result of the conduct shall be such as would cause a vulnerable person, as defined in section 630.005, RSMo, to suffer substantial emotional distress; or</p> <p>(3) Purposely or knowingly places a vulnerable person, as defined in section 630.005, RSMo, in apprehension of immediate physical injury; or</p> <p>(4) Intentionally fails to provide care, goods or services to a vulnerable person, as defined in section 630.005, RSMo. The result of the conduct shall be such as would cause a vulnerable person, as defined in section 630.005, RSMo, to suffer physical or emotional distress; or</p> <p>(5) Knowingly acts or knowingly fails to act with malice in a manner that results in a grave to the life, body or health of a vulnerable person, as defined in section 630.005, RSMo; or</p> <p>(6) Is a person who is a vendor, provider, agent, or employee of a department operated, funded, licensed, or certified program and engages in sexual contact, as defined by subdivision (3) of section 566.010, RSMo, or sexual intercourse, as defined by subdivision (4) of section 566.010, RSMo, with a vulnerable person.</p> <p>3. Actions done in good faith and without gross negligence that are designed to protect the safety of the individual and the safety of others, or are provided within accepted standards of care and treatment, shall not be considered as abuse of a vulnerable person as defined in this section.</p> <p>4. Nothing in this section shall be construed to mean that a vulnerable person is abused solely because such person chooses to rely on spiritual means through prayer, in lieu of medical care, for his or her health care, as evidenced by the vulnerable person's explicit consent, advance directive for health care, or practice.</p> <p>V.A.M.S. § 565.180 (West 2008)  <u>Elder abuse in the first degree—penalty</u></p>
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<b>Coverage Cont'd</b> <i>(Missouri)</i>	<p>1. A person commits the crime of elder abuse in the first degree if he attempts to kill, knowingly causes or attempts to cause serious physical injury, as defined in section 565.002, to any person 60 year of age or older or an eligible adult as defined in section 660.250, RSMo.</p> <p>V.A.M.S. § 565.182 (West 2008)  <u>Elder abuse in the second degree—penalty</u></p> <p>1. A person commits the crime of elder abuse in the second degree if he:</p> <p>(1) Knowingly causes, attempts to cause physical injury to any person 60 years of age or older or an eligible adult, as defined in section 660.250, RSMo, by means of a deadly weapon or dangerous instrument; or</p> <p>(2) Recklessly and purposely causes serious physical injury, as defined in section 565.002, to a person 60 year of age or older or an eligible as defined in section 660.250, RSMo.</p> <p>V.A.M.S. § 565.182 (West 2008)  <u>Elder abuse in the third degree—penalty</u></p> <p>1. A person commits the crime of elder abuse in the third degree if he:</p> <p>(1) Knowingly causes or attempts to cause physical contact with any person 60 years of age or older or an eligible adult as defined in section 660.250, RSMo, knowing the other person will regard the contact as harmful or provocative; or</p> <p>(2) Purposely engages in conduct involving more than one incident that causes grave emotional distress to a person 60 years of age or older or an eligible adult, as defined in section 660.250, RSMo. The course of conduct shall be such as would cause a reasonable person age 60 year of age or an eligible adult, as defined in section 660.250, RSMo, to suffer substantial emotional distress; or</p> <p>(3) Purposely or knowingly places a person 60 years of age or older or an eligible adult, as defined in section 660.250, RSMo, in apprehension of immediate physical injury; or</p> <p>(4) Intentionally fails to provide care, goods or services to a person 60 years of age or older or an eligible adult, as defined in section 660.250, RSMo. The result of the conduct shall be such as would cause a reasonable person age 60 or older or an</p>
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### NIC/WCL Project on Addressing Prison Rape

<b>Coverage Cont'd</b> (Missouri)	eligible adult, as defined in section 660.250, RSMo, to suffer physical or emotional distress; or (5) Knowingly acts or knowingly fails to act in a manner which results in a grave risk to the life, body or health of a person 60 years of age or older or an eligible adult, as defined in section 660.250, RSMo.
<b>Definitions</b> (Missouri)	<p>V.A.M.S. § 630.005 (West 2008)</p> <p><u>Definitions</u></p> <p>As used in this chapter and chapters 631, 632, and 633, RSMo, unless the context clearly requires otherwise, the following terms shall mean:</p> <p>(34) <u>Vulnerable person</u>, any person in the custody, care, or control of the department that is receiving services from an operated, funded, licensed, or certified program.</p> <p>(9) “Developmental disability”, a disability:</p> <p>(a) Which is attributable to:</p> <p style="padding-left: 40px;">a. Mental retardation, cerebral palsy, epilepsy, head injury or autism, or a learning disability related to a brain dysfunction;</p> <p>or</p> <p style="padding-left: 40px;">b. Any other mental or physical impairment or combination of mental or physical impairments; and</p> <p>(b) Is manifested before the person attains age twenty-two; and</p> <p>(c) Is likely to continue indefinitely; and</p> <p>(d) Results in substantial functional limitations in two or more of the following areas of major life activities:</p> <p style="padding-left: 40px;">a. Self-care;</p> <p style="padding-left: 40px;">b. Receptive and expressive language development and use;</p> <p style="padding-left: 40px;">c. Learning;</p> <p style="padding-left: 40px;">d. Self-direction;</p> <p style="padding-left: 40px;">e. Capacity for independent living or economic self-sufficiency;</p>

#### NOTES:

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### NIC/WCL Project on Addressing Prison Rape

<b>Definitions Cont'd</b> <i>(Missouri)</i>	<p>f. Mobility; and</p> <p>(e) Reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, habilitation or other services which may be of lifelong or extended duration and are individually planned and coordinated;</p> <p>(22) "Mental disorder", any organic, mental or emotional impairment which has substantial adverse effects on a person's cognitive, volitional or emotional function and which constitutes a substantial impairment in a person's ability to participate in activities of normal living;</p> <p>(23) "Mental illness", a state of impaired mental processes, which impairment results in a distortion of a person's capacity to recognize reality due to hallucinations, delusions, faulty perceptions or alterations of mood, and interferes with an individual's ability to reason, understand or exercise conscious control over his actions. The term "mental illness" does not include the following conditions unless they are accompanied by a mental illness as otherwise defined in this subdivision:</p> <p>(a) Mental retardation, developmental disability or narcolepsy;</p> <p>(b) Simple intoxication caused by substances such as alcohol or drugs;</p> <p>(c) Dependence upon or addiction to any substances such as alcohol or drugs;</p> <p>(d) Any other disorders such as senility, which are not of an actively psychotic nature;</p> <p>(24) "Mental retardation", significantly subaverage general intellectual functioning which:</p> <p>(a) Originates before age eighteen; and</p> <p>(b) Is associated with a significant impairment in adaptive behavior;</p> <p>V.A.M.S. § 566.010 (West 2008)</p> <p><u>Chapter definitions</u></p>
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#### NOTES:

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### NIC/WCL Project on Addressing Prison Rape

<b>Definitions</b> <b>Cont'd</b> <i>(Missouri)</i>	<p>As used in this chapter and chapter 568, RSMo, the following terms mean:</p> <p>(3) <u>Sexual contact</u>, 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;</p> <p>(4) <u>Sexual intercourse</u>, any penetration, however slight, of the female sex organ by the male sex organ, whether or not an emission results.</p> <p>V.A.M.S. § 660.250 (West 2008)</p> <p><u>Definitions</u></p> <p>As used in section 660.250 to 660.321, the following terms mean:</p> <p>(5) <u>Eligible adult</u>, a person 60 years of age or older who is unable to protect his or her own interests or adequately perform or obtain services which are necessary to meet his or her essential human needs or an adult with a disability, as defined in section 660.053, between the ages of 18 and 59 who is unable to protect his or her own interests or adequately perform or obtain services which are necessary to meet his or her essential human needs;</p> <p>V.A.M.S. § 565.002 (West 2008)</p> <p><u>Definitions</u></p> <p>(6) <u>Serious physical injury</u> means physical injury that creates a substantial risk of death or that causes serious disfigurement or protracted loss or impairment of the function of any part of the body</p>
<b>Penalties</b> <i>(Missouri)</i>	<p>V.A.M.S. § 565.210 (West 2008)</p> <p><u>Vulnerable person abuse, first degree</u></p>

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<b>Penalties Cont'd</b> <i>(Missouri)</i>	<p>2. Vulnerable person abuse in the first degree is a class A felony.</p> <p>V.A.M.S. § 558.011 (West 2008)  <u>Sentence of imprisonment, terms--conditions release</u></p> <p>1. The authorized terms of imprisonment, including both prison and condition release terms, are:          (1) For a class A felony, a term of years not less than 10 years and not to exceed 30 years, or life imprisonment.</p> <p>V.A.M.S. § 565.212 (West 2008)  <u>Vulnerable person abuse, second degree</u></p> <p>2. Vulnerable person abuse in the second degree is class B felony.</p> <p>V.A.M.S. § 558.011 (West 2008)  <u>Sentence of imprisonment, terms--conditions release</u></p> <p>1. The authorized terms of imprisonment, including both prison and condition release terms, are:          (2) For a class B felony, a term of years not less than 5 years and not to exceed 15 years.</p> <p>V.A.M.S. § 565.214 (West 2008)  <u>Vulnerable person abuse, third degree--certain actions not abuse</u></p> <p>2. Vulnerable person abuse in the third degree is a class A misdemeanor.</p> <p>V.A.M.S. § 558.011 (West 2008)  <u>Sentence of imprisonment, terms--conditions release</u></p>
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<b>Penalties Cont'd</b> <i>(Missouri)</i>	<p>1. The authorized terms of imprisonment, including both prison and condition release terms, are:            (5) For a class A misdemeanor, a term not to exceed 1 year.</p> <p>V.A.M.S. § 565.180 (West 2008)  <u>Elder abuse in the first degree--penalty</u></p> <p>2. Elder abuse in the first degree is a class A felony.</p> <p>V.A.M.S. § 558.011 (West 2008)  <u>Sentence of imprisonment, terms--conditions release</u></p> <p>1. The authorized terms of imprisonment, including both prison and condition release terms, are:            (1) For a class A felony, a term of years not less than 10 years and not to exceed 30 years, or life imprisonment.</p> <p>V.A.M.S. § 565.182 (West 2008)  <u>Elder abuse in the second degree--penalty</u></p> <p>2. Elder abuse in the second degree is a class B felony.</p> <p>V.A.M.S. § 558.011 (West 2008)  <u>Sentence of imprisonment, terms--conditions release</u></p> <p>1. The authorized terms of imprisonment, including both prison and condition release terms, are:            (2) For a class B felony, a term of years not less than 5 years and not to exceed 15 years.</p> <p>V.A.M.S. § 565.182 (West 2008)  <u>Elder abuse in the second degree--penalty</u></p>
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<b>Penalties Cont'd</b> <i>(Missouri)</i>	<p>2. Elder abuse in the third degree is a class A misdemeanor.</p> <p>V.A.M.S. § 558.011 (West 2008)  <u>Sentence of imprisonment, terms--conditions release</u></p> <p>1. The authorized terms of imprisonment, including both prison and condition release terms, are:  (5) For a class A misdemeanor, a term not to exceed 1 year.</p>
<b>Applicability to Youth</b> <i>(Missouri)</i>	<p>V.A.M.S. §§ 565.214 &amp; 565.210 (West 2008) apply to youth through the statutory definition of “developmentally disabled” provided by V.A.M.S. § 630.005 (West 2008)</p>
<b>MONTANA</b>	
<b>Statute</b> <i>(Montana)</i>	<p>M.C.A. § 52-3-825 (West 2008)  <u>Penalties</u></p> <p>M.C.A. § 52-3-811 (West 2008)  <u>Reports</u></p> <p>M.C.A. § 52-3-803 (West 2008)  <u>Definitions</u></p>

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<b>Statute Cont'd</b> <i>(Montana)</i>	M.C.A. § 53-20-102 (West 2008) <u>Definitions</u>  M.C.A. § 46-18-212 (West 2008) <u>When no penalty is specified</u>
<b>Coverage</b> <i>(Montana)</i>	M.C.A. § 52-3-825 (West 2008) <u>Penalties</u>  (1) A person who purposely or knowingly fails to make a report required by 52-3-811 or discloses or fails to disclose the contents of a case record or report is guilty of an offense and upon conviction is punishable as provided in 46-18-212. (2)(a) A person who purposely or knowingly abuses, sexually abuses, or neglects an older person or a person with a developmental disability is guilty of a felony and shall be imprisoned for a term not to exceed 10 years and be fined an amount not to exceed \$10,000, or both. (b)(i) A person who negligently abuses an older person or a person with a developmental disability is guilty of a misdemeanor and upon a first conviction shall be fined an amount not to exceed \$1,000 or be imprisoned in the county jail for a term not to exceed 1 year, or both. (ii) Upon a second or subsequent conviction of the conduct described in subsection (2)(b)(i), the person is guilty of a felony and shall be imprisoned for a term not to exceed 10 years and be fined an amount not to exceed \$10,000, or both. (c) A person with a developmental disability may not be charged under subsection (2)(a) or (2)(b)
<b>Definitions</b> <i>(Montana)</i>	M.C.A. § 52-3-803 (West 2008) <u>Definitions</u>  As used in this part, the following definitions apply: (1) <u>Abuse</u> means:

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<b>Definitions Cont'd</b> <i>(Montana)</i>	<p>(a) the infliction of physical or mental injury; or</p> <p>(b) the deprivation of food, shelter, clothing, or services necessary to maintain the physical or mental health of an older person or a person with a developmental disability without lawful authority.</p> <p>(7) <u>Neglect</u> means the failure of a person who has assumed legal responsibility or a contractual obligation for caring for an older person or a person with a developmental disability or who has voluntarily assumed responsibility for the person's care, including an employee of a public or private residential institution, facility, home, or agency, to provide food, shelter, clothing, or services necessary to maintain the physical or mental health of the older person or the person with a developmental disability.</p> <p>(8) <u>Older person</u> means a person who is at least 60 years of age. For purposes of prosecution under 52-3-825(2) or (3), the person 60 years of age or older must be unable to provide personal protection from abuse, sexual abuse, neglect, or exploitation because of a mental or physical impairment or because of frailties or dependencies brought about by advanced age.</p> <p>(9) <u>Person with a developmental disability</u> means a person 18 years of age or older who has a developmental disability, as defined in 53-20-102.</p> <p>(10) <u>Physical injury</u> means death, permanent or temporary disfigurement, or impairment of any bodily organ or function.</p> <p>(11) <u>Sexual abuse</u> means the commission of sexual assault, sexual intercourse without consent, indecent exposure, deviate sexual conduct, or incest.</p> <p>M.C.A. § 53-20-102 (West 2008)  <u>Definitions</u></p> <p>(5) <u>Developmental disability</u> means a disability that:</p>
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#### NOTES:

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<b>Definitions</b> <b>Cont'd</b> <i>(Montana)</i>	<p>(a) is attributable to mental retardation, cerebral palsy, epilepsy, autism, or any other neurologically disabling condition closely related to mental retardation</p> <p>(b) requires treatment similar to that required by mentally retarded individuals;</p> <p>(c) originated before the individual turned 18;</p> <p>(d) has continued or can be expected to continue indefinitely; and</p> <p>(e) results in the person having a substantial disability.</p>
<b>Penalties</b> <i>(Montana)</i>	<p>M.C.A. § 52-3-825 (West 2008)  <u>Penalties</u></p> <p>(2)(a) A person who purposely or knowingly abuses, sexually abuses, or neglects an older person or a person with a developmental disability is guilty of a felony and shall be imprisoned for a term not to exceed 10 years and be fined an amount not to exceed \$10,000, or both.</p> <p>M.C.A. § 52-3-825 (West 2008)  <u>Penalties</u></p> <p>(b)(i) A person who negligently abuses an older person or a person with a developmental disability is guilty of a misdemeanor and upon a first conviction shall be fined an amount not to exceed \$1,000 or be imprisoned in the county jail for a term not to exceed 1 year, or both.</p> <p>M.C.A. § 52-3-825 (West 2008)  <u>Penalties</u></p> <p>(ii) Upon a second or subsequent conviction of the conduct described in subsection (2)(b)(i), the person is guilty of a felony and shall be imprisoned for a term not to exceed 10 years and be fined an amount not to exceed \$10,000, or both.</p>

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<b>Penalties Cont'd</b> <i>(Montana)</i>	M.C.A. § 46-18-212 (West 2008) <u>When no penalty is specified</u>  The court, in imposing sentence upon an offender convicted of an offense for which no penalty is otherwise provided or if the offense is designated a misdemeanor and no penalty is otherwise provided, may sentence the offender to a term of imprisonment not to exceed 6 months in the county jail or a fine not to exceed \$ 500, or both.
<b>Applicability to Youth</b> <i>(Montana)</i>	The above statutes are not applicable to youth
<b>NEBRASKA</b>	
<b>Statute</b> <i>(Nebraska)</i>	NEB. REV. ST. § 28-386 (West 2008) <u>Knowing and intentional abuse of a vulnerable adult; penalty</u>  NEB. REV. ST. § 28-383 (West 2008) <u>Treatment by spiritual means alone; not considered abuse.</u>  NEB. REV. ST. § 28-371 (West 2008) <u>Vulnerable adult, defined</u>  NEB. REV. ST. § 28-105 (West 2008) <u>Felonies; classification of penalties; sentences; where served; eligibility for probation</u>

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<b>Coverage</b> <i>(Nebraska)</i>	<p>NEB. REV. ST. § 28-386 (West 2008)  <u>Knowing and intentional abuse of a vulnerable adult; penalty</u></p> <p>(1) A person commits knowing and intentional abuse of a vulnerable adult if he or she through a knowing and intentional act causes or permits a vulnerable adult to be:</p> <ul style="list-style-type: none"> <li>(a) Physically injured;</li> <li>(b) Unreasonably confined;</li> <li>(c) Sexually abused;</li> <li>(d) Exploited;</li> <li>(e) Cruelly punished; or</li> <li>(f) Denied essential services.</li> </ul> <p>NEB. REV. ST. § 28-383  <u>Treatment by spiritual means alone; not considered abuse</u></p> <p>No person shall be considered to be abused for the sole reason that such person relies upon spiritual means alone for treatment in accordance with the tenets and practices of a recognized church or religious denomination in lieu of medical treatment.</p>
<b>Definitions</b> <i>(Nebraska)</i>	<p>NEB. REV. ST. § 28-371 (West 2008)  <u>Vulnerable adult, defined</u></p> <p>Vulnerable adult shall mean any person 18 years of age or older who has a substantial mental or functional impairment or for whom a guardian has been appointed under the Nebraska Probate Code.</p>
<b>Penalties</b> <i>(Nebraska)</i>	<p>NEB. REV. ST. § 28-386 (West 2008)  <u>Knowing and intentional abuse of a vulnerable adult; penalty</u></p>

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<b>Penalties Cont'd</b> <i>(Nebraska)</i>	<p>(2) Knowing and intentional abuse of a vulnerable adult is a Class IIIA felony.</p> <p>NEB. REV. ST. § 28-105 (West 2008)  <u>Felonies; classification of penalties; sentences; where served; eligibility for probation</u></p> <p>(1) For purposes of the Nebraska Criminal Code and any statute passed by the Legislature after the date of passage of the code, felonies are divided into nine classes which are distinguished from one another by the following penalties which are authorized upon conviction:  Class IIIA felony  Maximum – 5 years imprisonment, or \$10,000 fine, or both  Minimum – none</p>
<b>Applicability to Youth</b> <i>(Nebraska)</i>	<p>The above statutes are not applicable to youth</p>
<b>NEVADA</b>	
<b>Statute</b> <i>(Nevada)</i>	<p>N.R.S. § 200.5099 (West 2008)  <u>Penalties</u></p> <p>N.R.S. § 200.50995 (West 2008)  <u>Penalties for conspiracy</u></p> <p>N.R.S. § 200.5092 (West 2008)</p>

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<b>Statute Cont'd</b> <i>(Nevada)</i>	<u>Definitions</u>  N.R.S. § 193.140 (West 2008) <u>Punishment of gross misdemeanors</u>  N.R.S. § 200.5099 (West 2008) <u>Penalties</u>  N.R.S. § 193.130 (West 2008) <u>Categories and punishment of felonies</u>
<b>Coverage</b> <i>(Nevada)</i>	N.R.S. § 200.5099 (West 2008) <u>Penalties</u>  1. Except as otherwise provided in subsection 6, any person who abuses an older person or a vulnerable person is guilty: (a) For the first offense, of a gross misdemeanor; or (b) For any subsequent offense or if the person has been previously convicted of violating a law of any other jurisdiction that prohibits the same or similar conduct, of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 6 years, unless a more severe penalty is prescribed by law for the act or omission which brings about the abuse.  2. Except as otherwise provided in subsection 7, any person who has assumed responsibility, legally, voluntarily or pursuant to a contract, to care for an older person or a vulnerable person and who: (a) Neglects the older person or vulnerable person, causing the older person or vulnerable person to suffer physical pain or mental suffering; (b) Permits or allows the older person or vulnerable person to suffer unjustifiable physical pain or mental suffering; or (c) Permits or allows the older person or vulnerable person to be placed in a situation where the older person or vulnerable

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<p><b>Coverage Cont'd</b> (Nevada)</p>	<p>person may suffer physical pain or mental suffering as the result of abuse or neglect, is guilty of a gross misdemeanor unless a more severe penalty is prescribed by law for the act or omission which brings about the abuse or neglect.</p> <p>5. Any person who isolates an older person or a vulnerable person is guilty:</p> <p>(a) For the first offense, of a gross misdemeanor; or</p> <p>(b) For any subsequent offense, of a category B felony and shall be punished by a imprisonment in the state prison for a minimum of not less then 2 years and a maximum term of not more than 10 years, and may be further punished by a fine of not more than \$5,000.</p> <p>N.R.S. § 200.50995 (West 2008)</p> <p><u>Penalties for conspiracy</u></p> <p>A person who conspires with another to commit abuse, exploitation or isolation of an older person or a vulnerable person as prohibited by NRS 200.5099 shall be punished:</p> <p>1. For the first offense, for a gross misdemeanor.</p> <p>2. For the second and all subsequent offenses, for a category C felony as provided in N.R.S. § 193.130.</p> <p>Each person found guilty of such a conspiracy is jointly and severally liable for the restitution ordered by the court pursuant to NRS 200.5099 with each other person found guilty of the conspiracy.</p>
<p><b>Definitions</b> (Nevada)</p>	<p>N.R.S. § 200.5099 (West 2008)</p> <p><u>Penalties</u></p> <p>9. As used in this section:</p> <p>(a) <u>Allow</u> means to take no action to prevent or stop the abuse or neglect of an older person or a vulnerable person if the person knows or has reason to know that the older person or vulnerable person is being abused or neglected.</p> <p>(b) <u>Permit</u> means permission that a reasonable person would not grant and which amounts to a neglect of responsibility attending the care and custody of an older person or a vulnerable person.</p>

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### NIC/WCL Project on Addressing Prison Rape

<b>Definitions</b> <b>Cont'd</b> <i>(Nevada)</i>	<p>(c) <u>Substantial mental harm</u> means an injury to the intellectual or psychological capacity or the emotional condition of an older person or a vulnerable person as evidenced by an observable and substantial impairment of the ability of the older person or vulnerable person to function within his normal range of performance or behavior.</p> <p>N.R.S. § 200.5092 (West 2008)</p> <p><u>Definitions</u></p> <p>As used in NRS 200.5091 to 200.50995, inclusive, unless the context otherwise requires:</p> <p>1. <u>Abuse</u> means willful and unjustified:</p> <p>(a) Infliction of pain, injury or mental anguish on an older person or a vulnerable person; or</p> <p>(b) Deprivation of food, shelter, clothing or services which are necessary to maintain the physical or mental health of an older person or a vulnerable person.</p> <p>3. <u>Isolation</u> means willfully, maliciously and intentionally preventing an older person or a vulnerable person from having contact with another person by:</p> <p>(a) Intentionally preventing the older person or vulnerable from receiving his visitors, mail or telephone calls, including, without limitation, communicating to a person who comes to visit the older person or vulnerable person or a person who telephones the older person or vulnerable person that the older person or vulnerable person is not present or does not want to meet with or talk to the visitor or caller knowing that the statement is false, contrary to the express wishes of the older person or vulnerable person and intended to prevent the older person or vulnerable person from having contact with the visitor; or</p> <p>(b) Physically restraining the older person or vulnerable person to prevent the older person or vulnerable person from meeting with a person who comes to visit the older person or vulnerable person.</p> <p>The term does not include an act intended to protect the property or physical or mental welfare of the older person or vulnerable person or an act performed pursuant to the instructions of the physician of the older person or vulnerable person.</p> <p>4. <u>Neglect</u> means the failure of:</p> <p>(a) A person who has assumed legal responsibility or a contractual obligation for caring for an older person or a vulnerable</p>
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#### NOTES:

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<b>Definitions</b> <b>Cont'd</b> <i>(Nevada)</i>	<p>person or who has voluntarily assumed responsibility for his care to provide food, shelter, clothing or services which are necessary to maintain the physical or mental health of the older person or vulnerable person; or</p> <p>(b) An older person or a vulnerable person to provide for his own needs because of inability to do so.</p> <p>5. <u>Older person</u> means a person who is 60 years of age or older.</p> <p>7. <u>Vulnerable person</u> means a person 18 years of age or older who:</p> <p>(a) Suffers from a condition of physical or mental incapacitation because of a developmental disability, organic brain damage or mental illness; or</p> <p>(b) Has one or more physical or mental limitations that restrict the ability of the person to perform the normal activities of daily living.</p>
<b>Penalties</b> <i>(Nevada)</i>	<p>N.R.S. § 200.5099 (West 2008)  <u>Penalties</u></p> <p>1. Except as otherwise provided in subsection 6, any person who abuses an older person or a vulnerable person is guilty:</p> <p>(a) For the first offense, of a gross misdemeanor; or</p> <p>N.R.S. § 193.140 (West 2008)  <u>Punishment of gross misdemeanors</u></p> <p>Every person convicted of a gross misdemeanor shall be punished by imprisonment in the county jail for not more than 1 year, or by a fine or not more than \$2,000, or by both fine and imprisonment, unless the statute in force at the time of commission of such gross misdemeanor prescribed a different penalty.</p> <p>N.R.S. § 200.5099 (West 2008)  <u>Penalties</u></p>

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<b>Penalties Cont'd</b> <i>(Nevada)</i>	<p>1. Except as otherwise provided in subsection 6, any person who abuses an older person or a vulnerable person is guilty:            (b) For any subsequent offense or if the person has been previously convicted of violating a law of any other jurisdiction that prohibits the same or similar conduct, of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 6 years, unless a more severe penalty is prescribed by law for the act or omission which brings about the abuse.</p> <p>N.R.S. § 193.130 (West 2008)  <u>Categories and punishment of felonies</u></p> <p>(b) A category B felony is a felony for which the minimum term of imprisonment in the state prison that may be imposed is not less than 1 year and the maximum term of imprisonment that may be imposed is not more than 20 years, as provided by specific statute.</p> <p>N.R.S. § 200.5099 (West 2008)  <u>Penalties</u></p> <p>2. Except as otherwise provided in subsection 7, any person who has assumed responsibility, legally, voluntarily or pursuant to a contract, to care for an older person or a vulnerable person and who:            (a) Neglects the older person or vulnerable person, causing the older person or vulnerable person to suffer physical pain or mental suffering;            (b) Permits or allows the older person or vulnerable person to suffer unjustifiable physical pain or mental suffering; or            (c) Permits or allows the older person or vulnerable person to be placed in a situation where the older person or vulnerable person may suffer physical pain or mental suffering as the result of abuse or neglect, is guilty of a gross misdemeanor unless a more severe penalty is prescribed by law for the act or omission which brings about the abuse or neglect.</p> <p>N.R.S. § 193.140 (West 2008)</p>
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<b>Penalties Cont'd</b> <i>(Nevada)</i>	<p><u>Punishment of gross misdemeanors</u></p> <p>Every person convicted of a gross misdemeanor shall be punished by imprisonment in the county jail for not more than 1 year, or by a fine or not more than \$2,000, or by both fine and imprisonment, unless the statute in fore at the time of commission of such gross misdemeanor prescribed a different penalty.</p> <p>N.R.S. § 200.5099 (West 2008)</p> <p><u>Penalties</u></p> <p>5. Any person who isolates an older person or a vulnerable person is guilty:  (a) For the first offense, of a gross misdemeanor; or</p> <p>N.R.S. § 193.140 (West 2008)</p> <p><u>Punishment of gross misdemeanors</u></p> <p>Every person convicted of a gross misdemeanor shall be punished by imprisonment in the county jail for not more than 1 year, or by a fine or not more than \$2,000, or by both fine and imprisonment, unless the statute in fore at the time of commission of such gross misdemeanor prescribed a different penalty.</p> <p>N.R.S. § 200.5099</p> <p><u>Penalties</u></p> <p>5. Any person who isolates an older person or a vulnerable person is guilty:  (b) For any subsequent offense, of a category B felony and shall be punished by a imprisonment in the state prison for a minimum of not less then 2 years and a maximum term of not more than 10 years, and may be further punished by a fine of not more than \$5,000.</p>
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<b>Penalties Cont'd</b> <i>(Nevada)</i>	<p>N.R.S. § 193.130 (West 2008)  <u>Categories and punishment of felonies</u></p> <p>(b) A category B felony is a felony for which the minimum term of imprisonment in the state prison that may be imposed is not less than 1 year and the maximum term of imprisonment that may be imposed is not more than 20 years, as provided by specific statute.</p> <p>N.R.S. § 200.5099 (West 2008)  <u>Penalties</u></p> <p>6. A person who violates any provision of subsection 1, if substantial bodily or mental harm or death results to the older person or vulnerable person, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 20 years, unless a more severe penalty is prescribed by law for the act or omission which brings about the abuse.</p> <p>N.R.S. § 193.130  <u>Categories and punishment of felonies</u></p> <p>(b) A category B felony is a felony for which the minimum term of imprisonment in the state prison that may be imposed is not less than 1 year and the maximum term of imprisonment that may be imposed is not more than 20 years, as provided by specific statute.</p> <p>N.R.S. § 200.5099  <u>Penalties</u></p> <p>7. A person who violates any provision of subsection 2, if substantial bodily or mental harm or death results to the older person or vulnerable person, shall be punished for a category B felony by imprisonment in the state prison for a minimum</p>
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<b>Applicability to Youth</b> ( <i>Nevada</i> )	The above statutes are not applicable to youth
<b>NEW HAMPSHIRE</b>	
<b>Statute</b> ( <i>New Hampshire</i> )	<p>N.H. REV. STAT. § 631:8 (West 2008) <u>Criminal Neglect of Elderly, Disabled, or Impaired Adults</u></p> <p>N.H. REV. STAT. § 625:11 (West 2008) <u>General Definitions</u></p> <p>N.H. REV. STAT. § 651:2 (West 2008) <u>Sentences and Limitations</u></p>
<b>Coverage</b> ( <i>New Hampshire</i> )	<p>N.H. REV. STAT. § 631:8 (West 2008) <u>Criminal Neglect of Elderly, Disabled, or Impaired Adults</u></p> <p>II. Any caregiver who purposely causes serious bodily injury to an elderly, disabled, or impaired adult by neglect shall be guilty of a class A felony.</p> <p>III. Any caregiver who knowingly or recklessly causes serious bodily injury to an elderly, disabled, or impaired adult by neglect shall be guilty of a class B felony.</p> <p>IV. Nothing in this section shall be construed to alter or impair a person's right to self-determination or right to refuse medical</p>

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<b>Coverage Cont'd</b> <i>(New Hampshire)</i>	<p>treatment.</p> <p>V. Nothing in this section shall be construed to mean a person is abused, neglected, exploited, or in need of protective services for the sole reason that such person relies on or is being furnished treatment by spiritual means alone through prayer, in accordance with the tenets and practices of a church or religious denomination of which such person is a member or an adherent.</p> <p>VI. Nothing in this section shall be construed to impose criminal liability on a person who has made a good faith effort to provide for the care of an elderly, disabled, or impaired adult, but through no fault of his or her own, has been unable to provide such care, or on a person who is carrying out the lawful request of an elderly or disabled adult who is competent to make his or her own decisions.</p>
<b>Definitions</b> <i>(New Hampshire)</i>	<p>N.H. REV. STAT. § 631:8 (West 2008)  <u>Criminal Neglect of Elderly, Disabled, or Impaired Adults</u></p> <p>I. In this section:</p> <p>(a) <u>Adult</u> means any person who is 18 years of age or older.</p> <p>(b) <u>Caregiver</u> means any person who has been entrusted with, or has assumed the responsibility voluntarily, by contract, or by order of the court, for frequent and regular care of or services to an elderly, disabled, or impaired adult, including subsistence, medical, custodial, personal or other care, on a temporary or permanent basis. A caregiver shall not include an uncompensated volunteer, unless such person has agreed to provide care and is aware that the person receiving the care is dependent upon the care provided.</p> <p>(c) <u>Disabled adult</u> means an adult who has a diagnosed physical or mental impairment.</p> <p>(d) <u>Elderly adult</u> means an individual who is 60 years of age or older.</p>

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<b>Definitions</b> <b>Cont'd</b> <i>(New Hampshire)</i>	<p>(e) <u>Impaired adult</u> means any adult who suffers from an impairment by reason of mental illness, developmental disability, organic brain disorder, physical illness or disability, chronic use of drugs, chronic intoxication, memory loss, or other cause, that causes an adult to lack sufficient understanding or capacity to make or communicate reasonable decisions concerning the adult's person or property or to be substantially impaired in the adult's ability to provide adequately for his or her own care and custody.</p> <p>(f) <u>Neglect</u> means the failure or omission on the part of the caregiver to provide the care, supervision, and services which he or she has voluntarily, or by contract, or by order of the court agreed to provide and which are necessary to maintain the health of an elderly, disabled, or impaired adult, including, but not limited to, food, clothing, medicine, shelter, supervision, and medical services, that a prudent person would consider necessary for the well-being of an elderly, disabled, or impaired adult. <u>Neglect</u> may be repeated conduct or a single incident.</p> <p>(h) <u>Serious bodily injury</u> means serious bodily injury as defined in RSA 625:11, VI.</p> <p>N.H. REV. STAT. § 625:11 (West 2008)  <u>General Definitions</u></p> <p>VI. <u>Serious bodily injury</u> means any harm to the body which causes severe, permanent or protracted loss of or impairment to the health or of the function of any part of the body.</p>
<b>Penalties</b> <i>(New Hampshire)</i>	<p>N.H. REV. STAT. § 631:8 (West 2008)  <u>Criminal Neglect of Elderly, Disabled, or Impaired Adults</u></p> <p>II. Any caregiver who purposely causes serious bodily injury to an elderly, disabled, or impaired adult by neglect shall be guilty of a class A felony.</p> <p>N.H. REV. STAT. § 651:2 (West 2008)</p>

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<b>Penalties Cont'd</b> <i>(New Hampshire)</i>	<p><u>Sentences and Limitations</u></p> <p>I. A person convicted of a felony or a Class A misdemeanor may be sentenced to imprisonment, probation, conditional or unconditional discharge, or a fine.</p> <p>II. If a sentence of imprisonment is imposed, the court shall fix the maximum thereof which is not to exceed:  (a) 15 years for a class A felony,</p> <p>N.H. REV. STAT. § 631:8 (West 2008)</p> <p><u>Criminal Neglect of Elderly, Disabled, or Impaired Adults</u></p> <p>III. Any caregiver who knowingly or recklessly causes serious bodily injury to an elderly, disabled, or impaired adult by neglect shall be guilty of a class B felony.</p> <p>N.H. REV. STAT. § 651:2 (West 2008)</p> <p><u>Sentences and Limitations</u></p> <p>I. A person convicted of a felony or a Class A misdemeanor may be sentenced to imprisonment, probation, conditional or unconditional discharge, or a fine.</p> <p>II. If a sentence of imprisonment is imposed, the court shall fix the maximum thereof which is not to exceed:  (a) 15 years for a class A felony,  (b) 7 years for a class B felony,</p>
<b>Applicability to Youth</b> <i>(New Hampshire)</i>	<p>The above statutes are not applicable to youth</p>

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NEW JERSEY	
<b>Statute</b> <i>(New Jersey)</i>	<p>N.J.S.A. § 2C:24-7 (West 2008)  <u>Endangering the welfare of an incompetent person</u></p> <p>N.J.S.A. § 2C:24-8 (West 2008)  <u>Endangering welfare of elderly or disabled</u></p> <p>N.J.S.A. § 2C: 43-2 (West 2008)  <u>Sentence in accordance with code; authorized dispositions</u></p> <p>N.J.S.A. § 2C:24-8 (West 2008)  <u>Endangering welfare of elderly or disabled</u></p> <p>N.J.S.A. § 2C: 43-6 (West 2008)  <u>Sentence of imprisonment for crime; ordinary terms; mandatory terms</u></p>
<b>Coverage</b> <i>(New Jersey)</i>	<p>N.J.S.A. § 2C:24-7 (West 2008)  <u>Endangering the welfare of an incompetent person</u></p> <p>A person is guilty of a disorderly persons offense when he knowingly acts in a manner likely to be injurious to the physical, mental or moral welfare of a person who is unable to care for himself because of mental disease or defect.</p> <p>N.J.S.A. § 2C:24-8 (West 2008)  <u>Endangering welfare of elderly or disabled</u></p>

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<b>Coverage</b> <b>Cont'd</b> <i>(New Jersey)</i>	<p>a. A person having a legal duty to care for or who has assumed continuing responsibility for the care of a person 60 years of age or older or a disabled adult, who abandons the elderly person or disabled adult or unreasonably neglects to do or fails to permit to be done any act necessary for the physical or mental health of the elderly person or disabled adult, is guilty of a crime of the third degree. For purposes of this section "abandon" means the willful desertion or forsaking of an elderly person or disabled adult.</p> <p>b. A person shall not be considered to commit an offense under this section for the sole reason that he provides or permits to be provided nonmedical remedial treatment by spiritual means through prayer alone in lieu of medical care, in accordance with the tenets and practices of the elderly person's or disabled adult's established religious tradition, to an elderly person or disabled adult to whom he has a legal duty to care for or has assumed responsibility for the care of.</p> <p>c. Nothing in this section shall be construed to preclude or limit the prosecution or conviction for any other offense defined in this code or in any other law of this State.</p>
<b>Definitions</b> <i>(New Jersey)</i>	<p>N.J.S.A. § 2C:24-8 (West 2008)  <u>Endangering welfare of elderly or disabled</u></p> <p>For purposes of this section <u>abandon</u> means the willful desertion or forsaking of an elderly person or disabled adult.</p>
<b>Penalties</b> <i>(New Jersey)</i>	<p>N.J.S.A. § 2C:24-7 (West 2008)  <u>Endangering the welfare of an incompetent person</u></p> <p>A person is guilty of a disorderly persons offense when he knowingly acts in a manner likely to be injurious to the physical, mental or moral welfare of a person who is unable to care for himself because of mental disease or defect.</p> <p>N.J.S.A. § 2C: 43-2 (West 2008)</p>

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<b>Penalties Cont'd</b> <i>(New Jersey)</i>	<p><u>Sentence in accordance with code; authorized dispositions</u></p> <p>N.J.S.A. § 2C:24-8 (West 2008)  <u>Endangering welfare of elderly or disabled</u></p> <p>b. Except as provided in subsection a. of this section and subject to the applicable provisions of the code, the court may suspend the imposition of sentence on a person who has been convicted of an offense, or may sentence him as follows:          (2) Except as provided in subsection g. of this section, to be placed on probation and, in the case of a person convicted of a crime, to imprisonment for a term fixed by the court not exceeding 364 days to be served as a condition of probation, or in the case of a person convicted of a disorderly persons offense, to imprisonment for a term fixed by the court not exceeding 90 days to be served as a condition of probation</p> <p>N.J.S.A. § 2C:24-8 (West 2008)  <u>Endangering welfare of elderly or disabled</u></p> <p>a. A person having a legal duty to care for or who has assumed continuing responsibility for the care of a person 60 years of age or older or a disabled adult, who abandons the elderly person or disabled adult or unreasonably neglects to do or fails to permit to be done any act necessary for the physical or mental health of the elderly person or disabled adult, is guilty of a crime of the third degree</p> <p>N.J.S.A. § 2C: 43-6 (West 2008)  <u>Sentence of imprisonment for crime; ordinary terms; mandatory terms</u></p> <p>a. Except as otherwise provided, a person who has been convicted of a crime may be sentenced to imprisonment, as follows:          (3) In the case of a crime of the third degree, for a specific term of years which shall be fixed by the court and shall be between 3 years and 5 years;</p>
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<b>Applicability to Youth</b> ( <i>New Jersey</i> )	N.J.S.A. § 2C:24-7 (West 2008) <u>Endangering the welfare of an incompetent person</u>
<b>NEW MEXICO</b>	
<b>Statute</b> ( <i>New Mexico</i> )	<p>N.M.S.A. § 27-7A-2 (West 2008) <u>Definitions</u></p> <p>N.M.S.A. § 33-1-4.1 (West 2008) <u>Vulnerable offenders program; prevention of victimization.</u></p> <p>N.M.S.A. § 27-7A-3 (West 2008) <u>Employee abuse registry</u></p> <p>N.M.S.A. § 27-7A-5 (West 2008) <u>Adult protective services division report of abuse, neglect or exploitation</u></p> <p>N.M.S.A. § 27-7A-6 (West 2008) <u>Placement on registry and hearing process</u></p>
<b>Coverage</b> ( <i>New Mexico</i> )	<p>N.M.S.A. § 33-1-4.1 (West 2008) <u>Vulnerable offenders program; prevention of victimization.</u></p> <p>A. The corrections department may develop and implement a special program for certain male and female offenders who have</p>

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<b>Coverage</b> <i>(New Mexico)</i>	<p>been identified by the department as being vulnerable offenders who, if not provided with a special program, who be vulnerable to victimization by inmates and subject to unusual or extraordinary mental or physical harassment, intimidation, harm or injury.</p> <p>B. Vulnerability shall be determined by factors such as age, mental health or special education needs. If an offender is less than twenty-one years of age, there shall be a rebuttable presumption that the offender is vulnerable. A vulnerable offenders program shall not result in the diminution of civil rights for vulnerable offenders.</p>
<b>Definitions</b> <i>(New Mexico)</i>	<p>N.M.S.A. § 27-7A-2 (West 2008)</p> <p><u>Definitions</u></p> <p>As used in the Employee Abuse Registry Act:</p> <p>A. “abuse” means:</p> <p style="padding-left: 20px;">(1) knowingly, intentionally or negligently and without justifiable cause inflicting physical pain, injury or mental anguish; or</p> <p style="padding-left: 20px;">(2) the intentional deprivation by a caretaker or other person of services necessary to maintain the mental and physical health of a person;</p> <p>B. “department” means the department of health;</p> <p>C. “direct care” means face-to-face services provided or routine and unsupervised physical or financial access to a recipient of services;</p> <p>D. “employee” means a person employed by or on contract with a provider, either directly or through a third party arrangement to provide direct care. “Employee” does not include a New Mexico licensed health care professional practicing within the scope of the profession's license or a certified nurse aide;</p>

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<b>Definitions Cont'd</b> <i>(New Mexico)</i>	<p>E. “exploitation” means an unjust or improper use of a person's money or property for another person's profit or advantage, pecuniary or otherwise;</p> <p>F. “neglect” means, subject to a person's right to refuse treatment and subject to a provider's right to exercise sound medical discretion, the failure of an employee to provide basic needs such as clothing, food, shelter, supervision and care for the physical and mental health of a person or failure by a person that may cause physical or psychological harm;</p> <p>G. “provider” means an intermediate care facility for the mentally retarded; a rehabilitation facility; a home health agency; a homemaker agency; a home for the aged or disabled; a group home; an adult foster care home; a case management entity that provides services to elderly people or people with developmental disabilities; a corporate guardian; a private residence that provides personal care, adult residential care or natural and surrogate family services provided to persons with developmental disabilities; an adult daycare center; a boarding home; an adult residential care home; a residential service or habilitation service authorized to be reimbursed by medicaid; any licensed or medicaid-certified entity or any program funded by the aging and long-term services department that provides respite, companion or personal care services; programs funded by the children, youth and families department that provide homemaker or adult daycare services; and any other individual, agency or organization that provides respite care or delivers home- and <u>community-based services to adults or children with developmental disabilities or physical disabilities</u> or to the elderly, but excluding a managed care organization unless the employees of the managed care organization provide respite care, deliver home- and community-based services to adults or children with developmental disabilities or physical disabilities or to the elderly;</p> <p>H. “registry” means an electronic database that provides information on substantiated employee <b>abuse</b>, neglect or exploitation.</p>
<b>Penalties</b> <i>(New Mexico)</i>	<p>N.M.S.A. § 27-7A-6 (West 2008)  <u>Placement on registry and hearing process</u></p> <p>A. If the department or the adult protective services division of the aging and long-term services department determines that abuse, neglect or exploitation by an employee has occurred, the department making that determination shall notify the</p>

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<b>Penalties Cont'd</b> <i>(New Mexico)</i>	<p>employee and the provider, in person or by certified mail, of the following:</p> <ul style="list-style-type: none"> <li>(1) the nature of the determination of the abuse, neglect or exploitation;</li> <li>(2) the date and time of the occurrence;</li> <li>(3) the employee's right to a hearing;</li> <li>(4) the department's intent to report the substantiated findings, once the employee has had the opportunity for a hearing, to the registry; and</li> <li>(5) that the employee's failure to request a hearing in writing within thirty days from the date of the notice shall result in the department reporting substantiated findings to the registry and the provider.</li> </ul> <p>B. If an employee requests a hearing, that hearing shall be conducted by an independent hearing officer of the department that made the determination of abuse, neglect or exploitation.</p> <p>C. After expiration of the time period for requesting a hearing, or if a determination of abuse, neglect or exploitation is substantiated through the hearing process, the substantiated finding of abuse, neglect or exploitation shall be placed on the registry through a report of the appropriate department.</p> <p>D. An employee aggrieved by the final decision following a hearing shall have the right to judicial review pursuant to the provisions of Section 39-3-1.1 NMSA 1978.</p>
<b>Applicability to Youth</b> <i>(New Mexico)</i>	<p>N.M.S.A. § 33-1-4.1 (West 2008)  <u>Vulnerable offenders program; prevention of victimization.</u></p>
<b>NEW YORK</b>	

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<b>Statute</b> <i>(New York)</i>	<p>N.Y. PENAL § 260.25 (West 2008)  <u>Endangering the welfare of an incompetent or physically disabled person</u></p> <p>N.Y. PENAL § 260.32 (West 2008)  <u>Endangering the welfare of a vulnerable elderly person in the second degree</u></p> <p>N.Y. PENAL § 260.34 (West 2008)  <u>Endangering the welfare of a vulnerable elderly person in the first degree</u></p>
<b>Coverage</b> <i>(New York)</i>	<p>N.Y. PENAL § 260.25 (West 2008)  <u>Endangering the welfare of an incompetent or physically disabled person</u></p> <p>A person is guilty of endangering the welfare of an incompetent or physically disabled person when he knowingly acts in a manner likely to be injurious to the physical, mental or moral welfare of a person who is unable to care for himself or herself because of physical disability, mental disease or defect.</p> <p>N.Y. PENAL § 260.32 (West 2008)  <u>Endangering the welfare of a vulnerable elderly person in the second degree</u></p> <p>A person is guilty of endangering the welfare of a vulnerable elderly person in the second degree when, being a caregiver for a vulnerable elderly person:</p> <ol style="list-style-type: none"> <li>1. With intent to cause physical injury to such person, he or she causes such injury to such person; or</li> <li>2. He or she recklessly causes physical injury to such person; or</li> <li>3. With criminal negligence, he or she causes physical injury to such person by means of a deadly weapon or a dangerous instrument; or</li> <li>4. He or she subjects such person to sexual contact without the latter's consent. Lack of consent under this subdivision results</li> </ol>

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<b>Coverage Cont'd</b> <i>(New York)</i>	<p>from forcible compulsion or incapacity to consent, as those terms are defined in article one hundred thirty of this chapter, or any other circumstances in which the vulnerable elderly person does not expressly or impliedly acquiesce in the caregiver's conduct. In any prosecution under this subdivision in which the victim's alleged lack of consent results solely from incapacity to consent because of the victim's mental disability or mental incapacity, the provisions of section 130.16 of this chapter shall apply. In addition, in any prosecution under this subdivision in which the victim's lack of consent is based solely upon his or her incapacity to consent because he or she was mentally disabled, mentally incapacitated or physically helpless, it is an affirmative defense that the defendant, at the time he or she engaged in the conduct constituting the offense, did not know of the facts or conditions responsible for such incapacity to consent.</p> <p>N.Y. PENAL § 260.34 (West 2008)  <u>Endangering the welfare of a vulnerable elderly person in the first degree</u></p> <p>A person is guilty of endangering the welfare of a vulnerable elderly person in the first degree when, being a caregiver for a vulnerable elderly person:</p> <ol style="list-style-type: none"> <li>1. With intent to cause physical injury to such person, he or she causes serious physical injury to such person; or</li> <li>2. He or she recklessly causes serious physical injury to such person.</li> </ol>
<b>Definitions</b> <i>(New York)</i>	<p>N.Y. PENAL § 260.30 (West 2008)  <u>Vulnerable elderly persons; definitions</u></p> <p>For the purpose of sections 260.32 and 260.34 of this article, the following definitions shall apply:</p> <ol style="list-style-type: none"> <li>1. <u>Caregiver</u> means a person who             <ol style="list-style-type: none"> <li>(i) assumes responsibility for the care of a vulnerable elderly person pursuant to a court order; or</li> <li>(ii) receives monetary or other valuable consideration for providing care for a vulnerable elderly person.</li> </ol> </li> <li>2. <u>Sexual contact</u> means any touching of the sexual or other intimate parts of a person not married to the actor for the purpose</li> </ol>

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<b>Definitions</b> <b>Cont'd</b> <i>(New York)</i>	<p>of gratifying sexual desire of either party. It includes the touching of the actor by the victim, as well as the touching of the victim by the actor, whether directly or through clothing.</p> <p>3. <u>Vulnerable elderly person</u> means a person 60 years of age or older who is suffering from a disease or infirmity associated with advanced age and manifested by demonstrable physical, mental or emotional dysfunction to the extent that the person is incapable of adequately providing for his or her own health or personal care.</p> <p>N.Y. PENAL § 10.00 (West 2008)  <u>Definitions of terms of general use in this chapter</u></p> <p>Except where different meanings are expressly specified in subsequent provisions of this chapter, the following terms have the following meanings:</p> <p>9. <u>Physical injury</u> means impairment of physical condition or substantial pain.</p> <p>10. <u>Serious physical injury</u> means physical injury which creates a substantial risk of death, or which causes death or serious and protracted disfigurement, protracted impairment of health or protracted loss or impairment of the function of any bodily organ.</p>
<b>Penalties</b> <i>(New York)</i>	<p>N.Y. PENAL § 260.25 (West 2008)  <u>Endangering the welfare of an incompetent or physically disabled person</u></p> <p>Endangering the welfare of an incompetent or physically disabled person is a class A misdemeanor.</p> <p>N.Y. PENAL § 70.15 (West 2008)  <u>Sentences of imprisonment for misdemeanors and violation</u></p> <p>1. Class A misdemeanor. A sentence of imprisonment for a class A misdemeanor shall be a definite sentence. When such a</p>

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<b>Penalties Cont'd</b> <i>(New York)</i>	<p>sentence is imposed the term shall be fixed by the court and shall not exceed 1 year; except that the court may impose any other sentence authorized by law upon a person who has not been previously convicted in the 5 years immediately preceding the commission of the offense for a felony or a class A misdemeanor defined in this chapter, if the court having regard to the nature and circumstances of the crime and to the history and character of the defendant, finds on the record that such sentence would be unduly harsh and that the alternative sentence would be consistent with public safety and does not deprecate the seriousness of the crime.</p> <p>N.Y. PENAL § 260.32 (West 2008)  <u>Endangering the welfare of a vulnerable elderly person in the second degree</u></p> <p>Endangering the welfare of a vulnerable elderly person in the second degree is a class E felony.</p> <p>N.Y. PENAL § 70.00 (West 2008)  <u>Sentence of imprisonment for felony</u></p> <p>2. Maximum term of sentence. The maximum term of an indeterminate sentence shall be at least 3 years and the term shall be fixed as follows:          (e) For a class E felony, the term shall be fixed by the court, and shall not exceed 4 years.</p> <p>N.Y. PENAL § 260.34 (West 2008)  <u>Endangering the welfare of a vulnerable elderly person in the first degree</u></p> <p>Endangering the welfare of a vulnerable elderly person in the first degree is a class D felony.</p> <p>N.Y. PENAL § 70.00 (West 2008)  <u>Sentence of imprisonment for felony</u></p>
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<b>Applicability to Youth</b> (New York)	N.Y. PENAL § 260.25 (West 2008) <u>Endangering the welfare of an incompetent or physically disabled person</u>
<b>NORTH CAROLINA</b>	
<b>Statute</b> (North Carolina)	N.C.G.S.A. § 14-32.1 (West 2008) <u>Assaults on handicapped persons; punishments</u>  N.C.G.S.A. § 14-32.3 (West 2008) <u>Domestic abuse, neglect, and exploitation of disabled or elder adults</u>  N.C.G.S.A. § 108A-101 (West 2008) <u>Definitions</u>
<b>Coverage</b> (North Carolina)	N.C.G.S.A. § 14-32.1 (West 2008) <u>Assaults on handicapped persons; punishments</u>  (e) Unless his conduct is covered under some other provision of law providing greater punishment, any person who commits any aggravated assault or assault and battery on a handicapped person is guilty of a Class F felony. A person commits an aggravated assault or assault and battery upon a handicapped person if, in the course of the assault or assault and battery, that person: (1) Uses a deadly weapon or other means of force likely to inflict serious injury or serious damage to a handicapped person; or

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<b>Coverage Cont'd</b> <i>(North Carolina)</i>	<p>(2) Inflicts serious injury or serious damage to a handicapped person; or  (3) Intends to kill a handicapped person.  (f) Any person who commits a simple assault or battery upon a handicapped person is guilty of a Class A1 misdemeanor.</p> <p>N.C.G.S.A. § 14-32.3 (West 2008)  <u>Domestic abuse, neglect, and exploitation of disabled or elder adults</u></p>
<b>Definitions</b> <i>(North Carolina)</i>	<p>N.C.G.S.A. § 14-32.3 (West 2008)  <u>Domestic abuse, neglect, and exploitation of disabled or elder adults</u></p> <p>(a) Abuse.--A person is guilty of abuse if that person is a caretaker of a disabled or elder adult who is residing in a domestic setting and, with malice aforethought, knowingly and willfully: (i) assaults, (ii) fails to provide medical or hygienic care, or (iii) confines or restrains the disabled or elder adult in a place or under a condition that is cruel or unsafe, and as a result of the act or failure to act the disabled or elder adult suffers mental or physical injury. If the disabled or elder adult suffers serious injury from the abuse, the caretaker is guilty of a Class F felony. If the disabled or elder adult suffers injury from the abuse, the caretaker is guilty of a Class H felony. A person is not guilty of an offense under this subsection if the act or failure to act is in accordance with G.S. 90-321 or G.S. 90-322.</p> <p>(b) Neglect.--A person is guilty of neglect if that person is a caretaker of a disabled or elder adult who is residing in a domestic setting and, wantonly, recklessly, or with gross carelessness: (i) fails to provide medical or hygienic care, or (ii) confines or restrains the disabled or elder adult in a place or under a condition that is unsafe, and as a result of the act or failure to act the disabled or elder adult suffers mental or physical injury. If the disabled or elder adult suffers serious injury from the neglect, the caretaker is guilty of a Class G felony. If the disabled or elder adult suffers injury from the neglect, the caretaker is guilty of a Class I felony. A person is not guilty of an offense under this subsection if the act or failure to act is in accordance with G.S. 90-321 or G.S. 90-322.</p> <p>(d) Definitions.--The following definitions apply in this section:</p>

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<b>Definitions</b> <b>Cont'd</b> <i>(North Carolina)</i>	<p>(1) Caretaker.--A person who has the responsibility for the care of a disabled or elder adult as a result of family relationship or who has assumed the responsibility for the care of a disabled or elder adult voluntarily or by contract.</p> <p>(2) Disabled adult.--A person 18 years of age or older or a lawfully emancipated minor who is present in the State of North Carolina and who is physically or mentally incapacitated as defined in G.S. 108A-101(d).</p> <p>(4) Elder adult.--A person 60 years of age or older who is not able to provide for the social, medical, psychiatric, psychological, financial, or legal services necessary to safeguard the person's rights and resources and to maintain the person's physical and mental well-being.</p> <p>N.C.G.S.A. § 108A-101 (West 2008)</p> <p><u>Definitions</u></p> <p>(a) The word “abuse” means the willful infliction of physical pain, injury or mental anguish, unreasonable confinement, or the willful deprivation by a caretaker of services which are necessary to maintain mental and physical health.</p> <p>(b) The word “caretaker” shall mean an individual who has the responsibility for the care of the disabled adult as a result of family relationship or who has assumed the responsibility for the care of the disabled adult voluntarily or by contract.</p> <p>(d) The words “disabled adult” shall mean any person 18 years of age or over or any lawfully emancipated minor who is present in the State of North Carolina and who is physically or mentally incapacitated due to mental retardation, cerebral palsy, epilepsy or autism; organic brain damage caused by advanced age or other physical degeneration in connection therewith; or due to conditions incurred at any age which are the result of accident, organic brain damage, mental or physical illness, or continued consumption or absorption of substances.</p> <p>(e) A “disabled adult” shall be “in need of protective services” if that person, due to his physical or mental incapacity, is unable to perform or obtain for himself essential services and if that person is without able, responsible, and willing persons to</p>
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### NIC/WCL Project on Addressing Prison Rape

<b>Definitions</b> <b>Cont'd</b> <i>(North Carolina)</i>	<p>perform or obtain for his essential services.</p> <p>N.C.G.S.A. § 14-32.1 (West 2008)  <u>Assaults on handicapped persons; punishments</u></p> <p>(a) For purposes of this section, a <u>handicapped person</u> is a person who has:</p> <p>(1) A physical or mental disability, such as decreased use of arms or legs, blindness, deafness, mental retardation or mental illness; or</p> <p>(2) Infirmity which would substantially impair that person's ability to defend himself.</p> <p>(e) A person commits an <u>aggravated assault</u> or <u>assault</u> and <u>battery</u> upon a handicapped person if, in the course of the assault or assault and battery, that person:</p> <p>(1) Uses a deadly weapon or other means of force likely to inflict serious injury or serious damage to a handicapped person; or</p> <p>(2) Inflicts serious injury or serious damage to a handicapped person; or</p> <p>(3) Intends to kill a handicapped person.</p>
<b>Penalties</b> <i>(North Carolina)</i>	<p>N.C.G.S.A. § 14-32.1 (West 2008)  <u>Assaults on handicapped persons; punishments</u></p> <p>(e) Unless his conduct is covered under some other provision of law providing greater punishment, any person who commits any aggravated assault or assault and battery on a handicapped person is guilty of a Class F felony.</p> <p>N.C.G.S.A. § 15A-1340.17 (West 2008)  <u>Punishment limits for each class of offense and prior record level</u></p> <p>(b) Fines. -- Any judgment that includes a sentence of imprisonment may also include a fine. If a community punishment is</p>

#### NOTES:

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**\*While not reflected on this chart, most states have enhanced penalties for sexual assault/battery/or other relevant statutes where the victim is considered "vulnerable"**

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<b>Penalties Cont'd</b> <i>(North Carolina)</i>	authorized, the judgment may consist of a fine only. Additionally, when the defendant is other than an individual, the judgment may consist of a fine only. Unless otherwise provided, the amount of the fine is in the discretion of the court.							
	(c) Punishments for Each Class of Offense and Prior Record Level; Punishment Chart Described.							
	For conviction of a Class F felony, 10-49 months, depending on whether a mitigated or aggravated sentence or neither is justified.							
	(d) Maximum Sentences Specified for Class F through Class I Felonies.--Unless provided otherwise in a statute establishing a punishment for a specific crime, for each minimum term of imprisonment in the chart in subsection (c) of this section, expressed in months, the corresponding maximum term of imprisonment, also expressed in months, is as specified in the table below for Class F through Class I felonies. The first figure in each cell in the table is the minimum term and the second is the maximum term.							
	3-4	4-5	5-6	6-8	7-9	8-10	9-11	10-12
	11-14	12-15	13-16	14-17	15-18	16-20	17-21	18-22
	19-23	20-24	21-26	22-27	23-28	24-29	25-30	26-32
	27-33	28-34	29-35	30-36	31-38	32-39	33-40	34-41
	35-42	36-44	37-45	38-46	39-47	40-48	41-50	42-51
	43-52	44-53	45-54	46-56	47-57	48-58	49-59	
	(e) Maximum Sentences Specified for Class B1 through Class E Felonies for Minimum Terms up to 339 Months.--Unless provided otherwise in a statute establishing a punishment for a specific crime, for each minimum term of imprisonment in the chart in subsection (c) of this section, expressed in months, the corresponding maximum term of imprisonment, also expressed in months, is as specified in the table below for Class B1 through Class E felonies. The first figure in each cell of the table is the minimum term and the second is the maximum term.							

#### NOTES:

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<b>Penalties Cont'd</b> <i>(North Carolina)</i>	15-27	16-29	17-30	18-31	19-32	20-33	21-35	22-36
	23-37	24-38	25-39	26-41	27-42	28-43	29-44	30-45
	31-47	32-48	33-49	34-50	35-51	36-53	37-54	38-55
	39-56	40-57	41-59	42-60	43-61	44-62	45-63	46-65
	47-66	48-67	49-68	50-69	51-71	52-72	53-73	54-74
	55-75	56-77	57-78	58-79	59-80	60-81	61-83	62-84
	63-85	64-86	65-87	66-89	67-90	68-91	69-92	70-93
	71-95	72-96	73-97	74-98	75-99	76-101	77-102	78-103
	79-104	80-105	81-107	82-108	83-109	84-110	85-111	86-113
	87-114	88-115	89-116	90-117	91-119	92-120	93-121	94-122
	95-123	96-125	97-126	98-127	99-128	100-129	101-131	102-132
	103-133	104-134	105-135	106-137	107-138	108-139	109-140	110-141
	111-143	112-144	113-145	114-146	115-147	116-149	117-150	118-151
	119-152	120-153	121-155	122-156	123-157	124-158	125-159	126-161
	127-162	128-163	129-164	130-165	131-167	132-168	133-169	134-170
	135-171	136-173	137-174	138-175	139-176	140-177	141-179	142-180
	143-181	144-182	145-183	146-185	147-186	148-187	149-188	150-189
	151-191	152-192	153-193	154-194	155-195	156-197	157-198	158-199
	159-200	160-201	161-203	162-204	163-205	164-206	165-207	166-209
	167-210	168-211	169-212	170-213	171-215	172-216	173-217	174-218
	175-219	176-221	177-222	178-223	179-224	180-225	181-227	182-228
	183-229	184-230	185-231	186-233	187-234	188-235	189-236	190-237
	191-239	192-240	193-241	194-242	195-243	196-245	197-246	198-247
	199-248	200-249	201-251	202-252	203-253	204-254	205-255	206-257
	207-258	208-259	209-260	210-261	211-263	212-264	213-265	214-266
	215-267	216-269	217-270	218-271	219-272	220-273	221-275	222-276
	223-277	224-278	225-279	226-281	227-282	228-283	229-284	230-285
	231-287	232-288	233-289	234-290	235-291	236-293	237-294	238-295
	239-296	240-297	241-299	242-300	243-301	244-302	245-303	246-305
	247-306	248-307	249-308	250-309	251-311	252-312	253-313	254-314

#### NOTES:

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<b>Penalties Cont'd</b> (North Carolina)	255-315	256-317	257-318	258-319	259-320	260-321	261-323	262-324
	263-325	264-326	265-327	266-329	267-330	268-331	269-332	270-333
	271-335	272-336	273-337	274-338	275-339	276-341	277-342	278-343
	279-344	280-345	281-347	282-348	283-349	284-350	285-351	286-353
	287-354	288-355	289-356	290-357	291-359	292-360	293-361	294-362
	295-363	296-365	297-366	298-367	299-368	300-369	301-371	302-372
	303-373	304-374	305-375	306-377	307-378	308-379	309-380	310-381
	311-383	312-384	313-385	314-386	315-387	316-389	317-390	318-391
	319-392	320-393	321-395	322-396	323-397	324-398	325-399	326-401
	327-402	328-403	329-404	330-405	331-407	332-408	333-409	334-410
	335-411	336-413	337-414	338-415	339-416			
	(e1) Maximum Sentences Specified for Class B1 through Class E Felonies for Minimum Terms of 340 Months or More.-- Unless provided otherwise in a statute establishing a punishment for a specific crime, when the minimum sentence is 340 months or more, the corresponding maximum term of imprisonment shall be equal to the sum of the minimum term of imprisonment and twenty percent (20%) of the minimum term of imprisonment, rounded to the next highest month, plus nine additional months.							
	N.C.G.S.A. § 14-32.1 <u>Assaults on handicapped persons; punishments</u>							
	(f) Any person who commits a simple assault or battery upon a handicapped person is guilty of a Class A1 misdemeanor.							
	N.C.G.S.A. § 15A-1340.23 <u>Punishment limits for each class of offense and prior conviction level</u>							
	(b) Fines. -- Any judgment that includes a sentence of imprisonment may also include a fine. Additionally, when the defendant is other than an individual, the judgment may consist of a fine only. If a community punishment is authorized, the judgment							

#### NOTES:

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<b>Penalties Cont'd</b> <i>(North Carolina)</i>	<p>may consist of a fine only. The amount of the fine for a Class 1 misdemeanor and a Class A1 misdemeanor is in the discretion of the court.</p> <p>(c) Punishment for Each Class of Offense and Prior Conviction Level; Punishment Chart Described. -- Unless otherwise provided for a specific offense, the authorized punishment for each class of offense and prior conviction level. For conviction of an A1 misdemeanor with no prior conviction, 1-60 days. For conviction of an A1 misdemeanor with 1-4 prior convictions, 1-75 days. For conviction of an A1 misdemeanor with 5 or more prior convictions, 1-150 days.</p>
<b>Applicability to Youth</b> <i>(North Carolina)</i>	<p>The above statutes are not applicable to youth</p>
<b>NORTH DAKOTA</b>	
<b>Statute</b> <i>(North Dakota)</i>	<p>N.D.C.C. § 12.1-31-07  <u>Endangering a vulnerable adult -- Penalty</u></p>
<b>Coverage</b> <i>(North Dakota)</i>	<p>N.D.C.C. § 12.1-31-07  <u>Endangering a vulnerable adult -- Penalty</u></p> <p>2. Except as provided for by chapters 23-06.5 and 30.1-30, a caregiver who knowingly performs an act that causes a disabled adult's or vulnerable elderly adult's life to be endangered, health to be injured, or preexisting physical or mental condition to deteriorate, or a caregiver who fails to perform acts that the caregiver knows are necessary to maintain or preserve the life or health of the disabled adult or vulnerable elderly adult and the failure causes the disabled adult's or vulnerable elderly adult's life to be endangered, health to be injured, or preexisting physical or mental condition to deteriorate, is guilty of a class B</p>

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<b>Coverage Cont'd</b> (North Dakota)	felony.
<b>Definitions</b> (North Dakota)	<p>N.D.C.C. § 12.1-31-07  <u>Endangering a vulnerable adult -- Penalty</u></p> <p>1. In this chapter, unless the context otherwise requires:</p> <p>a. <u>Caregiver</u> means a person who is responsible for the care of a disabled adult or vulnerable elderly adult as a result of a familial or legal relationship, or a person who has assumed responsibility for the care of a disabled adult or vulnerable elderly adult. The term does not include a licensed health care provider who is acting within the provider's legal scope of practice in providing appropriate care or assistance to a disabled adult or vulnerable elderly adult who is the patient or client of the licensed health care provider.</p> <p>b. <u>Disabled adult</u> means a person 18 years of age or older who suffers from a condition of physical or mental incapacitation due to a developmental disability or organic brain damage or mental illness or who has one or more physical or mental limitations that restrict the person's ability to perform the normal activities of daily living.</p> <p>c. <u>Vulnerable elderly adult</u> means a person 60 years of age or older who is suffering from a disease or infirmity associated with advanced age and manifested by physical, mental, or emotional dysfunctioning to the extent that the person is incapable of adequately providing for the person's own health or personal care.</p>
<b>Penalties</b> (North Dakota)	<p>N.D.C.C. § 12.1-31-07 (West 2008)  <u>Endangering a vulnerable adult -- Penalty</u></p> <p>2. Except as provided for by chapters 23-06.5 and 30.1-30, a caregiver who knowingly performs an act that causes a disabled adult's or vulnerable elderly adult's life to be endangered, health to be injured, or preexisting physical or mental condition to deteriorate, or a caregiver who fails to perform acts that the caregiver knows are necessary to maintain or preserve the life or health of the disabled adult or vulnerable elderly adult and the failure causes the disabled adult's or vulnerable elderly adult's</p>

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<b>Penalties</b> <i>(North Dakota)</i>	<p>life to be endangered, health to be injured, or preexisting physical or mental condition to deteriorate, is guilty of a class B felony.</p> <p>N.D.C.C. § 12.1-32-01 (West 2008)  <u>Classification of offenses -- Penalties</u></p> <p>Offenses are divided into seven classes, which are denominated and subject to maximum penalties, as follows:  3. Class B felony, for which a maximum penalty of 10 years' imprisonment, a fine of \$10,000, or both, may be imposed.</p>
<b>Applicability to Youth</b> <i>(North Dakota)</i>	<p>The above statutes are not applicable to youth</p>
<b>OHIO</b>	
<b>Statute</b> <i>(Ohio)</i>	<p>R.C. § 2903.34 (West 2008)  <u>Patient abuse or neglect, spiritual treatment; defense</u></p> <p>R.C. § 2903.341 (West 2008)  <u>Patient endangerment; affirmative defenses</u></p> <p>R.C. § 2903.33 (West 2008)  <u>Definitions</u></p> <p>R.C. § 5123.91 (West 2008)  <u>Definitions</u></p>

**NOTES:**

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<b>Statute Cont'd</b> <i>(Ohio)</i>	<p>R.C. § 2929.14 (West 2008)  <u>Prison terms</u></p> <p>R.C. § 2929.24 (West 2008)  <u>Misdemeanor jail terms</u></p> <p>R.C. § 5123.01  <u>Definitions</u></p> <p>R.C. § 5123.19 (West 2008)  <u>Licensing of residential facilities</u></p> <p>R.C. § 3724.01 (West 2008)  <u>Definitions</u></p> <p>R.C. § 5123.01  <u>Definitions</u></p> <p>R.C. § 5123.91 (West 2008)  <u>Definitions</u></p>
<b>Coverage</b> <i>(Ohio)</i>	<p>R.C. § 2903.34 (West 2008)  <u>Patient abuse or neglect, spiritual treatment; defense</u></p> <p>(A) No person who owns, operates, or administers, or who is an agent or employee of, a care facility shall do any of the following:</p>

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<b>Coverage Cont'd</b> <i>(Ohio)</i>	<p>(1) Commit abuse against a resident or patient of the facility;  (2) Commit gross neglect against a resident or patient of the facility;  (3) Commit neglect against a resident or patient of the facility.</p> <p>(B) (1) A person who relies upon treatment by spiritual means through prayer alone, in accordance with the tenets of a recognized religious denomination, shall not be considered neglected under division (A)(3) of this section for that reason alone.  (2) It is an affirmative defense to a charge of gross neglect or neglect under this section that the actor's conduct was committed in good faith solely because the actor was ordered to commit the conduct by a person with supervisory authority over the actor.</p> <p>R.C. § 2903.341 (West 2008)  <u>Patient endangerment; affirmative defenses</u></p> <p>(B) No MR/DD caretaker shall create a substantial risk to the health or safety of a mentally retarded person or a developmentally disabled person. An MR/DD caretaker does not create a substantial risk to the health or safety of a mentally retarded person or a developmentally disabled person under this division when the MR/DD caretaker treats a physical or mental illness or defect of the mentally retarded person or developmentally disabled person by spiritual means through prayer alone, in accordance with the tenets of a recognized religious body.</p> <p>(C) No person who owns, operates, or administers a care facility or who is an agent of a care facility shall condone, or knowingly permit, any conduct by an MR/DD caretaker who is employed by or under the control of the owner, operator, administrator, or agent that is in violation of division (B) of this section and that involves a mentally retarded person or a developmentally disabled person who is under the care of the owner, operator, administrator, or agent. A person who relies upon treatment by spiritual means through prayer alone, in accordance with the tenets of a recognized religious denomination, shall not be considered endangered under this division for that reason alone.</p>
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<b>Coverage Cont'd</b> (Ohio)	<p>(D) (1) It is an affirmative defense to a charge of a violation of division (B) or (C) of this section that the actor's conduct was committed in good faith solely because the actor was ordered to commit the conduct by a person to whom one of the following applies:</p> <ul style="list-style-type: none"> <li>(a) The person has supervisory authority over the actor.</li> <li>(b) The person has authority over the actor's conduct pursuant to a contract for the provision of services.</li> </ul> <p>(2) It is an affirmative defense to a charge of a violation of division (C) of this section that the person who owns, operates, or administers a care facility or who is an agent of a care facility and who is charged with the violation is following the individual service plan for the involved mentally retarded person or a developmentally disabled person or that the admission, discharge, and transfer rule set forth in the Administrative Code is being followed.</p> <p>(3) It is an affirmative defense to a charge of a violation of division (C) of this section that the actor did not have readily available a means to prevent either the harm to the person with mental retardation or a developmental disability or the death of such a person and the actor took reasonable steps to summon aid.</p>
<b>Definitions</b> (Ohio)	<p>R.C. § 2903.33 (West 2008) <u>Definitions</u></p> <p>As used in sections 2903.33 to 2903.36 of the Revised Code:</p> <p>(A) <u>Care facility</u> means any of the following:</p> <ul style="list-style-type: none"> <li>(1) Any <u>home</u> as defined in section 3721.10 or 5111.20 of the Revised Code;</li> <li>(2) Any <u>residential facility</u> as defined in section 5123.19 of the Revised Code;</li> <li>(3) Any institution or facility operated or provided by the department of mental health or by the department of mental retardation and developmental disabilities pursuant to sections 5119.02 and 5123.03 of the Revised Code;</li> <li>(4) Any <u>residential facility</u> as defined in section 5119.22 of the Revised Code;</li> <li>(5) Any unit of any hospital, as defined in section 3701.01 of the Revised Code, that provides the same services as a nursing home, as defined in section 3721.01 of the Revised Code;</li> <li>(6) Any institution, residence, or facility that provides, for a period of more than twenty--four hours, whether for a consideration or not, accommodations to one individual or two unrelated individuals who are dependent upon the services of others;</li> </ul>

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<b>Definitions Cont'd (Ohio)</b>	<p>(7) Any <u>adult care facility</u> as defined in section 3722.01 of the Revised Code;</p> <p>(8) Any adult foster home certified by the department of aging or its designee under section 173.36 of the Revised Code;</p> <p>(9) Any <u>community alternative home</u> as defined in section 3724.01 of the Revised Code.</p> <p>(B) <u>Abuse</u> means knowingly causing physical harm or recklessly causing serious physical harm to a person by physical contact with the person or by the inappropriate use of a physical or chemical restraint, medication, or isolation on the person.</p> <p>(C) (1) <u>Gross neglect</u> means knowingly failing to provide a person with any treatment, care, goods, or service that is necessary to maintain the health or safety of the person when the failure results in physical harm or serious physical harm to the person.</p> <p>(2) <u>Neglect</u> means recklessly failing to provide a person with any treatment, care, goods, or service that is necessary to maintain the health or safety of the person when the failure results in serious physical harm to the person.</p> <p>(D) <u>Inappropriate use of a physical or chemical restraint, medication, or isolation</u> means the use of physical or chemical restraint, medication, or isolation as punishment, for staff convenience, excessively, as a substitute for treatment, or in quantities that preclude habilitation and treatment.</p> <p>R.C. § 2903.341 (West 2008)  <u>Patient endangerment; affirmative defenses</u></p> <p>(A) As used in this section:</p> <p>(1) <u>MR/DD caretaker</u> means any MR/DD employee or any person who assumes the duty to provide for the care and protection of a mentally retarded person or a developmentally disabled person on a voluntary basis, by contract, through receipt of payment for care and protection, as a result of a family relationship, or by order of a court of competent jurisdiction. <u>MR/DD caretaker</u> includes a person who is an employee of a care facility and a person who is an employee of an entity under contract with a provider. "MR/DD caretaker" does not include a person who owns, operates, or administers a care facility or who is an agent of a care facility unless that person also personally provides care to persons with mental retardation or a</p>
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<b>Definitions</b> <b>Cont'd</b> <i>(Ohio)</i>	<p>developmental disability.</p> <p>(2) <u>Mentally retarded person</u> and <u>developmentally disabled person</u> have the same meanings as in section 5123.01 of the Revised Code.</p> <p>(3) <u>MR/DD employee</u> has the same meaning as in section 5123.50 of the Revised Code.</p> <p>R.C. § 5123.19 (West 2008)  <u>Licensing of residential facilities</u></p> <p>(1)(a) “Residential facility” means a home or facility in which a mentally retarded or developmentally disabled person resides, except the home of a relative or legal guardian in which a mentally retarded or developmentally disabled person resides...</p> <p>R.C. § 3724.01 (West 2008)  <u>Definitions</u></p> <p>(B) “Community alternative home” means a residence or facility that provides accommodations, personal assistance, and supervision for three to five unrelated individuals who have acquired immunodeficiency syndrome or a condition related to acquired immunodeficiency syndrome. “Community alternative home” does not include any of the following:</p> <p>(1) A home licensed as a nursing home, residential care facility, or home for the aging under Chapter 3721. of the Revised Code...</p> <p>R.C. § 5123.91 (West 2008)  <u>Definitions</u></p> <p>(N) <u>Mentally retarded person</u> means a person having significantly subaverage general intellectual functioning existing concurrently with deficiencies in adaptive behavior, manifesting during the developmental period.</p> <p>R.C. § 5123.01</p>
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#### NOTES:

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**\*While not reflected on this chart, most states have enhanced penalties for sexual assault/battery/or other relevant statutes where the victim is considered “vulnerable”**

**\*\* Some states use child abuse statutes to address the vulnerability of youth under 18; those are not reflected in this chart. However for states that consider youth as a vulnerable persons under these specific statutes are noted here.**

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### NIC/WCL Project on Addressing Prison Rape

<b>Definitions Cont'd</b> <i>(Ohio)</i>	<u>Definitions</u>  (N) “Mentally retarded person” means a person having significantly subaverage general intellectual functioning existing concurrently with deficiencies in adaptive behavior, manifested during the developmental period.  (R) “Developmentally disabled person” means a person with a developmental disability.
<b>Penalties</b> <i>(Ohio)</i>	R.C. § 2903.34 (West 2008) <u>Patient abuse or neglect, spiritual treatment; defense</u>  (C) Whoever violates division (A)(1) of this section is guilty of patient abuse, a felony of the fourth degree. If the offender previously has been convicted of, or pleaded guilty to, any violation of this section, patient abuse is a felony of the third degree.  R.C. § 2929.14 (West 2008) <u>Prison terms</u>  (A) Except as provided in division (C), (D)(1), (D)(2), (D)(3), (D)(4), (D)(5), (D)(6), (G), or (L) of this section and except in relation to an offense for which a sentence of death or life imprisonment is to be imposed, if the court imposing a sentence upon an offender for a felony elects or is required to impose a prison term on the offender pursuant to this chapter, the court shall impose a definite prison term that shall be one of the following: (4) For a felony of the fourth degree, the prison term shall be 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, or 18 months.  R.C. § 2929.14 (West 2008) <u>Prison terms</u>

#### NOTES:

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<b>Penalties Cont'd</b> <i>(Ohio)</i>	<p>(A) Except as provided in division (C), (D)(1), (D)(2), (D)(3), (D)(4), (D)(5), (D)(6), (G), or (L) of this section and except in relation to an offense for which a sentence of death or life imprisonment is to be imposed, if the court imposing a sentence upon an offender for a felony elects or is required to impose a prison term on the offender pursuant to this chapter, the court shall impose a definite prison term that shall be one of the following:</p> <p>(3) For a felony in the third degree, the prison term shall be 1, 2, 3, 5, or 5 years.</p> <p>R.C. § 2903.34 (West 2008)  <u>Patient abuse or neglect, spiritual treatment; defense</u></p> <p>(D) Whoever violates division (A)(2) of this section is guilty of gross patient neglect, a misdemeanor of the first degree. If the offender previously has been convicted of, or pleaded guilty to, any violation of this section, gross patient neglect is a felony of the fifth degree.</p> <p>R.C. § 2929.24 (West 2008)  <u>Misdemeanor jail terms</u></p> <p>(A) Except as provided in section 2929.22 or 2929.23 of the Revised Code and unless another term is required or authorized pursuant to law, if the sentencing court imposing a sentence upon an offender for a misdemeanor elects or is required to impose a jail term on the offender pursuant to this chapter, the court shall impose a definite jail term that shall be one of the following:</p> <p>(1) For a misdemeanor of the first degree, not more than 180 days.</p> <p>R.C. § 2929.14 (West 2008)  <u>Prison terms</u></p> <p>(A) Except as provided in division (C), (D)(1), (D)(2), (D)(3), (D)(4), (D)(5), (D)(6), (G), or (L) of this section and except in relation to an offense for which a sentence of death or life imprisonment is to be imposed, if the court imposing a sentence</p>
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#### NOTES:

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<b>Penalties Cont'd</b> <i>(Ohio)</i>	<p>upon an offender for a felony elects or is required to impose a prison term on the offender pursuant to this chapter, the court shall impose a definite prison term that shall be one of the following:</p> <p>(5) For a felony of the fifth degree, the prison term shall be 6, 7, 8, 9, 10, 11, or 12 months.</p> <p>R.C. § 2903.34 (West 2008)  <u>Patient abuse or neglect, spiritual treatment; defense</u></p> <p>(E) Whoever violates division (A)(3) of this section is guilty of patient neglect, a misdemeanor of the second degree. If the offender previously has been convicted of or pleaded guilty to any violation of this section, patient neglect is a felony of the fifth degree.</p> <p>R.C. § 2929.24 (West 2008)  <u>Misdemeanor jail terms</u></p> <p>(A) Except as provided in section 2929.22 or 2929.23 of the Revised Code and unless another term is required or authorized pursuant to law, if the sentencing court imposing a sentence upon an offender for a misdemeanor elects or is required to impose a jail term on the offender pursuant to this chapter, the court shall impose a definite jail term that shall be one of the following:</p> <p>(2) For a misdemeanor of the second degree, not more than 90 days.</p> <p>R.C. § 2929.14 (West 2008)  <u>Prison terms</u></p> <p>(A) Except as provided in division (C), (D)(1), (D)(2), (D)(3), (D)(4), (D)(5), (D)(6), (G), or (L) of this section and except in relation to an offense for which a sentence of death or life imprisonment is to be imposed, if the court imposing a sentence upon an offender for a felony elects or is required to impose a prison term on the offender pursuant to this chapter, the court shall impose a definite prison term that shall be one of the following:</p>
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#### NOTES:

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<b>Penalties Cont'd</b> <i>(Ohio)</i>	<p>(5) For a felony of the fifth degree, the prison term shall be 6, 7, 8, 9, 10, 11, or 12 months.</p> <p>R.C. § 2903.341 (West 2008)  <u>Patient endangerment; affirmative defenses</u></p> <p>(E)(1) Except as provided in division (E)(2) or (E)(3) of this section, whoever violates division (B) or (C) of this section is guilty of patient endangerment, a misdemeanor of the first degree.</p> <p>R.C. § 2929.24 (West 2008)  <u>Misdemeanor jail terms</u></p> <p>(A) Except as provided in section 2929.22 or 2929.23 of the Revised Code and unless another term is required or authorized pursuant to law, if the sentencing court imposing a sentence upon an offender for a misdemeanor elects or is required to impose a jail term on the offender pursuant to this chapter, the court shall impose a definite jail term that shall be one of the following:          (1) For a misdemeanor of the first degree, not more than 180 days;</p> <p>R.C. § 2903.341 (West 2008)  <u>Patient endangerment; affirmative defenses</u></p> <p>(E)(2) If the offender previously has been convicted or, or pleaded guilty to, a violation of this section, patient endangerment is a felony of the fourth degree.</p> <p>R.C. § 2929.14 (West 2008)  <u>Prison terms</u></p> <p>(A) Except as provided in division (C), (D)(1), (D)(2), (D)(3), (D)(4), (D)(5), (D)(6), (G), or (L) of this section and except in</p>
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<b>Penalties Cont'd</b> <i>(Ohio)</i>	<p>relation to an offense for which a sentence of death or life imprisonment is to be imposed, if the court imposing a sentence upon an offender for a felony elects or is required to impose a prison term on the offender pursuant to this chapter, the court shall impose a definite prison term that shall be one of the following:</p> <p>(4) For a felony of the fourth degree, the prison term shall be 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, or 18 months.</p> <p>R.C. § 2903.341  <u>Patient endangerment; affirmative defenses</u></p> <p>(E)(3) If the violation results in serious physical harm to the person with mental retardation or a developmental disability, patient endangerment is a felony of the third degree.</p> <p>R.C. § 2929.14  <u>Prison terms</u></p> <p>(A) Except as provided in division (C), (D)(1), (D)(2), (D)(3), (D)(4), (D)(5), (D)(6), (G), or (L) of this section and except in relation to an offense for which a sentence of death or life imprisonment is to be imposed, if the court imposing a sentence upon an offender for a felony elects or is required to impose a prison term on the offender pursuant to this chapter, the court shall impose a definite prison term that shall be one of the following:</p> <p>(3) For a felony in the third degree, the prison term shall be 1, 2, 3, 5, or 5 years.</p>
<b>Applicability to Youth</b> <i>(Ohio)</i>	<p>Statutes may apply to youth who reside in a residential facility or alternative community home as defined by statute above.</p>
<b>OKLAHOMA</b>	

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### NIC/WCL Project on Addressing Prison Rape

<b>Statute</b> <i>(Oklahoma)</i>	<p>21 OKL. ST. ANN. § 843.3 (West 2008)  <u>Abuse, sexual abuse, exploitation, or neglect of vulnerable adult</u></p> <p>21 OKL. ST. ANN. § 646 (West 2008)  <u>Aggravated assault and battery defined</u></p> <p>43A OKL. ST. ANN. § 10-103 (West 2008)  <u>Definitions</u></p> <p>21 OKL. ST. ANN. § 641 (West 2008)  <u>Assault defined</u></p> <p>21 OKL. ST. ANN. § 647 (West 2008)  <u>Punishment for aggravated assault and battery</u></p>
<b>Coverage</b> <i>(Oklahoma)</i>	<p>21 OKL. ST. ANN. § 843.3 (West 2008)  <u>Abuse, sexual abuse, exploitation, or neglect of vulnerable adult</u></p> <p>A. Any person who engages in abuse, sexual abuse, or exploitation of a vulnerable adult, as defined in Section 10-103 of Title 43A of the Oklahoma Statutes shall be fined not more than \$10,000 or be imprisoned in the custody of the Department of Corrections for a term of not more than 2 years, or both such fine and imprisonment.</p> <p>B. Any person who has a responsibility to care for a vulnerable adult as defined by Section 10-103 of Title 43A of the Oklahoma Statutes who purposefully, knowingly or recklessly neglects the vulnerable adult shall be fined not more than \$10,000 or be imprisoned in the custody of the Department of Corrections for a terms of not more than 2 year, or both such fine and imprisonment.</p> <p>C. In addition the court shall consider any provision of the Elderly and Incapacitated Victim’s Protection Act when the victim is an elderly or incapacitated person as defined by Section 991a-15 of Title 22 of the Oklahoma Statutes.</p>

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<b>Coverage Cont'd</b> <i>(Oklahoma)</i>	<p>21 OKL. ST. ANN. § 646  <u>Aggravated assault and battery defined</u></p> <p>A. An assault and battery becomes aggravated when committed under any of the following circumstances:</p> <ol style="list-style-type: none"> <li>1. When great bodily injury is inflicted upon the person assaulted; or</li> <li>2. When committed by a person of robust health or strength upon one who is aged, decrepit, or incapacitated, as defined in Section 641 of this title.</li> </ol>
<b>Definitions</b> <i>(Oklahoma)</i>	<p>43A OKL. ST. ANN. § 10-103 (West 2008)  <u>Definitions</u></p> <p>5. <u>Vulnerable adult</u> means an individual who is an incapacitated person or who, because of physical or mental disability, incapacity, or other disability, is substantially impaired in the ability to provide adequately for the care or custody of himself or herself, or is unable to manage his or her property and financial affairs effectively, or to meet essential requirements for mental or physical health or safety, or to protect himself or herself from abuse, verbal abuse, neglect, or exploitation without assistance from others;</p> <p>7. <u>Caretaker</u> means a person who has:</p> <ol style="list-style-type: none"> <li>a. the responsibility for the care of a vulnerable adult or the financial management of the resources of a vulnerable adult as a result of a family relationship,</li> <li>b. assumed the responsibility for the care of a vulnerable adult voluntarily, by contract, or as a result of the ties of friendship, or</li> <li>c. been appointed a guardian, limited guardian, or conservator pursuant to the Oklahoma Guardianship and Conservatorship Act;</li> </ol> <p>8. <u>Abuse</u> means causing or permitting</p>

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<b>Definitions Cont'd</b> <i>(Oklahoma)</i>	<p>a. the infliction of physical pain, injury, sexual abuse, sexual exploitation, unreasonable restraint or confinement, or mental anguish, or</p> <p>b. the deprivation of nutrition, clothing, shelter, health care, or other care or services without which serious physical or mental injury is likely to occur to a vulnerable adult by a caretaker or other person providing services to a vulnerable adult;</p> <p>11. <u>Neglect</u> means:</p> <p>a. the failure to provide protection for a vulnerable adult who is unable to protect his or her own interest,</p> <p>b. the failure to provide a vulnerable adult with adequate shelter, nutrition, health care, or clothing, or</p> <p>c. negligent acts or omissions that result in harm or the unreasonable risk of harm to a vulnerable adult through the action, inaction, or lack of supervision by a caretaker providing direct services;</p> <p>12. <u>Sexual abuse</u> means:</p> <p>a. oral, anal, or vaginal penetration of a vulnerable adult by or through the union with the sexual organ or a caretaker or other person providing services to the vulnerable adult, or the anal or vaginal penetration of a vulnerable adult by a caretaker or other person providing services to the vulnerable adult with any other object, or</p> <p>b. for the purpose of sexual gratification, the touching, feeling or observation of the body of private parts of a vulnerable adult by a caretaker or other person providing services to the vulnerable adult, or</p> <p>c. indecent exposure by a caretaker or other person providing services to the vulnerable adult;</p> <p>15. <u>Sexual exploitation</u> includes, but is not limited to, a caretaker's causing, allowing, permitting or encouraging a vulnerable adult to engage in prostitution or in the lewd, obscene, or pornographic photographing, filming or depiction of the vulnerable adult as those acts are defined by state law; and</p> <p>16. <u>Verbal abuse</u> means the use of words, sounds, or other communication including, but not limited to, gestures, actions or behaviors, by a caretaker or other person providing services to a vulnerable adult that are likely to cause a reasonable person to experience humiliation, intimidation, fear, shame or degradation.</p>
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<b>Definitions</b> <b>Cont'd</b> <i>(Oklahoma)</i>	<p>21 OKL. ST. ANN. § 641 (West 2008)  <u>Assault defined</u></p> <p>An <u>assault</u> is any willful and unlawful attempt or offer with force or violence to do a corporal hurt to another.</p> <p>21 OKL. ST. ANN. § 646 (West 2008)  <u>Aggravated assault and battery defined</u></p> <p>B. For purposes of this section <u>great bodily injury</u> means bone fracture, protracted and obvious disfigurement, protracted loss or impairment of the function of a body party, organ or mental faculty, or substantial risk of death.</p> <p>21 OKL. ST. ANN. § 991a-15 (West 2008)  <u>Definitions</u></p> <p>As used in the Elderly and Incapacitated Victim's Protection Act:</p> <ol style="list-style-type: none"> <li>1. <u>Elderly person</u> means any person 62 years of age or older; and</li> <li>2. <u>Incapacitated person</u> means any person who is disabled by reason of mental or physical illness and disability to such extent the person lacks the ability to effectively protect self or properly.</li> </ol>
<b>Penalties</b> <i>(Oklahoma)</i>	<p>21 OKL. ST. ANN. § 843.3 (West 2008)  <u>Abuse, sexual abuse, exploitation, or neglect of vulnerable adult</u></p> <p>A. Any person who engages in abuse, sexual abuse, or exploitation of a vulnerable adult, as defined in Section 10-103 of Title 43A of the Oklahoma Statutes shall be fined not more than \$10,000 or be imprisoned in the custody of the Department of Corrections for a term of not more than 2 years, or both such fine and imprisonment.</p>

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<b>Penalties Cont'd</b> (Oklahoma)	<p>21 OKL. ST. ANN. § 843.3 (West 2008)  <u>Abuse, sexual abuse, exploitation, or neglect of vulnerable adult</u></p> <p>B. Any person who has a responsibility to care for a vulnerable adult as defined by Section 10-103 of Title 43A of the Oklahoma Statutes who purposefully, knowingly or recklessly neglects the vulnerable adult shall be fined not more than \$10,000 or be imprisoned in the custody of the Department of Corrections for a terms of not more than 2 year, or both such fine and imprisonment.</p> <p>21 OKL. ST. ANN. § 647 (West 2008)  <u>Punishment for aggravated assault and battery</u></p> <p>Aggravated assault and battery shall be punished by imprisonment in the State Penitentiary not exceeding 5 years, or by imprisonment in a county jail not exceeding 1 year, or by a fine of not more than \$500.00, or both such fine and imprisonment.</p>
<b>Applicability to Youth</b> (Oklahoma)	The above statutes are not applicable to youth
<b>OREGON</b>	
<b>Statute</b> (Oregon)	<p>O.R.S. § 163.200 (West 2008)  <u>Criminal mistreatment in the second degree</u></p> <p>O.R.S. § 163.200 (West 2008)</p>

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<b>Statute Cont'd</b> <i>(Oregon)</i>	<u>Criminal mistreatment in the first degree</u>  O.R.S. § 161.615 (West 2008) <u>Sentences for misdemeanors</u>  O.R.S. § 161.635 (West 2008) <u>Misdemeanors; fines</u>  (1) A sentence to pay a fine for a misdemeanor shall be a sentence to pay an amount, fixed by the court, not exceeding: (a) \$6,250 for a Class A misdemeanor  O.R.S. § 161.615 (West 2008) <u>Sentences for misdemeanors</u>  O.R.S. § 475.005 (West 2008) <u>Definitions</u>  O.R.S. § 124.105 (West 2008) <u>Physical abuse</u>  O.R.S. § 163.315. <u>Capability to consent; lack of resistance</u>
<b>Coverage</b> <i>(Oregon)</i>	O.R.S. § 163.200 (West 2008) <u>Criminal mistreatment in the second degree</u>  (1) A person commits the crime of criminal mistreatment in the second degree if, with criminal negligence and:

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<b>Coverage Cont'd</b> <i>(Oregon)</i>	<p>(a) In violation of a legal duty to provide care for another person, the person withholds necessary and adequate food, physical care or medical attention from that person; or</p> <p>(b) Having assumed the permanent or temporary care, custody or responsibility for the supervision of another person, the person withholds necessary and adequate food, physical care or medical attention from that person.</p> <p>O.R.S. § 163.200 (West 2008)  <u>Criminal mistreatment in the first degree</u></p> <p>(1) A person commits the crime of criminal mistreatment in the first degree if:</p> <p>(a) The person, in violation of a legal duty to provide care for another person, intentionally or knowingly withholds necessary and adequate food, physical care or medical attention from that other person; or</p> <p>(b) The person, in violation of a legal duty to provide care for a dependent person or elderly person, or having assuming the permanent or temporary care, custody or responsibility for the supervision of a dependent person or elderly person, intentionally or knowingly:</p> <p>(A) Causes physical injury or injuries to the dependent person or elderly person;</p> <p>(B) Deserts the dependent person or elderly person in a place with the intent to abandon that person;</p> <p>(C) Leaves the dependent person or elderly person unattended at a place for such a period of time as may be likely to endanger the health or welfare of that person;</p> <p>(D) Hides the dependent person's or elderly person's money or property or takes the money or property for, or appropriates the money or property to, any use or purpose not in the due and lawful execution of the person's responsibility;</p> <p>(E) Takes charge of a dependent or elderly person for the purpose of fraud; or</p> <p>(F) Leaves the dependent person or elderly person, or causes the dependent person or elderly person to enter or remain, in or</p>
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#### NOTES:

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<b>Coverage Cont'd</b> <i>(Oregon)</i>	<p>upon premises where a chemical reaction involving one or more precursor substances:</p> <ul style="list-style-type: none"> <li>(i) Is occurring as part of unlawfully manufacturing a controlled substance or grinding, soaking or otherwise breaking down a precursor substance for the unlawful manufacture of a controlled substance; or</li> <li>(ii) Has occurred as part of unlawfully manufacturing a controlled substance or grinding soaking or otherwise breaking down a precursor substance for the unlawful manufacture of a controlled substance and the premises have not been certified as fit for use under ORS 453.885.</li> </ul> <p>O.R.S. § 124.105 (West 2008)</p> <p><u>Physical abuse</u></p> <p>(1) An action may be brought under ORS 124.100 for physical abuse if the defendant engaged in conduct against a vulnerable person that would constitute any of the following:</p> <ul style="list-style-type: none"> <li>(a) Assault, under the provisions of ORS 163.160, 163.165, 163.175 and 163.185.</li> <li>(b) Menacing, under the provisions of ORS 163.190.</li> <li>(c) Recklessly endangering another person, under the provisions of ORS 163.195.</li> <li>(d) Criminal mistreatment, under the provisions of ORS 163.200 and 163.205.</li> <li>(e) Rape, under the provisions of ORS 163.355, 163.365 and 163.375.</li> <li>(f) Sodomy, under the provisions of ORS 163.385, 163.395 and 163.405.</li> <li>(g) Unlawful sexual penetration, under the provisions of ORS 163.408 and 163.411.</li> <li>(h) Sexual abuse, under the provisions of ORS 163.415, 163.425 and 163.427.</li> <li>(i) Strangulation, under ORS 163.187.</li> </ul>
<b>Definitions</b> <i>(Oregon)</i>	<p>1) “Abuse” means one or more of the following:</p> <ul style="list-style-type: none"> <li>(a) Any physical injury caused by other than accidental means, or that appears to be at variance with the explanation given of the injury.</li> </ul>

#### NOTES:

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## NIC/WCL Project on Addressing Prison Rape

<b>Definitions</b> <b>Cont'd</b> <i>(Oregon)</i>	<p>(b) Neglect that leads to physical harm through withholding of services necessary to maintain health and well-being.</p> <p>(h) Sexual contact with a nonconsenting elderly person or person with a disability or with an elderly person or person with a disability considered incapable of consenting to a sexual act as described in ORS 163.315. As used in this paragraph, “sexual contact” has the meaning given that term in ORS 163.305.</p> <p>O.R.S. § 163.315.  <u>Capability to consent; lack of resistance</u></p> <p>(1) A person is considered incapable of consenting to a sexual act if the person is:</p> <p>(a) Under 18 years of age;</p> <p>(b) Mentally defective;</p> <p>(c) Mentally incapacitated; or</p> <p>(d) Physically helpless.</p> <p>O.R.S. § 163.200 (West 2008)  <u>Criminal mistreatment in the second degree</u></p> <p>(3) As used in this section, <u>legal duty</u> includes but is not limited to a duty created by familial relationship, court order, contractual agreement or statutory or case law.</p> <p>O.R.S. § 163.200 (West 2008)  <u>Criminal mistreatment in the first degree</u></p> <p>As used in this section:</p> <p>(a) <u>Controlled substance</u> has the meaning given that term in ORS 475.005.</p> <p>(b) <u>Dependent person</u> means a person who because of either age or a physical or mental disability is dependent upon another to provide for the person’s physical needs.</p> <p>(c) <u>Elderly person</u> means a person 65 years of age or older.</p>
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<b>Definitions Cont'd</b> <i>(Oregon)</i>	<p>(d) <u>Legal duty</u> includes but is not limited to a duty created by familial relationship, court order, contractual agreement or statutory or case law.</p> <p>(e) <u>Precursor substance</u> has the meaning given that term in ORS 475.940.</p>
<b>Penalties</b> <i>(Oregon)</i>	<p>O.R.S. § 163.200 (West 2008)  <u>Criminal mistreatment in the second degree</u></p> <p>(2) Criminal mistreatment in the second degree is a Class A misdemeanor</p> <p>O.R.S. § 161.635 (West 2008)  <u>Misdemeanors; fines</u></p> <p>(1) A sentence to pay a fine for a misdemeanor shall be a sentence to pay an amount, fixed by the court, not exceeding:  (a) \$6,250 for a Class A misdemeanor</p> <p>O.R.S. § 161.615 (West 2008)  <u>Sentences for misdemeanors</u></p> <p>Sentences for misdemeanors shall be for a definite term. The court shall fix the term of imprisonment within the following maximum limitations.</p> <p>(1) For a Class A misdemeanor, 1 year.</p>
<b>Applicability to Youth</b> <i>(Oregon)</i>	<p>Statutes may apply to youth</p>

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PENNSYLVANIA	
<b>Statute</b> <i>(Pennsylvania)</i>	<p>SPP § 137:175 (West 2008)  <u>Offenses against elderly persons</u></p> <p>42 PA. C.S.A. § 9717 (West 2008)  <u>Sentences for offenses against elderly persons</u></p> <p>18 PA. C.S.A § 2702 (West 2008)</p> <p>18 PA. C.S.A § 3121(West 2008)  <u>Rape</u></p> <p>35 P.S. § 10225.103 (West 2008)  <u>Definitions</u></p> <p>18 PA. C.S.A. § 2713 (West 2008)  <u>Neglect of care-dependent person</u></p>
<b>Coverage</b> <i>(Pennsylvania)</i>	<p>SPP § 137:175 (West 2008)  <u>Offenses against elderly persons</u></p> <p>A person under 60 years of age convicted of aggravated assault must be sentenced to a mandatory term of imprisonment of not less than two years when the victim of the offense is over 60 years of age and is not a police officer.</p>

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### NIC/WCL Project on Addressing Prison Rape

<b>Coverage Cont'd</b> <i>(Pennsylvania)</i>	<p>A person under 60 years of age convicted of rape must be sentenced to a mandatory term of imprisonment of not less than five years when the victim of the offense is over 60 years of age and is not a police officer. A person under 60 years of age convicted of involuntary deviate sexual intercourse must be sentenced to a mandatory term of imprisonment of not less than five years when the victim of the offense is over 60 years of age and is not a police officer.</p> <p>18 PA. C.S.A. § 3121 (West 2008)  <u>Rape</u></p> <p>(a) Offense defined.  A person commits a felony of the first degree when the person engages in sexual intercourse with a complainant:</p> <ol style="list-style-type: none"> <li>(1) By forcible compulsion.</li> <li>(2) By threat of forcible compulsion that would prevent resistance by a person of reasonable resolution.</li> <li>(3) Who is unconscious or where the person knows that the complainant is unaware that the sexual intercourse is occurring.</li> <li>(4) Where the person has substantially impaired the complainant's power to appraise or control his or her conduct by administering or employing, without the knowledge of the complainant, drugs, intoxicants or other means for the purpose of preventing resistance.</li> <li>(5) Who suffers from a mental disability which renders the complainant incapable of consent.</li> </ol>
<b>Definitions</b> <i>(Pennsylvania)</i>	<p>35 P.S. § 10225.103 (West 2008)  <u>Definitions</u></p> <p>“Abandonment.” The desertion of an older adult by a caretaker.  “Abuse.” The occurrence of one or more of the following acts:</p> <ol style="list-style-type: none"> <li>(1) The infliction of injury, unreasonable confinement, intimidation or punishment with resulting physical harm, pain or mental anguish.</li> <li>(2) The willful deprivation by a caretaker of goods or services which are necessary to maintain physical or mental health.</li> <li>(3) Sexual harassment, rape or abuse, as defined in the act of October 7, 1976 (P.L. 1090, No. 218), known as the Protection</li> </ol>

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<p><b>Definitions</b> <b>Cont'd</b> <i>(Pennsylvania)</i></p>	<p>From Abuse Act.</p> <p>No older adult shall be found to be abused solely on the grounds of environmental factors which are beyond the control of the older adult or the caretaker, such as inadequate housing, furnishings, income, clothing or medical care.</p> <p>“Care.” Services provided to meet a person's need for personal care or health care. Services may include homemaker services, assistance with activities of daily living, physical therapy, occupational therapy, speech therapy, medical social services, home-care aide services, companion-care services, private duty nursing services, respiratory therapy, intravenous therapy, in-home dialysis and durable medical equipment services, which are routinely provided unsupervised and which require interaction with the care-dependent person. The term does not include durable medical equipment delivery.</p> <p>“Care-dependent individual.” An adult who, due to physical or cognitive disability or impairment, requires assistance to meet needs for food, shelter, clothing, personal care or health care.</p> <p>“Caretaker.” An individual or institution that has assumed the responsibility for the provision of care needed to maintain the physical or mental health of an older adult. This responsibility may arise voluntarily, by contract, by receipt of payment for care, as a result of family relationship, or by order of a court of competent jurisdiction. It is not the intent of this act to impose responsibility on any individual if such responsibility would not otherwise exist in law.</p> <p>“Facility.” Any of the following:</p> <p>(1) A domiciliary care home as defined in section 2202-A of the act of April 9, 1929 (P.L. 177, No. 175, known as The Administrative Code of 1929.</p> <p>(2) A home health care agency.</p> <p>(3) A long-term care nursing facility as defined in section 802.1 of the act of July 19, 1979 (P.L. 130, No. 48), known as the Health Care Facilities Act.</p>
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<b>Definitions Cont'd</b> <i>(Pennsylvania)</i>	<p>(4) An older adult daily living center as defined in section 2 of the act of July 11, 1990 (P.L. 499, No. 118), known as the Older Adult Daily Living Centers Licensing Act.</p> <p>A personal care home as defined in section 1001 of the act of June 13, 1967 (P.L. 31, No. 21), known as the Public Welfare Code.</p> <p>“Home health care agency.” Any of the following:</p> <p>(1) A home health care organization or agency licensed by the Department of Health.</p> <p>(2) A public or private agency or organization, or part of an agency or organization, which provides care to a care-dependent individual in the individual's place of residence.</p> <p>“Neglect.” The failure to provide for oneself or the failure of a caretaker to provide goods or services essential to avoid a clear and serious threat to physical or mental health. No older adult who does not consent to the provision of protective services shall be found to be neglected solely on the grounds of environmental factors which are beyond the control of the older adult or the caretaker, such as inadequate housing, furnishings, income, clothing or medical care.</p> <p>“Older adult.” A person within the jurisdiction of the Commonwealth who is 60 years of age or older.</p> <p>“Older adult in need of protective services.” An incapacitated older adult who is unable to perform or obtain services that are necessary to maintain physical or mental health, for whom there is no responsible caretaker and who is at imminent risk of danger to his person or property.</p> <p>“Protective services.” Those activities, resources and supports provided to older adults under this act to detect, prevent, reduce or eliminate abuse, neglect, exploitation and abandonment.</p> <p>“Protective setting.” A setting chosen by the agency where services can be provided in the least restrictive environment to</p>
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<b>Definitions</b> <b>Cont'd</b> <i>(Pennsylvania)</i>	<p>protect the physical and mental well-being of the older adult.</p> <p>“Sexual abuse.” Intentionally, knowingly or recklessly causing or attempting to cause rape, involuntary deviate sexual intercourse, sexual assault, statutory sexual assault, aggravated indecent assault, indecent assault or incest.</p>
<b>Penalties</b> <i>(Pennsylvania)</i>	<p>42 PA. C.S.A. § 9717 (West 2008)  <u>Sentences for offenses against elderly persons</u></p> <p>(a) Mandatory sentence. A person under 60 years of age convicted of the following offenses when the victim is over 60 years of age and not a police officer shall be sentenced to a mandatory term of imprisonment as follows:</p> <p>18 PA. C.S.A. § 2702 (West 2008)</p> <p>(a)(1) &amp; (4) (relating to aggravated assault)--not less than two years.</p> <p>18 PA. C.S.A. § 3121 (West 2008)</p> <p>(relating to rape)--not less than five years.</p> <p>18 PA. C.S.A. § 3123 (West 2008)</p> <p>(relating to involuntary deviate sexual intercourse)--not less than five years.</p> <p>18 PA. C.S.A. § 3922 (West 2008)</p> <p>(relating to theft by deception)--not less than 12 months, but the imposition of the minimum sentence shall be discretionary</p>

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<b>Penalties Cont'd</b> <i>(Pennsylvania)</i>	<p>with the court where the court finds justifiable cause and that finding is written in the opinion.</p> <p>(c) Eligibility for parole.--Parole shall not be granted until the minimum term of imprisonment has been served.</p> <p>18 PA. C.S.A. § 2713 (West 2008)</p> <p><u>Neglect of care-dependent person</u></p> <p>(a) Offense defined.--A caretaker is guilty of neglect of a care-dependent person if he:</p> <p>(1) Intentionally, knowingly or recklessly causes bodily injury or serious bodily injury by failing to provide treatment, care, goods or services necessary to preserve the health, safety or welfare of a care-dependent person for whom he is responsible to provide care.</p> <p>(2) Intentionally or knowingly uses a physical restraint or chemical restraint or medication on a care-dependent person, or isolates a care-dependent person contrary to law or regulation, such that bodily injury or serious bodily injury results.</p> <p>(b) Penalty.</p> <p>(1) A violation of subsection (a)(1) constitutes a misdemeanor of the first degree if the victim suffers bodily injury.</p> <p>(2) A violation of subsection (a)(1) constitutes a felony of the first degree if the victim suffers serious bodily injury.</p> <p>(3) A violation of subsection (a)(2) constitutes a misdemeanor of the first degree if the victim suffers bodily injury.</p> <p>(4) A violation of subsection (a)(2) constitutes a felony of the first degree if the victim suffers serious bodily injury.</p>
<b>Applicability to Youth</b> <i>(Pennsylvania)</i>	<p>The above statutes are not applicable to youth</p>

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PUERTO RICO	
<b>Statute</b> (Puerto Rico)	<p>33 L.P.R.A. § 4032 (West 2008) <u>Aggravated battery</u></p> <p>33 L.P.R.A. § 2111-6 (West 2008) <u>Support for the Elderly Act—Definitions</u></p>
<b>Coverage</b> (Puerto Rico)	<p>33 L.P.R.A. § 4032 (West 2008) <u>Aggravated battery</u></p> <p>(2) Aggravated battery shall be deemed as a felony punishable by a penalty of imprisonment for a fixed term of 3 years, a fine of not less than \$1,000 nor greater than \$5,000, or both at the discretion of the court:</p> <p>(a) When serious bodily injury is inflicted on the person assaulted.</p> <p>(d) When committed against a person 60 years of age or older, or by an adult, on a child younger than 12 years of age.</p> <p>(e) When committed on a physically or mentally disabled person whose condition is manifest or if the condition is known to the offender, should the physical or mental condition not be visible.</p> <p>Should there be aggravating circumstances, the fixed penalty established herein may be increased up to a maximum of 5 years; should there be extenuating circumstances, it may be reduced to a minimum of 2 years.</p>
<b>Definitions</b> (Puerto Rico)	<p>33 L.P.R.A. § 2111-6 (West 2008) <u>Support for the Elderly Act—Definitions</u></p> <p>(d) Elderly: Means a person who is 60 years of age or older.</p>

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<b>Penalties</b> <i>(Puerto Rico)</i>	<p>33 L.P.R.A. § 4032 (West 2008)  <u>Aggravated battery</u></p> <p>(2) Aggravated battery shall be deemed as a felony punishable by a penalty of imprisonment for a fixed term of 3 years, a fine of not less than \$1,000 nor greater than \$5,000, or both at the discretion of the court:</p> <p>33 L.P.R.A. § 4032 (West 2008)  <u>Aggravated battery</u></p> <p>Should there be aggravating circumstances, the fixed penalty established herein may be increased up to a maximum of 5 years; should there be extenuating circumstances, it may be reduced to a minimum of 2 years.</p> <p>33 L.P.R.A. § 4032 (West 2008)  <u>Aggravated battery</u></p> <p>The court may impose a penalty of restitution in addition to the established penalty of imprisonment, or both penalties.</p>
<b>Applicability to Youth</b> <i>(Puerto Rico)</i>	<p>The above statutes are not applicable to youth</p>
<b>RHODE ISLAND</b>	
<b>Statute</b> <i>(Rhode Island)</i>	<p>GEN. LAWS, 1956, § 11-5-10 (West 2008)  <u>Assault on persons 60 years of age or older causing bodily injury</u></p>

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<b>Statute Cont'd</b> <i>(Rhode Island)</i>	<p>GEN. LAWS, 1956, § 11-5-10.1 (West 2008)  <u>Assault on persons 60 years of age or older causing serious bodily injury</u></p> <p>GEN. LAWS, 1956, § 11-5-10.2 (West 2008)  <u>Assault on persons with severe impairments causing serious bodily injury</u></p> <p>GEN. LAWS, 1956, § 11-5-10.3 (West 2008)  <u>Assault on persons 60 years of age or older by caretaker causing bodily injury</u></p>
<b>Coverage</b> <i>(Rhode Island)</i>	<p>GEN. LAWS, 1956, § 11-5-10 (West 2008)  <u>Assault on persons 60 years of age or older causing bodily injury</u></p> <p>Any person who shall commit an assault and battery upon a person 60 years of age or older, causing bodily injury, shall be deemed to have committed a felony and shall be imprisoned not exceeding 5 years, or fined not exceeding \$ 1,000, or both.</p> <p>GEN. LAWS, 1956, § 11-5-10.1 (West 2008)  <u>Assault on persons 60 years of age or older causing serious bodily injury</u></p> <p>(a) Any person who shall commit an assault or battery, or both, upon a person 60 years of age or older, causing serious bodily injury, shall be deemed to have committed a felony and shall be imprisoned for not less than 3 years but not more than 20 years, or fined not more than \$ 10,000, or both.</p> <p>GEN. LAWS, 1956, § 11-5-10.2 (West 2008)  <u>Assault on persons with severe impairments causing serious bodily injury</u></p> <p>(a) Any person who shall commit an assault or battery, or both, upon a person with severe impairments causing serious bodily injury, shall be deemed to have committed a felony and shall be imprisoned for not less than 2 years but not more than 20</p>

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<b>Coverage Cont'd</b> <i>(Rhode Island)</i>	<p>years, or fined not more than \$ 5,000, or both.</p> <p>(d) Violations of this section shall be reported to the local police department.</p> <p>(e) After July 1, 2007 pursuant to § 40-8.5-2, the local police department may request the department of mental health, retardation, and hospitals provide crisis intervention services for the adult victim with severe impairments when:</p> <ul style="list-style-type: none"> <li>(1) necessary to ensure the immediate health and safety of the adult victim; and</li> <li>(2) the adult victim relies on the person believed to have committed the assault and/or battery, for assistance in performing 3 or more major life activities</li> </ul> <p>GEN. LAWS, 1956, § 11-5-10.3 (West 2008)</p> <p><u>Assault on persons 60 years of age or older by caretaker causing bodily injury</u></p> <p>Any person who shall commit an assault and battery upon a person 60 years of age or older, causing bodily injury, and who was, at the time of the assault and battery, responsible for the care and treatment of the victim, shall be deemed to have committed a felony and shall be imprisoned not exceeding 5 years, or fined not exceeding \$ 2,500, or both. Further, if at the time of the assault and battery the person committing the act was employed by a health care facility that either condoned the act or attempted to conceal it, the health care facility shall be fined not exceeding \$ 5,000.</p>
<b>Definitions</b> <i>(Rhode Island)</i>	<p>GEN. LAWS, 1956, § 11-5-10.1 (West 2008)</p> <p><u>Assault on persons 60 years of age or older causing serious bodily injury</u></p> <p>(b) <u>Serious bodily injury</u> means physical injury that:</p> <ul style="list-style-type: none"> <li>(1) Creates a substantial risk of death;</li> <li>(2) Causes protracted loss or impairment of the function of any bodily part, member or organ; or</li> <li>(3) Causes serious permanent disfigurement.</li> </ul> <p>GEN. LAWS, 1956, § 11-5-10.2 (West 2008)</p>

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<b>Definitions</b> <b>Cont'd</b> <i>(Rhode Island)</i>	<p><u>Assault on persons with severe impairments causing serious bodily injury</u></p> <p>(b) <u>Serious bodily injury</u> means physical injury that:</p> <ol style="list-style-type: none"> <li>(1) Creates a substantial risk of death, serious disfigurement;</li> <li>(2) Causes protracted loss or impairment of the function of any bodily part, member or organ; or</li> <li>(3) Causes serious permanent disfigurement.</li> </ol> <p>(c) For the purposes of this section:</p> <ol style="list-style-type: none"> <li>(1) <u>adult</u> means a person over the age of 18.</li> <li>(2) <u>major life activities</u> means: (i) mobility; (ii) self-care; (iii) communication; (iv) receptive and/or expressive language; (v) learning; (vi) self-direction; (vii) capacity for independent living; or (viii) economic self-sufficiency.</li> <li>(3) <u>person with severe impairments</u> means a child or adult who has a disability which is attributable to a mental or physical impairment or combination of mental and physical impairments and results in substantial functional limitations in one or more major life activities.</li> </ol>
<b>Penalties</b> <i>(Rhode Island)</i>	<p>GEN. LAWS, 1956, § 11-5-10 (West 2008)</p> <p><u>Assault on persons 60 years of age or older causing bodily injury</u></p> <p>Any person who shall commit an assault and battery upon a person 60 years of age or older, causing bodily injury, shall be deemed to have committed a felony and shall be imprisoned not exceeding 5 years, or fined not exceeding \$ 1,000, or both.</p> <p>GEN. LAWS, 1956, § 11-5-10.1 (West 2008)</p> <p><u>Assault on persons 60 years of age or older causing serious bodily injury</u></p> <p>(a) Any person who shall commit an assault or battery, or both, upon a person 60 years of age or older, causing serious bodily injury, shall be deemed to have committed a felony and shall be imprisoned for not less than 3 years but not more than 20</p>

#### NOTES:

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<b>Penalties Cont'd</b> <i>(Rhode Island)</i>	<p>years, or fined not more than \$ 10,000, or both. Every person so convicted shall be ordered to make restitution to the victim of the offense or to perform up to 500 hours of public community restitution work or attend violence counseling and/or substance abuse counseling, or any combination of them imposed by the sentencing judge. The court may not waive the obligation to make restitution and/or public community restitution work. The restitution and/or public community restitution work shall be in addition to any fine or sentence which may be imposed and not in lieu of the fine or sentence.</p> <p>GEN. LAWS, 1956, § 11-5-10.2 (West 2008)  <u>Assault on persons with severe impairments causing serious bodily injury</u></p> <p>(a) Any person who shall commit an assault or battery, or both, upon a person with severe impairments causing serious bodily injury, shall be deemed to have committed a felony and shall be imprisoned for not less than 2 years but not more than 20 years, or fined not more than \$ 5,000, or both. Every person so convicted shall be ordered to make restitution to the victim of the offense or to perform up to 500 hours of public community restitution work, or both, or any combination of them imposed by the sentencing judge. The court may not waive the obligation to make restitution and/or public community restitution work. The restitution and/or public community restitution work shall be in addition to any fine or sentence which may be imposed and not in lieu of the fine or sentence.</p> <p>GEN. LAWS, 1956, § 11-5-10.3 (West 2008)  <u>Assault on persons 60 years of age or older by caretaker causing bodily injury</u></p> <p>Any person who shall commit an assault and battery upon a person 60 years of age or older, causing bodily injury, and who was, at the time of the assault and battery, responsible for the care and treatment of the victim, shall be deemed to have committed a felony and shall be imprisoned not exceeding 5 years, or fined not exceeding \$ 2,500, or both. Further, if at the time of the assault and battery the person committing the act was employed by a health care facility that either condoned the act or attempted to conceal it, the health care facility shall be fined not exceeding \$ 5,000.</p>
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#### NOTES:

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<b>Applicability to Youth</b> <i>(Rhode Island)</i>	GEN. LAWS, 1956, § 11-5-10.2 (West 2008) <u>Assault on persons with severe impairments causing serious bodily injury</u>  May be applicable to youth
<b>SOUTH CAROLINA</b>	
<b>Statute</b> <i>(South Carolina)</i>	CODE 1976 § 43-35-85 (West 2008) <u>Penalties</u>  CODE 1976 § 16-3-654 (West 2008) <u>Criminal sexual conduct in the third degree</u>
<b>Coverage</b> <i>(South Carolina)</i>	CODE 1976 § 43-35-85 (West 2008) <u>Penalties</u>  (B) Except as otherwise provided in subsections (E) and (F), a person who knowingly and willfully abuses a vulnerable adult is guilty of a felony and, upon conviction, must be imprisoned not more than 5 years.  (C) Except as otherwise provided in subsection (E) and (F), a person who knowingly and willfully neglects a vulnerable adult is guilty of a felony and, upon conviction, must be imprisoned not more than 5 years.  (D) A person knowingly and willfully exploits a vulnerable abuse is guilty of a felony and, upon conviction, must be fined not more than \$5,000 or imprisoned not more than 5 years, or both, and may be required by the court to make restitution.  (E) A person who knowingly and willfully abuses or neglects a vulnerable adult resulting in great bodily injury is guilty of a

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<p><b>Coverage Cont'd</b> (<i>South Carolina</i>)</p>	<p>felony and, upon conviction, must be imprisoned not more than 15 years.</p> <p>(F) A person who knowingly and willfully abuses or neglects a vulnerable adult resulting in death is guilty of a felony and, upon conviction, must be imprisoned not more than 30 years.</p> <p>(G) A person who threatens, intimidates, or attempts to intimidate a vulnerable adult subject of a report, a witness, or any other person cooperating with an investigation conducted pursuant to this chapter is guilty of a misdemeanor and, upon conviction, must be fined not more than \$5,000 or imprisoned for not more than 3 years.</p> <p>(H) A person who willfully and knowingly obstructs or in any way impedes an investigation conducted pursuant to this chapter, upon conviction, is guilty of a misdemeanor and must be fined not more than \$5,000 or imprisoned for not more than 3 years.</p> <p>CODE 1976 § 16-3-654 (West 2008) <u>Criminal sexual conduct in the third degree</u></p> <p>(1) A person is guilty of criminal sexual conduct in the third degree if the actor engages in sexual battery with the victim and if any one or more of the following circumstances are proven:              (b) The actor knows or has reason to know that the victim is mentally defective, mentally incapacitated, or physically helpless and aggravated force or aggravated coercion was not used to accomplish sexual battery.</p>
<p><b>Definitions</b> (<i>South Carolina</i>)</p>	<p>CODE 1976 § 43-35-85 (West 2008) <u>Penalties</u></p> <p>(B) As used in this section, <u>great bodily injury</u> means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.</p>

**NOTES:**

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<b>Definitions</b> <b>Cont'd</b> <i>(South Carolina)</i>	<p>CODE 1976 § 43-35-10 (West 2008)</p> <p><u>Definitions</u></p> <p>As used in this chapter:</p> <p>(1) <u>Abuse</u> means physical abuse or psychological abuse.</p> <p>(4) <u>Facility</u> means a nursing care facility, community residential care facility, a psychiatric hospital, or any residential program operated or contracted for operation by the Department of Mental Health or the Department of Disabilities and Special Needs.</p> <p>(6) <u>Neglect</u> means the failure or omission of a caregiver to provide the care, goods, or services necessary to maintain the health or safety of a vulnerable adult including, but not limited to, food, clothing, medicine, shelter, supervision, and medical services. Neglect may be repeated conduct or a single incident which has produced or can be proven to result in serious physical or psychological harm or substantial risk of death. Noncompliance with regulatory standards alone does not constitute neglect. Neglect includes the inability of a vulnerable adult, in the absence of a caretaker, to provide for his or her own health or safety which produces or could reasonably be expected to produce serious physical or psychological harm or substantial risk of death.</p> <p>(8) <u>Physical abuse</u> means intentionally inflicting or allowing to be inflicted physical injury on a vulnerable adult by an act or failure to act. Physical abuse includes, but is not limited to, slapping, hitting, kicking, biting, choking, pinching, burning, actual or attempted sexual battery as defined in Section 16-3-651, use of medication outside the standards or reasonable medical practice for the purpose of controlling behavior, and unreasonable confinement. Physical abuse also includes the use of a restrictive or physically intrusive procedure to control behavior for the purpose of punishment except that a therapeutic procedure prescribed by a licensed physician or other qualified professional or that is part of a written plan of care by a licensed physician or other qualified professional is not considered physical abuse. Physical abuse does not include altercations or acts of assault between vulnerable adults.</p> <p>(11) <u>Vulnerable adult</u> means a person 18 years of age or older who has a physical or mental condition which substantially</p>
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<b>Definitions</b> <b>Cont'd</b> <i>(South Carolina)</i>	impairs the person from adequately providing for his or her own care or protection. This includes a person who is impaired in the ability to adequately provide for the person's own care or protection because of the infirmities of aging including, but not limited to, organic brain damage, advanced age, and physical, mental, or emotional dysfunction. A resident of a facility is a vulnerable adult.
<b>Penalties</b> <i>(South Carolina)</i>	<p>CODE 1976 § 43-35-85 (West 2008)  <u>Penalties</u></p> <p>(B) Except as otherwise provided in subsections (E) and (F), a person who knowingly and willfully abuses a vulnerable adult is guilty of a felony and, upon conviction, must be imprisoned not more than 5 years.</p> <p>CODE 1976 § 43-35-85 (West 2008)  <u>Penalties</u></p> <p>(C) Except as otherwise provided in subsection (E) and (F), a person who knowingly and willfully neglects a vulnerable adult is guilty of a felony and, upon conviction, must be imprisoned not more than 5 years.</p> <p>CODE 1976 § 43-35-85 (West 2008)  <u>Penalties</u></p> <p>(E) A person who knowingly and willfully abuses or neglects a vulnerable adult resulting in great bodily injury is guilty of a felony and, upon conviction, must be imprisoned not more than 15 years.</p> <p>CODE 1976 § 43-35-85 (West 2008)  <u>Penalties</u></p> <p>(F) A person who knowingly and willfully abuses or neglects a vulnerable adult resulting in death is guilty of a felony and,</p>

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<b>Penalties Cont'd</b> <i>(South Carolina)</i>	<p>upon conviction, must be imprisoned not more than 30 years.</p> <p>CODE 1976 § 43-35-85 (West 2008)  <u>Penalties</u></p> <p>(G) A person who threatens, intimidates, or attempts to intimidate a vulnerable adult subject of a report, a witness, or any other person cooperating with an investigation conducted pursuant to this chapter is guilty of a misdemeanor and, upon conviction, must be fined not more than \$5,000 or imprisoned for not more than 3 years.</p> <p>CODE 1976 § 43-35-85 (West 2008)  <u>Penalties</u></p> <p>(H) A person who willfully and knowingly obstructs or in any way impedes an investigation conducted pursuant to this chapter, upon conviction, is guilty of a misdemeanor and must be fined not more than \$5,000 or imprisoned for not more than 3 years.</p> <p>CODE 1976 § 16-3-654 (West 2008)  <u>Criminal sexual conduct in the third degree</u></p> <p>(2) Criminal sexual conduct in the third degree is a felony punishable by imprisonment for not more than 10 years, according to the discretion of the court.</p>
<b>Applicability to Youth</b> <i>(South Carolina)</i>	<p>The above statutes are not applicable to youth</p>

#### NOTES:

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SOUTH DAKOTA	
<b>Statute</b> <i>(South Dakota)</i>	<p>S.D.C.L. § 22-46-2 (West 2008)  <u>Abuse or neglect of elder or adult with a disability – Felony</u></p> <p>S.D.C.L. § 22-46-1 (West 2008)  <u>Definition of terms</u></p> <p>S.D.C.L. § 22-46-1.1 (West 2008)  <u>Neglect – Exclusions from definition</u></p> <p>S.D.C.L. § 22-6-1  <u>Felonies classes and penalties – Restitution – Habitual criminal sentences</u></p>
<b>Coverage</b> <i>(South Dakota)</i>	<p>S.D.C.L. § 22-46-2 (West 2008)  <u>Abuse or neglect of elder or adult with a disability -- Felony</u></p> <p>Any person who abuses or neglects a disabled adult in a manner which does not constitute aggravated assault is guilty of a Class 6 felony.</p>
<b>Definitions</b> <i>(South Dakota)</i>	<p>S.D.C.L. § 22-46-1.1 (West 2008)  <u>Neglect – Exclusions from definition</u></p> <p>For the purposes of this chapter, the term, neglect, does not include a decision that is made to not seek medical care for an elder or disabled adult upon the expressed desire of the elder or disabled adult; a decision to not seek medical care for an elder or disabled adult based upon a previously executed declaration, do-not-resuscitate order, or a power of attorney for health</p>

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<b>Definitions</b> <b>Cont'd</b> <i>(South Dakota)</i>	<p>care; a decision to not seek medical care for an elder or disabled adult if otherwise authorized by law; or the failure to provide goods and services outside the means available for the elder or disabled adult.</p> <p>S.D.C.L. § 22-46-1 (West 2008)</p> <p><u>Definition of terms</u></p> <p>(1) <u>Abuse</u>, physical harm, bodily injury, or attempt to cause physical harm or injury, or the infliction of fear of imminent physical harm or bodily injury on a disabled adult;</p> <p>(2) <u>Disabled adult</u>, a person 18 years of age or older who suffers from a condition of mental retardation, infirmities of aging as manifested by organic brain damage, advanced age, or other physical dysfunctioning to the extent that the person is unable to protect himself or herself or provide for his or her own care;</p> <p>(3) <u>Elder</u>, a person 65 years of age or older;</p> <p>(4) <u>Exploitation</u>, the wrongful taking or exercising of control over property of an elder or a disabled adult with intent to defraud the elder or disabled adult; and</p> <p>(5) <u>Neglect</u>, harm to an elder's or a disabled adult's health or welfare, without reasonable medical justification, caused by the conduct or a person responsible for the elder's or disabled adult's health or welfare, within the means available for the elder or disabled adult, including the failure to provide adequate food, clothing, shelter, or medical care.</p>
<b>Penalties</b> <i>(South Dakota)</i>	<p>S.D.C.L. § 22-46-2 (West 2008)</p> <p><u>Abuse or neglect of elder or adult with a disability -- Felony</u></p> <p>Any person who abuses or neglects a disabled adult in a manner which does not constitute aggravated assault is guilty of a Class 6 felony.</p>

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<b>Penalties Cont'd</b> <i>(South Dakota)</i>	<p>S.D.C.L. § 22-6-1</p> <p><u>Felonies classes and penalties – Restitution – Habitual criminal sentences</u></p> <p>Except as otherwise provided by law, felonies are divided into the following nine classes which are distinguished from each other by the following maximum penalties which are authorized upon conviction:</p> <p>(1) Class A felony: death or life imprisonment in the state penitentiary. A lesser sentence than death or life imprisonment may not be given for a Class A felony. In addition, a fine of fifty thousand dollars may be imposed;</p> <p>(2) Class B felony: life imprisonment in the state penitentiary. A lesser sentence may not be given for a Class B felony. In addition, a fine of fifty thousand dollars may be imposed;</p> <p>(3) Class C felony: life imprisonment in the state penitentiary. In addition, a fine of fifty thousand dollars may be imposed;</p> <p>(4) Class 1 felony: fifty years imprisonment in the state penitentiary. In addition, a fine of fifty thousand dollars may be imposed;</p> <p>(5) Class 2 felony: twenty-five years imprisonment in the state penitentiary. In addition, a fine of fifty thousand dollars may be imposed;</p> <p>(6) Class 3 felony: fifteen years imprisonment in the state penitentiary. In addition, a fine of thirty thousand dollars may be imposed;</p> <p>(7) Class 4 felony: ten years imprisonment in the state penitentiary. In addition, a fine of twenty thousand dollars may be imposed;</p>
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<b>Penalties Cont'd</b> <i>(South Dakota)</i>	<p>(8) Class 5 felony: five years imprisonment in the state penitentiary. In addition, a fine of ten thousand dollars may be imposed; and</p> <p>(9) Class 6 felony: two years imprisonment in the state penitentiary or a fine of four thousand dollars, or both. Nothing in this section limits increased sentences for habitual criminals under §§ 22-7-7, 22-7-8, &amp; 22-7-8.1.</p>
<b>Applicability to Youth</b> <i>(South Dakota)</i>	<p>The above statutes are not applicable to youth</p>
<b>TENNESSEE</b>	
<b>Statute</b> <i>(Tennessee)</i>	<p>T.C.A. § 71-6-117 (West 2008)  <u>Knowing abuse, neglect or exploitation; crimes and penalties</u></p> <p>T.C.A. § 71-6-119 (West 2008)  <u>Knowing physical abuse or gross neglect of an impaired adult</u></p> <p>T.C.A. § 39-13-102 (West 2008)  <u>Aggravated Assault</u></p> <p>T.C.A. § 71-6-120 (West 2008)  <u>Action for abuse or neglect, sexual abuse or exploitation, or theft; right of recovery for elderly or disabled adult</u></p>

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<b>Statute Cont'd</b> ( <i>Tennessee</i> )	T.C.A. § 40-35-111 (West 2008) <u>Authorized sentences; prison terms or fines; reports\</u>
<b>Coverage</b> ( <i>Tennessee</i> )	<p>T.C.A. § 71-6-117 (West 2008) <u>Knowing abuse, neglect or exploitation; crimes and penalties</u></p> <p>(a) It is an offense for any person to knowingly, other than by accidental means, abuse, neglect or exploit any adult within the meaning of the provisions of this part.</p> <p>T.C.A. § 71-6-119 (West 2008) <u>Knowing physical abuse or gross neglect of an impaired adult</u></p> <p>(a) It is an offense knowingly, other than by accidental means, physically abuse or grossly neglect an impaired adult if the abuse or neglect results in serious mental or physical harm. (b) In order to prosecute and convict a person for a violation of this section, it is not necessary for the state to prove the adult sustained serious bodily injury as required by § 39-13-102, but only that the elements set out in subsection (a) occurred.</p> <p>T.C.A. § 39-13-102 (West 2008) <u>Aggravated Assault</u></p> <p>(a) A person commits aggravated assault who: (1) Intentionally or knowingly commits an assault as defined in § 39-13-101 and: (A) Causes serious bodily injury to another; or (B) Uses or displays a deadly weapon; or (b) A person commits aggravated assault who, being the parent or custodian of a child or the custodian of an adult, intentionally or knowingly fails or refuses to protect the child or adult from an aggravated assault as defined in subdivision (a)(1)</p>

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<b>Definitions</b> <i>(Tennessee)</i>	<p>T.C.A. § 71-6-120 (West 2008)  <u>Action for abuse or neglect, sexual abuse or exploitation, or theft; right of recovery for elderly or disabled adult</u></p> <p>(a) As used in this section, unless the context otherwise requires:  (2) <u>Disabled adult</u> means a person who is 18 years of age or older and who meets one of the following:  (A) Has some impairment of body or mind that makes the person unfit to work at any substantially remunerative employment;  (B) Lacks the capacity to consent;  (C) Has been certified as permanently and totally disabled by an agency of this state or the United States that has the function of so classifying persons; or  (D) Has been found to be incompetent by a court of proper jurisdiction; and  (3) <u>Elderly person</u> or <u>elder</u> means a person is 60 years of age or older who has some mental or physical dysfunctioning, including any resulting from age.</p> <p>T.C.A. § 71-6-102 (West 2008)  <u>Definitions</u></p> <p>As used in this part, unless the context otherwise requires:  (1) <u>Abuse or neglect</u> means the infliction of physical pain, injury, or mental anguish, or the deprivation of services by a caretaker that are necessary to maintain the health and welfare of an adult or a situation in which an adult is unable to provide or obtain the services that are necessary to maintain that person's health or welfare. Nothing in this part shall be construed to mean a person is abused or neglected or in need of protective service for the sole reason that the person relies on or is being furnished treatment by spiritual means through prayer alone in accordance with a recognized religious method of healing in lieu of medical treatment; further, nothing in this part shall be construed to require or authorize the provision of medical care to any terminally ill person if such person has executed an unrevoked living will in accordance with the provisions of the Tennessee Right to Natural Death Act, compiled in title 32, chapter 11, and if the provisions of such medical are would conflict with the terms of such living will;</p>
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<b>Definitions</b> <b>Cont'd</b> <i>(Tennessee)</i>	<p>(2) <u>Adult</u> means a person 18 years of age or older who because of mental or physical dysfunctioning or advanced age is unable to manage such person's own resource, carry out the activities of daily living, or protect such person from neglect, hazardous or abusive situations without assistance from others and who has no available, willing, and responsibly able person for assistance and who may be in need of protective services;</p>
<b>Penalties</b> <i>(Tennessee)</i>	<p>T.C.A. § 71-6-117 (West 2008)  <u>Knowing abuse, neglect or exploitation; crimes and penalties</u></p> <p>(b) A violation of this section is a Class E felony.</p> <p>T.C.A. § 40-35-111 (West 2008)  <u>Authorized sentences; prison terms or fines; reports</u></p> <p>(a) A sentence for a felony is a determinate sentence.  (b) The authorized terms of imprisonment and fines for felonies are:  (5) Class E felony, not less than 1 year nor more than 6 years. In addition, the jury may assess a fine not to exceed \$3,000, unless otherwise provided by statute.</p> <p>T.C.A. § 71-6-119 (West 2008)  <u>Knowing physical abuse or gross neglect of an impaired adult</u></p> <p>(c) A violation of this section is a Class C felony.</p> <p>T.C.A. § 40-35-111 (West 2008)  <u>Authorized sentences; prison terms or fines; reports</u></p>

#### NOTES:

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**\*\* Some states use child abuse statutes to address the vulnerability of youth under 18; those are not reflected in this chart. However for states that consider youth as a vulnerable persons under these specific statutes are noted here.**

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### NIC/WCL Project on Addressing Prison Rape

<b>Penalties Cont'd</b> <i>(Tennessee)</i>	<p>(a) A sentence for a felony is a determinate sentence.</p> <p>(b) The authorized terms of imprisonment and fines for felonies are:</p> <p>(3) Class C felony, not less than 3 years nor more than 15 years. In addition, the jury may assess a fine not to exceed \$10,000, unless otherwise provided by statute;</p> <p>T.C.A. § 39-13-102 (West 2008)</p> <p><u>Aggravated Assault</u></p> <p>(d) (1) Aggravated assault under subdivision (a)(1) or subsection (b) or (c) is a Class C felony.</p> <p>T.C.A. § 40-35-111 (West 2008)</p> <p><u>Authorized sentences; prison terms or fines; reports</u></p> <p>(a) A sentence for a felony is a determinate sentence.</p> <p>(b) The authorized terms of imprisonment and fines for felonies are:</p> <p>(3) Class C felony, not less than 3 years nor more than 15 years. In addition, the jury may assess a fine not to exceed \$10,000, unless otherwise provided by statute;</p>
<b>Applicability to Youth</b> <i>(Tennessee)</i>	<p>The above statutes are not applicable to youth</p>
<b>TEXAS</b>	

**NOTES:**

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<b>Statute</b> <i>(Texas)</i>	<p>V.T.C.A., PENAL CODE § 22.04 (West 2008)  <u>Injury to a Child, Elderly Individual, or Disabled Individual</u></p> <p>V.T.C.A., PENAL CODE § 12.32 (West 2008)  <u>First Degree Felony Punishment</u></p> <p>V.T.C.A., PENAL CODE § 12.33 (West 2008)  <u>Second Degree Felony Punishment</u></p> <p>V.T.C.A., PENAL CODE § 12.34 (West 2008)  <u>Third Degree Felony Punishment</u></p> <p>V.T.C.A., PENAL CODE § 12.35 (West 2008)  <u>State Jail Felony Punishment</u></p>
<b>Coverage</b> <i>(Texas)</i>	<p>V.T.C.A., PENAL CODE § 22.04 (West 2008)  <u>Injury to a Child, Elderly Individual, or Disabled Individual</u></p> <p>(a) A person commits an offense if he intentionally, knowingly, recklessly, or with criminal negligence, by act or intentionally, knowingly, or recklessly by omission, causes to a child, elderly individual, or disabled individual:</p> <p>(1) serious bodily injury;</p> <p>(2) serious mental deficiency, impairment, or injury; or</p> <p>(3) bodily injury</p> <p>(a-1) A person commits an offense if the person is an owner, operator, or employee of a group home, nursing facility, assisted</p>

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<b>Coverage Cont'd</b> <i>(Texas)</i>	<p>living facility, intermediate care facility for persons with mental retardation, or other institutional care facility and the person intentionally, knowingly, recklessly, or with criminal negligence by omission causes to a child, elderly individual, or disabled individual who is a resident of that group home or facility:</p> <ul style="list-style-type: none"> <li>(1) serious bodily injury;</li> <li>(2) serious mental deficiency, impairment, or injury;</li> <li>(3) bodily injury; or</li> <li>(4) exploitation</li> </ul> <p>(b) An omission that cause a condition described by Subsection (a)(1), (2), or (3) or (a-1)(1), (2), (3), or (4) is conduct constituting an offense under this section if:</p> <ul style="list-style-type: none"> <li>(1) the actor has a legal or statutory duty to act; or</li> <li>(2) the actor has assumed care, custody , or control of a child, elderly individual, or disabled individual.</li> </ul> <p>(d) For purposes of an omission that causes a condition described by Subsection (a)(1), (2), or (3), the actor has assumed care, custody, or control if he has by act, words, or course of conduct acted so as to cause a reasonable person to conclude that he has accepted responsibility for protection, food, shelter, and medical care for a child, elderly individual, or disabled individual. For purposes of an omission that causes a condition described by Subsection (a-1)(1), (2), (3), or (4), the actor acting during the actor's capacity as owner, operator, or employee of a group home or facility described by Subsection (a-1) is considered to have accepted responsibility for protection, food, shelter, and medical care for the child, elderly individual, or disabled individual who is a resident of the group home or facility.</p> <p>(i) It is an affirmative defense to prosecution under Subsection (b)(2) that before that offense the actor:</p> <ul style="list-style-type: none"> <li>(1) notified in person the child, elderly individual, or disabled individual that he would no longer provide any of the care described by Subsection (d); and</li> <li>(2) notified in writing the parents or person other than himself acting in loco parentis to the child, elderly individual, or disabled individual that he would no longer provide any of the care described by Subsection (d); or</li> <li>(3) notified in writing the Department of Protective and Regulatory Services that he would no longer provide any of the care set forth in Subsection (d)</li> </ul>
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<b>Coverage Cont'd</b> <i>(Texas)</i>	<p>(j) Written notification under Subsection (i)(2) or (i)(3) is not effective unless it contains the name and address of the actor, the name and address of the child, elderly individual, or disabled individual, the type of care provided by the actor and the date the care was discontinued.</p> <p>(k) It is a defense to prosecution under this section that the act or omission consisted of:</p> <p>(1) reasonable medical care occurring under the direction of or by a licensed physician; or</p> <p>(2) for a person charged with an act of omission causing to a child, elderly individual, or disabled individual a condition described by Subsection (a)(1), (2), or (3) that:</p> <p>(A) there is no evidence that, on the date prior to the offense charged, the defendant was aware of an incident of injury to the child, elderly individual, or disabled individual and failed to report the incident; and</p> <p>(B) the person:</p> <p>(i) was a victim of family violence, as that term is defined by Section 71.004, Family Code, committed by a person who is also charged with an offense against the child, elderly individual, or disabled individual under this section or any other section of this title:</p> <p>(ii) did not cause a condition described by Subsection (a)(1), (2), or (3); and</p> <p>(iii) did not reasonably believe at the time of the omission that an effort to prevent the person also charged with an offense against the child, elderly individual, or disabled individual from committing the offense would have an effect; or</p> <p>(3) that:</p> <p>(A) the actor was not more than 3 years older than the victim at the time of the offense; and</p> <p>(B) the victim was a child at the time of the offense.</p>
<b>Definitions</b> <i>(Texas)</i>	<p>V.T.C.A., PENAL CODE § 22.04 (West 2008)</p> <p><u>Injury to a Child, Elderly Individual, or Disabled Individual</u></p>

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<b>Definitions</b> <b>Cont'd</b> <i>(Texas)</i>	<p>(c) In this section:</p> <p>(1) <u>Child</u> means a person 14 years of age or younger.</p> <p>(2) <u>Elderly individual</u> means a person 65 years of age or older.</p> <p>(3) <u>Disabled individual</u> means a person older than 14 years of age who by reason of age or physical or mental disease, defect, or injury is substantially unable to protect himself from harm or to provide food, shelter, or medical care for himself.</p> <p>(4) <u>Exploitation</u> means the illegal or improper use of an individual or of the resources of the individual for monetary or personal benefit, profit, or gain.</p>
<b>Penalties</b> <i>(Texas)</i>	<p>V.T.C.A., PENAL CODE § 22.04 (West 2008)  <u>Injury to a Child, Elderly Individual, or Disabled Individual</u></p> <p>(e) An offense under Subsection (a)(1) or (2) or (a-1)(1) or (2) is a felony of the first degree when the conduct is committed intentionally or knowingly. When the conduct is engaged in recklessly, the offense is a felony of the second degree.</p> <p>V.T.C.A., PENAL CODE § 12.32 (West 2008)  <u>First Degree Felony Punishment</u></p> <p>(a) An individual adjudged guilty of a felony of the first degree shall be punished by imprisonment in the institutional division for life or for any term of not more than 99 years or less than 5 years.</p> <p>(b) In addition to imprisonment, an individual adjudged guilty of a felony of the first degree may be punished by a fine not to exceed \$ 10,000.</p> <p>V.T.C.A., PENAL CODE § 12.33 (West 2008)  <u>Second Degree Felony Punishment</u></p>

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<b>Penalties Cont'd</b> <i>(Texas)</i>	<p>(a) An individual adjudged guilty of a felony of the second degree shall be punished by imprisonment in the institutional division for any term of not more than 20 years or less than 2 years.</p> <p>(b) In addition to imprisonment, an individual adjudged guilty of a felony of the second degree may be punished by a fine not to exceed \$ 10,000.</p> <p>V.T.C.A., PENAL CODE § 22.04 (West 2008)  <u>Injury to a Child, Elderly Individual, or Disabled Individual</u></p> <p>(f) An offense under Subsection (a)(3) or (a-1)(3) or (4) is a felony of the third degree when the conduct is committed intentionally or knowingly. When the conduct is engaged in recklessly, the offense is a state jail felony.</p> <p>V.T.C.A., PENAL CODE § 12.34 (West 2008)  <u>Third Degree Felony Punishment</u></p> <p>(a) An individual adjudged guilty of a felony of the third degree shall be punished by imprisonment in the institutional division for any term of not more than 10 years or less than 2 years.</p> <p>(b) In addition to imprisonment, an individual adjudged guilty of a felony of the third degree may be punished by a fine not to exceed \$ 10,000.</p> <p>V.T.C.A., PENAL CODE § 12.35 (West 2008)  <u>State Jail Felony Punishment</u></p> <p>(a) Except as provided by Subsection (c), an individual adjudged guilty of a state jail felony shall be punished by confinement in a state jail for any term of not more than 2 years or less than 180 days.</p> <p>(b) In addition to confinement, an individual adjudged guilty of a state jail felony may be punished by a fine not to exceed \$ 10,000.</p>
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<b>Penalties Cont'd</b> <i>(Texas)</i>	<p>(c) An individual adjudged guilty of a state jail felony shall be punished for a third degree felony if it is shown on the trial of the offense that:</p> <p>(1) a deadly weapon as defined by Section 1.07 was used or exhibited during the commission of the offense or during immediate flight following the commission of the offense, and that the individual used or exhibited the deadly weapon or was a party to the offense and knew that a deadly weapon would be used or exhibited; or</p> <p>(2) the individual has previously been finally convicted of any felony:</p> <p>(A) listed in Section 3g(a)(1), Article 42.12, Code of Criminal Procedure; or</p> <p>(B) for which the judgment contains an affirmative finding under Section 3g(a)(2), Article 42.12, Code of Criminal Procedure.</p> <p>V.T.C.A., PENAL CODE § 22.04 (West 2008)  <u>Injury to a Child, Elderly Individual, or Disabled Individual</u></p> <p>(g) An offense under Subsection (a) is a state jail felony when the person acts with criminal negligence. An offense under Subsection (a-1) is a state jail felony when the person, with criminal negligence and by omission, causes a condition described by Subsection (a-1)(1), (2), (3), or (4)</p> <p>V.T.C.A., PENAL CODE § 12.35 (West 2008)  <u>State Jail Felony Punishment</u></p> <p>(a) Except as provided by Subsection (c), an individual adjudged guilty of a state jail felony shall be punished by confinement in a state jail for any term of not more than 2 years or less than 180 days.</p> <p>(b) In addition to confinement, an individual adjudged guilty of a state jail felony may be punished by a fine not to exceed \$ 10,000.</p> <p>(c) An individual adjudged guilty of a state jail felony shall be punished for a third degree felony if it is shown on the trial of the offense that:</p> <p>(1) a deadly weapon as defined by Section 1.07 was used or exhibited during the commission of the offense or during</p>
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<b>Penalties Cont'd</b> <i>(Texas)</i>	<p>immediate flight following the commission of the offense, and that the individual used or exhibited the deadly weapon or was a party to the offense and knew that a deadly weapon would be used or exhibited; or</p> <p>(2) the individual has previously been finally convicted of any felony:</p> <p>(A) listed in Section 3g(a)(1), Article 42.12, Code of Criminal Procedure; or</p> <p>(B) for which the judgment contains an affirmative finding under Section 3g(a)(2), Article 42.12, Code of Criminal Procedure.</p> <p>V.T.C.A., PENAL CODE § 22.04 (West 2008)</p> <p><u>Injury to a Child, Elderly Individual, or Disabled Individual</u></p> <p>(h) A person who is subject to prosecution under both this section and another section of this code may be prosecuted under either or both sections. Section 3.04 does not apply to criminal episodes prosecuted under both this section and another section of this code. If a criminal episode is prosecuted under both this section and another section of this code and sentences are assessed for convictions under both sections, the sentences shall run concurrently.</p>
<b>Applicability to Youth</b> <i>(Texas)</i>	<p>V.T.C.A., PENAL CODE § 22.04 (West 2008)</p> <p><u>Injury to a Child, Elderly Individual, or Disabled Individual</u></p> <p>Applies to a child under 14 years of age or younger</p>
<b>UTAH</b>	
<b>Statute</b> <i>(Utah)</i>	<p>U.C.A. 1953§ 76-5-111 (West 2008)</p> <p><u>Abuse, neglect, or exploitation of a vulnerable adult -- Penalties</u></p>

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<b>Statute Cont'd</b> <i>(Utah)</i>	<p>U.C.A. 1953§ 76-3-204 (West 2008)  <u>Misdemeanor conviction – Term of imprisonment</u></p> <p>U.C.A. 1953§ 76-3-203 (West 2008)  <u>Felony conviction – Indeterminate term of imprisonment</u></p>
<b>Coverage</b> <i>(Utah)</i>	<p>U.C.A. 1953§ 76-5-111 (West 2008)  <u>Abuse, neglect, or exploitation of a vulnerable adult -- Penalties</u></p> <p>(2) Under any circumstances likely to produce death or serious physical injury, any person, including a caretaker, who causes a vulnerable adult to suffer serious physical injury or, having the care or custody of a vulnerable adult, causes or permits that adult's person or health to be injured, or causes or permits a vulnerable adult to be placed in a situation where the adult's person or health is endangered, is guilty of the offense of aggravated abuse of a vulnerable adult as follows:</p> <ul style="list-style-type: none"> <li>(a) if done intentionally or knowingly, the offense is a second degree felony;</li> <li>(b) if done recklessly, the offense is third degree felony; and</li> <li>(c) if done with criminal negligence, the offense is a class A misdemeanor.</li> </ul> <p>(3) Under circumstances other than those likely to produce death or serious physical injury any person, including a caretaker, who causes a vulnerable adult to suffer harm, abuse, or neglect; or, having the care or custody of a vulnerable adult, causes or permits that adult's person or health to be injured, abused, or neglected, or causes or permits a vulnerable adult to be placed in a situation where the adult's person or health is endangered, is guilty of the offense of abuse of a vulnerable adult as follows:</p> <ul style="list-style-type: none"> <li>(a) if done intentionally or knowingly, the offense is a class A misdemeanor;</li> <li>(b) if done recklessly, the offense is a class B misdemeanor; and</li> <li>(c) if done with criminal negligence, the offense is a class C misdemeanor.</li> </ul> <p>(5) It does not constitute a defense to a prosecution for any violation of this section that the accused did not know the age of</p>

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<b>Coverage</b> (Utah)	<p>the victim.</p> <p>(6) An adult is not considered abused, neglected, or a vulnerable adult for the reason that the adult has chosen to rely solely upon religious, nonmedical forms of healing in lieu of medical care.</p>
<b>Definitions</b> (Utah)	<p>U.C.A. 1953§ 76-5-111 (West 2008)</p> <p><u>Abuse, neglect, or exploitation of a vulnerable adult -- Penalties</u></p> <p>(1) As used in this section:</p> <p>(a) <u>Abandonment</u> means a knowing or intentional action or inaction, including desertion, by a person or entity acting as a caretaker for a vulnerable adult that leaves the vulnerable adult without the means or ability to obtain necessary food, clothing, shelter, or medical or other health care.</p> <p>(b) <u>Abuse</u> means:</p> <p>(i) attempting to cause harm, intentionally or knowingly causing harm, or intentionally or knowingly placing another in fear of imminent harm;</p> <p>(ii) causing physical injury by knowing or intentional acts or omissions;</p> <p>(iii) unreasonable or inappropriate use of physical restraint, medication, or isolation that causes or is likely to cause harm to a vulnerable adult that is in conflict with a physician's orders or used as an unauthorized substitute for treatment, unless that conduct furthers the health and safety of the adult; or</p> <p>(iv) deprivation of life-sustaining treatment, except:</p> <p>(A) as provided in Title 75, Chapter 2a, Advance Health Care Directive Act; or</p> <p>(B) when informed consent, as defined in this section, has been obtained.</p> <p>(d) <u>Caretaker</u> means any person, entity, corporation, or public institution that assumes the responsibility to provide a vulnerable adult with care, food, shelter, clothing, supervision, medical or other health care, or other necessities. <u>Caretaker</u> includes a relative by blood or marriage, a household member, a person who is employed or who provides volunteer work, or</p>

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<p><b>Definitions</b> <b>Cont'd</b> <i>(Utah)</i></p>	<p>a person who contracts or is under court order to provide care.</p> <p>(f) <u>Elder adult</u> means a person 65 years of age or older.</p> <p>(i) <u>Harm</u> means pain, mental anguish, emotional distress, hurt, physical or psychological damage, physical injury, suffering, or distress inflicted knowingly or intentionally.</p> <p>(j) <u>Informed consent</u> means:</p> <p>(i) a written expression by the person or authorized by the person, stating that the person fully understands the potential risks and benefits of the withdrawal of food, water, medication, medical services, shelter, cooling, heating, or other services necessary to maintain minimum physical or mental health, and that the person desires that the services be withdrawn. A written expression is valid only if the person is of sound mind when the consent is given, and the consent is witnessed by at least two individuals who do not benefit from the withdrawal of services; or</p> <p>(ii) consent to withdraw food, water, medication, medical services, shelter, cooling, heating, or other services necessary to maintain minimum physical or mental health, as permitted by court order.</p> <p>(l) <u>Isolation</u> means knowingly or intentionally preventing a vulnerable adult from having contact with another person by:</p> <p>(A) preventing the vulnerable adult from receiving visitors, mail, or telephone calls, contrary to the express wishes of the vulnerable adult, including communicating to a visitor that the vulnerable adult is not present or does not want to meet with or talk to the visitor, knowing that communication to be false;</p> <p>(B) physically restraining the vulnerable adult in order to prevent the vulnerable adult from meeting with a visitor; or</p> <p>(C) making false or misleading statements to the vulnerable adult in order to induce the vulnerable adult to refuse to receive communication from visitors or other family members.</p> <p>(ii) The term <u>isolation</u> does not include an act intended to protect the physical or mental welfare of a vulnerable person or an act performed pursuant to the treatment plan or the instructions of a physician or other professional advisor of the vulnerable adult.</p>
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<b>Definitions Cont'd</b> <i>(Utah)</i>	<p>(m) <u>Lacks capacity to consent</u> means an impairment by reason of mental illness, developmental disability, organic brain disorder, physical illness or disability, chronic use of drugs, chronic intoxication, short-term memory loss, or other cause to the extent that a vulnerable adult lacks sufficient understanding of the nature or consequences of decisions concerning the adult's person or property.</p> <p>(n) <u>Neglect</u> means:</p> <ul style="list-style-type: none"> <li>(i) failure of a caretaker to provide nutrition, clothing, shelter, supervision, personal care, or dental or other health care, or failure to provide protection from health and safety hazards or maltreatment;</li> <li>(ii) failure of a caretaker to provide care to a vulnerable adult in a timely manner and with the degree of care that a reasonable person in a like position would exercise;</li> <li>(iii) a pattern of conduct by a caretaker, without the vulnerable adult's informed consent, resulting in deprivation of food, water, medication, health care, shelter, cooling, heating, or other services necessary to maintain the vulnerable adult's well being;</li> <li>(iv) intentional failure by a caretaker to carry out a prescribed treatment plan that result or could result in physical injury or physical harm; or</li> <li>(v) abandonment by a caretaker.</li> </ul> <p>(o) <u>Physical injury</u> includes damage to any bodily tissue caused by nontherapeutic conduct, to the extent that the tissue must undergo a healing process in order to be restored to a sound and healthy condition, or damage to any bodily tissue to the extent that the tissue cannot be restored to a sound and healthy condition. <u>Physical injury</u> includes skin bruising, a dislocation, physical pain, illness, impairment of physical function, a pressure sore, bleeding, malnutrition, dehydration, a burn, a bone fracture, a subdural hematoma, soft tissue swelling, injury to any internal organ, or any other physical condition that imperils the health or welfare of the vulnerable adult and is not a serious physical injury as defined in this section.</p> <p>(q) <u>Serious physical injury</u> means any physical injury or set of physical injuries that:</p> <ul style="list-style-type: none"> <li>(i) seriously impairs a vulnerable adult's health;</li> <li>(ii) was caused by use of a dangerous weapon;</li> </ul>
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### NIC/WCL Project on Addressing Prison Rape

<b>Definitions</b> <b>Cont'd</b> <i>(Utah)</i>	<p>(iii) involves physical torture or causes serious emotional harm to a vulnerable adult; or</p> <p>(iv) creates a reasonable risk of death.</p> <p>(r) <u>Sexual exploitation</u> means the production, distribution, possession, or possession with the intent to distribute material or a live performance depicting a nude or partially nude vulnerable adult who lacks the capacity to consent, for the purpose of sexual arousal of any person.</p> <p>(t) <u>Vulnerable adult</u> means an elder adult, or an adult 18 years of age or older who has a mental or physical impairment which substantially affects that person's ability to:</p> <ul style="list-style-type: none"> <li>(i) provide personal protection;</li> <li>(ii) provide necessities such as food, shelter, clothing, or medical or other health care;</li> <li>(iii) obtain services necessary for health, safety, or welfare;</li> <li>(iv) carry out the activities of daily living;</li> <li>(v) manage the adult's own resources; or</li> <li>(vi) comprehend the nature and consequences of remaining in a situation of abuse, neglect, or exploitation.</li> </ul>
<b>Penalties</b> <i>(Utah)</i>	<p>U.C.A. 1953§ 76-5-111 (West 2008)</p> <p><u>Abuse, neglect, or exploitation of a vulnerable adult – Penalties</u></p> <p>(2) Under any circumstances likely to produce death or serious physical injury, any person, including a caretaker, who causes a vulnerable adult to suffer serious physical injury or, having the care or custody of a vulnerable adult, causes or permits that adult's person or health to be injured, or causes or permits a vulnerable adult to be placed in a situation where the adult's person or health is endangered, is guilty of the offense of aggravated abuse of a vulnerable adult as follows:</p> <p>(a) if done intentionally or knowingly, the offense is a second degree felony;</p> <p>U.C.A. 1953§ 76-3-203 (West 2008)</p> <p><u>Felony conviction – Indeterminate term of imprisonment</u></p>

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<b>Penalties Cont'd</b> <i>(Utah)</i>	<p>A person who has been convicted of a felony may be sentenced to imprisonment for an indeterminate term as follows:            (2) In the case of a felony in the second degree, unless the statute provides otherwise, for a term of not less than 1 year nor more than 15 years.</p> <p>U.C.A. 1953§ 76-5-111 (West 2008)  <u>Abuse, neglect, or exploitation of a vulnerable adult – Penalties</u></p> <p>(2) Under any circumstances likely to produce death or serious physical injury, any person, including a caretaker, who causes a vulnerable adult to suffer serious physical injury or, having the care or custody of a vulnerable adult, causes or permits that adult's person or health to be injured, or causes or permits a vulnerable adult to be placed in a situation where the adult's person or health is endangered, is guilty of the offense of aggravated abuse of a vulnerable adult as follows:            (b) if done recklessly, the offense is third degree felony; and</p> <p>U.C.A. 1953§ 76-3-203 (West 2008)  <u>Felony conviction – Indeterminate term of imprisonment</u></p> <p>A person who has been convicted of a felony may be sentenced to imprisonment for an indeterminate term as follows:            (3) In the case of a felony of the third degree, unless the statute provides otherwise, for a term not to exceed 5 years.</p> <p>U.C.A. 1953§ 76-5-111 (West 2008)  <u>Abuse, neglect, or exploitation of a vulnerable adult – Penalties</u></p> <p>(2) Under any circumstances likely to produce death or serious physical injury, any person, including a caretaker, who causes a vulnerable adult to suffer serious physical injury or, having the care or custody of a vulnerable adult, causes or permits that adult's person or health to be injured, or causes or permits a vulnerable adult to be placed in a situation where the adult's person or health is endangered, is guilty of the offense of aggravated abuse of a vulnerable adult as follows:</p>
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<b>Penalties Cont'd</b> <i>(Utah)</i>	<p>(c) if done with criminal negligence, the offense is a class A misdemeanor.</p> <p>U.C.A. 1953§ 76-5-111 (West 2008)  <u>Abuse, neglect, or exploitation of a vulnerable adult -- Penalties</u></p> <p>(3) Under circumstances other than those likely to produce death or serious physical injury any person, including a caretaker, who causes a vulnerable adult to suffer harm, abuse, or neglect; or, having the care or custody of a vulnerable adult, causes or permits that adult's person or health to be injured, abused, or neglected, or causes or permits a vulnerable adult to be placed in a situation where the adult's person or health is endangered, is guilty of the offense of abuse of a vulnerable adult as follows:          (a) if done intentionally or knowingly, the offense is a class A misdemeanor;</p> <p>U.C.A. 1953§ 76-3-204 (West 2008)  <u>Misdemeanor conviction – Term of imprisonment</u></p> <p>A person who has been convicted of a misdemeanor may be sentenced to imprisonment as follows:          (1) In the case of a class A misdemeanor, for a term not exceeding 1 year.</p> <p>U.C.A. 1953§ 76-5-111 (West 2008)  <u>Abuse, neglect, or exploitation of a vulnerable adult -- Penalties</u></p> <p>(3) Under circumstances other than those likely to produce death or serious physical injury any person, including a caretaker, who causes a vulnerable adult to suffer harm, abuse, or neglect; or, having the care or custody of a vulnerable adult, causes or permits that adult's person or health to be injured, abused, or neglected, or causes or permits a vulnerable adult to be placed in a situation where the adult's person or health is endangered, is guilty of the offense of abuse of a vulnerable adult as follows:          (b) if done recklessly, the offense is a class B misdemeanor; and</p> <p>U.C.A. 1953§ 76-3-204 (West 2008)</p>
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<b>Penalties Cont'd</b> <i>(Utah)</i>	<p><u>Misdemeanor conviction – Term of imprisonment</u></p> <p>A person who has been convicted of a misdemeanor may be sentenced to imprisonment as follows:            (2) In the case of a class B misdemeanor, for a term not exceeding 6 months.</p> <p>U.C.A. 1953§ 76-5-111 (West 2008)  <u>Abuse, neglect, or exploitation of a vulnerable adult -- Penalties</u></p> <p>(3) Under circumstances other than those likely to produce death or serious physical injury any person, including a caretaker, who causes a vulnerable adult to suffer harm, abuse, or neglect; or, having the care or custody of a vulnerable adult, causes or permits that adult's person or health to be injured, abused, or neglected, or causes or permits a vulnerable adult to be placed in a situation where the adult's person or health is endangered, is guilty of the offense of abuse of a vulnerable adult as follows:            (c) if done with criminal negligence, the offense is a class C misdemeanor.</p> <p>U.C.A. 1953§ 76-3-204 (West 2008)  <u>Misdemeanor conviction – Term of imprisonment</u></p> <p>A person who has been convicted of a misdemeanor may be sentenced to imprisonment as follows:            (3) In the case of a class C misdemeanor, for a term not exceeding 90 days.</p>
<b>Applicability to Youth</b> <i>(Utah)</i>	<p>The above statutes are not applicable to youth</p>
<b>VERMONT</b>	

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### NIC/WCL Project on Addressing Prison Rape

<b>Statute</b> <i>(Vermont)</i>	<p>13 V.S.A. § 1376 (West 2008)  <u>Abuse</u></p> <p>13 V.S.A. § 1377 (West 2008)  <u>Abuse by unlawful restraint and unlawful confinement</u></p> <p>13 V.S.A. § 1378 (West 2008)  <u>Neglect</u></p> <p>13 V.S.A. § 1379 (West 2008)  <u>Sexual abuse</u></p>
<b>Coverage</b> <i>(Vermont)</i>	<p>13 V.S.A. § 1376 (West 2008)  <u>Abuse</u></p> <p>(a) A person who engages in conduct with an intent or reckless disregard that the conduct is likely to cause unnecessary harm, unnecessary pain, or unnecessary suffering to a vulnerable adult shall be imprisoned not more than 1 year or fined not more than \$1,000.00, or both.</p> <p>(b) A person who commits an assault, as defined in section 1023 of this title, with actual or constructive knowledge that the victim is a vulnerable adult, shall be imprisoned for not more than 2 years or fined not more than \$2,000.00, or both.</p> <p>(c) A person who commits an aggravated assault as defined in subdivision 1024(a)(1) or (2) of this title with actual or constructive knowledge that the victim is a vulnerable adult shall be imprisoned not more than 20 years or fined not more than \$10,000.00, or both.</p> <p>13 V.S.A. § 1377 (West 2008)  <u>Abuse by unlawful restraint and unlawful confinement</u></p>

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<p><b>Coverage Cont'd</b> (Vermont)</p>	<p>(a) Except as provided in subsection (b) of this section, no person shall knowingly or recklessly:</p> <p>(1) cause or threaten to cause unnecessary or unlawful confinement or unnecessary or unlawful restraint of a vulnerable adult; or</p> <p>(2) administer or threaten to administer a drug, a substance, or electroconvulsive therapy to a vulnerable adult.</p> <p>(b) This section shall not apply if the confinement, restraint, administration, or threat is:</p> <p>(1) part of a legitimate and lawful medical or therapeutic treatment; or</p> <p>(2) lawful and reasonably necessary to protect the safety of the vulnerable adult or others, provided that less intrusive alternatives have been attempted if doing so would be reasonable under the circumstances.</p> <p>13 V.S.A. § 1378 (West 2008) <u>Neglect</u></p> <p>(a) A caregiver who intentionally or recklessly neglects a vulnerable adult shall be imprisoned not more than 18 months or fined not more than \$10,000.00, or both.</p> <p>(b) A caregiver who violates subsection (a) of this section, and as a result of such neglect, serious bodily injury occurs to the vulnerable adult, shall be imprisoned not more than 15 years or fined not more than \$10,000.00, or both.</p> <p>13 V.S.A. § 1379 (West 2008) <u>Sexual abuse</u></p> <p>(a) A person who volunteers for or is paid by a caregiving facility or program shall not engage in any sexual activity with a vulnerable adult. It shall be an affirmative defense to a prosecution under this subsection that the sexual activity was consensual between the vulnerable adult and a caregiver who was hired, supervised, and directed by the vulnerable adult. A person who violates this subsection shall be imprisoned for not more than 2 years or fined not more than \$ 10,000.00, or both.</p>
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<b>Coverage Cont'd</b> <i>(Vermont)</i>	<p>(b) No person, whether or not the person has actual knowledge of the victim's vulnerable status, shall engage in sexual activity with a vulnerable adult if:</p> <p>(1) the vulnerable adult does not consent to the sexual activity; or</p> <p>(2) the person knows or should know that the vulnerable adult is incapable of resisting, declining, or consenting to the sexual activity due to his or her specific vulnerability or due to fear of retribution or hardship.</p>
<b>Definitions</b> <i>(Vermont)</i>	<p>3 V.S.A. § 1375 (West 2008)</p> <p><u>Definitions</u></p> <p>As used in this chapter:</p> <p>(1) <u>Bodily injury</u> means physical pain, illness, or any impairment of physical condition.</p> <p>(2) <u>Caregiver</u> means:</p> <p>(A) a person, agency, facility, or other organization with responsibility for providing subsistence, health, or other care to a vulnerable adult, who has assumed the responsibility voluntarily, by contract, or by an order of the court; or</p> <p>(B) a person providing care, including health care, custodial care, personal care, mental health services, rehabilitative services, or any other kind of care which is required because of another's age or disability.</p> <p>(3) <u>Lewd and lascivious conduct</u> means any lewd or lascivious act upon or with the body, or any part or member thereof, of a vulnerable adult, with the intent of arousing, appealing to or gratifying the lust, passions, or sexual desires of the person or the vulnerable adult.</p> <p>(4) <u>Neglect</u> means intentional or reckless failure or omission by a caregiver to:</p> <p>(A)(i) provide care or arrange for goods, services, or living conditions necessary to maintain the health or safety of a vulnerable adult, including, but not limited to foods, clothing, medicine, shelter, supervision, and medical services, unless the caregiver is acting pursuant to the wishes of the vulnerable adult or his or her representatives, or an advanced directive as</p>

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<b>Definitions</b> <b>Cont'd</b> <i>(Vermont)</i>	<p>defined in chapter 111 of Title 18; or</p> <p>(ii) make a reasonable effort, in accordance with the authority granted the caregiver, to protect a vulnerable adult from abuse, neglect or exploitation by others.</p> <p>(B) <u>Neglect</u> may be repeated conduct or a single incident which as resulted in or could be expected to result in physical or psychological harm, as a result of subdivisions (A)(i) or (ii) of this subdivision (4)</p> <p>(5) <u>Serious bodily injury</u> means shall have the same meaning as subdivision 1021(2) of this title.</p> <p>(6) <u>Sexual act</u> means 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.</p> <p>(7) <u>Sexual activity</u> means a sexual act, other than appropriate health care or personal hygiene, or lewd and lascivious conduct.</p> <p>(8) <u>Vulnerable adult</u> means any person 18 years of age or older who:</p> <p>(A) is a resident of a facility required to be licensed under chapter 71 of Title 33;</p> <p>(B) is a resident of a psychiatric hospital or a psychiatric unit of a hospital;</p> <p>(C) has been receiving personal care and services from an agency certified by the Vermont department of aging and independent living or from a person or organization that offers, provides, or arranges for personal care; or</p> <p>(D) regardless of residence or whether any type of service is received, is impaired due to brain damage, infirmities of aging, or a physical, mental, or developmental disability that results in some impairment of the individual's ability to:</p> <p>(i) provide for his or her own care without assistance, including the provision of food, shelter, clothing, health care, supervision, or management of finances; or</p> <p>(ii) protect himself or herself from abuse, neglect, or exploitation.</p> <p>33 V.S.A. § 7102 (West 2008)</p> <p><u>Definitions</u></p>
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<b>Definitions</b> <b>Cont'd</b> <i>(Vermont)</i>	<p>(9) <u>Facility</u> means a residential care home, maternity home, nursing home, assisted living residence or therapeutic community residence licensed or required to be licensed pursuant to the provisions of this chapter.</p> <p>13 V.S.A. § 1021 (West 2008)  <u>Definitions</u></p> <p>For the purpose of this chapter:</p> <p>(2) <u>Serious bodily injury</u> means:</p> <p>(A) bodily injury which creates any of the following:</p> <ul style="list-style-type: none"> <li>(i) a substantial risk of death;</li> <li>(ii) a substantial loss or impairment of the function of any bodily member or organ;</li> <li>(iii) a substantial impairment of health; or</li> <li>(iv) substantial disfigurement; or</li> </ul> <p>(B) strangulation by intentionally impeding normal breathing or circulation of the blood by applying pressure on the throat or neck or by blocking the nose or mouth of another person.</p> <p>13 V.S.A. § 1023 (West 2008)  <u>Simple Assault</u></p> <p>(a) A person is guilty of assault if he:</p> <ul style="list-style-type: none"> <li>(1) attempts to cause or purposely, knowingly or recklessly cause bodily injury to another; or</li> <li>(2) negligently causes bodily injury to another with a deadly weapon; or</li> <li>(3) attempts by physical menace to put another in fear of imminent serious bodily injury.</li> </ul> <p>13 V.S.A. § 1024 (West 2008)  <u>Aggravated Assault</u></p>
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<b>Definitions</b> <b>Cont'd</b> <i>(Vermont)</i>	<p>(a) A person is guilty of aggravated assault if the person:</p> <ul style="list-style-type: none"> <li>(1) attempts to cause serious bodily injury to another, or causes such injury purposely, knowingly, or recklessly under circumstances manifesting extreme indifference to the value of human life; or</li> <li>(2) attempts to cause or purposely or knowingly causes bodily injury to another with a deadly weapon; or</li> <li>(3) for a purpose other than lawful medical or therapeutic treatment, the person intentionally causes stupor, unconsciousness, or other physical or mental impairment or injury to another person by administering to the other person without the other person's consent a drug, substance, or preparation capable of producing the intended harm; or</li> <li>(4) with intent to prevent a law enforcement officer from performing a lawful duty, the person causes physical injury to any person; or</li> <li>(5) is armed with a deadly weapon and threatens to use the deadly weapon on another person.</li> </ul>
<b>Penalties</b> <i>(Vermont)</i>	<p>13 V.S.A. § 1376 (West 2008)  <u>Abuse</u></p> <p>(a) A person who engages in conduct with an intent or reckless disregard that the conduct is likely to cause unnecessary harm, unnecessary pain, or unnecessary suffering to a vulnerable adult shall be imprisoned not more than 1 year or fined not more than \$1,000.00, or both.</p> <p>13 V.S.A. § 1376 (West 2008)  <u>Abuse</u></p> <p>(b) A person who commits an assault, as defined in section 1023 of this title, with actual or constructive knowledge that the</p>

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<b>Penalties Cont'd</b> <i>(Vermont)</i>	<p>victim is a vulnerable adult, shall be imprisoned for not more than 2 years or fined not more than \$2,000.00, or both.</p> <p>13 V.S.A. § 1376 (West 2008)  <u>Abuse</u></p> <p>(c) A person who commits an aggravated assault as defined in subdivision 1024(a)(1) or (2) of this title with actual or constructive knowledge that the victim is a vulnerable adult shall be imprisoned not more than 20 years or fined not more than \$10,000.00, or both.</p> <p>13 V.S.A. § 1377 (West 2008)  <u>Abuse by unlawful restraint and unlawful confinement</u></p> <p>(c) A person who violates this section shall:</p> <p>(1) be imprisoned not more than two years or fined not more than \$10,000, or both.</p> <p>(2) if the violation causes bodily injury, be imprisoned not more than 3 years or fined not more than \$10,000.00, or both.</p> <p>(3) if the violation causes serious bodily injury, be imprisoned not more than 15 years or fined not more than \$10,000.00, or both.</p> <p>13 V.S.A. § 1378 (West 2008)  <u>Neglect</u></p> <p>(a) A caregiver who intentionally or recklessly neglects a vulnerable adult shall be imprisoned not more than 18 months or fined not more than \$10,000.00, or both.</p> <p>13 V.S.A. § 1378 (West 2008)  <u>Neglect</u></p>
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<b>Penalties Cont'd</b> <i>(Vermont)</i>	<p>(b) A caregiver who violates subsection (a) of this section, and as a result of such neglect, serious bodily injury occurs to the vulnerable adult, shall be imprisoned not more than 15 years or fined not more than \$10,000.00, or both.</p> <p>13 V.S.A. § 1379 (West 2008)  <u>Sexual abuse</u></p> <p>(a) A person who volunteers for or is paid by a caregiving facility or program shall not engage in any sexual activity with a vulnerable adult. It shall be an affirmative defense to a prosecution under this subsection that the sexual activity was consensual between the vulnerable adult and a caregiver who was hired, supervised, and directed by the vulnerable adult. A person who violates this subsection shall be imprisoned for not more than 2 years or fined not more than \$ 10,000.00, or both.</p> <p>13 V.S.A. § 1379 (West 2008)  <u>Sexual abuse</u></p> <p>(c) A person who violates subsection (b) of this section shall be:</p> <p>(1) imprisoned not more than 5 years or fined not more than \$10,000.00, or both, if the sexual activity involves lewd and lascivious conduct;</p> <p>(2) imprisoned for not more than 20 years or fined not more than \$10,000.00, or both, if the sexual activity involves a sexual act.</p> <p>13 V.S.A. § 1379 (West 2008)  <u>Sexual abuse</u></p> <p>(d) A caregiver who violates subsection (b) of this section shall be:</p> <p>(1) imprisoned for not more than 7 years or fined not more than \$10,000.00, or both, if the sexual activity involves lewd and lascivious conduct.</p> <p>(2) imprisoned for not more than 25 years or fined not more than \$10,000.00, or both, if the sexual activity involves a sexual</p>
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**NOTES:**

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### NIC/WCL Project on Addressing Prison Rape

<b>Penalties Cont'd</b> (Vermont)	act.
<b>Applicability to Youth</b> (Vermont)	The above statutes are not applicable to youth
<b>VIRGIN ISLANDS</b>	
<b>Statute</b> (Virgin Islands)	34 V.I.C. § 460 (West 2008) <u>Criminal Penalties</u>  34 V.I.C. § 452 (West 2008) <u>Definitions</u>
<b>Coverage</b> (Virgin Islands)	34 V.I.C. § 460 (West 2008) <u>Criminal Penalties</u>  It shall be unlawful for any person to willfully abuse, neglect, abandon or exploit any elderly person or disabled adult within the meaning of this chapter.
<b>Definitions</b> (Virgin Islands)	34 V.I.C. § 452 (West 2008) <u>Definitions</u>  As used in this chapter: (1) <u>Abandonment</u> means desertion by a caretaker or other person who has an obligation to provide services.

#### NOTES:

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<b>Definitions</b> <b>Cont'd</b> <i>(Virgin Islands)</i>	<p>(2) <u>Abuse</u> means the infliction of verbal, psychological or physical pain, injury or harm, mental anguish or harm, or unreasonable confinement.</p> <p>(3) <u>Caretaker</u> means a person with the responsibility for the care of an adult person. The responsibility may arise as the result of a family relationship, or by the voluntary or contractual duty undertaken on behalf of an adult person, or by a fiduciary duty imposed by law.</p> <p>(5) <u>Disabled adult</u> means a person 18 years of age or older who because of mental or physical dysfunctioning or advanced age is unable to manage his own resources, carry out the activities of daily living or protect himself from neglect, hazardous or abusive situations without assistance from others and who has no available, willing and responsibly able person to assist him.</p> <p>(6) <u>Elderly person</u> means an individual who is 60 years of age or over.</p> <p>(9) <u>Neglect</u> means failure or refusal to provide treatment or services necessary to maintain physical or mental health.</p>
<b>Penalties</b> <i>(Virgin Islands)</i>	<p>34 V.I.C. § 460 (West 2008)  <u>Criminal Penalties</u></p> <p>Any person who willfully abuses, neglects, abandons or exploits any elderly person or disabled adult in violation of the provisions of this chapter shall be fined not more than \$500 or imprisoned not more than 1 year, or both.</p>
<b>Applicability to Youth</b> <i>(Virgin Islands)</i>	<p>The above statutes are not applicable to youth</p>

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<b>VIRGINIA</b>	
<b>Statute</b> (Virginia)	<p>VA. CODE ANN. § 18.2-369 (West 2008) <u>Abuse and neglect of incapacitated adults; penalty</u></p> <p>VA. CODE ANN. § 18.2-10 (West 2008) <u>Punishment for conviction of felony; penalty</u></p>
<b>Coverage</b> (Virginia)	<p>VA. CODE ANN. § 18.2-369 (West 2008) <u>Abuse and neglect of incapacitated adults; penalty</u></p> <p>A. It shall be unlawful for any responsible person to abuse or neglect any incapacitated adult as defined in this section. Any responsible person who abuses or neglects an incapacitated adult in violation of this section and the abuse or neglect does not result in serious bodily injury or disease to the incapacitated adult is guilty of a Class 1 misdemeanor. Any responsible person who is convicted of a second or subsequent offense under this subsection is guilty of a Class 6 felony.</p> <p>B. Any responsible person who abuses or neglects an incapacitated adult in violation of this section and the abuse or neglect result in serious bodily injury or disease to the incapacitated adult is guilty of a Class 4 felony. Any responsible person who abuses or neglects an incapacitated adult in violation of this section and the abuse or neglect result in the death of the incapacitated adult in violation of this section and the abuse or neglect results in the death of the incapacitated adult is guilty of a Class 3 felony.</p> <p>D. No responsible person shall be in violation of this section whose conduct was (i) in accordance with the informed consent of the incapacitated person or a person authorized to consent on his behalf; (ii) in accordance with a declaration by the incapacitated person under the Natural Death Act of Virginia or with the provisions of a valid medical power of attorney; (iii)</p>

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<b>Coverage Cont'd</b> <i>(Virginia)</i>	in accordance with the wishes of the incapacitated person or a person authorized to consent on behalf of the incapacitated person and in accord with the tenets and practices of a church or religious denomination; (iv) incident to necessary movement of, placement of or protection from harm to the incapacitated person; or (v) a bona fide, recognized or approved practice to provide medical care.
<b>Definitions</b> <i>(Virginia)</i>	<p>VA. CODE ANN. § 18.2-369 (West 2008)  <u>Abuse and neglect of incapacitated adults; penalty</u></p> <p>C. For purposes of this section:</p> <p><u>Abuse</u> means (i) knowing and willful conduct that causes physical injury or pain or (ii) knowing and willful use of physical restraint, including confinement, as punishment, for convenience or as a substitute for treatment, except where such conduct or physical restraint, including confinement, is a part of care or treatment and is in furtherance of the health and safety of the incapacitated person.</p> <p><u>Incapacitated</u> adult means any person 18 years or older who is impaired by reason of mental illness, mental retardation, physical illness or disability, advanced age or other causes to the extent the adult lacks sufficient understanding or capacity to make, communicate or carry out reasonable decisions concerning his well-being.</p> <p><u>Neglect</u> means the knowing and willful failure by a responsible person to provide treatment, care, goods or services which results in injury to the health or endangers the safety of an incapacitated adult.</p> <p><u>Responsible person</u> means a person who has responsibility for the care, custody or control of an incapacitated person by operation of law or who has assumed such responsibility voluntarily, by contract or in fact.</p> <p><u>Serious bodily injury</u> or disease shall include but not limited to (i) disfigurement, (ii) a fracture, (iii) a severe burn or laceration, (iv) mutilation, (v) maiming, or (vi) life – threatening internal injuries or conditions, whether or not caused by</p>

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### NIC/WCL Project on Addressing Prison Rape

<b>Definitions Cont'd (Virginia)</b>	trauma.
<b>Penalties (Virginia)</b>	<p>VA. CODE ANN. § 18.2-369 (West 2008)  <u>Abuse and neglect of incapacitated adults; penalty</u></p> <p>Any responsible person who abuses or neglects an incapacitated adult in violation of this section and the abuse or neglect does not result in serious bodily injury or disease to the incapacitated adult is guilty of a Class 1 misdemeanor.</p> <p>VA. CODE ANN. § 18.2-11 (West 2008)  <u>Punishment for conviction of misdemeanor</u></p> <p>The authorized punishments for conviction of a misdemeanor are:  (a) For Class 1 misdemeanors, confinement in jail for not more than 12 months and a fine of not more than \$2,500, either or both.</p> <p>VA. CODE ANN. § 18.2-369 (West 2008)  <u>Abuse and neglect of incapacitated adults; penalty</u></p> <p>Any responsible person who is convicted of a second or subsequent offense under this subsection is guilty of a Class 6 felony.</p> <p>VA. CODE ANN. § 18.2-10 (West 2008)  <u>Punishment for conviction of felony; penalty</u></p> <p>The authorized punishments for conviction of a felony are: (a) For Class 6 felonies, a term of imprisonment of not less than 1 year nor more than 5 years, or in the discretion of the jury or the court trying the case without the jury, confinement in jail for</p>

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### NIC/WCL Project on Addressing Prison Rape

<b>Penalties Cont'd</b> (Virginia)	<p>not more than 12 months and a fine of not more than \$2,500, either or both.</p> <p>VA. CODE ANN. § 18.2-369 (West 2008) <u>Abuse and neglect of incapacitated adults; penalty</u></p> <p>B. Any responsible person who abuses or neglects an incapacitated adult in violation of this section and the abuse or neglect result in serious bodily injury or disease to the incapacitated adult is guilty of a Class 4 felony.</p> <p>VA. CODE ANN. § 18.2-10 (West 2008) <u>Punishment for conviction of felony; penalty</u></p> <p>The authorized punishments for conviction of a felony are: (d) For Class 4 felonies, a term of imprisonment of not less than two years nor more than 10 years and, subject to subdivision (g), a fine of not more than \$100,000.</p> <p>VA. CODE ANN. § 18.2-369 (West 2008) <u>Abuse and neglect of incapacitated adults; penalty</u></p> <p>Any responsible person who abuses or neglects an incapacitated adult in violation of this section and the abuse or neglect result in the death of the incapacitated adult in violation of this section and the abuse or neglect results in the death of the incapacitated adult is guilty of a Class 3 felony.</p> <p>VA. CODE ANN. § 18.2-10 (West 2008) <u>Punishment for conviction of felony; penalty</u></p> <p>The authorized punishments for conviction of a felony are: (c) For Class 3 felonies, a term of imprisonment of not less than 5 years nor more than 20 years and, subject to subdivision (g),</p>
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<b>Penalties Cont'd</b> (Virginia)	a fine of not more than \$100,000.
<b>Applicability to Youth</b> (Virginia)	The above statutes are not applicable to youth
<b>WASHINGTON</b>	
<b>Statute</b> (Washington)	<p>WA ST § 9A.42.020 (West 2008) <u>Criminal mistreatment in the first degree</u></p> <p>WA ST § 9A.42.030 (West 2008) <u>Criminal mistreatment in the second degree</u></p> <p>WA ST § 9A.42.035 (West 2008) <u>Criminal mistreatment in the third degree</u></p> <p>WA ST § 9A.42.037 (West 2008) <u>Criminal mistreatment in the fourth degree</u></p> <p>WA ST § 9A.44.050 (West 2008) <u>Rape in the second degree</u></p> <p>WA ST § 9A.44.100 (West 2008)</p>

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<b>Statute Cont'd</b> (Washington)	<u>Indecent liberties</u>
<b>Coverage</b> (Washington)	<p>WA ST § 9A.42.020 (West 2008) <u>Criminal mistreatment in the first degree</u></p> <p>(1) A parent of a child, the person entrusted with the physical custody of a child or dependent person, or a person employed to provide to the child or dependent person the basic necessities of life is guilty of criminal mistreatment in the first degree if he or she recklessly, as defined in RCW 9A.08.010, causes great bodily harm to a child or dependent person by withholding any of the basic necessities of life.</p> <p>WA ST § 9A.42.030 (West 2008) <u>Criminal mistreatment in the second degree</u></p> <p>(1) A parent of a child, the person entrusted with the physical custody of a child or dependent person, or a person employed to provide to the child or dependent person the basic necessities of life is guilty of criminal mistreatment in the second degree if he or she recklessly, as defined in RCW 9A.08.010, either:</p> <ul style="list-style-type: none"> <li>(a) creates an imminent and substantial risk of death or great bodily harm, or</li> <li>(b) causes substantial bodily harm by withholding any of the basic necessities of life.</li> </ul> <p>WA ST § 9A.42.035 (West 2008) <u>Criminal mistreatment in the third degree</u></p> <p>(1) A person is guilty of the crime of criminal mistreatment in the third degree if the person is the parent of a child, is a person entrusted with the physical custody of a child or other dependent person, or is a person employed to provide to the child or dependent person the basic necessities of life, and either:</p> <ul style="list-style-type: none"> <li>(a) With criminal negligence, creates an imminent and substantial risk of substantial bodily harm to a child or dependent</li> </ul>

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<b>Coverage Cont'd</b> <i>(Washington)</i>	<p>person by withholding any of the basic necessities of life; or            (b) With criminal negligence, causes substantial bodily harm to a child or dependent person by withholding any of the basic necessities of life.</p> <p>WA ST § 9A.42.037 (West 2008)  <u>Criminal mistreatment in the fourth degree</u></p> <p>(1) A person is guilty of the crime of criminal mistreatment in the fourth degree if the person is the parent of a child, is a person entrusted with the physical custody of a child or other dependent person, or is a person employed to provide to the child or dependent person the basic necessities of life, and either:            (a) With criminal negligence, creates an imminent and substantial risk of bodily injury to a child or dependent person by withholding any of the basic necessities of life; or            (b) With criminal negligence, causes bodily injury or extreme emotional distress manifested by more than transient physical symptoms to a child or dependent person by withholding the basic necessities of life.</p> <p>WA ST § 9A.44.050 (West 2008)  <u>Rape in the second degree</u></p> <p>(1) A person is guilty of rape in the second degree when, under circumstances not constituting rape in the first degree, the person engages in sexual intercourse with another person:            (b) When the victim is incapable of consent by reason of being physically helpless or mentally incapacitated;            (c) When the victim is a person with a developmental disability and the perpetrator is a person who is not married to the victim and who:                (i) Has supervisory authority over the victim; or                (ii) Was providing transportation, within the course of his or her employment, to the victim at the time of the offense;            (e) When the victim is a resident of a facility for persons with a mental disorder or chemical dependency and the perpetrator is a person who is not married to the victim and has supervisory authority over the victim; or</p>
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<p><b>Coverage Cont'd</b> (Washington)</p>	<p>(f) When the victim is a frail elder or vulnerable adult and the perpetrator is a person who is not married to the victim and who:</p> <ul style="list-style-type: none"> <li>(i) Has a significant relationship with the victim; or</li> <li>(ii) Was providing transportation, within the course of his or her employment, to the victim at the time of the offense.</li> </ul> <p>WA ST § 9A.44.100 (West 2008) <u>Indecent liberties</u></p> <p>(1) A person is guilty of indecent liberties when he or she knowingly causes another person who is not his or her spouse to have sexual contact with him or her or another:</p> <ul style="list-style-type: none"> <li>(b) When the other person is incapable of consent by reason of being mentally defective, mentally incapacitated, or physically helpless;</li> <li>(c) When the victim is developmentally disabled and the perpetrator is a person who is not married to the victim and who has supervisory authority over the victim; <ul style="list-style-type: none"> <li>(i) Has supervisory authority over the victim; or</li> <li>(ii) Was providing transportation, within the course of his or her employment, to the victim at the time of the offense;</li> </ul> </li> <li>(d) When the perpetrator is a health care provider, the victim is a client or patient, and the sexual contact occurs during a treatment session, consultation, interview, or examination. It is an affirmative defense that the defendant must prove by a preponderance of the evidence that the client or patient consented to the sexual contact with the knowledge that the sexual contact was not for the purpose of treatment;</li> <li>(e) When the victim is a resident of a facility for mentally disordered or chemically dependent persons and the perpetrator is a person who is not married to the victim and has supervisory authority over the victim; or</li> <li>(f) When the victim is a frail elder or vulnerable adult and the perpetrator is a person who is not married to the victim and who: <ul style="list-style-type: none"> <li>(i) Has a significant relationship with the victim; or</li> <li>(ii) Was providing transportation, within the course of his or her employment, to the victim at the time of the offense.</li> </ul> </li> </ul>
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<b>Definitions</b> <i>(Washington)</i>	<p>WA ST § 9A.42.035 (West 2008)  <u>Criminal mistreatment in the third degree</u></p> <p>(2) For purposes of this section, <u>a person who has assumed responsibility</u> to provide to a dependent person the basic necessities of life means a person other than: (a) A government agency that regularly provides assistance or services to dependent persons, including but not limited to the department of social and health services; or (b) a good Samaritan as defined in RCW 9A.42.010.</p> <p>WA ST § 9A.08.010 (West 2008)  <u>General requirements of culpability</u></p> <p>(c) <u>RECKLESSNESS</u>. A person is reckless or acts recklessly when he knows of and disregards a substantial risk that a wrongful act may occur and his disregard of such substantial risk is a gross deviation from conduct that a reasonable man would exercise in the same situation.</p> <p>(d) <u>CRIMINAL NEGLIGENCE</u>. A person is criminally negligent or acts with criminal negligence when he fails to be aware of a substantial risk that a wrongful act may occur and his failure to be aware of such substantial risk constitutes a gross deviation from the standard of care that a reasonable man would exercise in the same situation.</p> <p>WA ST § 9A.42.010 (West 2008)  <u>Definitions</u></p> <p>As used in this chapter:</p> <p>(1) <u>Basic necessities of life</u> means food, water, shelter, clothing, and medically necessary health care, including but not limited to health--related treatment or activities, hygiene, oxygen, and medication.</p> <p>(2)(a) <u>Bodily injury</u> means physical pain or injury, illness, or an impairment of physical condition;</p>
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<p><b>Definitions</b>  <b>Cont'd</b>  <i>(Washington)</i></p>	<p>(b) <u>Substantial bodily harm</u> means bodily injury which involves a temporary but substantial disfigurement, or which causes a temporary but substantial loss or impairment of the function of any bodily part or organ, or which causes a fracture of any bodily part;</p> <p>(c) <u>Great bodily harm</u> means bodily injury which creates a high probability of death, or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily part or organ.</p> <p>(4) <u>Dependent person</u> means a person who, because of physical or mental disability, or because of extreme advanced age, is dependent upon another person to provide the basic necessities of life. A resident of a nursing home, as defined in RCW 18.51.010, a resident of an adult family home, as defined in RCW 70.128.010, and a frail elder or vulnerable adult, as defined in RCW 74.34.020(13), is presumed to be a dependent person for purposes of this chapter.</p> <p>(5) <u>Employed</u> means hired by a dependent person, another person acting on behalf of a dependent person, or by an organization or governmental entity, to provide to a dependent person any of the basic necessities of life. A person may be <u>employed</u> regardless of whether the person is paid for the services or, if paid, regardless of who pays for the person's services.</p> <p>(7) <u>Abandons</u> means leaving a child or other dependent person without the means or ability to obtain one or more basic necessities of life.</p> <p>(8) <u>Good Samaritan</u> means any individual or group of individuals who: (a) Is not related to the dependent person; (b) voluntarily provides assistance or services of any type to the dependent person; (c) is not paid, given gifts, or made a beneficiary of any assets valued at \$500 or more, for any reason, by the dependent person, the dependent person's family, or the dependent person's estate; and (d) does not commit or attempt to commit any other crime against the dependent person or the dependent person's estate.</p> <p>WA ST § 9A.44.010 (West 2008)  <u>Definitions</u></p>
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<b>Definitions</b> <b>Cont'd</b> <i>(Washington)</i>	<p>As used in this chapter:</p> <p>(1) <u>Sexual intercourse</u></p> <p>(a) has its ordinary meaning and occurs upon any penetration, however slight, and</p> <p>(b) Also means any penetration of the vagina or anus however slight, by an object, when committed on one person by another, whether such persons are of the same or opposite sex, except when such penetration is accomplished for medically recognized treatment or diagnostic purposes, and</p> <p>(c) Also means any act of sexual contact between persons involving the sex organs of one person and the mouth or anus of another whether such persons are of the same or opposite sex.</p> <p>(2) <u>Sexual contact</u> means any touching of the sexual or other intimate parts of a person done for the purpose of gratifying sexual desire of either party or a third party.</p> <p>(3) <u>Married</u> means one who is legally married to another, but does not include a person who is living separate and apart from his or her spouse and who has filed in an appropriate court for legal separation or for dissolution of his or her marriage.</p> <p>(4) <u>Mental incapacity</u> is that condition existing at the time of the offense which prevents a person from understanding the nature or consequences of the act of sexual intercourse whether that condition is produced by illness, defect, the influence of a substance or from some other cause.</p> <p>(5) <u>Physically helpless</u> means a person who is unconscious or for any other reason is physically unable to communicate unwillingness to an act.</p> <p>(7) <u>Consent</u> means that at the time of the act of sexual intercourse or sexual contact there are actual words or conduct indicating freely given agreement to have sexual intercourse or sexual contact.</p> <p>(8) <u>Significant relationship</u> means a situation in which the perpetrator is:</p> <p>(a) A person who undertakes the responsibility, professionally or voluntarily, to provide education, health, welfare, or</p>
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#### NOTES:

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**\*While not reflected on this chart, most states have enhanced penalties for sexual assault/battery/or other relevant statutes where the victim is considered "vulnerable"**

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## NIC/WCL Project on Addressing Prison Rape

<b>Definitions</b> <b>Cont'd</b> <i>(Washington)</i>	<p>organized recreational activities principally for minors;</p> <p>(b) A person who in the course of his or her employment supervises minors; or</p> <p>(c) A person who provides welfare, health or residential assistance, personal care, or organized recreational activities to frail elders or vulnerable adults, including a provider, employee, temporary employee, volunteer, or independent contractor who supplies services to long--term care facilities including boarding homes, nursing homes and adult family homes and home health, hospice, or home care agencies, but not including a consensual sexual partner.</p> <p>(9) <u>Abuse of a supervisory position</u> means:</p> <p>(a) To use a direct or indirect threat or promise to exercise authority to the detriment or benefit of a minor; or</p> <p>(b) To exploit a significant relationship in order to obtain the consent of a minor.</p> <p>(10) <u>Person with a developmental disability</u>, for purposes of RCW 9A.44.050(1)(c) and 9A.44.100(1)(c), means a person with a developmental disability as defined in RCW 71A.10.020.</p> <p>(11) <u>Person with supervisory authority</u> means any proprietor or employee of any public or private care or treatment facility who directly supervises developmentally disabled, mentally disordered, or chemically dependent persons at the facility.</p> <p>(12) <u>Person with a mental disorder</u> for the purposes of RCW 9A.44.050(1)(e) and 9A.44.100(1)(e) means a person with a “mental disorder” as defined in RCW 71.05.-020.</p> <p>(13) <u>Person with a chemical dependency</u> for purposes of RCW 9A.44.050(1)(e) and 9A.44.100(1)(e) means a person who is “chemically dependent” as defined in RCW 70.96A.020(4)</p> <p>(14) <u>Health care provider</u> means a person who is, holds himself or herself out to be, or provides services as if he or she were:</p> <p>(a) A member of a health care profession</p> <p>(15) <u>Treatment</u> means the active delivery of professional services by a health care provider which the health care provider holds himself or herself out to be qualified to provide.</p>
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## Fifty State Survey of Vulnerable Persons Statutes

### NIC/WCL Project on Addressing Prison Rape

<b>Definitions</b> <b>Cont'd</b> <i>(Washington)</i>	<p>(16) <u>Frail elder or vulnerable adult</u> means a person sixty years of age or older who has the functional, mental, or physical inability to care for himself or herself. <u>Frail elder or vulnerable adult</u> also includes a person found incapacitated, a person over 18 years of age who has a developmental disability, a person admitted to a long-term care facility that is licensed or required to be licensed, and a person receiving services from a home health, hospice, or home care agency licensed or required to be licensed.</p> <p>WA ST § 71A.10.020 (West 2008)  <u>Definitions</u></p> <p>(3) <u>Developmental disability</u> means a disability attributable to mental retardation, cerebral palsy, epilepsy, autism, or another neurological or other condition or an individual found by the secretary to be closely related to mental retardation or to require treatment similar to that required for individuals with mental retardation, which disability originates before the individual attains age 18, which has continued or can be expected to continue indefinitely, and which constitutes a substantial handicap to the individual.</p> <p>WA ST § 71.05.020 (West 2008)  <u>Definitions</u></p> <p>(24) <u>Mental disorder</u> means an organic, mental, or emotional impairment which has substantial effects on a person's cognitive or volitional functions;</p> <p>WA ST § 70.96A.020 (West 2008)  <u>Definitions</u></p> <p>(4) <u>Chemical dependency</u> means:          (a) Alcoholism; (b) drug addiction; or (c) dependence on alcohol and one or more other psychoactive chemicals, as the context requires.</p>
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## NIC/WCL Project on Addressing Prison Rape

<b>Penalties</b> <i>(Washington)</i>	<p>WA ST § 9A.42.020 (West 2008)  <u>Criminal mistreatment in the first degree</u></p> <p>(2) Criminal mistreatment in the first degree is a class B felony.</p> <p>WA ST § 9A.20.021 (West 2008)  <u>Maximum sentences for crimes committed July 1, 1984, and after</u></p> <p>(1) Felony. Unless a different maximum sentence for a classified felony is specifically established by a statute of this state, no person convicted of a classified felony shall be punished by confinement or fine exceeding the following:  (b) For a class B felony, by confinement in a state correctional institution for a term of 10 years, or by a fine in an amount fixed by the court of \$20,000, or by both such confinement and fine;</p> <p>WA ST § 9A.42.030 (West 2008)  <u>Criminal mistreatment in the second degree</u></p> <p>(2) Criminal mistreatment in the second degree is a class C felony.</p> <p>WA ST § 9A.20.021 (West 2008)  <u>Maximum sentences for crimes committed July 1, 1984, and after</u></p> <p>(1) Felony. Unless a different maximum sentence for a classified felony is specifically established by a statute of this state, no person convicted of a classified felony shall be punished by confinement or fine exceeding the following:  (c) For a class C felony, by confinement in a state correctional institution</p> <p>WA ST § 9A.42.035 (West 2008)  <u>Criminal mistreatment in the third degree</u></p>
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<b>Penalties Cont'd</b> <i>(Washington)</i>	<p>(2) Criminal mistreatment in the third degree is a gross misdemeanor.</p> <p>WA ST § 9A.20.021 (West 2008)  <u>Maximum sentences for crimes committed July 1, 1984, and after</u></p> <p>(2) Gross misdemeanor. Every person convicted of a gross misdemeanor defined in Title 9A RCW shall be punished by imprisonment in the county jail for a maximum term fixed by the court of not more than 1 year, or by a fine in an amount fixed by the court of not more than \$5,000, or by both such imprisonment and fine.</p> <p>WA ST § 9A.42.037 (West 2008)  <u>Criminal mistreatment in the fourth degree</u></p> <p>(2) Criminal mistreatment in the fourth degree is a misdemeanor.</p> <p>WA ST § 9A.20.021 (West 2008)  <u>Maximum sentences for crimes committed July 1, 1984, and after</u></p> <p>(3) Misdemeanor. Every person convicted of a misdemeanor defined in Title 9A RCW shall be punished by imprisonment in the county jail for a maximum term fixed by the court of not more than 90 days, or by a fine in an amount fixed by the court of not more than \$1,000, or by both such imprisonment and fine.</p> <p>WA ST § 9A.44.050 (West 2008)  <u>Rape in the second degree</u></p> <p>(2) Rape in the second degree is a class A felony.</p>
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**NOTES:**

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<b>Penalties Cont'd</b> <i>(Washington)</i>	<p>WA ST § 9A.20.021 (West 2008)  <u>Maximum sentences for crimes committed July 1, 1984, and after</u></p> <p>(1) Felony. Unless a different maximum sentence for a classified felony is specifically established by a statute of this state, no person convicted of a classified felony shall be punished by confinement or fine exceeding the following:  (a) For a class A felony, by confinement in a state correctional institution for a term of life imprisonment, or by a fine in an amount fixed by the court of \$50,000, or by both such confinement and fine;</p> <p>WA ST § 9A.44.100 (West 2008)  <u>Indecent liberties</u></p> <p>(2)(a) Except as provided in (b) of this subsection, indecent liberties is a class B felony.</p> <p>WA ST § 9A.20.021 (West 2008)  <u>Maximum sentences for crimes committed July 1, 1984, and after</u></p> <p>(1) Felony. Unless a different maximum sentence for a classified felony is specifically established by a statute of this state, no person convicted of a classified felony shall be punished by confinement or fine exceeding the following:  (b) For a class B felony, by confinement in a state correctional institution for a term of 10 years, or by a fine in an amount fixed by the court of \$20,000, or by both such confinement and fine;</p> <p>WA ST § 9A.44.100 (West 2008)  <u>Indecent liberties</u></p> <p>(b) Indecent liberties by forcible compulsion is a class A felony.</p> <p>WA ST § 9A.20.021 (West 2008)</p>
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<b>Penalties Cont'd</b> <i>(Washington)</i>	<u>Maximum sentences for crimes committed July 1, 1984, and after</u>  (1) Felony. Unless a different maximum sentence for a classified felony is specifically established by a statute of this state, no person convicted of a classified felony shall be punished by confinement or fine exceeding the following: (a) For a class A felony, by confinement in a state correctional institution for a term of life imprisonment, or by a fine in an amount fixed by the court of \$50,000, or by both such confinement and fine;
<b>Applicability to Youth</b> <i>(Washington)</i>	Statutes may apply to youth
<b>WEST VIRGINIA</b>	
<b>Statute</b> <i>(West Virginia)</i>	W. VA. CODE § 61-2-29 (West 2008) <u>Abuse or neglect of incapacitated adult; abuse or neglect of elder person; misappropriation or misuse of assets or funds of elder person; misappropriation or misuse of assets or funds of elder person through deception, intimidation, coercion, bodily injury or threats of bodily injury; penalties</u>  W. VA. CODE § 61-8B-8 (West 2008) <u>Sexual abuse in the second degree</u>
<b>Coverage</b> <i>(West Virginia)</i>	W. VA. CODE § 61-2-29 (West 2008) <u>Abuse or neglect of incapacitated adult; abuse or neglect of elder person; misappropriation or misuse of assets or funds of elder person; misappropriation or misuse of assets or funds of elder person through deception, intimidation, coercion, bodily injury or threats of bodily injury; penalties</u>

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<p><b>Coverage Cont'd</b> (West Virginia)</p>	<p>(b) Any person, caregiver, guardian or custodian who neglects an incapacitated adult or elder person, or who knowingly permits another person to neglect said adult, is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$500 nor more than \$1500, or imprisoned in the county or regional jail for not less than 90 days nor more than 1 year, or both fined and imprisoned.</p> <p>(c) Any person, caregiver, guardian or custodian who intentionally abuses or neglects an incapacitated adult or elder person is guilty of a felony and, upon conviction thereof, shall, in the discretion of the court, be confined in a state correctional facility for not less than 2 nor more than 10 years.</p> <p>(f) Nothing in this article shall be construed to mean an adult is abused or neglected for the sole reason that his or her independent decision is to rely upon treatment by spiritual means in accordance with the tenets and practices of a recognized church or religious denomination or organization in lieu of medical treatment.</p> <p>W. VA. CODE § 61-8B-8 (West 2008) <u>Sexual abuse in the second degree</u></p> <p>(a) A person is guilty of sexual abuse in the second degree when such person subjects another person to sexual contact who is mentally defective or mentally incapacitated.</p>
<p><b>Definitions</b> (West Virginia)</p>	<p>W. VA. CODE § 61-2-29 (West 2008) <u>Abuse or neglect of incapacitated adult; abuse or neglect of elder person; misappropriation or misuse of assets or funds of elder person; misappropriation or misuse of assets or funds of elder person through deception, intimidation, coercion, bodily injury or threats of bodily injury; penalties</u></p> <p>(a) The following words when used in this section have the meaning ascribed, unless the context clearly indicates otherwise:</p> <p>(1) <u>Abuse</u> means the infliction or threat to inflict physical pain or injury on an incapacitated adult or elder person;</p> <p>(2) <u>Caregiver</u> means an adult who has or shares actual physical possession or care of an incapacitated adult or elder person on</p>

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<b>Definitions</b> <b>Cont'd</b> <i>(West Virginia)</i>	<p>a full-time or temporary basis, regardless of whether such person has been designated as a guardian of such adult by any contract, agreement or legal proceeding. Caregiver includes health care providers, family members, and any person who otherwise voluntarily accepts a supervisory role towards an incapacitated adult or elder person;</p> <p>(3) <u>Neglect</u> means:</p> <p>(i) The failure to provide the necessities of life to an incapacitated adult or elder person; or</p> <p>(ii) the unlawful expenditure or willful dissipation of the funds or other assets owned or paid to or for the benefit of an incapacitated adult or elder person;</p> <p>(4) <u>Incapacitated adult</u> means any person who by reason of physical, mental or other infirmity is unable to physically carry on the daily activities of life necessary to sustaining life and reasonable health;</p> <p>(5) <u>Elder</u> means a person age sixty-five years or older;</p> <p>(6) <u>Bodily injury</u> means substantial physical pain, illness or any impairment of physical condition; and</p> <p>(7) <u>Custodian</u> means a person over the age of eighteen years who has or shares actual physical possession of care and custody of an elder person on a full-time or temporary basis, regardless of whether the person has been granted custody of the elder person by any contract, agreement or legal proceeding.</p>
<b>Penalties</b> <i>(West Virginia)</i>	<p>W. VA. CODE § 61-2-29 (West 2008)</p> <p><u>Abuse or neglect of incapacitated adult; abuse or neglect of elder person; misappropriation or misuse of assets or funds of elder person; misappropriation or misuse of assets or funds of elder person through deception, intimidation, coercion, bodily injury or threats of bodily injury; penalties</u></p> <p>(b) Any person, caregiver, guardian or custodian who neglects an incapacitated adult or elder person, or who knowingly permits another person to neglect said adult, is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less</p>

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<b>Penalties Cont'd</b> <i>(West Virginia)</i>	<p>than \$500 nor more than \$1500, or imprisoned in the county or regional jail for not less than 90 days nor more than 1 year, or both fined and imprisoned.</p> <p>W. VA. CODE § 61-2-29 (West 2008)  <u>Abuse or neglect of incapacitated adult; abuse or neglect of elder person; misappropriation or misuse of assets or funds of elder person; misappropriation or misuse of assets or funds of elder person through deception, intimidation, coercion, bodily injury or threats of bodily injury; penalties</u></p> <p>(c) Any person, caregiver, guardian or custodian who intentionally abuses or neglects an incapacitated adult or elder person is guilty of a felony and, upon conviction thereof, shall, in the discretion of the court, be confined in a state correctional facility for not less than 2 nor more than 10 years.</p> <p>W. VA. CODE § 61-8B-8 (West 2008)  <u>Sexual abuse in the second degree</u></p> <p>(b) Any person who violates the provisions of this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be confined in the county jail not more than 12 months, or fined not more than \$500 and confined in the county jail not more than 12 months.</p>
<b>Applicability to Youth</b> <i>(West Virginia)</i>	<p>The above statutes are not applicable to youth</p>
<b>WISCONSIN</b>	

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### NIC/WCL Project on Addressing Prison Rape

<b>Statute</b> <i>(Wisconsin)</i>	<p>W.S.A. § 940.285 (West 2008)  <u>Abuse of Individuals at risk</u></p> <p>W.S.A. § 940.29 (West 2008)  <u>Abuse of residents of penal facilities</u></p> <p>Wis. Stat. § 940.295 (West 2008)  <u>Abuse and neglect of patients and residents</u></p> <p>W.S.A. § 940.19 (West 2008)  <u>Battery; substantial battery; aggravated battery</u></p> <p>W.S.A. § 940.19  <u>Battery; substantial battery; aggravated battery</u></p>
<b>Coverage</b> <i>(Wisconsin)</i>	<p>W.S.A. § 940.285 (West 2008)  <u>Abuse of Individuals at risk</u></p> <p>(1m) Exception. Nothing in this section may be construed to mean that a vulnerable adult is abused solely because he or she consistently relies upon treatment by spiritual means through prayer for healing, in lieu of medical care, in accordance with his or her religious tradition.</p> <p>(2) Abuse; penalties. (a) Any person, other than a person in charge of or employed in a facility under s. 940.29 or in a facility or program under s. 940.295 (2), who does any of the following may be penalized under par. (b):</p> <ol style="list-style-type: none"> <li>1. Intentionally subjects an individual at risk to abuse.</li> <li>2. Recklessly subjects an individual at risk to abuse.</li> <li>3. Negligently subjects an individual at risk to abuse.</li> </ol>

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<b>Coverage</b> <b>Cont'd</b> <i>(Wisconsin)</i>	<p>W.S.A. § 940.29 (West 2008)  <u>Abuse of residents of penal facilities</u></p> <p>Any person in charge of or employed in a penal or correctional institution or other place of confinement who abuses, neglects or ill-treats any person confined in or a resident of any such institution or place or who knowingly permits another person to do so is guilty of a Class I felony.</p> <p>W.S.A. § 940.295 (West 2008)  <u>Abuse and neglect of patients and residents</u></p> <p>(3) Abuse and neglect; penalties. (a) Any person in charge of or employed in any facility or program under sub. (2) who does any of the following, or who knowingly permits another person to do so, may be penalized under par. (b):</p> <ol style="list-style-type: none"> <li>1. Intentionally abuses or intentionally neglects a patient or resident.</li> <li>2. Recklessly abuses or recklessly neglects a patient or resident.</li> <li>3. Negligently abuses or neglects a patient or a resident.</li> </ol> <p>W.S.A. § 940.19 (West 2008)  <u>Battery; substantial battery; aggravated battery</u></p> <p>(6) Whoever intentionally causes bodily harm to another by conduct that creates a substantial risk of great bodily harm is guilty of a Class H felony. A rebuttable presumption of conduct creating a substantial risk of great bodily harm arises:</p> <ol style="list-style-type: none"> <li>(a) If the person harmed is 62 years of age or older; or</li> <li>(b) If the person harmed has a physical disability, whether congenital or acquired by accident, injury or disease, that is discernible by an ordinary person viewing the physically disabled person, or that is actually known by the actor.</li> </ol>
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<b>Definitions</b> <i>(Wisconsin)</i>	<p>W.S.A. § 940.285 (West 2008)  <u>Abuse of Individuals at risk</u></p> <p>(1) Definitions. In this section:  (ag) <u>Abuse</u> means any of the following:  1. <u>Physical abuse</u>, as defined in s. 46.90(1)(fg)  2. <u>Emotional abuse</u>, as defined in s. 46.90(1)(cm)  3. <u>Sexual abuse</u>, as defined in s. 46.90(1)(gd)  4. <u>Treatment without consent</u>, as defined in s. 46.90(1)(h)  5. <u>Unreasonable confinement or restraint</u>, as defined in s. 46.90(1)(i)  6. Deprivation of a basic need for food, shelter, clothing, or personal or health care, including deprivation resulting from the failure to provide or arrange for a basic need by a person who has assumed responsibility for meeting the need voluntarily or by contract, agreement, or court order.  (am) <u>Adult at risk</u> has the meaning given in s. 55.01(1e)  (dc) <u>Elder adult at risk</u> has the meaning in s. 46.90(1)(br)  (dg) <u>Individual at risk</u> means an elder adult at risk or an adult at risk.  (dm) <u>Recklessly</u> means conduct that creates a situation of unreasonable risk of harm and demonstrates a conscious disregard for the safety of the vulnerable adult.</p> <p>W.S.A. § 940.285 (West 2008)  <u>Elder abuse reporting system</u></p> <p>(br) <u>Elderly adult at risk</u> means any person age 60 or older who has experienced, is currently experiencing, or is at risk of experiencing abuse, neglect, self-neglect, or financial exploitation.  (cm) <u>Emotional abuse</u> means language or behavior that serves no legitimate purpose and is intended to be intimidating, humiliating, threatening, frightening, or otherwise harassing, and that does or reasonably could intimidate, humiliate, threaten, frighten, or otherwise harass the individual to whom the conduct or language is direct.</p>
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### NOTES:

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<b>Definitions Cont'd</b> <i>(Wisconsin)</i>	<p>(fg) <u>Physical abuse</u> means the intentional or reckless infliction of bodily harm.</p> <p>(h) <u>Treatment without consent</u> means the administration of medication to an individual who has not provided informed consent, or the performance of psychosurgery, electroconvulsive therapy, or experimental research on an individual who has not provided informed consent, with the knowledge that no lawful authority exists for the administration or performance.</p> <p>(i) <u>Unreasonable confinement or restraint</u> include the intentional and unreasonable confinement of an individual in a locked room, involuntary separation of an individual from his or her living area, use on an individual of physical restraining devices, or the provision of unnecessary or excessive medication to an individual, but does not include the use of these methods or devices in entities regulated by the department if the methods or devices are employed in conformance with state and federal standards governing confinement and restraint.</p> <p>W.S.A. § 55.01 (West 2008)</p> <p><u>Definitions</u></p> <p>(1e) <u>Adult at risk</u> means any adult who has a physical or mental condition that substantially impairs his or her ability to care for his or her needs and who has experienced, is currently experiencing, or is at risk of experiencing abuse, neglect, self-neglect, or financial exploitation.</p> <p>(2) <u>Developmental disability</u> means a disability attributable to mental retardation, cerebral palsy, epilepsy, autism or another neurological condition closely related to mental retardation or requiring treatment similar to that required for individuals with mental retardation, which has continued or can be expected to continue indefinitely, substantially impairs an individual from adequately providing for his or her own care or custody, and constitutes a substantial handicap to the afflicted individual. The term does not include dementia that is primarily caused by degenerative brain disorder.</p>
<b>Penalties</b> <i>(Wisconsin)</i>	<p>W.S.A. § 940.285 (West 2008)</p> <p><u>Abuse of Individuals at risk</u></p> <p>(b)1g. Any person violating par. (a)1. or 2. under circumstances that cause death is guilty of a Class C felony.</p>

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<b>Penalties Cont'd</b> <i>(Wisconsin)</i>	<p>W.S.A. § 939.50 (West 2008)  <u>Classification of felonies</u></p> <p>(3) Penalties for felonies are as follows:  (c) For a Class C felony, a fine not to exceed \$100,000 or imprisonment not to exceed 40 years, or both.</p> <p>W.S.A. § 939.50 (West 2008)  <u>Classification of felonies</u></p> <p>(3) Penalties for felonies are as follows:  (d) For a Class D felony, a fine not to exceed \$100,000 or imprisonment not to exceed 25 years, or both.</p> <p>W.S.A. § 940.285  <u>Abuse of Individuals at risk</u></p> <p>1m. Any person violating par. (a) under circumstances that cause great bodily harm is guilty of a Class F felony.</p> <p>W.S.A. § 939.50  <u>Classification of felonies</u></p> <p>(3) Penalties for felonies are as follows:  (f) For a Class F felony, a fine not to exceed \$25,000 or imprisonment not to exceed 12 years and 6 months, or both.</p> <p>W.S.A. § 940.285  <u>Abuse of Individuals at risk</u></p> <p>1r. Any person violating par. (a)1. under circumstances that are likely to cause great bodily harm is guilty of Class G felony.</p>
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<b>Applicability to Youth</b> ( <i>Wisconsin</i> )	W.S.A. § 940.29 (West 2008) <u>Abuse of residents of penal facilities</u>  Statute may apply to youth
<b>WYOMING</b>	
<b>Statute</b> ( <i>Wyoming</i> )	W.S. 1977 § 6-2-507 (West 2008) <u>Abuse, neglect, abandonment intimidation or exploitation of a vulnerable adult; penalties</u>  W.S. 1977 §35-20-102 (West 2008) <u>Definitions</u>
<b>Coverage</b> ( <i>Wyoming</i> )	W.S. 1977 § 6-2-507 (West 2008) <u>Abuse, neglect, abandonment intimidation or exploitation of a vulnerable adult; penalties</u>  (a) Except under circumstances constituting a violation of W.S. 6-2-502, a person is guilty of abuse, neglect abandonment or exploitation of a vulnerable adult if the person intentionally or recklessly abuses, neglects, abandons, intimidates or exploits a vulnerable adult.
<b>Definitions</b> ( <i>Wyoming</i> )	W.S. 1977 §35-20-102 (West 2008) <u>Definitions</u>  (a) As used in this act: (i) <u>Abandonment</u> means leaving a vulnerable adult without financial support or the means or ability to obtain food, clothing,

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<b>Definitions Cont'd</b> <i>(Wyoming)</i>	<p>shelter or health care;</p> <p>(ii) <u>Abuse</u> means the intentional or reckless infliction, by the vulnerable adult's caregiver, family member or other individual of:</p> <ul style="list-style-type: none"> <li>(A) Injury;</li> <li>(B) Unreasonable confinement which threatens the welfare and well being of a vulnerable adult;</li> <li>(C) Cruel punishment with resulting physical or emotional harm or pain to a vulnerable adult; or</li> <li>(D) Photographing vulnerable adults in violation of W.S. 6-4-304(b)</li> </ul> <p>(iv) <u>Caregiver</u> means any person or agency responsible for the care of a vulnerable adult because of:</p> <ul style="list-style-type: none"> <li>(A) A family relationship;</li> <li>(B) Voluntary assumption of responsibility for care;</li> <li>(C) Court ordered responsibility or placement;</li> <li>(D) Rendering services in an adult workshop or adult residential program;</li> <li>(E) Rendering services in an institution or in a community –based program;</li> <li>(F) Acceptance of a legal obligation or responsibility to the vulnerable adult through a power of attorney, advanced health care directive or other legal designation.</li> </ul> <p>(xi) <u>Neglect</u> means the deprivation of, or failure to provide, the minimum food, shelter, clothing, supervision, physical and mental health care, other care and prescribed medication as necessary to maintain a vulnerable adult's life or health, or which may resulting a life-threatening situation. The withholding of health care from a vulnerable adult is not neglect if:</p> <ul style="list-style-type: none"> <li>(A) Treatment is given in good faith by spiritual means alone, through prayer, by a duly accredited practitioner in accordance with the tenets and practices of a recognized church or religious denomination;</li> <li>(B) The withholding of health care is in accordance with a declaration executed pursuant to W.S. 35-22-401 through 35-22-416; or</li> <li>(C) Care is provided by a hospice licensed in accordance with and pursuant to W.S. 35-2-90 through 35-2-910.</li> </ul>
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<b>Definitions</b> <b>Cont'd</b> <i>(Wyoming)</i>	<p>(xvi) <u>Mental disability</u> means a condition causing mental dysfunction resulting in an inability to manage resources, carry out the activities of daily living or protect oneself from neglect, abuse, exploitation or hazardous situations without assistance from others. Whether or not a mental dysfunction of such degree exists is subject to an evaluation by a licensed psychologist, psychiatrist or other qualified licensed mental health professional or licensed physician, if disputed;</p> <p>(xviii) <u>Vulnerable adult</u> means any person 18 years of age or older who is unable to manage and take care of himself or his money, assets or property without assistance as a result of advanced age or physical or mental disability;</p> <p>(xx) <u>Intimidation</u> means the communication by word or act to a vulnerable adult that he, his family, friends or pets will be deprived of food, shelter, clothing, supervision, prescribed medication, physical or mental health care and other medical care necessary to maintain a vulnerable adult's health, financial support or will suffer physical violence;</p>
<b>Penalties</b> <i>(Wyoming)</i>	<p>W.S. 1977 § 6-2-507 (West 2008)  <u>Abuse, neglect, abandonment intimidation or exploitation of a vulnerable adult; penalties</u></p> <p>(b) Reckless abuse, neglect, abandonment, intimidation or exploitation of a vulnerable adult is a misdemeanor, punishable by not more than 1 year in jail, a fine of \$1,000, or both, and registration of the offender's name on the central registry.</p> <p>W.S. 1977 § 6-2-507 (West 2008)  <u>Abuse, neglect, abandonment intimidation or exploitation of a vulnerable adult; penalties</u></p> <p>(c) Intentional abuse, neglect or abandonment of a vulnerable adult is felony punishable by not more than 10 years in prison, a fine of not more than \$10,000, or both, and registration of the offender's name on the central registry.</p>
<b>Applicability to Youth</b> <i>(Wyoming)</i>	<p>The above statutes are not applicable to youth</p>

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United States	
<b>Statute</b> <i>(United States)</i>	USSG, § 3A1.1 (West 2008) <u>Hate Crime Motivation of Vulnerable Victim</u>
<b>Coverage</b> <i>(United States)</i>	<p>USSG, § 3A1.1 (West 2008) Hate Crime Motivation of Vulnerable Victim</p> <p>(a) If the finder of fact at trial, or in the case of a plea of guilty or nolo contendere, the court at sentencing determines beyond a reasonable doubt that the defendant intentionally selected any victim or any property as the object of the offense of conviction because of the actual or perceived race, color, religion, national origin, ethnicity, gender, disability, or sexual orientation of any person, increase by 3 levels.</p> <p>(b)(1) If the defendant knew or should have known that a victim of the offense was a vulnerable victim, increase 2 levels.</p> <p>(2) If (A) subdivision (1) applies; and (B) the offense involved a large number of vulnerable victims, increase the offense level determined under subdivision (1) by 2 additional levels.</p> <p>(c) Special Instruction</p> <p>(1) Subsection (a) shall not apply if an adjustment from §2H1.1(b) applies.</p> <p>18 U.S.C.A. § 2242. Sexual abuse (West 2008)</p> <p>Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, or in any prison, institution, or facility in which persons are held in custody by direction of or pursuant to a contract or agreement with the head of any Federal department or agency, knowingly--</p> <p>(1) causes another person to engage in a sexual act by threatening or placing that other person in fear (other than by threatening or placing that other person in fear that any person will be subjected to death, serious bodily injury, or kidnapping); or</p>

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<b>Coverage Cont'd</b> <i>(United States)</i>	<p>(2) engages in a sexual act with another person if that other person is--</p> <p>(A) incapable of appraising the nature of the conduct; or</p> <p>(B) physically incapable of declining participation in, or communicating unwillingness to engage in, that sexual act; or attempts to do so, shall be fined under this title and imprisoned for any term of years or for life.</p>
<b>Definitions</b> <i>(United States)</i>	<p>18 USCA § 2246 (West 2008)</p> <p>(1) the term “prison” means a correctional, detention, or penal facility;</p> <p>(2) the term “sexual act” means--</p> <p>(A) contact between the penis and the vulva or the penis and the anus, and for purposes of this subparagraph contact involving the penis occurs upon penetration, however, slight;</p> <p>(B) contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus;</p> <p>(C) the penetration, however slight, of the anal or genital opening of another 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; or</p> <p>(D) the intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person;</p> <p>(3) the term “sexual contact” means the intentional touching, 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</p>

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<b>Definitions Cont'd</b> <i>(United States)</i>	<p>desire of any person;</p> <p>(4) the term “serious bodily injury” means bodily injury that involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty;</p> <p>18 U.S.C.A. § 2248. Mandatory restitution (West 2008)</p> <p>(4)(c) Definition.--For purposes of this section, the term “victim” means the individual harmed as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court, but in no event shall the defendant be named as such representative or guardian.</p> <p>18 U.S.C. § 1591(c) (West 2008)</p> <p>(2) The term “coercion” means--</p> <p>(A) threats of serious harm to or physical restraint against any person;</p> <p>(B) any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or</p> <p>(C) the abuse or threatened abuse of law or the legal process.</p> <p>(3) The term “commercial sex act” means any sex act, on account of which anything of value is given to or received by any person.</p>
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<b>Definitions Cont'd</b> <i>(United States)</i>	<p>(4) The term “serious harm” means any harm, whether physical or nonphysical, including psychological, financial, or reputational harm, that is sufficiently serious, under all the surrounding circumstances, to compel a reasonable person of the same background and in the same circumstances to perform or to continue performing commercial sexual activity in order to avoid incurring that harm.</p> <p>18 U.S.C. § 2G3.1 (West 2008)          “Prohibited sexual conduct” has the meaning given that term in Application Note 1 of § 2A3.1 (Criminal Sexual Abuse; Attempt to Commit Criminal Sexual Abuse).&gt;</p> <p>“Promoting a commercial sex act” means persuading, inducing, enticing, or coercing a person to engage in a commercial sex act, or to travel to engage in, a commercial sex act.&gt;</p> <p>“Victim” means a person transported, persuaded, induced, enticed, or coerced to engage in, or travel for the purpose of engaging in, a commercial sex act or prohibited sexual conduct, whether or not the person consented to the commercial sex act or prohibited sexual conduct. Accordingly, “victim” may include an undercover law enforcement officer.&gt;          USSG, § 2A3.3</p> <p>‘Minor’ means (A) an individual who had not attained the age of 18; (B) an individual, whether fictitious or not, who a law enforcement officer represented to a participant (i) had not attained the age of 18 years; and (ii) could be provided for the purposes of engaging in sexually explicit conduct; or (C) an undercover law enforcement officer who represented to a participant that the officer had not attained the age of 18 years.”</p>
<b>Penalties</b> <i>(United States)</i>	<p>18 U.S.C.A. § 2244. Abusive sexual contact (West 2008)</p> <p>(a) Sexual conduct in circumstances where sexual acts are punished by this chapter.--Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, or in any prison, institution, or facility in which persons are held in custody by direction of or pursuant to a contract or agreement with the head of any Federal department or agency,</p>

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<b>Penalties Cont'd</b> <i>(United States)</i>	<p>knowingly engages in or causes sexual contact with or by another person, if so to do would violate--</p> <p>(1) subsection (a) or (b) of section 2241 of this title had the sexual contact been a sexual act, shall be fined under this title, imprisoned not more than ten years, or both;</p> <p>(2) section 2242 of this title had the sexual contact been a sexual act, shall be fined under this title, imprisoned not more than three years, or both;</p> <p>(3) subsection (a) of section 2243 of this title had the sexual contact been a sexual act, shall be fined under this title, imprisoned not more than two years, or both;</p> <p>(4) subsection (b) of section 2243 of this title had the sexual contact been a sexual act, shall be fined under this title, imprisoned not more than two years, or both; or</p> <p>(5) subsection (c) of section 2241 of this title had the sexual contact been a sexual act, shall be fined under this title and imprisoned for any term of years or for life.</p> <p>(b) In other circumstances.--Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, or in any prison, institution, or facility in which persons are held in custody by direction of or pursuant to a contract or agreement with the head of any Federal department or agency, knowingly engages in sexual contact with another person without that other person's permission shall be fined under this title, imprisoned not more than two years, or both.</p> <p>(c) Offenses involving young children.--If the sexual contact that violates this section (other than subsection (a)(5)) is with an individual who has not attained the age of 12 years, the maximum term of imprisonment that may be imposed for the offense shall be twice that otherwise provided in this section.</p>
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