





Fifty-State Survey of Criminal Laws Prohibiting Sexual Abuse of Individuals in Custody

State	Statute	Coverage	Definitions/Notes	Penalties	Defenses
Alabama	Custodial Sexual Misconduct Prohibited Acts ALA. CODE § 14-11-31 (LexisNexis 2005).	(a):it shall be unlawful for any employee to engage in sexual conduct with a person who is in the custody of the Department of Corrections, the Department of Youth Services, a sheriff, a county, or a municipality. (b):it shall be unlawful for any probation or parole officer to engage in sexual conduct with a person who is under the supervisory, disciplinary, or custodial authority of the officer engaging in the sexual conduct with the person	Custody. ALA. CODE § 14-11-30 (LexisNexis 2005). (a)(1) Custody is defined as any of the following: (a) pretrial incarceration or detention; (b) incarceration or detention under the sentence or commitment to a state or local penal institution, any detention facility for children or youthful offenders; (c) parole or mandatory supervised release; (d) electronic home detention; (e) parole or probation. (b)(2):Employee. An employee or contractual employee of any governmental agency of the state, county, or municipality that has by statute, ordinance, or court order the responsibility for care, control, or supervision of pretrial or sentenced persons in a penal system or detention facility.	ALA. CODE § 14-11-31 (LexisNexis 2005). (c)Any person violation subsection (a) or (b) shall upon conviction, be guilty of custodial sexual misconduct. (d)Custodial Sexual Misconduct is a Class C felony. Prison terms: felonies ALA. CODE 813A-5-6 (Lexis Nexis 2006). (a) Sentences for felonies shall be for a definite term of imprisonment, which imprisonment means 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. Fines; felonies. ALA. CODE 813A-5-11 (Lexis Nexis 2005).	ALA. CODE § 14-11-31 (LexisNexis 2005). (e):Consent of the person in custody of the Department of Corrections, the Department of Youth Services, a sheriff, a county, or a municipality, or a person who is on probation or on parole shall not be a defense to a prosecution under this act.

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Alaska	Sexual assault in the first degree. ALASKA STAT. § 11.41.410 (2006). Sexual assault in the second degree. ALASKA STAT. § 11.41.420 (2006).	ALASKA STAT. § 11.41.410 (2006). (a) An offender commits the crime of sexual assault in the first degree if, (3) the offender engages in sexual penetration with another person (B) who is in the offender's care (i) by authority of law; or (ii) in a facility or program that is required by law to be licensed by the state.	Definitions. ALASKA STAT. 811.81.900. (a) For purposes of this title, unless the context requires otherwise, "(58) "sexual contact" means (A) the defendant's (i) knowingly touching, directly or through clothing, the victim's genitals, anus, or female breast; or (ii) knowingly causing the victim to touch, directly or through clothing, the defendant's or victim's genitals, anus, or female breast; (B) but "sexual contact" does not include acts (i) that may reasonably be construed to be normal caretaker responsibilities for a child, interactions with a child, or affection for a child; (ii) performing for the purpose of administering a recognized and lawful form of treatment that is reasonably adapted to promoting the physical or mental health of the person being treated; or (iii) that are a necessary part of a search of a person committed to the custody of the Department of Corrections or the Department of Health and Social Services;	ALASKA STAT. § 11.41.410 (2006). (b) Sexual assault in the first degree is an unclassified felony.	Defenses ALASKA STAT. § 11.41.432 (2006). (a) It is a defense to a crime charged under AS 11.41.410(a)(3), AS 11.41.420(a)(2), AS 11.41.420(a)(3) or AS 11.41.425 that the offender is: (1) mentally incapable; or (2) married to the person and neither party has filed with the court for a separation, divorce, or dissolution of the marriage. (b) Except as provided in (a) of this section, in a prosecution under AS 11.41.410 or 11.41.420, it is not a defense that the victim was, at the time of the alleged offense, the legal spouse of the defendant.

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State	Statute	Coverage	Definitions/Notes	Penalties	Defenses
Alaska (cont.)			Fines. Alaska Stat. § 12.55.035 (2006). (a) Except as provided in AS 12.55.036, upon conviction of an offense, a defendant may be sentenced to pay a fine as authorized in this section or as otherwise authorized by law. (b) Except as provided in AS 12.55.036, upon conviction of an offense, a defendant who is not an organization may be sentenced to pay, unless otherwise specified in the provisions of law defining the offense, a fine of no more than (3) \$100,000.00 for a class B felony; (4) \$50,000.00 for a class C felony; (5) \$10,000.00 for a class A misdemeanor.	ARIZ. REV. STAT. ANN. § 13-1419(D) (LexisNexis 2006); Unlawful sexual conduct is a class 5 felony.	ARIZ. REV. STAT. ANN. § 13-1419 (LexisNexis 2006). C. This section does not apply to: 1. A person who is employed by the state department of corrections, a private prison facility or a city or county jail who contracts to provide services within the state department of corrections, a private prison facility or a city or county jail on an offender who is on release status if the person was lawfully married to the prisoner or offender on release status before the prisoner or offender was sentenced to the state department of corrections or was incarcerated in a city or county jail. 2. An offender who is on release status and who was lawfully married to a person who is incapable of consent by reason of mental disorder, mental defect, drugs, alcohol, sleep or any other similar impairment of
Arizona	Unlawful sexual conduct; correctional employees; persons in custody; classification.	ARIZ. REV. STAT. ANN. § 13-1419 (LexisNexis 2006).	Definitions, ARIZ. REV. STAT. ANN. § 13-1401 (LexisNexis 2006). A. A person who is employed by the state department of corrections, the department of juvenile corrections, a private prison facility or a city or county jail, or who contracts to provide services with the state department of corrections, the department of juvenile corrections a private prison facility or a city or county jail commits unlawful sexual conduct by engaging in oral sexual contact, sexual contact, or sexual intercourse with a person who is in the custody of the department or with an offender who is under the supervision of the department or a city or county. B. A prisoner who is in the custody of the state department of corrections or an offender who is on release status and who is under the supervision of the state department of corrections commits unlawful sexual conduct by engaging in oral sexual contact, sexual contact, or sexual intercourse with a person who is employed by the state department of corrections or a private prison facility or who contracts to provide	Sentence of imprisonment for felony. ARIZ. REV. STAT. ANN. § 13-701 (LexisNexis 2006). (C)4).The penalty for a class 5 felony shall be imprisonment for one and one half years, provided it is the first offense. Fines for Felonies. ARIZ. REV. STAT. ANN. § 13-801 (LexisNexis 2006). (A) a fine not to exceed \$150,000.	ARIZ. REV. STAT. ANN. § 13-1419 (LexisNexis 2006). In this chapter, unless the context otherwise requires: 1. "Oral sexual contact" means oral contact with the penis, vulva or anus. 2. "Sexual contact" means any direct or indirect touching, fondling or manipulating of any part of the genitalia, anus or female breast by any part of the body or by any object or causing a person to engage in such contact. 3. "Sexual intercourse" means penetration into the penis, vulva or anus by any part of the body or by any object or masturbatory contact with the penis or vulva. 4. "Spouse" means a person who is legally married and cohabiting. 5. "Without consent" includes any of the following: (a) The victim is coerced by the immediate use or threatened use of force against a person or property. (b) The victim is incapable of consent by reason of mental disorder, mental defect, drugs, alcohol, sleep or any other similar impairment of

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Arizona (cont.)		services with the state department of corrections or a private prison facility.	cognition and such condition is known or should have reasonably been known to the defendant. For purposes of this subdivision, "mental defect" means the victim is unable to comprehend the distinctive sexual nature of the conduct or is incapable of understanding or exercising the right to refuse to engage in the conduct with another. (C) The victim is intentionally deceived as to the nature of the act. (D) The victim is intentionally deceived to erroneously believe that the person is the victim's spouse. Definitions. ARIZ. REV. STAT. ANN. § 13:2501 (2006). In this chapter, unless the context otherwise requires: 3. "Custody" means the imposition of actual or constructive restraint pursuant to an on-site arrest or court order but does not include detention in a correctional facility, juvenile detention center or state hospital.	ARK. CODE ANN. § 5-14-124 (2006), (a) A person commits sexual assault in the first degree if the person engages in sexual intercourse or deviate sexual activity with another person who is less than eighteen (18) years of age and is not the actor's spouse and the actor is: (1) Employed with the Department of Correction, the Department of Community Correction, the Department of Health and Human Services, or any city or county jail or a juvenile detention facility, and the victim is in the custody of the Department of Correction, the Department of Community Correction, the Department of Health and Human Services, any city or county jail or juvenile detention facility, or their contractors or agents;	or who contracts to provide services with the state department of corrections, a private prison facility or a city or county jail if the marriage occurred prior to the offender being sentenced to the state department of corrections or incarcerated in a city or county jail.
Arkansas		Sexual assault in the first degree. ARK. CODE ANN. § 5-14-124 (2006).	Definitions. ARK. CODE ANN. § 5-14-101(1) (2006); "deviate sexual activity" means any act of sexual gratification involving: (A) The penetration, however slight, of the anus or mouth of one person by the penis of another person; or (B) The penetration, however slight, of the labia majora or anus of one person by any body member or foreign instrument manipulated by another person.	ARK. CODE ANN. § 5-14-124 (2006), (c) Sexual assault in the first degree is a Class A felony.	ARK. CODE ANN. § 5-14-124 (2006). (b) It is no defense to prosecution under this section that the victim consented to the conduct.

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Arkansas (cont.)		<p>(2) A professional under § 12-12-507(b) and is in a position of trust or authority over the victim and uses the position of trust or authority to engage in sexual intercourse or deviate sexual activity; or</p> <p>(3) An employee in the victim's school or school district, a temporary caretaker, or a person in a position of trust or authority over the victim.</p> <p>ARK. CODE ANN. § 5-14-125 (2006).</p> <p>(a) A person commits sexual assault in the second degree if the person:</p> <ul style="list-style-type: none"> (1) Engages in sexual contact with another person by forcible compulsion; (2) Engages in sexual contact with another person who is incapable of consent because he or she is: <ul style="list-style-type: none"> (A) Physically helpless; (B) Mentally defective; or (C) Mentally incapacitated; (3) Being eighteen (18) years of age or older, engages in sexual contact with another person who is: <ul style="list-style-type: none"> (A) Less than fourteen (14) years of age; and (B) Not the person's spouse; <p>(4) (A) Engages in sexual contact with another person who is less than eighteen (18) years of age and the actor is:</p> <ul style="list-style-type: none"> (i) Employed with the Department of Correction, Department of Community Correction, any city or county jail, or any juvenile detention facility, and the minor is in custody at a facility operated by the agency or contractor employing the actor; (ii) A professional under § 12-12-507(b) and is in a position of trust or authority over the minor; or (iii) The minor's guardian, an employee in the minor's school or school district, a temporary caretaker, or a person in a position of trust or authority over the minor. <p>(B) For purposes of subdivision (a)(4)(A) of this section, consent of the minor is not a defense to a prosecution;</p> 	<p>ARK. CODE ANN. § 5-4-401(a) (2006).</p> <p>(a) A defendant convicted of a felony shall receive a determinate sentence according to the following limitations:</p> <ul style="list-style-type: none"> (2) The penalty for a Class A felony shall be not less than 6 years nor more than 30 years imprisonment (3) For a Class B Felony, the sentence shall be not less than five (5) years nor more than twenty (20) years; (4) For a Class C Felony, the sentence shall be not less than three (3) years nor more than ten (10) years (5) For a Class D Felony, the sentence shall not exceed six (6) years. <p>ARK. CODE ANN. § 5-4-201 (2006).</p> <p>(a) A defendant convicted of a felony may be sentenced to pay a fine:</p> <ul style="list-style-type: none"> (1) Not exceeding fifteen thousand dollars (\$15,000) if the conviction is of a Class A felony or Class B felony; (2) Not exceeding ten thousand dollars (\$10,000) if the conviction is of a Class C felony or Class D felony. 		

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Arkansas (cont.)		<p>(5) (A) Being less than eighteen (18) years of age, engages in sexual contact with another person who is:</p> <ul style="list-style-type: none"> (i) Less than fourteen (14) years of age; and (ii) Not the person's spouse. <p>(B) It is an affirmative defense to a prosecution under this subdivision (a)(5) that the actor was not more than:</p> <ul style="list-style-type: none"> (i) Three (3) years older than the victim if the victim is less than twelve (12) years of age; or (ii) Four (4) years older than the victim if the victim is twelve (12) years of age or older; or (6) Is a teacher in a public school in a grade kindergarten through twelve (K-12) and engages in sexual contact with another person who is: <ul style="list-style-type: none"> (A) A student enrolled in the public school; and (B) Less than twenty-one (21) years of age. 	ARK. CODE ANN. § 5-14-126 (2006).		

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Arkansas (cont.)		age and; (iii) not the person's spouse (B) It is an affirmative defense under this subdivision (a)(2) that the actor was not more than three (3) years older than the victim. (b) It is no defense to a prosecution under this section that the victim consented to the conduct.	CAL. PENAL CODE § 289.6 (Deering 2006). (d) As used in this section, “sexual activity” means: (1) Sexual intercourse. (2) Sodomy, as defined in subdivision (a) of Section 286. (3) Oral copulation, as defined in subdivision (a) of Section 285a. (4) Sexual penetration, as defined in subdivision (k) of Section 289. (5) The rubbing or touching of the breasts or sexual organs of another, or of oneself in the presence of and with knowledge of another, with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of oneself or another. (3) An employee with a dept, board or authority under the Youth & Adult Correctional Agency or a facility under contract with a dept, board or authority under the Youth & Adult Correctional Agency, who during the course of employment directly provides treatment, care, control, or supervision of inmates, wards or parolees, and who engages in sexual activity with a consenting adult who is an inmate, ward or parolee, is guilty of a public offense.	CAL. PENAL CODE § 289.6 (Deering 2006). (g) Any violation of paragraph (1) of subsection (a), or a violation of paragraph (2) or (3) of subdivision (a) as described in paragraph (5) of subdivision (d), is a misdemeanor.	CAL. PENAL CODE § 289.6 (Deering 2006). (e) Consent by a confined person or parolee to sexual activity proscribed by this section is not a defense to a criminal prosecution for violation of this section.
California		Employee or officer of detention facility; Engaging in sexual activity with consenting adult confined in detention facility. CAL. PENAL CODE § 289.6 (Deering 2006).	CAL. PENAL CODE § 289.6 (Deering 2006). (d) An employee or officer of a public entity detention facility, or an employee, officer, or agent of a private person or entity that provides a detention facility or staff for a detention facility, or person or agent of a public or private entity under contract with a detention facility, or a volunteer of a private or public entity detention facility, who engages in sexual activity with a consenting adult who is confined in a detention facility, is guilty of a public offense. (3) An employee with a dept, board or authority under the Youth & Adult Correctional Agency or a facility under contract with a dept, board or authority under the Youth & Adult Correctional Agency, who during the course of employment directly provides treatment, care, control, or supervision of inmates, wards or parolees, and who engages in sexual activity with a consenting adult who is an inmate, ward or parolee, is guilty of a public offense.	CAL. PENAL CODE § 289.6 (Deering 2006). (h) Any violation of paragraph (2) or (3) of subdivision (a) shall be punished by imprisonment in a county jail not exceeding one year or by a fine not exceeding \$10,000, or by both fine and imprisonment.	CAL. PENAL CODE § 289.6 (Deering 2006). (f) This section does not apply to sexual activity between consenting adults that occurs during an overnight conjugal visit that takes place pursuant to a court order or with the written approval of an authorized representative of the public entity that operates or contracts for the operation of the detention facility where the conjugal visit takes place or to physical contact or penetration made pursuant to a lawful search or bona fide medical examinations or treatments, including clinical treatments.

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California (cont.)	CAL. PENAL CODE § 289 (Deering 2006). (k) As used in this section: (1) "Sexual penetration" is the act of causing the penetration, however slight, of the genital or anal opening of any person or causing another person to so penetrate the defendant's or another person's genital or anal opening for the purpose of sexual arousal, gratification, or abuse by any foreign object, substance, instrument, or device, or by any unknown object.		Punishment of felony not otherwise prescribed. CAL. PENAL CODE § 18 (Deering 2006).	eligible to be hired or reinstated by a department, board, or authority within the Youth and Adult Correctional Agency.	
	CAL. PENAL CODE § 289.6 (Deering 2006). (3)(C) The term detention facility means (1) prison, jail, camp or other correctional facility used for the confinement of adults, juveniles, or both adults and minors. (2) A building or facility used for the confinement of adults or minors pursuant to a contract with a public entity. (3) A room that is used for holding persons for interviews, interrogations, or investigations and that is separate from a jail or located in the administrative area of a law enforcement facility. (4) A vehicle used to transport confined persons during their period of confinement. (5) A court holding facility located within or adjacent to a court building that is used for the confinement of persons for the purpose of court appearances.		Except in cases where a different punishment is prescribed by any law of this state, every offense declared to be a felony, or to be punishable by imprisonment in a state prison, is punishable by imprisonment in any of the state prisons for 16 months, or two or three years; provided, however, every offense which is prescribed by any law of the state to be a felony punishable by imprisonment in any of the state prisons or by a fine, but without an alternate sentence to the county jail, may be punishable by imprisonment in the county jail not exceeding one year or by a fine, or by both.	Punishment of felony not otherwise prescribed; however, every offense which is prescribed by any law of the state to be a felony punishable by imprisonment in any of the state prisons or by a fine, but without an alternate sentence to the county jail, may be punishable by imprisonment in the county jail not exceeding one year or by a fine, or by both.	
Colorado	Unlawful Sexual Contact. CLO. REV. STAT. § 18-3-404 (2005).	Sexual Conduct in Penal Institutions. CLO. REV. STAT. § 18-7-701 (2005).	CLO. REV. STAT. § 18-3-404 (2005). (1) Any actor who knowingly subjects a victim to any sexual contact commits unlawful sexual contact if: (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, unless incident to a lawful search, to coerce the victim to submit.	CLO. REV. STAT. § 18-7-701 (2005). (2)(a) "Criminal justice facility" means a correctional facility, as defined in § 17-1-102, operated by or under contract with the department of corrections or a jail.	CLO. REV. STAT. § 18-3-404 (2005). (2)(a) Unlawful Sexual Contact 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). (b) Notwithstanding the provisions of paragraph (a) of this subsection (2), unlawful sexual contact is a class 4 felony if the actor compels

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Colorado (cont.)	COLO. REV. STAT. §18-7-701 (2005). (1) An employee, contract employee or volunteer of a criminal justice facility or an individual who performs work or volunteer functions in a criminal justice facility or for the department of corrections who engages in sexual conduct with a person who is in lawful custody in a criminal justice facility commits the offense of sexual conduct in a penal institution.	In section 18-3-401 (5), or sexual penetration as defined in section 18-3-401(6). It does not include acts of an employee or a criminal justice facility or a person who has custody of another person that are performed to carry out the necessary duties of the employee or the person with custody.	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 the conduct described in paragraph (g) of subsection (1) of this section or subsection (1.5) of this section. Definitions. COLO. REV. STAT. § 16-1104 (2006). (1) The following definitions in this section are applicable generally in this code. Other terms which need definition, but which are used only in a limited number of sections of this code are defined in the particular section or article in which the terms appear. Definitions set forth in any section of this code are applicable whenever the same term is used in the same sense in another section of this code, unless the definition is specifically limited or the context indicates that it is inapplicable. (9) "Custody" means the restraint of a person's freedom in any significant way.	COLO. REV. STAT. § 18-3-404 (2005). (g) The actor engages in treatment or examination of a victim for other than bona fide medical purposes or in a manner substantially inconsistent with reasonable medical practices. (g)(1.5) Any person who knowingly with or without sexual contact, induces or coerces a child by any of the means set forth in section 18-3-402 to expose intimate parts or to engage in any sexual contact, intrusion, or penetration with another person, for the purpose of the actor's own sexual gratification, commits unlawful sexual contact. For purposes of this section (1.5), the term "child" means any person under the age of eighteen years.	COLO. REV. STAT. § 18-7-701 (2005). (3) Sexual conduct in a penal institution is a class 5 felony if the sexual conduct includes sexual intrusion or sexual penetration and is committed by an employee or contract employee of a criminal justice facility or by an employee, contract employee, or individual who performs work functions in a criminal justice facility or for the department of corrections.

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Colorado (cont.)			<p>constrained as being for the purposes of sexual arousal, gratification, or abuse.</p> <p>(6) "Sexual penetration" means sexual intercourse, cunnilingus, fellatio, analingus, or anal intercourse.</p> <p>Emission need not be proved as an element of any sexual penetration. Any penetration, however slight, is sufficient to complete the crime.</p> <p>Definitions</p> <p>COLO. REV. STAT. § 17-1-102 (2005). As used in this title, unless the context otherwise requires:</p> <p>(1) and (1.3) (Deleted by amendment, L. 93, p. 404, § 1, effective April 19, 1993.)</p> <p>(1.7) "Correctional facility" means any facility under the supervision of the department in which persons are or may be lawfully held in custody as a result of conviction of a crime.</p> <p>(2) "Department" means the department of corrections.</p> <p>(3) (Deleted by amendment, L. 94, p. 602, § 2, effective July 1, 1994.)</p> <p>(4) "Executive director" means the executive director of the department of corrections.</p> <p>(5) and (6) (Deleted by amendment, L. 2000, p. 829, § 2, effective May 24, 2000.)</p> <p>(6.5) "Inmate" means any person who is sentenced to a term of imprisonment for a violation of the laws of this state, any other state, or the United States.</p> <p>(7) "Local jail" means a jail or an adult detention center of a county or city and county.</p> <p>(7.3) "Private contract prison" means any private prison facility operated by a county, city and county, or private corporation located in this state; except that "private contract prison" does not include any local jail, multi-jurisdictional jail, or community corrections center.</p> <p>(7.5) (a) "Special needs offender" means a person in the custody of</p>	<p>for the department of corrections;</p> <p>or (b) the sexual conduct includes sexual intrusion or sexual penetration and is committed by a volunteer.</p> <p>COLO. REV. STAT. § 18-7-701 (2005).</p> <p>(5) Sexual conduct in a penal institution is a class 1 misdemeanor if the sexual conduct consists solely of sexual contact and is committed by a volunteer.</p> <p>COLO. REV. STAT. § 18-1.3-401 (2005).</p> <p>(V)(A) The penalty for a class 4 felony shall be imprisonment for a term ranging from 2-6 years with a 3 year mandatory period of parole and/or (III)(A) A fine ranging from \$2,000 to \$500,000.</p>	

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Colorado (cont.)			<p>the department:</p> <p>(I) Who is physically handicapped, mentally ill, or developmentally disabled; or</p> <p>(II) Who is sixty-five years of age or older and incapable of taking care of himself or herself; or</p> <p>(III) (A) Who has a medical condition, other than a mental illness, that is serious enough to require costly care or treatment; and</p> <p>(B) Who is physically incapacitated due to age or the medical condition.</p> <p>(b) Notwithstanding the provisions of paragraph (a) of this subsection (7.5), "special needs offender" does not include a person who:</p> <p>(I) Has been convicted of a class 1 felony; or</p> <p>(II) Has ever been convicted of a crime of violence as defined in section 18-1.3-406, C.R.S.; or</p> <p>(III) Is or has ever been a sex offender as defined in section 18-1.3-1003 (4), C.R.S.</p> <p>(8) "State inmate" means any person who is sentenced by the state to a term of imprisonment in a correctional facility or who is sentenced to a term of imprisonment pursuant to section 16-11-308.5, C.R.S.</p> <p>(9) "Warden" means the administrative head of a correctional facility.</p> <p>COLO. REV. STAT. § 18-7-701 (2005).</p> <p>(2)(b) "Sexual conduct" means sexual contact as defined in section 18-3-401(4), sexual intrusion as defined in section 18-3-401 (5), or sexual penetration as defined in section 18-3-401(6). It does not include acts of an employee of a criminal justice facility or a person who has custody of another person that are performed to carry out the necessary duties of the employee or the person with custody.</p> <p>"Sexual contact" means the knowing touching of the victim's intimate parts by the actor, or of the actor's intimate parts by the victim, or the knowing touching of the clothing</p>		

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Colorado (cont.)			covering the immediate area of the victim's or actor's intimate parts if that sexual contact is for the purposes of sexual arousal, gratification, or abuse.		
Connecticut	Sexual assault in the second degree: Class C or B felony. CONN. GEN. STAT. § 53a-71 (2006). Sexual assault in the fourth degree: Class A misdemeanor or class D felony. CONN. GEN. STAT. § 53a-73a (2006).	CONN. GEN. STAT. § 53a-71 (2006). A person is guilty of sexual assault in the second degree when: (a) A person is guilty of sexual assault in the second degree when such person engages in sexual intercourse with another person and (5) such other person is in custody of law or detained in a hospital or other institution and the actor has supervisory or disciplinary authority over such other person.	CONN. GEN. STAT. § 53a-70b (2006). (a)(2) "Use of force" means: (A) Use of a dangerous instrument; or (B) use of actual physical force or violence or superior physical strength against the victim. Definitions. CONN. GEN. STAT. § 53a-65 (2006). (2) "Sexual intercourse" means any contact with the intimate parts of a person not married to the actor for the purpose of sexual gratification of the actor for the purpose of degrading or humiliating such person or any contact of the intimate parts of the actor with a person not married to the actor for the purpose of sexual gratification of the actor or for the purpose of degrading or humiliating such person.	CONN. GEN. STAT. § 53a-71 (2006). (b) Sexual assault in the second degree is a class C felony or, if the victim of the offense is under 16 years of age, a Class B felony and any person found guilty under this section shall be sentenced to a term of imprisonment of which 9 months of the sentence imposed may not be suspended or reduced by the court. Imprisonment for any felony committed on or after July 1, 1981. CONN. GEN. STAT. § 53a-35a (2006). (6) The penalty for a class C felony shall be imprisonment for a term not less than 1 year nor more than 10 years.	CONN. GEN. STAT. § 53a-73a (2006). (b) Sexual assault in the fourth degree is a class A misdemeanor, or if the victim of the offense is under 16 years of age, a Class D felony. Imprisonment for misdemeanor CONN. GEN. STAT. § 53a-36 (2006). (1) The penalty for a class A misdemeanor shall be imprisonment for a term not to exceed 1 year.

NOTE: See *State v. Straub*, 1999 Conn. Super. LEXIS 746 (holding that the statutory phrase "in custody of law" covered persons beyond those confined and included persons committed by the court to supervision by the probation departments, and that the alleged victims were therefore in custody while on probation).

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Delaware	Sexual relations in detention facility; Class G felony DEL. CODE ANN. tit. 11, § 1259 (2006).	DEL. CODE ANN. tit. 11, § 1259 (2006). A person is guilty of sexual relations in a detention facility when, being a person in custody at a detention facility or being an employee working at a detention facility, the person engages in sexual intercourse or deviate sexual intercourse on the premises of a detention facility.	Escape and offenses relating to custody; definitions. DEL. CODE ANN. tit. 11, § 1258 (2006). As used in §§ 1251-1257 of this title: (1) "Detention facility" means any place used for the confinement of a person: a. Charged with or convicted of an offense; or b. Charged with being a delinquent child as defined in § 901 of Title 10; or c. Held for extradition or as a material witness; or d. Otherwise confined pursuant to an order of a court. (2) "Custody" means restraint by a public servant pursuant to an arrest, detention or an order of a court. (3) "Contraband" means any intoxicating liquor or drug prohibited under Chapter 47 of Title 16, except as prescribed by a physician for medical treatment, any money without the knowledge or consent of the Department of Health and Social Services, any deadly weapon or part thereof or any instrument or article which may be used to effect an escape. (4) "Escape" means departure from the place in which the actor is held or detained with knowledge that such departure is unpermitted. (5) "Other place having custody of such person" includes, but is not limited to, any building, facility, structure, vehicle or property in which a person may be placed while in custody, whether temporarily or permanently and regardless of whether such building, facility, structure, vehicle or property is owned or controlled by the Department of Correction or any other state agency.	DEL. CODE ANN. tit. 11, § 1259 (2006). Violation of this section shall be a class G felony. DEL. CODE ANN. tit. 11, § 4205 (2006). (b)(7) The penalty for a class G felony shall be imprisonment at Level V for a term of up to 2 years, and (k) The penalty may include fines and penalties as the court deems appropriate.	DEL. CODE ANN. tit. 11, § 1259 (2006). It shall be no defense that such conduct was consensual.

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State	Statute	Coverage	Definitions/Notes
Penalties			
Delaware (cont.)			<p>penetration, however slight. Ejaculation is not required. This offense encompasses the crimes commonly known as rape and sodomy; or</p> <p>(2) Any act of cunnilingus or fellatio regardless of whether penetration occurs. Ejaculation is not required.</p> <p>(f) "Sexual contact" means: (1) Any intentional touching by the defendant of the anus, breast, buttocks or genitalia of another person; or(2) Any intentional touching of another person with the defendant's anus, breast, buttocks or genitalia which touching, under the circumstances as viewed by a reasonable person, is intended to be sexual in nature.</p> <p>Sexual contact shall also include touching when covered by clothing.</p> <p>(g) "Sexual penetration" means:</p> <p>(1) The unlawful placement of an object, as defined in subsection (c) of this section, inside the anus or vagina of another person; or (2) The unlawful placement of the genitalia or any sexual device inside the mouth of another person.</p> <p>(h) "Without consent" means: (1) The defendant compelled the victim to submit by any act of coercion as defined in §§ 791 and 792 of this title, or by force, by gesture, or by threat of death, physical injury, pain or kidnapping to be inflicted upon the victim or a third party, or by any other means which would compel a reasonable person under the circumstances to submit. It is not required that the victim resist such force or threat to the utmost, or to resist if resistance would be futile or foolhardy, but the victim need resist only to the extent that it is reasonably necessary to make the victim's refusal to consent known to the defendant; or</p> <p>(2) The defendant knew that the victim was unconscious, asleep or otherwise unaware that a sexual act was being performed; or</p> <p>(3) The defendant knew that the vic-</p>

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State	Statute	Coverage	Definitions/Notes	Penalties	Defenses
Delaware (cont.)			<p>tim suffered from a mental illness or mental defect which rendered the victim incapable of appraising the nature of the sexual conduct; or</p> <p>(4) Where the defendant is a health professional, as defined herein, or a minister, priest, rabbi or other member of a religious organization engaged in pastoral counseling, the commission of acts of sexual contact, sexual penetration or sexual intercourse by such person shall be deemed to be without consent of the victim where such acts are committed under the guise of providing professional diagnosis, counseling or treatment and where at the times of such acts the victim reasonably believed the acts were for medically or professionally appropriate diagnosis, counseling or treatment, such that resistance by the victim could not reasonably have been manifested.</p> <p>For purposes of this paragraph, "health professional" includes all individuals who are licensed or who hold themselves out to be licensed or who otherwise provide professional physical or mental health services, diagnosis, treatment or counseling and shall include, but not be limited to, doctors of medicine and osteopathy, dentists, nurses, physical therapists, chiropractors, psychologists, social workers, medical technicians, mental health counselors, substance abuse counselors, marriage and family counselors or therapists and hypnotherapists; or</p> <p>(5) The defendant had substantially impaired the victim's power to appraise or control the victim's own conduct by administering or employing without the other person's knowledge or against the other person's will, drugs, intoxicants or other means for the purpose of preventing resistance.</p> <p>(i) "Position of trust, authority or supervision over a child" includes, but is not limited to:</p> <p>(I) Familial or custodial authority or</p>		

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State	Statute	Coverage	Definitions/Notes	Penalties	Defenses
Delaware (cont.)			<p>supervision; or</p> <p>(2) A teacher, instructor, coach, babysitter, day care provider, or aide or any other person having regular direct contact with children through affiliation with a school, church or religious institution, athletic or charitable organization or any other organization, whether such a person is compensated or acting as a volunteer.</p> <p>(i) A child who has not yet reached his or her sixteenth birthday is deemed unable to consent to a sexual act with a person more than 4 years older than said child. Children who have not yet reached their twelfth birthday are deemed unable to consent to a sexual act under any circumstances.</p>	<p>NOTE: See <i>Smith v. State</i>, 361 A.2d 237. A prisoner on furlough, although outside the prison walls without immediate supervision, is clearly not free from restraint; the prisoner is deemed to be fully aware that the prisoner's movements are restricted according to the limitations of time, place and purpose imposed by the terms of the furlough.</p>	<p>D.C. CODE ANN. § 22-3013(2) (LexisNexis 2006).</p> <p>The penalty for first degree sexual abuse of a ward shall be imprisonment for a term not to exceed 10 years, and may include a fine not to exceed \$100,000.</p>
District of Columbia			<p>First degree sexual abuse of a ward.</p> <p>D.C. CODE ANN. § 22-3013 (LexisNexis 2006).</p> <p>Whoever engages in a sexual act with another person or causes another person to engage in or submit to a sexual act when that other person: (1) is in official custody, or is a ward or resident, on a permanent or temporary basis, of a hospital, treatment facility, or other institution; and (2) is under the supervisory or disciplinary authority of the actor.</p>	<p>D.C. CODE ANN. § 22-3001(6) (LexisNexis 2006).</p> <p>"Official custody" means: (A) Detention following arrest for an offense; following surrenders in lieu of an arrest for an offense; following a charge or conviction of an offense, or an allegation or finding of juvenile delinquency; following commitment as a material witness; following or pending civil commitment proceedings, or pending extradition, deportation, or exclusion; (B) custody for purposes incident to any detention described in subparagraph (a) of this paragraph, including transportation, medical diagnosis</p>	<p>Definitions to sexual abuse of a ward, patient, or client.</p> <p>D.C. CODE ANN. § 22-3017 (LexisNexis 2006).</p> <p>(a) Consent is not a defense to either first or second degree sexual abuse of a ward;</p> <p>(b) Marriage between the defendant and the victim at the time of the offense is a defense to both first and second degree sexual abuse of a ward, which the defendant must prove by a preponderance of the evidence.</p>

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		another person to engage in or submit to sexual contact when that other person: (1) Is in official custody, or is a ward or resident, on a permanent or temporary basis, of a hospital, treatment facility, or other institution; and (2) is under the supervisory or disciplinary authority of the actor.	FLA. STAT. ANN. § 944.35 (LexisNexis 2006). (3)(b) (2) Any employee of the department who engages in sexual misconduct with an inmate or an offender supervised by the department in the community, without committing the crime of sexual battery, commits a felony of the third degree.	FLA. STAT. ANN. § 944.35 (LexisNexis 2006). (3)(b)(1) Sexual Misconduct 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. Does not include an act done for a bona fide medical exam or an internal search lawfully conducted.	FLA. STAT. ANN. § 944.35 (LexisNexis 2006). Sexual misconduct is a felony in the third degree. (3)(d) The penalty for a felony in the third degree shall be: imprisonment for a term not to exceed 5 years (LexisNexis 2006).
Florida	Authorized use of Force; malicious battery & sexual misconduct prohibited; reporting required; penalties. FLA. STAT. ANN. § 944.35 (LexisNexis 2006).	FLA. STAT. ANN. § 944.35 (LexisNexis 2006). (4)(a) Any employee required to report pursuant to this section who knowingly or willfully fails to do so, or who knowingly or willfully prevents another person from doing so, commits a misdemeanor of the first degree.	FLA. STAT. ANN. § 944.35 (LexisNexis 2006). (3)(C) Notwithstanding prosecution, any violation of the provisions of this subsection, as determined by the Public Employees Relations Commission, shall constitute sufficient cause under 5.110.227 for dismissal from employment with the department, and such person may not again be employed in any capacity in connection with the correctional system.	FLA. STAT. ANN. § 944.35 (LexisNexis 2006). (4)(b) Any person who knowingly or willfully submits inaccurate, incomplete, or untruthful information with regard to reports required in their section commits a misdemeanor of the first degree.	FLA. STAT. ANN. § 944.35 (LexisNexis 2006). (4)(C) Any person who knowingly or willfully coerces or threatens any other person with the intent to alter either testimony or a written report regarding the incident of sexual misconduct commits a felony in the third degree. As part of the correctional-officer training program, the Criminal Justice Standards and Training Commission shall develop

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State	Statute	Coverage	Definitions/Notes	Penalties	Defenses
Florida (cont.)		course materials for inclusion in the appropriate required course specifically designed to explain the parameters of this subsection and to teach sexual assault identification and prevention methods and techniques.	(1)(h) "Sexual battery" means 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 battery does not include an act done for a bona fide medical purpose.	FLA. STAT. ANN. § 794.011 (LexisNexis 2006).	<p>(4) Sexual battery upon a person 12 years of age or older without that person's consent, under any of the following circumstances, commits a felony of the 1st degree, punishable as provided in §§75.082, 775.083, 775.084 & 794.0115).</p> <p>(4) (g): when the offender is a law enforcement officer, correctional officer, or correctional probation officer, or is an elected official exempt from such certification by virtue of § 943.253, or any other person in a position of control or authority in a probation, community control, controlled release, detention, custodial, or similar setting, and such officer, official, or person is acting in such a manner as to lead the victim to reasonably believe that the offender is in a position of control or authority as an agent or employee of government.</p> <p>FLA. STAT. ANN. § 943.10 (LexisNexis 2006).</p> <p>The following words and phrases as used in §§943.085-943.255 are defined as follows:</p> <p>(1) "Law enforcement officer" means any person who is elected, appointed or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of a crime or the enforcement of the penal, criminal, traffic or highway laws of the state. This definition includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers but does not include support personnel employed by the employing agency</p> <p>(2) "Correctional officer" means any person which is appointed or employed full time by the state or any political subdivision thereof, or by any private entity which has contracted with the state or county and whose primary responsibility is the supervision, protection, care, custody, and control, or investigation of inmates within a correctional institution; however, the term "correctional officer" does not include any secretarial, clerical, or professionally trained personnel.</p> <p>(3) "Correctional Probation Officer"</p>

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			<p>means a person who is employed full time by the state whose primary responsibility is the supervised custody, surveillance, and control of assigned inmates, probationers, parolees, or community controls within institutions of the Department of Corrections or within the community. The term includes supervisory personnel whose duties include, in whole or in part, the supervision, training and guidance of correctional probation officers, but excludes management and administrative personnel above, but not including, the probation and parole regional administrator level.</p> <p>(4) "Employing agency" means any agency or unit of government or any municipality or the state or any political subdivision thereof, or any agent thereof, which has constitutional or statutory authority to employ or appoint persons as officers. The term also includes any private entity which has contracted with the state or county for the operation and maintenance of a non-juvenile detention facility.</p>	<p>FLA. STAT. ANN. § 944.02 (LexisNexis 2006).</p> <p>"Correctional System" means all prisons and other state correctional institutions now existing or hereafter created under the jurisdiction of the Department of Corrections.</p>	<p>GA. CODE ANN. § 16-6-5.1 (2006). (a) As used in this Code section, the term: (4) "Sexual Contact" means any contact for the purpose of sexual gratification of the actor with the intimate parts of a person not married to the actor.</p> <p>GA. CODE ANN. § 16-6-5.1 (2006). As used in this code section the term: (2) "intimate parts" means genital area, groin, inner thighs, buttocks, or breasts of a person.</p>
Georgia	Sexual assault against persons in custody; sexual assault against person detained or patient in hospital or other institution; sexual assault by practitioner of psychotherapy against patient.	GA. CODE ANN. § 16-6-5.1 (2006).	<p>(b) A probation or parole officer or other custodian or supervisor of another person referred to in this Code section commits sexual assault when he engages in sexual contact with another person who is a supervisor or parolee under the supervision of said probation or parole officer or who is in the custody of law or who is enrolled in a school or who is detained in or is a patient in a hospital or other institution and such actor has supervisory or disci-</p> <p>GA. CODE ANN. § 16-6-5.1 (2006). (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 sen-</p>	<p>GA. CODE ANN. § 16-6-5.1 (2006). Consent of the victim is not a defense.</p> <p>The definition of "sexual contact" in § 16-6-5.1(a)(4) excludes contact between married persons.</p>	

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State	Statute	Coverage	Definitions/Notes	Penalties	Defenses
Georgia (cont.)		plinary authority over such other person. (c) A person commits sexual assault when such person has supervisory or disciplinary authority over another person and such person engages in sexual contact with that other person who is: (A) In the custody of law; or (B) Detained in or is a patient in a hospital or other institution.	tencing and punishment provisions of Code Section 17-10-6.2. (c) (4) A person convicted of sexual assault under this subsection 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.	HAW. REV. STAT. ANN. § 707-731 (LexisNexis 2006). (2) Sexual assault in the second degree is a class B felony.	
Hawaii	Sexual assault in the second degree. Haw. Rev. Stat. Ann. HAW. REV. STAT. ANN. § 707-731 (LexisNexis 2006).	HAW. REV. STAT. ANN. § 707-731 (LexisNexis 2006). (1) A person commits the offense of sexual assault in the second degree if: (c) the person, while employed (i) in a state correctional facility, (ii) by a private company providing services at a correctional facility, (iii) by a private company providing community based residential services to persons committed to the director of public safety and having received notice of this statute, (iv) by a private correctional facility operating in the state of Hawaii, or (v) as a law enforcement officer, knowingly subjects to sexual penetration an imprisoned person, a person confined to a detention facility, a person residing in a private correctional facility operating in the state of Hawaii, or a person in custody.	Definitions of terms in this chapter. HAW. REV. STAT. ANN. § 707-700 (LexisNexis 2006). "Sexual penetration" means vaginal intercourse, anal intercourse, fellatio, cunnilingus, anilingus, deviate sexual intercourse, or any intrusion of any part of a person's body or of any object into the genital or anal opening of another person's body; it occurs upon any penetration, however slight, but emission is not required. For purposes of this chapter, each act of sexual penetration shall constitute a separate offense. "Sexual contact" means any touching of the sexual or other intimate parts of a person not married to the actor, or of the sexual or other intimate parts of the actor by the person, whether directly or through the clothing or other material intended to cover the sexual or other intimate parts.	HAW. REV. STAT. ANN. § 707-731 (LexisNexis 2006). (1) The penalty for a class B felony shall be imprisonment not to exceed a term of 10 years. The penalty for a class C felony shall be imprisonment for a term not to exceed 5 years. (2) The minimum length of imprisonment shall be determined by the paroling authority.	

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Hawaii (cont.)	private company providing community based residential services to persons committed to the director of public safety and having received notice of this statute, or (iv) by a private correctional facility operating in the state of Hawaii knowingly subjects to sexual contact an imprisoned person, a person committed to the director of public safety, or a person residing in a private correctional facility operating in the state of Hawaii, or causes such person to have sexual contact with the actor.	with, or convicted of a criminal offense; or (b) Confined pursuant to chapter 571; or (c) Held for extradition; or (d) Otherwise confined pursuant to an order of a court.	IDAHO CODE ANN. § 18-6110 (2006). Any person found guilty of sexual contact with a prisoner is punishable by imprisonment in the state prison for a term not to exceed life.	IDAHO CODE ANN. § 18-6110 (2006). Any person found guilty of sexual contact with a prisoner is punishable by imprisonment in the state prison for a term not to exceed life.	IDAHO CODE ANN. § 18-6110 (2006). The sexual contact must be with a prisoner who is not the employee's spouse.
Idaho	Sexual contact with a prisoner. IDAHO CODE ANN. § 18-6110 (2006).	IDAHO CODE ANN. § 18-6110 (2006). It is a felony for any employee of the Idaho department of correction or any officer, employee or agent of a state, local or private correctional facility to have sexual contact with a prisoner, not their spouse, whether an in-state or out-of-state prisoner.	IDAHO CODE ANN. § 18-610A (2006). "Sexual contact" means sexual intercourse, genital-genital, manual-anal, manual-genital, oral-genital, anal-genital or oral-anal, between persons of the same or opposite sex. Definitions. IDAHO CODE ANN. § 18-101A (2006). (1)"Correctional facility" means a facility for the confinement of prisoners. The term shall be construed to include references to terms including, but not limited to, "prison," "state prison," "state penitentiary," "governmental detention facility," "penal institution (facility)," "correctional institution," "detention institution (facility)," "county jail," "jail," "private prison (facility)" or "private correctional facility." (3)"Local correctional facility" means a facility for the confinement of prisoners operated by or under the control of the county or city. The term shall include references to "county jail," or "jail." The term shall also include a private correctional facility housing prisoners under the custody of the state board of correction, the county Sheriff or other local law enforcement agency. (5)"Prisoner" means a person who has been convicted of a crime in the state of Idaho and is either incarcerated or on parole or probation for	IDAHO CODE ANN. § 18-6110 (2006). Any person found guilty of sexual contact with a prisoner is punishable by imprisonment in the state prison for a term not to exceed life.	IDAHO CODE ANN. § 18-6110 (2006). The sexual contact must be with a prisoner who is not the employee's spouse.

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Idaho (cont.)			<p>that crime or in custody for trial and sentencing, or who is convicted of and sentenced for a crime in a state other than the state of Idaho, or under the laws of the United States or other foreign jurisdiction, and who is being housed in any state, local or private correctional facility, or who is being transported in any manner within or through the state of Idaho.</p> <p>(6) "Private correctional facility" or "private prison facility" means a correctional facility constructed or operated in the state of Idaho by a private prison contractor.</p> <p>(7) "Private prison contractor" means any person, organization, partnership, joint venture, corporation or other business entity engaged in the site selection, design/building, acquisition, construction/management, financing, maintenance, leasing, leasing/purchasing, management or operation of private correctional facilities or any combination of these services.</p> <p>(8) "State correctional facility" means a facility for the confinement of prisoners, owned or operated by or under the control of the state of Idaho. The term shall include references to "state prison," "state penitentiary" or state penal institution (facility)." The term shall also include a private correctional facility housing prisoners under the custody of the board of correction.</p>		
Illinois	Custodial Sexual Misconduct 720 ILL. COMP. STAT. ANN. 5/11-9.2 (LexisNexis 2005).		<p>720 ILL. COMP. STAT. ANN. 5/11-9.2 (LexisNexis 2005). (g)(1) "Custody" means: (i) pretrial incarceration or detention; (ii) incarceration or detention under a sentence or commitment to a State or local penal institution; (iii) parole or mandatory supervised release; (iv) electronic home detention; (v) probation; (vi) A Class 3 felony carries a penalty of 2-5 years.</p> <p>720 ILL. COMP. STAT. ANN. 5/11-9.2 (LexisNexis 2005). (d) Any person convicted of violating this Section immediately shall forfeit his or her employment with a penal system, treatment and detention or supervising officer.</p>	<p>720 ILL. COMP. STAT. ANN. 5/11-9.2 (LexisNexis 2005). (c) Custodial sexual misconduct is a Class 3 felony.</p> <p>720 ILL. COMP. STAT. ANN. 5/11-9.2 (LexisNexis 2005). (f) This section does not apply to:</p> <p>(1) Any employee, probationer, or supervising officer.</p>	<p>720 ILL. COMP. STAT. ANN. 5/11-9.2 (LexisNexis 2005).</p> <p>720 ILL. COMP. STAT. ANN. 5/11-9.2 (LexisNexis 2005).</p>

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Illinois (cont.)		person who is in the custody of that treatment and detention facility. (b) A probation or supervising officer or surveillance agent commits the offense of custodial sexual misconduct when the probation or supervising officer or surveillance agent engages in sexual conduct or sexual penetration with a probationer, parolee, or releasee or person serving a term of conditional release who is under the supervisory, disciplinary, or custodial authority of the officer or agent so engaging in the sexual conduct or sexual penetration.	Commitment Act; (g)(3) "Employee" means: (i) an employee of any governmental agency of this State or any county or municipal corporation that has by statute, ordinance, or court order the responsibility for the care, control, or supervision of pretrial or sentenced persons in a penal system, (ii) a contractual employee of a penal system, or (iii) a contractual employee of a treatment and detention facility. (6) "Supervising officer" means any person employed to supervise persons placed on parole or mandatory supervised release with the duties described in Section 3-14-2 of the Certified Code of Corrections. (7) "Surveillance agent" means any person employed or contracted to supervise persons placed on conditional release in the community under the Sexually Violent Persons Commitment Act [725ILCS 207/1et seq.].	incarceration facility, or conditional release program.	or surveillance agent who is lawfully married to a person in custody if the marriage occurred before the date of custody. (2) Any employee, probation, or supervisor officer, or surveillance agent who has no knowledge, and would have no reason to believe, that the person with whom he or she engaged in custodial sexual misconduct was a person in custody.

Definitions.
720 ILL. COMP. STAT. ANN § 5/12-12
(LexisNexis 2005).

(e) "Sexual conduct" means any intentional or knowing touching or fondling by the victim or the accused, either directly or through clothing, of the sex organs, anus or breast of the victim or the accused, or any part of the body of a child under 13 years of age, or any transfer or transmission of semen by the accused upon any part of the clothed or unclothed body of the victim, for the purpose of sexual gratification or arousal of the victim or the accused.
(f) "Sexual penetration" means any contact, however slight, between the sex organ or anus of one person by an object, the sex organ, mouth or anus of another person, or any intrusion, however slight, of any part of the body of one person or of any animal or object into the sex

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Illinois (cont.)			<p>organ or anus of another person, including but not limited to cunnilingus, fellatio or anal penetration. Evidence of emission of semen is not required to prove sexual penetration.</p> <p>Definitions. 720 ILL. COMP. STAT. ANN. 110/9b (LexisNexis 2005).</p> <p>(3) "Probation officer" means a person employed full time in a probation or court services department providing services to a court under this Act or the Juvenile Court Act of 1987 [705 ILCS 405/1-1 et seq.]. A probation officer includes detention staff, non-secure group home staff and management personnel who meet minimum standards established by the Supreme Court and who are hired under the direction of the circuit court. These probation officers are judicial employees designated on a circuit wide or county basis and compensated by the appropriate county board or boards.</p>		<p>IND. CODE ANN. § 35-44-1-5 (LexisNexis 2006).</p> <p>(a) As used in this section, "service provider" means a public servant or other person employed by a governmental entity or another person who provides goods or services to a person who is subject to lawful detention.</p> <p>(b) A service provider who knowingly or intentionally engages in sexual intercourse or deviate sexual conduct with a person who is subject to lawful detention commits sexual misconduct, a Class D felony.</p>
Indiana	Sexual misconduct by service provider and detainee.	IND. CODE ANN. § 35-44-1-5 (LexisNexis 2006).	<p>"Penal institution."</p> <p>720 ILL. COMP. STAT. ANN. 5/2/14 (LexisNexis 2005).</p> <p>"Penal institution" means a penitentiary, state farm, reformatory, prison, jail, house of correction, or other institution for the incarceration or custody of persons under sentence for offenses or awaiting trial or sentence for offenses.</p>	<p>IND. CODE ANN. § 35-44-1-5 (LexisNexis 2006).</p> <p>(a) As used in this section, "service provider" means a public servant or other person employed by a governmental entity or another person who provides goods or services to a person who is subject to lawful detention.</p> <p>(b) A service provider who knowingly or intentionally engages in sexual intercourse or deviate sexual conduct with a person who is subject to lawful detention commits sexual misconduct, a Class D felony.</p>	<p>IND. CODE ANN. § 35-44-1-5 (LexisNexis 2006).</p> <p>(c) Is not a defense that an act described in subsection (b) was consensual.</p> <p>(d) This section does not apply to sexual intercourse or deviate sexual conduct between spouses.</p>

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State	Statute	Coverage	Definitions/Notes	Penalties	Defenses
Indiana (cont.)			<p>(LexisNexis 2006).</p> <p>(a) "Lawful detention" means:</p> <ul style="list-style-type: none">(1) arrest;(2) custody following surrender in lieu of arrest;(3) detention in a penal facility;(4) detention in a facility for custody of persons alleged or found to be delinquent children;(5) detention under a law authorizing civil commitment in lieu of criminal proceedings or authorizing such detention while criminal proceedings are held in abeyance;(6) detention for extradition or deportation;(7) placement in a community corrections program's residential facility;(8) electronic monitoring;(9) custody for purposes incident to any of the above including transportation, medical diagnosis or treatment, court appearances, work, or recreation; or(10) any other detention for law enforcement purposes. <p>(b) Except as provided in subsection (a) (7) and (a) (8), the term does not include supervision of a person on probation or parole or constraint incidental to release with or without bail.</p>	<p>Deviate sexual conduct. IND. CODE ANN. § 35-41-1-9 (LexisNexis 2006).</p> <p>"Deviate sexual conduct" means an act involving:</p> <ul style="list-style-type: none">(1) A sex organ of one person and the mouth or anus of another person, or(2) The penetration of the sex organ or anus of a person by an object. <p>Sexual intercourse. IND. CODE ANN. § 35-41-1-26 (LexisNexis 2006).</p> <p>"Sexual intercourse means an act that includes any penetration of the female sex organ by the male sex organ.</p>	

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State	Statute	Coverage	Definitions/Notes	Penalties	Defenses
Iowa	Sexual misconduct with offenders and juveniles IOWA CODE § 709.16 (2005).		<p>IOWA CODE § 709.16 (2005). (2) "Juvenile placement facility" means a "juvenile placement facility" means any of the following: a. A child foster care facility licensed under section 237.4. b. Institutions controlled by the department of human services listed in section 218.1. c. Juvenile detention and juvenile shelter care homes approved under section 232.142. d. Psychiatric medical institutions for children licensed under chapter 135H. e. Substance abuse facilities as defined in section 125.2.</p> <p>IOWA CODE § 702.17 (2005). The term "sex act" or "sexual activity" means any sexual contact between two or more persons by: penetration of the penis into the vagina or anus; contact between the mouth and genitalia or by contact between the genitalia of one person and the genitalia or anus of another person; contact between the finger or hand of one person and the genitalia or anus of another person, except in the course of examination or treatment by a person licensed to do so; or by use of artificial sexual organs or substitutes therefore in contact with the genitalia or anus.</p>	<p>IOWA CODE § 709.16 (2005). Sexual misconduct with offenders is an aggravated misdemeanor. Maximum sentence for misdemeanants.</p> <p>IOWA CODE § 903.1(2) (2005). The penalty for an aggravated misdemeanor shall be imprisonment for a term not to exceed 2 years and a fine ranging between \$500 and \$5,000 when a judgment of conviction of an aggravated misdemeanor is entered against any person and the court imposes a sentence of confinement for a period of more than one year the term shall be an indeterminate term.</p> <p>Special sentence – class "D" felonies or misdemeanors.</p> <p>IOWA CODE § 903B.2. A person convicted of a misdemeanor or a class "D" felony offense under chapter 709, section 726.2, or section 728.12 shall also be sentenced, in addition to any other punishment provided by law, to a special sentence committing the person into the custody of the director of the Iowa department of corrections for a period of ten years, with eligibility for parole as provided in chapter 906. The special sentence imposed under this section shall commence upon completion of the sentence imposed under any applicable criminal sentencing provisions for the underlying criminal offense and the person shall begin the sentence under supervision as if on parole. The person shall be placed on the corrections continuum in chapter 901B, and the terms and conditions of the special sentence, including violations, shall be subject to the same set of procedures set out in chapters 901B, 905, 906, and 908, and rules adopted under those chapters for persons on parole. The revocation of release shall not be for a period greater than two years</p>	

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State	Statute	Coverage	Definitions/Notes	Penalties	Defenses
Iowa (cont.)	KAN. STAT. ANN. § 21-3520 (2005).	Unlawful sexual relations.	<p>(a) Unlawful sexual relations is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy with a person who is not married to the offender if:</p> <p>(1) The offender is an employee of the department of corrections or the employee of a contractor who is under contract to provide services in a correctional institution and the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who is an inmate; or</p> <p>(2) the offender is a parole officer, or the employee of a contractor who is under contract to provide supervision services for persons on parole, conditional release or post-release supervision, and the inmate has been released on parole, conditional release or post-release supervision under direct supervision and control of the offender; or</p> <p>(3) the offender is a law enforcement officer, jail employee, or employee of a contractor and the person is 16 or older under lawful confinement; or</p> <p>(4) the offender is a law enforcement officer, employee of a juvenile detention facility or sanctions house, or employee of a contractor and the person is 16 years of age or older under lawful confinement; or</p> <p>(5) the offender is an employee of the juvenile justice authority or the employee of a contractor under contract to provide services to such juvenile correctional facility and the person is 16 years of age or older</p>	<p>KAN. STAT. ANN. § 21-3520 (2005). Definitions.</p> <p>KAN. STAT. ANN. § 75-5202 (2005). As used in K.S.A. 75-5201 et seq., and amendments thereto, unless the context clearly requires otherwise:</p> <p>(a) "Secretary" means the secretary of corrections.</p> <p>(b) "Parole board" means the Kansas parole board established by K.S.A. 22-3707 and amendments thereto.</p> <p>(c) "Inmate" means any person incarcerated in any correctional institution of the state of Kansas.</p> <p>(d) "Correctional institution" means the Lansing correctional facility, Hutchinson correctional facility, Topeka correctional facility, Norton correctional facility, Ellsworth correctional facility, Winfield correctional facility, Osawatomie correctional facility, Larned correctional facility, Larned mental health facility, Toronto correctional work facility, Stockton correctional facility, Wichita work release facility, El Dorado correctional facility, and any other correctional facility established by the state for the confinement of offenders under control of the secretary of corrections.</p> <p>(e) "Warden" means the person in charge of the operation and supervision of a correctional institution.</p> <p>(f) "Corrections officer" means a full-time, salaried officer or employee under the jurisdiction of the secretary, whose duties include the receipt, custody, control, maintenance, discipline, security and apprehension of persons convicted of criminal offense in this state and sentenced to a term of imprison-</p>	<p>KAN. STAT. ANN. § 21-3520 (2005). (c) "Unlawful sexual relations" is a severity level 10 person felony. KAN. STAT. ANN. § 21-3520 (2005). (c) "Unlawful sexual relations" is a severity level 10 person felony.</p>
Kansas	KAN. STAT. ANN. § 21-3520 (2005).	Unlawful sexual relations.	<p>(a) Unlawful sexual relations is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy with a person who is not married to the offender if:</p> <p>(1) The offender is an employee of the department of corrections or the employee of a contractor who is under contract to provide services in a correctional institution and the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who is an inmate; or</p> <p>(2) the offender is a parole officer, or the employee of a contractor who is under contract to provide supervision services for persons on parole, conditional release or post-release supervision, and the inmate has been released on parole, conditional release or post-release supervision under direct supervision and control of the offender; or</p> <p>(3) the offender is a law enforcement officer, jail employee, or employee of a contractor and the person is 16 or older under lawful confinement; or</p> <p>(4) the offender is a law enforcement officer, employee of a juvenile detention facility or sanctions house, or employee of a contractor and the person is 16 years of age or older under lawful confinement; or</p> <p>(5) the offender is an employee of the juvenile justice authority or the employee of a contractor under contract to provide services to such juvenile correctional facility and the person is 16 years of age or older</p>	<p>KAN. STAT. ANN. § 21-3520 (2005). Definitions.</p> <p>KAN. STAT. ANN. § 75-5202 (2005). As used in K.S.A. 75-5201 et seq., and amendments thereto, unless the context clearly requires otherwise:</p> <p>(a) "Secretary" means the secretary of corrections.</p> <p>(b) "Parole board" means the Kansas parole board established by K.S.A. 22-3707 and amendments thereto.</p> <p>(c) "Inmate" means any person incarcerated in any correctional institution of the state of Kansas.</p> <p>(d) "Correctional institution" means the Lansing correctional facility, Hutchinson correctional facility, Topeka correctional facility, Norton correctional facility, Ellsworth correctional facility, Winfield correctional facility, Osawatomie correctional facility, Larned correctional facility, Larned mental health facility, Toronto correctional work facility, Stockton correctional facility, Wichita work release facility, El Dorado correctional facility, and any other correctional facility established by the state for the confinement of offenders under control of the secretary of corrections.</p> <p>(e) "Warden" means the person in charge of the operation and supervision of a correctional institution.</p> <p>(f) "Corrections officer" means a full-time, salaried officer or employee under the jurisdiction of the secretary, whose duties include the receipt, custody, control, maintenance, discipline, security and apprehension of persons convicted of criminal offense in this state and sentenced to a term of imprison-</p>	<p>KAN. STAT. ANN. § 21-3520 (2005). (c) "Unlawful sexual relations" is a severity level 10 person felony.</p>

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State	Statute	Coverage	Definitions/Notes	Penalties	Defenses
Kansas (cont.)		<p>under lawful confinement; or</p> <p>(6) the offender is an employee of the juvenile justice authority or employee of a contractor, and the person is 16 or older and</p> <p>(A) released on conditional release from a juvenile correctional facility under supervision and control of the juvenile justice authority or juvenile community supervision agency or</p> <p>(B) placed in custody of the juvenile justice authority or juvenile direct supervision and control of the juvenile supervision agency and the offender has knowledge that the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching or sodomy is currently under supervision.</p>	<p>ment under the custody of the secretary.</p> <p>(g) "Parole officer" means a full-time salaried officer or employee under the jurisdiction of the secretary whose duties include:</p> <p>(1) Investigation, supervision, arrest and control of persons on parole or postrelease supervision and the enforcement of the conditions of parole or postrelease supervision;</p> <p>(2) services which relate to probationers, parolees or persons on postrelease supervision and are required by the uniform act for out-of-state parolee supervision.</p> <p>Definitions.</p> <p>KAN. STAT. ANN. § 21-4703 (2005).</p> <p>As used in this act:</p> <ul style="list-style-type: none"> (o) "nonimprisonment," "nonprison" or "nonprison sanction" means probation, community corrections, conservation camp, house arrest or any other community-based disposition; (p) "postrelease supervision" means the release of a prisoner to the community after having served a period of imprisonment or equivalent time served in a facility where credit for time served is awarded as set forth by the court, subject to conditions imposed by the Kansas parole board and to the secretary of correction's supervision; (r) "prison" means a facility operated by the Kansas department of corrections. <p>Definitions.</p> <p>KAN. STAT. ANN. § 38-1602 (2005).</p> <p>As used in this code, unless the context otherwise requires:</p> <ul style="list-style-type: none"> (a) "juvenile" means a person 10 or more years of age but less than 18 years of age. (b) "juvenile offender" means a person who commits an offense while a juvenile which if committed by an adult would constitute the commission of a felony or 		

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State	Statute	Coverage	Definitions/Notes	Penalties	Defenses
Kansas (cont.)			<p>misdemeanor as defined by K.S.A. 21-3105, and amendments thereto, or who violates the provisions of K.S.A. 21-4204a or K.S.A. 41-727 or subsection (i) of K.S.A. 74-8810, and amendments thereto, but does not include:</p> <p>(1) A person 14 or more years of age who commits a traffic offense, as defined in subsection (d) of K.S.A. 8-2117, and amendments thereto;</p> <p>(2) a person 16 years of age or over who commits an offense defined in chapter 32 of the Kansas Statutes Annotated;</p> <p>(3) a person under 18 years of age who previously has been:</p> <p>(A) Convicted as an adult under the Kansas code of criminal procedure;</p> <p>(B) sentenced as an adult under the Kansas code of criminal procedure following termination of status as an extended jurisdiction juvenile pursuant to K.S.A. 38-16126, and amendments thereto; or</p> <p>(C) convicted or sentenced as an adult in another state or foreign jurisdiction under substantially similar procedures described in K.S.A. 38-1636, and amendments thereto, or because of attaining the age of majority designated in that state or jurisdiction.</p> <p>(d) "Law enforcement officer" means any person who by virtue of that person's office or public employment is vested by law with a duty to maintain public order or to make arrests for crimes, whether that duty extends to all crimes or is limited to specific crimes.</p> <p>(e) "Youth residential facility" means any home, foster home or structure which provides twenty-four-hour-a-day care for juveniles and which is licensed pursuant to article 5 of chapter 65 of the Kansas Statutes Annotated.</p> <p>(f) "Juvenile detention facility" means any secure public or private facility which is used for the lawful custody of accused or adjudicated</p>		

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State	Statute	Coverage	Definitions/Notes	Penalties	Defenses
Kansas (cont.)			<p>juvenile offenders and which shall not be a jail.</p> <p>(g) "Juvenile correctional facility" means a facility operated by the commissioner for juvenile offenders.</p> <p>(j) "Jail" means:</p> <p>(1) An adult jail or lockup; or</p> <p>(2) a facility in the same building as an adult jail or lockup, unless the facility meets all applicable licensure requirements under law and there is (A) total separation of the juvenile and adult facility spatial areas such that there could be no haphazard or accidental contact between juvenile and adult residents in the respective facilities; (B) total separation in all juvenile and adult program activities within the facilities, including recreation, education, counseling, health care, dining, sleeping, and general living activities; and (C) separate juvenile and adult staff, including management, security staff and direct care staff such as recreational, educational and counseling.</p> <p>(l) "Juvenile intake and assessment worker" means a responsible adult authorized to perform intake and assessment services as part of the intake and assessment system established pursuant to K.S.A. 75-7023, and amendments thereto.</p> <p>(m) "Institution" means the following institutions: The Kansas juvenile correctional complex, the Atchison Juvenile correctional facility, the Beloit Juvenile correctional facility, the Larned Juvenile correctional facility and the Topeka juvenile correctional facility.</p> <p>(n) "Sanctions house" means a facility which is operated or structured so as to ensure that all entrances and exits from the facility are under the exclusive control of the staff of the facility, whether or not the person being detained has freedom of movement within the perimeters of the facility or which relies on locked rooms and</p>		

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State	Statute	Coverage	Definitions/Notes	Penalties	Defenses	
Kansas (cont.)			<p>buildings, fences, or physical restraint in order to control the behavior of its residents. Upon an order from the court, a licensed juvenile detention facility may serve as a sanctions house.</p> <p>(r) "Juvenile corrections officer" means a certified employee of the juvenile justice authority working at a juvenile correctional facility assigned by the commissioner with responsibility for maintaining custody, security and control of juveniles in the custody of the commissioner at a juvenile correctional facility.</p> <p>(s) "Investigator" means an employee of the juvenile justice authority assigned by the commissioner with the responsibility for investigations concerning employees at the juvenile correctional facilities and juveniles in the custody of the commissioner at a juvenile correctional facility.</p>	<p>KY. REV. STAT. § 510.010 (LexisNexis 2006).</p> <p>(1) A person is guilty of sexual abuse in the second degree when:</p> <ul style="list-style-type: none"> (C) Being an employee, contractor, vendor, or volunteer of the Department of Corrections, or a detention facility, or of an entity under contract with either the department or a detention facility for the custody, supervision, evaluation, or treatment of offenders, he subjects an offender who is incarcerated, supervised, evaluated, or treated by the Department of Corrections, the detention facility, or the contracting entity, to sexual contact. 	<p>KY. REV. STAT. § 510.120 (LexisNexis 2006).</p> <p>(7) "Sexual contact" means any touching of the sexual or other intimate parts of a person done for the purpose of gratifying the sexual desire of either party.</p>	<p>KY. REV. STAT. § 510.120 (LexisNexis 2006).</p> <p>(2) Sexual abuse in the second degree is a Class A misdemeanor.</p> <p>Sentence of imprisonment for a misdemeanor.</p> <p>KY. REV. STAT. § 532.090 (LexisNexis 2006).</p> <p>Sentence of Imprisonment for misdemeanor: (1) For a Class A misdemeanor, the term shall not exceed 12 months.</p> <p>(4) "Detention facility" means any building and its premises used for the confinement of a person:</p> <ul style="list-style-type: none"> (a) Charged with or convicted of an offense; (b) Alleged or found to be delinquent; (c) Held for extradition or as a material witness; or (d) Otherwise confined pursuant to an order of court for law enforcement purposes.

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State	Statute	Coverage	Definitions/Notes	Penalties	Defenses
Louisiana	Malfeasance in office; sexual conduct prohibited with persons confined in correctional institutions. LA. REV. STAT. ANN. § 14:134.1 (2006).	LA. REV. STAT. ANN. § 14:134.1(A) (2006). It shall be unlawful and constitute malfeasance in office for any person who is a law enforcement officer, officer of the Department of Corrections, or employee of a prison, jail, or correctional institution, to engage in sexual intercourse or any other sexual conduct with a person confined in a prison, jail or correctional institution.	LA. REV. STAT. ANN. § 14:134.1(B) (2006). Whoever violates a provision of this section shall be fined not more than \$10,000 or imprisoned for a term not to exceed 10 years, or both.	LA. REV. STAT. ANN. tit. 17-A, § 253 (2005).	ME. REV. STAT. ANN. tit. 17-A, § 253 (2005). Whoever violates a provision of this section shall be fined not more than \$10,000 or imprisoned for a term not to exceed 10 years, or both.
Maine	Gross sexual assault. ME. REV. STAT. ANN. tit. 17-A, § 253 (2005).	ME. REV. STAT. ANN. tit. 17-A, § 251(1)(C) (2005). 1. In this chapter the following definitions apply. C. "Sexual act" means: 1) Any act between 2 persons involving direct physical contact between the genitals of one and the mouth or anus of the other, or direct physical contact between the genitals of one and genitals of the other; 2) Any act between a person and an animal being used by another person which act involves direct physical contact between the genitals of one and the mouth or anus of the other, or direct physical contact between the genitals of one and the genitals of the other; or 3) Any act involving direct physical contact between the genitals or anus of one and an instrument or device manipulated by another person when that act is done for the purpose of arousing or gratifying sexual desire or for the purpose of causing bodily injury or offensive physical contact. A sexual act may be proved without allegation or proof of penetration.	ME. REV. STAT. ANN. tit. 17-A, § 253 (2005). 6. In using a sentencing alternative involving a term of imprisonment for a person convicted of violating this section, a court shall, in determining the maximum period of incarceration as the second step in the sentencing process, treat each prior Maine conviction for a violation of this section as an aggravating sentencing factor. A. When the prior conviction is a Class A crime, enhance the basic period of incarceration by at least 4 years of imprisonment; B. When the prior conviction is a Class B crime, enhance the basic period of incarceration by at least 2 years of imprisonment; C. When the prior conviction is a Class C crime, enhance the basic period of incarceration by at least one year of imprisonment.	ME. REV. STAT. ANN. tit. 17-A, § 253 (2005). A, § 253(2)(E), (F) & (G) (2005). Marriage is a defense.	ME. REV. STAT. ANN. tit. 17-A, § 253 (2005). A, § 253 (2005). 3. It is a defense to a prosecution under subsection 2, paragraph A that the other person voluntarily consumed or allowed administration of the substance with knowledge of its nature, except that it is no defense when the other person is a patient of the actor and has a reasonable belief that he actor is administering the substance for medical or dental examination or treatment.

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State	Statute	Coverage	Definitions/Notes	Penalties	Defenses
Maine (cont.)		other institution and the actor has supervisory or disciplinary authority over the other person.	E. "Compulsion" means the use of physical force, a threat to use physical force or a combination thereof that makes a person unable to physically repel the actor or produces in that person a reasonable fear that death, serious bodily injury or kidnapping might be imminently inflicted upon that person or another human being. "Compulsion" as defined in this paragraph places no duty upon the victim to resist the actor. G. "Sexual touching" means any touching of the breasts, buttocks, groin or inner thigh, directly or through clothing, for the purpose of arousing or gratifying sexual desire.	ME. REV. STAT. ANN. tit. 17-A, § 755 (2005). 3. As used in this section, "official custody" means arrest, custody in, or on the way to or from a court-house or a jail, police station, house of correction, or any institution or facility under the control of the Department of Corrections, or under contract with the department for the housing of persons sentenced to imprisonment, the custody of any official of the department, the custody of any institution in another jurisdiction pursuant to a sentence imposed under the authority of section 1253, subsection 1-A or any custody pursuant to court order. A person on a parole or probation status is not, for that reason alone, in "official custody" for purposes of this section.	MD. CODE ANN., CRIM. LAW § 3-314 (LexisNexis 2006). (d) Penalty – A person who violates this section is guilty of a misdemeanor and on conviction is subject to a fine of not more than \$3,000, or imprisonment for not more than 3 years, or both.
Maryland		Sexual conduct between correctional or Department of Juvenile Services employee and inmate or confined child.	MD. CODE ANN., CRIM. LAW § 3-314(b) (LexisNexis 2006). A correctional employee may not engage in vaginal intercourse or a sexual act with an inmate. (c) An employee or licensee of the Department of Juvenile Services may not engage in vaginal intercourse or a sexual act with an individual	MD. CODE ANN., CRIM. LAW § 3-314 (LexisNexis 2006). (a) Definitions.— (2)(i) "Correctional employee" means a 1. a correctional officer, as defined in § 8-201 of the Correctional Services Article; or (2) managing official or deputy managing official of a correctional facility.	MD. CODE ANN., CRIM. LAW § 3-314 (LexisNexis 2006).

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State	Statute	Coverage	Definitions/Notes	Penalties	Defenses
Maryland (cont.)		vidual confined in a child care institution licensed by the Department, a detention center for juveniles, or a facility for juveniles, or a facility for juveniles listed in Article §3C-82117(a)(2) of the code.	<p>(ii) "Correctional employee" includes a sheriff, warden, or other official who is appointed or employed to supervise a correctional facility. (3)(i) "Inmate" has the meaning stated in § 1:101 of this article. (ii) "Inmate" includes an individual confined in a community adult rehabilitation center.</p> <p>MD. CODE ANN., CRIM. LAW § 8-201 (LexisNexis 2006).</p> <p>(e) Correctional officer.</p> <p>(1) "Correctional officer" means a member of a correctional unit whose duties relate to the investigation, care, custody, control, or supervision of inmates and individuals who: (i) have been placed on parole or mandatory supervision; (ii) have been placed on probation; or (iii) have received a suspended sentence. (2) "Correctional officer" does not include: (i) the head or deputy head of a correctional unit; or (ii) a sheriff, warden, or superintendent or an individual with an equivalent title who is appointed or employed by a unit of government to exercise equivalent supervisory authority.</p> <p>(g) "Correctional unit." -- (1) "Correctional unit" means a unit of State, county, or municipal government that is responsible under a statute, ordinance, or court order for the investigation, care, custody, control, and supervision of inmates and individuals who: (i) have been placed on parole or mandatory supervision; (ii) have been placed on probation; or (iii) have received a suspended sentence. (2) "Correctional unit" includes those facilities as set forth in Article 83C, § 2-117 and other facilities as designated by the Secretary of Juvenile Services.</p> <p>(h) Department of Juvenile Services employee.</p> <p>(1) "Department of Juvenile Services employee" means a youth supervisor, youth counselor, direct care worker, or other employee of the Department</p>		

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State	Statute	Coverage	Definitions/Notes	Penalties	Defenses
Maryland (cont.)			<p>of Juvenile Services whose employment responsibility is the investigation, custody, control, or supervision of minors, juvenile delinquents, and youthful offenders who are committed, detained, awaiting placement, adjudicated delinquent, or are otherwise under the supervision of the Department of Juvenile Services. (2) "Department of Juvenile Services employee" includes an employee of any nonprofit or for-profit entity under contract with the Department of Juvenile Services whose employment responsibility is the investigation, custody, control, or supervision of minors, juvenile delinquents, and youthful offenders as described under paragraph (1) of this subsection.</p> <p>State facilities – Establishment and operation.</p> <p>MD. CODE ANN., CRIM. LAW art. 83C § 2-117 (LexisNexis 2006).</p> <p>(a) Facilities authorized.</p> <p>(1) The Department may establish and operate the facilities that are necessary to diagnose, care for, train, educate, and rehabilitate properly children who need these services.</p> <p>(2) These facilities include: (i) The Baltimore City Juvenile Justice Center; (ii) The J. DeWeese Carter Center; (iii) The Charles H. Hickey, Jr. School; (iv) The Alfred D. Noyes Children's Center; (v) The Cheltenham Youth Facility; (vi) The Victor Cullen Center; (vii) The Thomas J. S. Baxter Children's Center; (viii) The Lower Eastern Shore Children's Center; (ix) The Western Maryland Children's Center; and (x) The youth centers.</p>	<p>MD. CODE ANN., CRIM. LAW § 1-101 (LexisNexis 2006).</p> <p>(i) Inmate. – "Inmate" means an individual who is actually or constructively detained or confined in a correctional facility.</p>	

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State	Statute	Coverage	Definitions/Notes	Penalties	Defenses
Massachusetts	Punishments for sexual relations with inmate. MASS. ANN. LAWS ch. 268, § 21A (LexisNexis 2006).	MASS. ANN. LAWS ch. 268, § 21A (LexisNexis 2006). An officer or other person who is employed by or contracts with any penal or correctional institution in the commonwealth, and who, in the course of such employment or contract or as a result thereof, engages in sexual relations with an inmate confined therein, within or outside such institution, or an inmate who is otherwise under the direct custodial supervision and control of such officer or other person.	Definitions. MASS. ANN. LAWS ch. 125, § 1 (LexisNexis 2006). As used in this chapter and elsewhere in the general laws, unless the context otherwise requires, the following words shall have the following meanings: (i) "inmate, committed offender or such other person as is placed in custody in a correctional facility in accordance with law.	MASS. ANN. LAWS ch. 268, § 21A (LexisNexis 2006). A person who violates this section shall be punished by imprisonment for not more than five years in a state prison or by a fine of \$10,000 or both.	MASS. ANN. LAWS ch. 268, § 21A (LexisNexis 2006). An inmate shall be deemed incapable of consent.

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State	Statute	Coverage	Definitions/Notes	Penalties	Defenses
Massachusetts (cont.)			<p>and sixty-six or section ten of chapter two hundred and sixty-nine shall be punished by imprisonment in the state prison for life or for any term of years.</p> <p>No person serving a sentence for a second or subsequent such offense shall be eligible for furlough, temporary release, or education, training or employment programs established outside a correctional facility until such person shall have served two-thirds of such minimum sentence or if such person has two or more sentences to be served otherwise than concurrently, two-thirds of the aggregate of the minimum terms of such several sentences.</p> <p>(b) Whoever has sexual intercourse or unnatural sexual intercourse with a person and compels such person to submit by force and against his will, or compels such person to submit by threat of bodily injury, shall be punished by imprisonment in the state prison for not more than twenty years; and whoever commits a second or subsequent such offense shall be punished by imprisonment in the state prison for life or for any term or years.</p> <p>Whoever commits any offense described in this section while being armed with a firearm, rifle, shotgun, machine-gun or assault weapon, shall be punished by imprisonment in the state prison for not less than ten years. Whoever commits a second or subsequent such offense 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>No person serving a sentence for a second or subsequent such offense shall be eligible for furlough, temporary release, or education, training or employment programs established outside a correctional facility until such person shall have served two-thirds of such minimum sentence or if such person has two or</p>		

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State	Statute	Coverage	Definitions/Notes	Penalties	Defenses
Massachusetts (cont.)			<p>more sentences to be served otherwise than concurrently, two-thirds of the aggregate of the minimum terms of such several sentences. For the purposes of prosecution, the offense described in subsection (b) shall be a lesser included offense to that described in subsection (a).</p> <p>Assault with Intent to Commit Rape. MASS. ANN. LAWS ch. 265, § 24 (LexisNexis 2006).</p> <p>Whoever assaults a person with intent to commit a rape shall be punished by imprisonment in the state prison for not more than twenty 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 for any term of years. Whoever commits any offense described in this section while armed with a firearm, rifle, shotgun, machine gun or assault weapon shall be punished by imprisonment in the state prison for not less than five years. Whoever commits a second or subsequent such offense shall be punished by imprisonment in the state prison for life or for any term of years, but not less than 20 years.</p> <p>No person serving a sentence for a second or subsequent such offense shall be eligible for furlough, temporary release, or education, training or employment programs established outside a correctional facility until such person shall have served two-thirds of such minimum sentence or if such person has two or more sentences to be served otherwise than concurrently, two-thirds of the aggregate of the minimum terms of such several sentences.</p> <p>Abduction of Persons for the Purpose of Prostitution or Unlawful Sexual Intercourse.</p>		

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State	Statute	Coverage	Definitions/Notes	Penalties	Defenses
Massachusetts (cont.)			MASS. ANN. LAWS ch. 272, § 2 (LexisNexis 2006). Whoever fraudulently and deceitfully entices or takes away a person from the house of his parent or guardian or elsewhere, for the purpose of prostitution or for the purpose of unlawful sexual intercourse, and whoever aids and assists in such abduction for such purpose, shall be punished by imprisonment in the state prison for not more than three years or in jail for not more than one year or by a fine of not more than one thousand dollars, or by both such fine and imprisonment in jail.	Administering Drug. MASS. ANN. LAWS ch. 258, § 3 (LexisNexis 2006). Whoever applies, administers to or causes to be taken by a person any drug, matter or thing with intent to stupefy or overpower such person so as to thereby enable any person to have sexual intercourse or unnatural sexual intercourse with such person shall be punished by imprisonment in the state prison for life or for any term of years not less than ten years.	Unnatural and Lascivious Acts. MASS. ANN. LAWS ch. 272, § 35 (LexisNexis 2006). Whoever commits any unnatural and lascivious act with another person shall be punished by a fine of not less than one hundred nor more than one thousand dollars or by imprisonment in the state prison for not more than five years or in jail or the house of correction for not more than two and one half years.

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State	Statute	Coverage	Definitions/Notes	Penalties	Defenses
Massachusetts (cont.)		al conduct with another person in return for a fee, or any person who pays, agrees to pay or offers to pay another person to engage in sexual conduct, or to agree to engage in sexual conduct with another natural person may be punished by imprisonment in a jail or house of correction for not more than one year, or by a fine of not more than five hundred dollars, or by both such fine and imprisonment.			
Michigan	Criminal sexual conduct in the first degree; felony. MICH. COMP. LAWS § 750.520b (LexisNexis 2006).	MICH. COMP. LAWS § 750.520b (LexisNexis 2006). (1) A person is guilty of criminal sexual conduct in the first degree if he or she engages in sexual penetration with another person and if any of the following circumstances exists: (f) The actor causes personal injury to the victim and force or coercion is used to accomplish sexual penetration. Force or coercion includes, but is not limited to, any of the following circumstances: (i) When the actor overcomes the victim through the actual application of physical force or violence. (ii): When the actor coerces the victim to submit by threatening to use force of violence on the victim, and the victim believes the actor has the present ability to execute these threats (iii): when the actor coerces the victim to submit by threatening to use force or violence on the victim, and the victim believes the actor has the present ability to execute these threats (iv): when the actor engages in the medical treatment or examination of the victim in a manner or for purposes which are medically recognized as unethical or unacceptable (v): when the actor, through concealment or by the element of surprise, is able to overcome the victim.	MICH. COMP. LAWS § 750.520a (LexisNexis 2006). (n) "Sexual contact" includes the intentional touching of the victim's or actor's intimate parts or the intentional touching of the clothing covering the immediate area of the victim's or actor's intimate parts, if that intentional touching can reasonably be construed as being for the purpose of sexual arousal or gratification, done for a sexual purpose, or in a sexual manner for: (i) Revenge. (ii) To inflict humiliation. (iii) Out of anger. (o) "Sexual penetration" means sexual intercourse, cunnilingus, fellatio, anal intercourse, or any other intrusion, however slight, of any part of a person's body or of any object into the genital or anal openings of another person's body, but emission of semen is not required.	MICH. COMP. LAWS § 750.520c (LexisNexis 2006). (2) Criminal sexual conduct in the second degree is a felony punishable by imprisonment for not more than 15 years.	

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State	Statute	Coverage	Definitions/Notes	Penalties	Defenses
Michigan (cont.)	MICH. COMP. LAWS SERV. § 750.520c (LexisNexis 2006).	(1) A person is guilty of criminal sexual conduct in the second degree if he or she engages in sexual contact with another person and if any of the following circumstances exist: (f) The actor causes personal injury to the victim and force or coercion is used to accomplish the sexual contact. Force or coercion includes, but is not limited to, any of the circumstances listed in § 520b(1)(f)(i) to (v). (See definitions) (g) The actor knows or has reason to know that the person is mentally incapable, mentally incapacitated, or physically helpless. (i) That the other person is under jurisdiction of the department of corrections and the actor is an employee or a contractual employee of, or volunteer with, the dept. of corrections who knows that the other person is under the jurisdiction of the dept of corrections. (j) that other person is under the jurisdiction of the department of corrections and the actors is an employee or a contractual employee of, or a volunteer with, a private vendor that operates a youth correctional facility, who knows that the other person is under the jurisdiction of the department of corrections. (k) That other person is a prisoner or probationer under the jurisdiction of a county for purposes of imprisonment or a work program or other probationary program and the actor is an employee or a contractual employee of or a volunteer with the county who knows that the other person is under the county's jurisdiction. (l) The actor knows or has reason to know that a court has detained the victim in a facility as a result of the victim having been found responsible for an act that would be a crime if committed by an adult, and the			

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State	Statute	Coverage	Definitions/Notes	Penalties	Defenses
Michigan (cont.)		actor is an employee or contractual employee of, or volunteer with, the facility in which the victim is detained or to which the victim was committed.			
Minnesota	Criminal sexual conduct in the third degree. MINN. STAT. § 609.344 (2005). Criminal sexual conduct in the fourth degree. MINN. STAT. § 609.345 (2005).	Definitions. MINN. STAT. § 609.344 (2005). (1)A person who engages in sexual penetration with another person is guilty of criminal sexual conduct in the third degree if any of the following circumstances exist: (m) the actor is an employee, independent contractor, or volunteer of a state, county, city, or privately operated adult or juvenile correctional system, including but not limited to, jails, prisons, detention centers, or work release facilities, and the complainant is a resident of a facility or under supervision of the correctional system.	Definitions. MINN. STAT. § 609.341(1)(a) (2005). “Sexual contact” includes any of the following acts committed without the complainant’s consent, except in those cases where consent is not a defense, and committed with sexual or aggressive intent: (i) the intentional touching by the actor of the complainant’s intimate parts, or (ii) the touching by the complainant of the actor’s, the complainant’s, or another’s intimate parts effected by a person in a position of authority, or by coercion, or by inducement if the complainant is mentally impaired or under 13; or (iii) the touching by another of the complainant’s intimate party effected by coercion or by a person in a position of authority, or (iv) in any of the cases above, the touching of the clothing covering the immediate area of the intimate parts.	MINN. STAT. § 609.344 (2005). (2) A person convicted under subdivision 1 may be sentenced to imprisonment for not more than fifteen years or to a payment of a fine not more than \$30,000 or both. MINN. STAT. § 609.345 (2005). (2) A person convicted under subdivision 1 may be sentenced to imprisonment for not more than ten years or to a payment of a fine not more than \$20,000 or both.	MINN. STAT. § 609.344 (2005). (1)(m)Consent by the complainant is not a defense.

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State	Statute	Coverage	Definitions/Notes	Penalties	Defenses
Mississippi	Crime of sexual activity between law enforcement or correctional personnel and prisoners; sanctions. MISS. CODE ANN. § 97-3-104 (2006).	MISS. CODE ANN. § 97-3-104 (2006). It shall be unlawful for any jailer, guard, employee of the Department of Corrections, sheriff, constable, marshal or other officer to engage in any sexual penetration, with any offender, with or without the offender's consent, who is incarcerated at any jail or any state, county or private correctional facility.	Sexual battery; definitions. MISS. CODE ANN. § 97-3-97 (2006). (a) Sexual penetration includes cunnilingus, fellatio, buggery, or bestiality, 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.	MISS. CODE ANN. § 97-3-104 (2006). Any person who violates this section shall be guilty of a felony and upon conviction shall be fined not more than \$5,000 or imprisoned for a term not to exceed 5 years, or both.	MISS. CODE ANN. § 97-3-104 (2006). Consent is not a defense.
Missouri	Sexual contact with an inmate, penalty -- consent not a defense MO. REV. STAT. § 566.145 (amended 2006) (current version at 2006 Mo. HB 1698 (2006)).	MO. REV. STAT. § 217.410 (2005). 1. When any employee of the department has reasonable cause to believe that an offender in a correctional center operated or funded by the department has been abused, he shall immediately report it in writing to the director.	MO. REV. STAT. § 217.410 (2005). 1. A person commits the crime of sexual contact with a prisoner or offender if: (1) Such person is an employee of, or assigned to work in, any jail, prison or correctional facility and such person has sexual intercourse or deviate sexual intercourse with a prisoner or; (2) such person is a probation and parole officer and has sexual intercourse or deviate sexual intercourse with an offender who is under the direct supervision of the officer.	MO. REV. STAT. § 566.145 (amended 2006) (current version at 2006 MO. HB1698(2006)) 3. Sexual contact with a prisoner or offender is a class D felony.	MO. REV. STAT. § 566.145 (2005). 4. Consent of a prisoner or offender is not an affirmative defense.

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State	Statute	Coverage	Definitions/Notes	Penalties	Defenses
Missouri (cont.)	MO. REV. STAT. § 566.010 As used in this chapter and chapter 568, RSMo, the following terms mean: (1) "Deviate sexual intercourse", any act involving the genitals of one person and the hand, mouth, tongue, or anus of another person or a sexual act involving the penetration, however slight, of the male or female sex organ or the anus by a finger, instrument or object done for the purpose of arousing or gratifying the sexual desire of any person; (2) "Sexual conduct", sexual intercourse, deviate sexual intercourse or sexual contact; (3) "Sexual contact", 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; (4) "Sexual intercourse", any penetration, however slight, of the female sex organ by the male sex organ, whether or not an emission results.		MONT. CODE ANN. § 45-5-502 (2005). 2. A person convicted of sexual assault shall be fined not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both.	MONT. CODE ANN. § 45-5-501 (2005). Consent is not a defense.	MONT. CODE ANN. § 45-5-503 (2005). (3)(d) If the victim was incarcerated in an adult or juvenile correctional, detention, or treatment facility at the time of the offense and the offender had supervisory or disciplinary authority over the victim, unless the act is part of a lawful search.

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State	Statute	Coverage	Definitions/Notes	Penalties	Defenses
Montana (cont.)		(1) A person who knowingly has sexual intercourse without consent with another person commits the offense of sexual intercourse without consent.		fined an amount not to exceed \$50,000, or both.	
Nebraska		<p>Sexual abuse of an inmate or parolee. NEB. REV. STAT. ANN. § 28-322.01 (LexisNexis 2005).</p> <p>A person commits the offense of sexual abuse of an inmate or parolee if such person subjects an individual who is confined in a correctional institution or a city or county correctional or jail facility or under parole supervision to sexual penetration or sexual contact as those terms are defined in § 28-318.</p> <p>NEB. REV. STAT. ANN. § 28-322.02 (LexisNexis 2005).</p> <p>Sexual abuse of an inmate or parolee in the second degree; penalty.</p> <p>NEB. REV. STAT. ANN. § 28-322.03 (LexisNexis 2005).</p> <p>Any person who subjects an inmate or parolee to sexual penetration is guilty of sexual abuse of an inmate or parolee in the first degree.</p>	<p>Terms Defined. NEB. REV. STAT. ANN. § 28-318 (LexisNexis 2005).</p> <p>(5) Sexual contact means the intentional touching of the victim's sexual or intimate parts or the intentional touching of the victim's clothing covering the immediate area of the victim's sexual or intimate parts.</p> <p>Sexual contact shall also mean the touching by the victim of the actor's sexual or intimate parts or the clothing covering the immediate area of the actor's sexual or intimate parts when such touching is intentionally caused by the actor.</p> <p>Sexual contact shall include only such conduct which can be reasonably construed as being for the purpose of sexual arousal or gratification of either party.</p> <p>(6) Sexual penetration means sexual intercourse in its ordinary meaning, cunnilingus, fellatio, anal intercourse, or any intrusion, however slight, of any part of the actor's or victim's body or any object manipulated by the actor into the genital or anal openings of the victim's body which can be reasonably construed as being for nonmedical or non-health purposes. Sexual penetration shall not require emission of semen.</p>	<p>Sexual abuse of an inmate or parolee in the first degree; penalty. NEB. REV. STAT. ANN. § 28-322.02 (LexisNexis 2005).</p> <p>Sexual abuse of an inmate or parolee in the first degree is a Class II felony.</p> <p>Sexual abuse of an inmate or parolee in the second degree; penalty. NEB. REV. STAT. ANN. § 28-322.03 (LexisNexis 2005).</p> <p>Sexual abuse of an inmate or parolee in the second degree.</p>	<p>NEB. REV. STAT. ANN. § 28-322.01 (LexisNexis 2005). It is not a defense to a charge under this section that the inmate or parolee consented to such sexual penetration or sexual contact.</p> <p>NEB. REV. STAT. ANN. § 28-322.03 (LexisNexis 2005).</p> <p>Sexual abuse of an inmate or parolee in the second degree is a Class IV felony.</p> <p>Felonies; classification of penalties; sentences; where served; eligibility for probation. NEB. REV. STAT. ANN. § 28-105(1) (LexisNexis 2005).</p> <p>The penalty for a Class III felony is a term of 1 to 20 years imprisonment or a \$25,000 fine, or both.</p> <p>The penalty for a Class IV felony is minimum- one and maximum- five years imprisonment, or ten thousand dollars fine, or both.</p> <p>Sexual abuse of an inmate or parolee; terms, defined. NEB. REV. STAT. ANN. § 28-322 (LexisNexis 2005),</p> <p>For purposes of sections 28-322 to 28-322.03:</p> <p>(1) Inmate or parolee means any individual confined in a facility operated by the Department of Correctional Services or a city or county correctional or jail facility or</p>

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State	Statute	Coverage	Definitions/Notes	Penalties	Defenses
Nebraska (cont.)			<p>under parole supervision; and</p> <p>(2) Person means (a) an individual employed by the Department of Corrections or by the Office of Parole Administration, including any individual working in central administration of the department, any individual working under contract with the department, and any individual, other than an inmate's spouse, to whom the department has authorized or delegated control over an inmate or an inmate's activities, (b) an individual employed by a city or county correctional or jail facility, including any individual working in central administration of the city or county correctional or jail facility, any individual working under contract with the city or county correctional or jail facility, and any individual, other than an inmate's spouse, to whom the city or county correctional or jail facility has authorized or delegated control over an inmate or an inmate's activities, and (c) an individual employed by the Office of Probation Administration who performs official duties within any facility operated by the Department of Corrections or a city or county correctional or jail facility.</p>		
				<p>NEV. REV. STAT. ANN. § 212.187 (LexisNexis 2006).</p> <p>1. A prisoner who is in lawful custody or confinement, other than in the custody of the division of parole and probation of the department of public safety or residential confinement, and who voluntarily engages in sexual conduct with another person is guilty of a category D felony.</p> <p>2. A person who voluntarily engages in sexual conduct with a prisoner who is in lawful custody or confinement, other than in the custody of parole and probation of the department of public safety or residential confinement, is guilty of a category D felony.</p>	<p>Categories and punishment of felonies. NEV. REV. STAT. ANN. § 193.130 (LexisNexis 2006).</p> <p>3. As used in this section, "sexual conduct":</p> <p>(a) Includes acts of masturbation, homosexuality, sexual intercourse or physical contact with another person's clothed or unclothed genitals or pubic area to arouse, appeal to or gratify the sexual desires of a person.</p> <p>(b) Does not include acts of a person who has custody of a prisoner or an employee of the institution in which the prisoner is confined that are performed to carry out the necessary duties of such a person or employee.</p>

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State	Statute	Coverage	Definitions/Notes	Penalties	Defenses
Nevada (cont.)			<p>NOTE: Unlike many laws in other states, this law addresses sexual conduct between prisoners and gives a "duty defense" to correctional officers.</p> <p>"Prisoner" defined. NEV. REV. STAT. ANN. § 193.022 (LexisNexis 2006).</p> <p>"Prisoner" includes any person held in custody under process of law, or under lawful arrest.</p>	<p>N.H. REV. STAT. ANN. § 632-A:3 (LexisNexis 2006).</p> <p>A person is guilty of a class B felony if such person:</p> <ul style="list-style-type: none"> I. Subjects a person to sexual contact and causes serious personal injury to the victim under any of the circumstances named in RSA § 632-A:2. II. Subjects a person to sexual contact and causes serious personal injury to the victim under any of the circumstances set forth in subparagraph (n) shall not be a defense. <p>N.H. REV. STAT. ANN. § 632-A:2 (LexisNexis 2006).</p> <p>Classification of crimes.</p> <p>N.H. REV. STAT. ANN. § 625:9 (LexisNexis 2006).</p> <p>The penalty for a class B felony is imprisonment of 1-7 years and fines.</p>	<p>N.H. REV. STAT. ANN. § 632-A:3 (LexisNexis 2006).</p> <p>A person is guilty of a class B felony if such person:</p> <ul style="list-style-type: none"> I. Subjects a person to sexual contact and causes serious personal injury to the victim under any of the circumstances named in RSA § 632-A:2. II. Subjects a person to sexual contact and causes serious personal injury to the victim under any of the circumstances set forth in subparagraph (n) shall not be a defense. <p>N.H. REV. STAT. ANN. § 632-A:2 (LexisNexis 2006).</p> <p>Classification of crimes.</p> <p>N.H. REV. STAT. ANN. § 625:9 (LexisNexis 2006).</p> <p>The penalty for a class B felony is imprisonment of 1-7 years and fines.</p>
New Hampshire	Aggravated Felonious Sexual Assault. N.H. REV. STAT. ANN. § 632-A:2 (LexisNexis 2006).	N.H. REV. STAT. ANN. § 632-A:1 (LexisNexis 2006).	<p>i. A person is guilty of the felony of aggravated felonious sexual assault if he engages in sexual penetration with another person under any of the following circumstances:</p> <ul style="list-style-type: none"> (n) When the action is in a position of authority over the victim and uses this authority to coerce the victim to submit under any of the following circumstances: (1) When the actor has direct supervisory or disciplinary authority over the victim by virtue of the victim being incarcerated in a correctional institution, the secure psychiatric unit, or juvenile detention facility where the actor is employed; or (2) When the actor is a probation or parole officer or juvenile probation and parole officer who has direct supervisory or disciplinary authority over the victim while the victim is on parole or probation or under juvenile probation. 	<p>N.H. REV. STAT. ANN. § 632-A:3 (LexisNexis 2006).</p> <p>A person is guilty of a class B felony if such person:</p> <ul style="list-style-type: none"> I. Subjects a person to sexual contact and causes serious personal injury to the victim under any of the circumstances named in RSA § 632-A:2. II. "Pattern of sexual assault" means committing more than one act under RSA 632-A:2 or RSA 632-A:3, or both, upon the same victim over a period of 2 months or more and within a period of 5 years. III. "Retaliate" means to undertake action against the interests of the victim, including, but not limited to: <ul style="list-style-type: none"> (a) Physical or mental torment or abuse. (b) Kidnapping, false imprisonment or extortion. (c) Public humiliation or disgrace. IV. "Serious personal injury" means extensive bodily injury or disfigurement, extreme mental anguish or trauma, disease or loss or impairment of a sexual or reproductive organ. <p>N.H. REV. STAT. ANN. § 632-A:3 (LexisNexis 2006).</p> <p>A person is guilty of a class B felony if such person:</p> <ul style="list-style-type: none"> I. Subjects a person to sexual contact and causes serious personal injury to the victim under any of the circumstances named in RSA § 632-A:2. II. "Pattern of sexual assault" means committing more than one act under RSA 632-A:2 or RSA 632-A:3, or both, upon the same victim over a period of 2 months or more and within a period of 5 years. III. "Retaliate" means to undertake action against the interests of the victim, including, but not limited to: <ul style="list-style-type: none"> (a) Physical or mental torment or abuse. (b) Kidnapping, false imprisonment or extortion. (c) Public humiliation or disgrace. IV. "Serious personal injury" means extensive bodily injury or disfigurement, extreme mental anguish or trauma, disease or loss or impairment of a sexual or reproductive organ. 	<p>N.H. REV. STAT. ANN. § 632-A:3 (LexisNexis 2006).</p> <p>A person is guilty of a class B felony if such person:</p> <ul style="list-style-type: none"> I. Subjects a person to sexual contact and causes serious personal injury to the victim under any of the circumstances named in RSA § 632-A:2. II. "Pattern of sexual assault" means committing more than one act under RSA 632-A:2 or RSA 632-A:3, or both, upon the same victim over a period of 2 months or more and within a period of 5 years. III. "Retaliate" means to undertake action against the interests of the victim, including, but not limited to: <ul style="list-style-type: none"> (a) Physical or mental torment or abuse. (b) Kidnapping, false imprisonment or extortion. (c) Public humiliation or disgrace. IV. "Serious personal injury" means extensive bodily injury or disfigurement, extreme mental anguish or trauma, disease or loss or impairment of a sexual or reproductive organ.

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New Hampshire (cont.)	A:2; or IV. Engages in sexual contact with the person when the actor is in a position of authority over the person and uses that authority to coerce the victim to submit under any of the following circumstances: (a) When the actor has direct supervisory or disciplinary authority over the victim by virtue of the victim being incarcerated in a correctional institution, the secure psychiatric unit, or the juvenile detention facility where the actor is employed; or (b) when the actor is a probation or parole officer or a juvenile probation and parole officer who has direct supervisory or disciplinary authority over the victim while the victim is on parole or probation or under juvenile probation.	intentional touching whether directly, through clothing, or otherwise, of the victim's or actor's sexual or intimate parts, including breasts and buttocks. Sexual contact includes only that aforementioned conduct which can be reasonably construed as being for the purpose of sexual arousal or gratification. V. "Sexual penetration" means: (a) Sexual intercourse; or (b) Cunnilingus; or (c) Fellatio; or (d) Anal intercourse; or (e) Any intrusion, however slight, of any part of the actor's body or any object manipulated by the actor into genital or anal openings of the victim's body; or (f) Any intrusion, however slight, of any part of the victim's body into genital or anal openings of the actor's body; (g) Any act which forces, coerces or intimidates the victim to perform any sexual penetration as defined in subparagraphs (a)-(f) on the actor, on another person, or on himself. (h) Emission is not required as an element of any form of sexual penetration. VI. "Therapy" means the treatment of bodily, mental, or behavioral disorders by remedial agents or methods.	N.J. REV. STAT. ANN. § 2C:14-2 (2006). a. An actor is guilty of aggravated sexual assault if he commits an act of sexual penetration with another person under any one of the following circumstances: (2) The victim is at least 13 but less than 16 and (b) the actor has supervisory or disciplinary power over the person by virtue of the actor's legal, professional or occupational status, or c. An actor is guilty of sexual assault	N.J. REV. STAT. ANN. § 2C:14-2 (2006). (a) Aggravated sexual assault is a crime of the first degree. (3) "Sexual penetration" means vaginal intercourse, cunnilingus, fellatio or anal intercourse between persons or insertion of the hand, finger or object into the anus or vagina either by the adult or upon the adult's instruction. N.J. REV. STAT. ANN. § 2C:14-2 (2006). c. Sexual assault is a crime of the second degree.	Sentence of imprisonment for crime; ordinary terms; mandatory terms. N.J. REV. STAT. ANN. § 2C:43-6 (2006).
New Jersey	Sexual assault N.J. REV. STAT. ANN. § 2C:14-2 (2006).	Definitions. N.J. REV. STAT. ANN. § 2A:61B-1 (2006). a. As used in this act:	N.J. REV. STAT. ANN. § 2C:14-2 (2006). a. An actor is guilty of aggravated sexual assault if he commits an act of sexual penetration with another person under any one of the following circumstances: (2) The victim is at least 13 but less than 16 and (b) the actor has supervisory or disciplinary power over the person by virtue of the actor's legal, professional or occupational status, or c. An actor is guilty of sexual assault		

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State	Statute	Coverage	Definitions/Notes	Penalties	Defenses
New Jersey (cont.)		if he commits an act of sexual penetration with another person under any one of the following circumstances: (2) The victim is on probation or parole, or is detained in a hospital, prison or other institution and the actor has supervisory or disciplinary power over the victim by virtue of the actor's legal, professional or occupational status.	a. Except as otherwise provided, a person who has been convicted of a crime may be sentenced to imprisonment, as follows: (1) In the case of a crime of the first degree, for a specific term of years which shall be fixed by the court and shall be between 10 years and 20 years; (2) In the case of a crime of the second degree, for a specific term of years which shall be fixed by the court and shall be between five years and 10 years.	N.J. STAT. ANN. § 30-9-11. (LexisNexis 2006). A. Criminal sexual penetration in the second degree consists of all criminal sexual penetration perpetrated: (1) on a child thirteen to eighteen years of age when the perpetrator is in a position of authority over the child and uses this authority to coerce the child to submit; (2) on an inmate confined in a correctional facility or jail when the perpetrator is in a position of authority over the inmate; (3) by the use of force or coercion that results in personal injury to the victim; (4) by the use of force or coercion when the perpetrator is aided or abetted by one or more persons.	a. Except as otherwise provided, a person who has been convicted of a crime may be sentenced to imprisonment, as follows: (1) In the case of a crime of the first degree, for a specific term of years which shall be fixed by the court and shall be between 10 years and 20 years; (2) In the case of a crime of the second degree, for a specific term of years which shall be fixed by the court and shall be between five years and 10 years.
New Mexico	Criminal sexual penetration. N.M. STAT. ANN. § 30-9-11 (LexisNexis 2006).	N.M. STAT. ANN. § 30-9-11. (LexisNexis 2006). D. Criminal sexual penetration in the second degree consists of all criminal sexual penetration perpetrated: (1) on a child thirteen to eighteen years of age when the perpetrator is in a position of authority over the child and uses this authority to coerce the child to submit; (2) on an inmate confined in a correctional facility or jail when the perpetrator is in a position of authority over the inmate;	N.M. STAT. ANN. § 30-9-11. (LexisNexis 2006). A. Criminal sexual penetration is the unlawful and intentional causing of a person to engage in sexual intercourse, cunnilingus, fellatio or anal intercourse or the causing of penetration, to any extent and with any object, of the genital or anal openings of another, whether or not there is any emission.	N.M. STAT. ANN. § 31-18-15) (LexisNexis 2006). A. The penalty for a second degree felony shall be imprisonment for a term of 9 years and E. The court may, in addition to the imposition of a basic sentence of imprisonment, impose a fine not to exceed: (5) for a second degree felony, ten thousand dollars.	N.M. STAT. ANN. § 30-9-11. (LexisNexis 2006). D. Criminal sexual penetration in the second degree is a second-degree felony. Whoever commits criminal sexual penetration in the second degree when the victim is a child who is thirteen to eighteen years of age is guilty of a second degree felony for a sexual offenses against a child shall be sentenced to a minimum term of imprisonment of three years.
New York	Sexual misconduct. N.Y. PENAL LAW § 130.20 (Consol. 2006).	N.Y. PENAL LAW § 130.20 (Consol. 2006). A person is guilty of sexual misconduct when: 1. He or she engages in sexual intercourse with another person without such person's consent; or 2. He or she engages in oral sexual conduct or anal sexual conduct with another person without such person's consent.	N.Y. PENAL LAW § 130.05 (Consol. 2006). 3.(e)For purposes of this paragraph, "employee" means (i) an employee of the state department of correctional services who performs professional duties in a state correctional facility consisting of providing custody, medical or mental health services, counseling services, educational programs, or	N.Y. PENAL LAW § 130.05 (Consol. 2006). 3. A person is deemed incapable of consent when he or she is: (a) less than seventeen years old; or (b) mentally disabled; or (3) mentally incapacitated; (4) physically helpless.	N.Y. PENAL LAW § 130.05 (Consol. 2006). 3. A person is deemed incapable of consent when he or she is: (a) less than seventeen years old; or (b) mentally disabled; or (3) mentally incapacitated; (4) physically helpless.

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State	Statute	Coverage	Definitions/Notes	Penalties	Defenses
New York (cont.)	Criminal sexual act in the third degree. N.Y. PENAL LAW § 130.40 (Consol. 2006).	A person is guilty of rape in the third degree when: 1. He or she engages in sexual intercourse with another person who is incapable of consent by reason of some factor other than being less than seventeen years old.	vocational training for inmates; (ii) an employee of the division of parole who performs professional duties in a state correctional facility and who provides institutional parole services pursuant to section two-hundred-fifty-nine of the executive law; or (iii) an employee of the office of mental health who performs professional duties in a state correctional facility or hospital, such as such term is defined in subdivision two of section four hundred of the correctional law, consisting of providing custody, or medical or mental health services for such inmates; or (f) committed to the care and custody of a local correctional facility, as such term is defined in subdivision two of section forty of the correctional law, and the actor is an employee, not married to such person, who knows or reasonably should know that such person is committed to the care and custody of such facility. For purposes of this paragraph, "employee" means an employee of the local correctional facility where the person is committed who performs professional duties consisting of providing custody, medical or mental health services, counseling services, educational services, or vocational training for inmates.	N.Y. PENAL LAW § 130.40 (Consol. 2006). Criminal sexual act in the third degree is a class E felony.	3. (e) Marriage is a defense.
	Forcible touching. N.Y. PENAL LAW § 130.52 (Consol. 2006).	Sexual abuse in the third degree. N.Y. PENAL LAW § 130.55 (Consol. 2006).	N.Y. PENAL LAW § 130.40. A person is guilty of criminal sexual act in the third degree when: 1. He or she engages in oral sexual conduct or anal sexual conduct with a person who is incapable of consent by reason of some factor other than being less than seventeen years old; 2. Being twenty-one years old or more, he or she engages in oral sexual conduct or anal sexual conduct with a person less than seventeen years old; or 3. He or she engages in oral sexual conduct or anal sexual conduct with another person without such person's consent where such lack of consent is by reason of some factor other than incapacity to consent.	N.Y. PENAL LAW § 130.52 (Consol. 2006). A person is guilty of forcible touching when such person intentionally, and for no legitimate purpose, forcibly touches the sexual or other intimate parts of another person for the purpose of degrading or abusing such person; or for the purposes of gratifying the actor's sexual desire. For the purposes of this section, forcible touching includes the squeezing, grabbing or pinching.	N.Y. PENAL LAW § 130.40 (Consol. 2006). N.Y. PENAL LAW § 130.52 (Consol. 2006). Forcible touching is a class A misdemeanor.

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State	Statute	Coverage	Definitions/Notes	Penalties	Defenses
New York (cont.)		<p>this section, it is an affirmative defense that (a) such other person's lack of consent was due solely to incapacity to consent by reason of being less than seventeen years old, and (b) such other person was more than fourteen years old, and (c) the defendant was less than five years older than such other person.</p> <p>N.Y. PENAL LAW § 130.60 (Consol. 2006).</p> <p>A person is guilty of sexual abuse in the second degree when he or she subjects another person to sexual contact and when such other person is:</p> <ol style="list-style-type: none"> 1. incapable of consent by reason of some factor other than being less than seventeen years old. 	<p>of contact between the penis and anus.</p> <p>3. "Sexual contact" means any touching of the sexual or other intimate parts of a person not married to the actor for the purpose 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>8. "Forcible compulsion" means to compel by either: a. use of physical force; or b. a threat, express or implied, which places a person in fear of immediate death or physical injury to himself, herself or another person, or in fear that he, she or another person will immediately be kidnapped.</p>	<p>Definitions.</p> <p>N.Y. CORREC § 40 (Consol. 2006).</p> <p>As used in this article the following terms have the following meanings:</p> <p>2. "Local correctional facility" means any county jail, county penitentiary, county lockup, city jail, police station jail, town or village jail or lock-up, court detention pen or hospital prison ward.</p> <p>3. "Correctional facility" means any institution operated by the state department of correctional services, any local correctional facility, or any place used, pursuant to a contract with the state or a municipality, for the detention of persons charged with or convicted of a crime, or, for the purpose of this article only, a secure facility operated by the state division for youth.</p>	

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State	Statute	Coverage	Definitions/Notes	Penalties	Defenses
North Carolina	Intercourse and sexual offenses with certain victims; consent no defense N.C. GEN. STAT. § 14-27.7 (2006).	N.C. GEN. STAT. § 14-27.7 (2006). (a) If a defendant having custody of a victim of any age or a person who is an agent or employee of any person, or institution, whether such institution is private, charitable, or governmental; having custody of a victim of any age engages in vaginal intercourse or a sexual act with such victim, the defendant is guilty of a Class E felony.	N.C. GEN. STAT. § 14-27.1 (2006). (4)"Sexual act" means cunnilingus, fellatio, analingus, or anal intercourse, but does not include vaginal intercourse. Sexual act also means the penetration, however slight, by any object into the genital or anal opening of another person's body; provided, that it shall be an affirmative defense that the penetration was for accepted medical purposes.	N.C. GEN. STAT. § 14-27.7 (2006) (a) A violation of this section is a class E felony.	N.C. GEN. STAT. § 14-27.7 (2006). (a) Consent is not a defense to a charge under this section.
North Dakota	Sexual abuse of wards.	N.D. CENT. CODE § 12.1-20-06 (2006). A person who engages in a sexual act with another person, or any person who causes another to engage in a sexual act is guilty of a class C felony if the other person is in official custody or detained in a hospital, prison, or other institution and the actor has supervisory or disciplinary authority over the other person.	N.D. CENT. CODE § 12.1-20-06 (2006). 3."Sexual act" means sexual contact between human beings consisting of contact between the penis and the vulva, the penis and the anus, the mouth and the penis, the mouth and the vulva, or any other portion of the human body and the penis, the anus, or vulva; or the use of an object which comes in contact with the victim's anus, vulva, or penis.	N.D. CENT. CODE § 12.1-20-06 (2006). Sexual abuse of wards is a class C felony.	N.D. CENT. CODE § 12.1-20-07(2) (2006). Sexual assault is a class C felony.

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State	Statute	Coverage	Definitions/Notes	Penalties	Defenses
North Dakota (cont.)		actor has supervisory or disciplinary authority over that other person.	the clothing or other covering, of the sexual or other intimate parts of the person, or the penile ejaculation or ejaculate or emission of urine or feces upon any part of the person, for the purpose of arousing or satisfying sexual or aggressive desires.		
			<p>CASE NOTE: See <i>State v. Ennis</i>, 464 N.W. 2d 378 (1990) (holding that time on probation is not “time spent in custody” within the meaning of N.D. Cent. Code §12.1-32-02 and time on parole, too, is not “time spent in custody” within the meaning of §12.1-32-02).</p>	<p>OHIO REV. CODE ANN. § 2907.03 (LexisNexis 2006).</p> <p>(A) “Sexual conduct” means vaginal intercourse between a male and a female; anal intercourse; fellatio, and cunnilingus (LexisNexis 2006).</p> <p>(B) Sexual battery is a felony of the third degree.</p>	<p>OHIO REV. CODE ANN. § 2907.03 (LexisNexis 2006).</p> <p>(A) Marriage is not a defense.</p>
Ohio	Sexual Battery OHIO REV. CODE ANN. § 2907.03 (LexisNexis 2006).		<p>OHIO REV. CODE ANN. § 2907.03 (A) (LexisNexis 2006).</p> <p>(A) No person shall engage in sexual conduct with another, not the spouse of the offender, when any of the following apply:</p> <p>(6) The other person is in custody of law or a patient in a hospital or other institution, and the offender has supervisory or disciplinary authority over the other person.</p> <p>(11) The person is confined in a detention facility, and the offender is an employee of that detention facility.</p>	<p>OHIO REV. CODE ANN. § 2929.14 (LexisNexis 2006).</p> <p>(A)(3) The penalty for a felony of the third degree shall be imprisonment for a term of between 1 and 5 years.</p>	<p>OHIO REV. CODE ANN. § 2907.03 (LexisNexis 2006).</p> <p>(A) Marriage is not a defense.</p>

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State	Statute	Coverage	Definitions/Notes	Penalties	Defenses
Oklahoma	Rape defined. OKLA. STAT. tit. 21, § 1111 (2005). Rape in the first degree - second degree. OKLA. STAT. tit.21, § 1114 (2005).	Rape is an act of sexual intercourse involving vaginal or anal penetration accomplished with a male or female who is not the spouse of the perpetrator and who may be of the same or the opposite sex as the perpetrator under any of the following circumstances: 7. Where the victim is under the legal custody or supervision of a state agency, a federal agency, a county, a municipality or a political subdivision and engages in sexual intercourse with a state, federal, county, municipal or political subdivision employee or an employee of a contractor of the state, the federal government, a county, a municipality or a political subdivision that exercises authority over the victim.		Punishment of rape in the first degree. OKLA. STAT. tit. 21, § 1115 (2005). Rape in the first degree is a felony punishable by death or imprisonment in the State Penitentiary, not less than five (5) years, in the discretion of the jury, or in case the jury fails or refuses to fix the punishment then the same shall be pronounced by the court.	OKLA. STAT. tit. 21, § 1111 (2005). (A) Marriage is a defense.

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State	Statute	Coverage	Definitions/Notes	Penalties	Defenses
Oklahoma (cont.)		<p>where the victim of the second offense is a person under sixteen (16) years of age, shall not be eligible for probation, suspended or deferred sentence.</p> <p>B. The crime of forcible sodomy shall include:</p> <ol style="list-style-type: none"> 1. Sodomy committed by a person over eighteen (18) years of age upon a person under sixteen (16) years of age; or 2. Sodomy committed upon a person incapable through mental illness or any unsoundness of mind of giving legal consent regardless of the age of the person committing the crime; or 3. Sodomy accomplished with any person by means of force, violence, or threats of force or violence accompanied by apparent power of execution regardless of the age of the victim or the person committing the crime; or 4. Sodomy committed by a state, county, municipal or political subdivision employee or a contractor or an employee of a contractor of the state, a county, a municipality or political subdivision of this state upon a person who is under the legal custody, supervision or authority of a state agency, a county, a municipality or a political subdivision of this state. 		<p>OR. REV. STAT. § 163.452 (2006).</p> <p>(4)Custodial sexual misconduct in the first degree is a Class C felony.</p> <p>(2) Consent of the other person to sexual intercourse, deviate sexual intercourse or the sexual penetration is not a defense to a prosecution under this section.</p> <p>(3) Lack of supervisory authority over the other person is an affirmative defense to a prosecution under this section when the other person is on pro-</p>	

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State	Statute	Coverage	Definitions/Notes	Penalties	Defenses
Oregon (cont.)		<p>(C) Participating in an inmate or offender work crew or work release program; or</p> <p>(D) On probation, parole, post-prison supervision or other form of conditional or supervised release;</p> <p>(b) Is employed by or under contract with the state or local agency that:</p> <p>(A) Employs the officer who arrested the other person;</p> <p>(B) Operates the correctional facility in which the other person is confined or detained;</p> <p>(C) Is responsible for supervising the other person in a work crew or work release program or on probation, parole, post-prison supervision or other form of conditional or supervised release; or</p> <p>(D) Engages the other person in work or on-the-job training pursuant to ORS 421.354(1).</p>	<p>(6) "Sexual contact" means any touching of the sexual or other intimate parts of a person or causing such person to touch the sexual or other intimate parts of the actor for the purpose of arousing or gratifying the sexual desire of either party.</p> <p>(7) "Sexual intercourse" has its ordinary meaning and occurs upon any penetration, however slight; emission is not required.</p> <p>OR. REV. STAT. § 30.642 (2006).</p> <p>(2)"Correctional facility" means a Department of Corrections institution or a jail.</p>	<p>bation, parole, post-prison supervision or other form of conditional or supervised release.</p>	<p>OR. REV. STAT. § 163.454 (2006).</p> <p>(2) Consent of the other person to sexual contact is not a defense to a prosecution under this section.</p> <p>(3) Lack of supervisory authority over the other person is an affirmative defense to a prosecution under this section when the other person is on probation, parole, post-prison supervision or other form of conditional or supervised release.</p>

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State	Statute	Coverage	Definitions/Notes	Penalties	Defenses
Oregon (cont.)		parole, post-prison supervision or other form of conditional or supervised release; or (D) Engages the other person in work or on-the-job training pursuant to ORS 421.354 (1).		18 PA. CONS. STAT. § 3124.2 (2005). (a) Except as provided in Sections 3121 (Relating to Rape), 3122.1 (Relating to Statutory Sexual Assault), 3123 (Relating to Involuntary Deviate Sexual intercourse), 3124.1 (relating to Sexual Assault) and 3125 (Relating to a Aggravated Indecent Assault), person who is an employee or agent of the Department of Corrections or a county corrections authority, state or a county correctional authority, youth development center, youth forestry camp, State or county juvenile detention facility, other licensed residential facility serving children and youth, or mental health or mental retardation facility or institution commits a felony of the third degree when that person engages in sexual intercourse, deviate sexual intercourse, or indecent contact with an inmate, detainee, patient or resident.	18 PA. CONS. STAT. § 106 (2005). (b) (4) The penalty for a felony of the third degree shall be imprisonment for a term up to 7 years.
Pennsylvania	Institutional sexual assault. 18 PA. CONS. STAT. § 3124.2 (2005).		18 PA. CONS. STAT. § 3101 (2005). Subject to additional definitions contained in subsequent provisions of this chapter which are applicable to specific provisions of this chapter, the following words and phrases when used in this chapter shall have, unless the context clearly indicates otherwise, the meanings given to them in this section: DEVIATE SEXUAL INTERCOURSE. Sexual intercourse per os or per anus between human beings and any form of sexual intercourse with an animal. The term also includes penetration, however slight, of the genitals or anus of another person with a foreign object for any purpose other than good faith medical, hygienic or law enforcement procedures.		"INDECENT CONTACT." Any touching of the sexual or other intimate parts of the person for the purpose of

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Pennsylvania (cont.)					
		arousing or gratifying sexual desire, in either person. “SEXUAL INTERCOURSE.” In addition to its ordinary meaning, includes intercourse per os or per anus, with some penetration however slight; emission is not required.	R.I. GEN. LAWS § 11-37-1 (2006). (8) “Sexual penetration” means: sexual intercourse, cunnilingus, fellatio, and anal intercourse, or any other intrusion, however slight, by any part of a person’s body or by any object into the genitals or anal openings of another person’s body or the victim’s own body, upon the accused’s instruction, but emission of semen is not required.	R.I. GEN. LAWS § 11-25-24 (2006). Violation of this section is a felony, the penalty for which shall be imprisonment for not more than 5 years and/or a fine of not more than \$10,000.	S.C. CODE ANN. § 44-23-1150 (2005). (A)(2) A victim is not capable of providing consent for sexual intercourse or sexual contact with an actor.
Rhode Island	Correctional employees -- Sexual relations with inmates - Felony R.I. GEN. LAWS § 11-25-24 (2006).	Every employee of the department of corrections or the employee of a contractor who is under contract to provide services in a correctional institution who engages in sexual penetration, as defined in §11-37-1, with an inmate confined therein or who is otherwise under the direct custodial supervision and control of said employee shall be guilty of a felony.	S.C. CODE ANN. § 44-23-1150 (2005). (A) As used in this section: (1) “Actor” means an employee, volunteer, agent, or contractor of a public entity that has statutory or contractual responsibility for inmates or patients confined in a prison, jail, or mental health facility, or who is an offender on parole, probation, or other community supervision programs. (2) “Victim” means an inmate or patient who is confined in or lawfully or unlawfully absent from a prison, jail, or mental health facility, or who is an offender on parole, probation, or other community supervision programs. A victim is not capable of providing consent for sexual intercourse or sexual contact with an actor.	S.C. CODE ANN. § 44-23-1150 (2005). (C)(1) When the sexual misconduct involves an act of sexual intercourse, whether vaginal, oral or anal, the actor is guilty of the felony of sexual misconduct first degree and, upon conviction, must be imprisoned for not more than ten years. (2) When the sexual misconduct does not involve sexual intercourse but involves other sexual contact which is engaged in for sexual gratification, the actor is guilty of the felony of sexual misconduct second degree and, upon conviction, must be imprisoned for not more than five years.	S.C. CODE ANN. § 44-23-1150 (2005). (C)(2) The term sexual contact, as used in this subsection, refers to an intrusion of any part of a person’s body or of any object into the “inti-
South Carolina	Sexual misconduct with an inmate, patient or offender S.C. CODE ANN. § 44-23-1150 (2005).	S.C. CODE ANN. § 44-23-1150 (2005). (B) An actor is guilty of sexual misconduct when the actor, knowing that the victim is an inmate, offender, or patient voluntarily engages with the victim in an act of sexual intercourse, whether vaginal, oral or anal, or other sexual contact for the purpose of sexual gratification.	S.C. CODE ANN. § 44-23-1150 (2005). (D) A person who knowingly or willfully submits inaccurate or untruthful information concerning sexual misconduct as defined in this section is guilty of the misdemeanor of falsely reporting sexual misconduct and, upon conviction, must be imprisoned for not more than one year. (E) A person who has knowledge of sexual misconduct who has received information in the person’s professional capacity and fails to report it to the appropriate law enforcement authority, or a person who threatens or attempts to intimidate a witness is guilty of a misdemeanor and upon	S.C. CODE ANN. § 44-23-1150 (2005). (C)(2) The term sexual contact, as used in this subsection, refers to an intrusion of any part of a person’s body or of any object into the “inti-	

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State	Statute	Coverage	Definitions/Notes	Penalties	Defenses
South Carolina (cont.)		conviction, must be imprisoned for not more than six months, or both.	mate parts", as defined in Section 16-3-651(d), of another person's body, or to the fondling of the intimate parts of another person's body, which is done in a manner not required by professional duties, but instead is done to demonstrate affection, sexually stimulate that person or another person, or harass that person.		
South Dakota		Sexual acts between employees and inmates prohibited. S.D. CODIFIED LAWS § 24-1-26.1 (2006). Sexual contact or penetration by correctional facility employee with inmate -- penalty S.D. CODIFIED LAWS § 22-22-7.6 (2006).	Criminal sexual conduct: definitions. S.C. CODE ANN. § 16-3-651 (2005). For the purposes of §§ 16-3-651 to 16-3-659.1: (d) "Intimate parts" includes the primary genital area, anus, groin, inner thighs, or buttocks of a male or female human being and the breasts of a female human being.	S.D. CODIFIED LAWS § 24-1-26.1 (2006). S.D. CODIFIED LAWS § 22-22-2 (2006). "Sexual penetration" means an act, however slight, of sexual intercourse, cunnilingus, fellatio, anal intercourse, or any intrusion, however slight, of any part of the body or of any object into the genital or anal openings of another person's body.	S.D. CODIFIED LAWS § 24-1-26.1 (2006). The violation of this section is a Class 6 felony. S.D. CODIFIED LAWS § 22-6-1 (2006). (8) The penalty for a Class 6 felony shall be imprisonment in the state penitentiary for a term of 2 years and/or a fine of \$2,000.

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State	Statute	Coverage	Definitions/Notes	Penalties	Defenses
South Dakota (cont.)		A juvenile correctional facility pursuant to this section is a juvenile detention facility as defined in subdivision 26-7A-1 (16) or a juvenile facility operated by the Department of Corrections under § 1-15-1.4.	S.D. CODIFIED LAWS § 26-7A-1 (2006). (15) "Detention," the temporary custody of a child in secured physically restricting facilities for children, sight and sound separated from adult prisoners; (16) "Detention facility," a secured, physically-restricting facility designed, staffed, and operated for children and separated by sight and sound from adult prisoners or a facility for children in the same building or secure perimeter as an adult jail or lockup, where children are sight and sound separated from adult prisoners, where staff in the detention facility are trained and certified by the entity operating facility to work with children, and the facility had been approved as a collocated facility by the Office of Juvenile Justice and Delinquency Prevention.	TENN. CODE ANN. § 39-16-408 (2006). TENN. CODE ANN. § 39-16-408 (2006). It is an offense for a law enforcement officer, correctional employee, vendor or volunteer to engage in sexual contact or sexual penetration, as such terms are defined in §39-13-501, with a prisoner or inmate who is in custody at a penal institution as defined in §39-16-601, whether such conduct occurs on or off the grounds of such institution.	TENN. CODE ANN. § 39-16-408 (2006). A violation of this section is a Class E felony. The authorized term of imprisonment for a Class E felony is not less than 1 year nor more than 6 years. In addition, a fine not to exceed \$3000 may be assessed. TENN. CODE ANN. § 39-13-527 (2005). (a) Sexual battery by an authority figure is unlawful sexual contact with a victim by the defendant, or the defendant by a victim, accompanied by the fact that the victim was, at the time of the offense, thirteen (13) years of age or older, but less than eighteen (18) years of age, and either: (1) The defendant was, at the time of the offense, in a position of trust, or had supervisory or disciplinary
Tennessee		Sexual contact with inmates.	TENN. CODE ANN. § 39-16-408 (2006). TENN. CODE ANN. § 39-13-527 (2005). Sexual battery by an authority figure.	TENN. CODE ANN. § 39-13-501 (2005). (6) "Sexual contact" includes the intentional touching of the victim's, the defendant's, or any other person's intimate parts, or the intentional touching of the clothing covering the immediate area of the victim's, the defendant's, or any other person's intimate part, if that intentional touching can be reasonably	

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State	Statute	Coverage	Definitions/Notes	Penalties	Defenses
Tennessee (cont.)		power over the victim by virtue of the defendant's legal, professional or occupational status, and used such position of trust or power to accomplish the sexual contact; or (2) The defendant had, at the time of the offense, parental or custodial authority over the victim and used such authority to accomplish the sexual contact.	<p>construed as being for the purpose of sexual arousal or gratification.</p> <p>(7) "Sexual penetration" means sexual intercourse, cunnilingus, fellatio, anal intercourse, or any other intrusion, however slight, of any part of a person's body or of any object into the genital or anal openings of the victim's, defendant's, or any other person's body, but emission of semen is not required.</p> <p>TENN. CODE ANN. § 39-16-601 (2005).</p> <p>(2) "Custody" means under arrest by a law enforcement officer or under restraint by a public servant pursuant to an order of a court;</p> <p>(4) "Penal institution" ... includes any institution or facility used to house or detain a person:</p> <p>(A) convicted of a crime;</p> <p>(B) adjudicated delinquent by a juvenile court;</p> <p>(C) who is direct or indirect custody after a lawful arrest.</p>	<p>TEX. PENAL CODE ANN. § 39.04 (Vernon 2005).</p> <p>(e) In this section: (2) "Custody" means the detention, arrest, or confinement of an adult offender or the detention or the commitment of an offender to a facility operated by or under contract with the TX Youth Commission or a facility operated by or under contract with a juvenile board of a juvenile offender.</p> <p>(4) "Sexual contact" means:</p> <p>(A) "deviate sexual intercourse" as defined by Section 21.01, Penal Code;</p> <p>(B) "sexual contact" as defined by Section 21.01, Penal Code;</p> <p>(C) "sexual intercourse" as defined by Section 21.01, Penal Code; or</p> <p>(D) requests by the mental health services provider for conduct described by Paragraph (A), (B), or (C). "Sexual contact" does not include conduct described by Paragraph (A) or (B) that is a part of</p>	<p>TEX. PENAL CODE ANN. § 39.04(b) (Vernon 2005). An offense under Section (a)(2) is a state jail felony.</p> <p>TEX. PENAL CODE ANN. § 39.04(g) (Vernon 2005).</p> <p>An offense under Subsection (f) is a state jail felony.</p> <p>State jail felony punishment.</p> <p>TEX. PENAL CODE ANN. § 12.35(a)-(b) (Vernon 2005).</p> <p>The penalty for a state jail felony is 180 days to 2 years in the state jail and/or a fine not to exceed \$10,000.</p> <p>TEX. PENAL CODE ANN. § 12.35(c) (Vernon 2005).</p> <p>Additional penalties may apply depending on prior offense history.</p>
Texas		Violations of the Civil Rights of Person in Custody; Improper Sexual Activity with person in custody.	<p>TEX. PENAL CODE ANN. § 39.04 (Vernon 2005).</p> <p>(a) An official of a correctional facility or employee of a correctional facility, a person other than an employee who works for compensation at a correctional facility, a volunteer at a correctional facility, or a peace officer commits an offense if he intentionally: (2) engages in sexual contact, sexual intercourse or deviate sexual intercourse with an individual in custody.</p> <p>TEX. PENAL CODE ANN. § 39.04(f) (Vernon 2005).</p> <p>An employee of the Texas Department of Criminal Justice commits an offense if the employee engages in sexual contact, sexual intercourse, or deviate sexual intercourse with an individual who is not the employee's spouse and who the employee knows is under the supervision of the department but not in the custody of the department.</p>	<p>TEX. PENAL CODE ANN. § 39.04 (Vernon 2005).</p> <p>(e) In this section: (2) "Custody" means the detention, arrest, or confinement of an adult offender or the detention or the commitment of an offender to a facility operated by or under contract with the TX Youth Commission or a facility operated by or under contract with a juvenile board of a juvenile offender.</p> <p>(4) "Sexual contact" means:</p> <p>(A) "deviate sexual intercourse" as defined by Section 21.01, Penal Code;</p> <p>(B) "sexual contact" as defined by Section 21.01, Penal Code;</p> <p>(C) "sexual intercourse" as defined by Section 21.01, Penal Code; or</p> <p>(D) requests by the mental health services provider for conduct described by Paragraph (A), (B), or (C). "Sexual contact" does not include conduct described by Paragraph (A) or (B) that is a part of</p>	<p>TEX. PENAL CODE ANN. § 39.04(b) (Vernon 2005). An offense under Section (a)(2) is a state jail felony.</p> <p>TEX. PENAL CODE ANN. § 39.04(g) (Vernon 2005).</p> <p>An offense under Subsection (f) is a state jail felony.</p> <p>State jail felony punishment.</p> <p>TEX. PENAL CODE ANN. § 12.35(a)-(b) (Vernon 2005).</p> <p>The penalty for a state jail felony is 180 days to 2 years in the state jail and/or a fine not to exceed \$10,000.</p> <p>TEX. PENAL CODE ANN. § 12.35(c) (Vernon 2005).</p> <p>Additional penalties may apply depending on prior offense history.</p>

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State	Statute	Coverage	Definitions/Notes	Penalties	Defenses
Texas (cont.)			<p>a professionally recognized medical treatment of a patient.</p> <p>Definitions. TEX. PENAL CODE ANN. § 21.01 (Vernon 2005).</p> <p>In this chapter:</p> <p>(1) "Deviate sexual intercourse" means:</p> <p>A) any contact between any part of the genitals of one person and the mouth or anus of another person; or</p> <p>(B) the penetration of the genitals or the anus of another person with an object.</p> <p>(2) "Sexual contact" means, except as provided by Section 21.11, any touching of the anus, breast, or any part of the genitals of another person with intent to arouse or gratify the sexual desire of any person.</p> <p>(3) "Sexual intercourse" means any penetration of the female sex organ by the male sex organ.</p> <p>(4) "Spouse" means a person to whom a person is legally married under Subtitle A, Title 1, Family Code, or a comparable law of another jurisdiction.</p>		
Utah		Custodial sexual relations - custodial sexual misconduct -- conduct - definitions - penalties - defenses. UTAH CODE ANN. § 76-5-412 (2006).	<p>UTAH CODE ANN. § 76-5-412 (2006). (1) As used in this section: (b) "Person in custody" means a person, either an adult 18 years of age or older, or a minor younger than 18 years of age, who is: (i) a prisoner, as defined in Section 76-5-101, and includes a prisoner who is in the custody of the Department of Corrections created under Section 64-13-2, but who is being housed at the Utah State Hospital established under Section 62A-12-201 or other medical facility; (ii) under correctional supervision, such as at a work release facility or as a parolee or probationer; or (iii) under lawful or unlawful arrest, either</p> <p>(2) "Actor" means:</p> <p>(i) a correctional officer, as defined in Section 53-13-104;</p> <p>(ii) a law enforcement officer, as defined in Section 53-13-103; or</p> <p>(iii) an employee of, or private provider or contractor for, the Department of Corrections or a county jail.</p> <p>(b) "Person in custody" means a person, either an adult 18 years of age or older, or a minor younger than 18 years of age, who is:</p>	<p>UTAH CODE ANN. § 76-5-412 (2006). (4)(b) A violation of Subsection (4)(a) is a class A misdemeanor, but if the person in custody is younger than 18 years of age, a violation of Subsection (4)(a) is a third degree felony.</p> <p>(2)(b) A violation of Subsection (2)(a) is a second degree felony.</p> <p>UTAH CODE ANN. § 76-5-412 (2006). (4)(b) A violation of Subsection (4)(a) is not a defense to the commission of the offense of custodial sexual relations under Subsection (2) or custodial sexual misconduct under Subsection (4), or an attempt to commit either of these offenses, if the person in custody is younger than 18 years of age, that the actor (i) mistakenly believed the person in custody to be 18 years of age or older at the time of the</p> <p>Fines of persons. UTAH CODE ANN. § 76-6-301 (2006). (1) A person convicted of an offense may be sentenced to pay a fine, not</p>	

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State	Statute	Coverage	Definitions/Notes	Penalties	Defenses
Utah (cont.)		<p>(I) a prisoner, as defined in Section 76-5-101, and includes a prisoner who is in the custody of the Department of Corrections created under Section 64-13-2, but who is being housed at the Utah State Hospital established under Section 62A-15-601 or other medical facility;</p> <p>(II) under correctional supervision, such as at a work release facility or as a parolee or probationer; or</p> <p>(III) under lawful or unlawful arrest, either with or without a warrant.</p> <p>(C) "private provider or contractor" means any person or entity that contracts with the Department of Corrections or with a county jail to provide services or functions that are part of the operation of the Department of Corrections or a county jail under state or local law.</p> <p>"Prisoner" defined. UTAH CODE ANN. § 76-5-101 (2006). For purposes of this part "prisoner" means any person who is in custody of a peace officer pursuant to a lawful arrest or who is confined in a jail or other penal institution or a facility used for confinement of delinquent juveniles operated by the Division of Juvenile Justice Services regardless of whether the confinement is legal.</p> <p>(2) (a) An actor commits custodial sexual relations if the actor commits any of the acts under Subsection (3):</p> <p>(I) under circumstances not amounting to commission of, or an attempt to commit, an offense under Subsection (6); and</p> <p>(II) (A) the actor knows that the individual is a person in custody; or (B) a reasonable person in the actor's position should have known under the circumstances that the individual was a person in custody.</p> <p>(b) A violation of Subsection (2)(a) is a third degree felony, but if the person in custody is younger than 18 years of age, a violation of Subsection (2)(a) is a second degree felony.</p> <p>(c) If the act committed under this Subsection (2) amounts to an offense subject to a greater penalty under another provision of state law than is provided under this Subsection (2), this Subsection (2) does not prohibit prosecution and sentencing for the more serious offense.</p> <p>(3) Acts referred to in Subsection (2)(a) are:</p> <p>(a) having sexual intercourse with a</p>	<p>exceeding:</p> <p>(a) \$10,000 for a felony conviction of the first degree or second degree;</p> <p>(b) \$5,000 for a felony conviction of the third degree;</p> <p>(c) \$2,500 for a class A misdemeanor conviction.</p>	<p>alleged offense; or (ii) was unaware of the true age of the person in custody.</p> <p>(b) Consent of the person in custody is not a defense to any violation or attempted violation of Subsection (2) or (4).</p> <p>(8) It is a defense that the commission by the actor of an act under Subsection (2) or (4) is the result of compulsion, as the defense is described in Subsection 76-2-302 (1).</p>	

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State	Statute	Coverage	Definitions/Notes	Penalties	Defenses
Utah (cont.)		<p>person in custody;</p> <p>(b) engaging in any sexual act with a person in custody involving the genitalia of one person and the mouth or anus of another person, regardless of the sex of either participant; or</p> <p>(c) causing the penetration, however slight, of the genital or anal opening of a person in custody by any foreign object, substance, instrument, or device, including a part of the human body, with the intent to cause substantial emotional or bodily pain to any person, regardless of the sex of any participant.</p> <p>(4) (a) An actor commits custodial sexual misconduct if the actor commits any of the acts under Subsection (5):</p> <p>(i) under circumstances not amounting to commission of, or an attempt to commit, an offense under Subsection (6); and</p> <p>(ii) (A) the actor knows that the individual is a person in custody; or</p> <p>(B) a reasonable person in the actor's position should have known under the circumstances that the individual was a person in custody.</p> <p>(b) A violation of Subsection (4)(a) is a class A misdemeanor; but if the person in custody is younger than 18 years of age, a violation of Subsection (4)(a) is a third degree felony.</p> <p>(c) If the act committed under this Subsection (4) amounts to an offense subject to a greater penalty under another provision of state law than is provided under this Subsection (4), this Subsection (4) does not prohibit prosecution and sentencing for the more serious offense.</p> <p>(5) Acts referred to in Subsection (4)(a) are the following acts when committed with the intent to cause substantial emotional or bodily pain to any person or with the intent to arouse or gratify the sexual desire of any person, regardless of the sex of any participant:</p>			

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State	Statute	Coverage	Definitions/Notes	Penalties	Defenses
Utah (cont.)			<p>(a) touching the anus, buttocks, or any part of the genitals of a person in custody;</p> <p>(b) touching the breast of a female person in custody;</p> <p>(c) otherwise taking indecent liberties with a person in custody; or</p> <p>(d) causing a person in custody to take indecent liberties with the actor or another person.</p> <p>(6) The offenses referred to in Subsections (2)(a)(i) and (4)(a)(i) are:</p> <p>(a) Section 76-5-401, unlawful sexual activity with a minor;</p> <p>(b) Section 76-5-402, rape;</p> <p>(C) Section 76-5-402.1, rape of a child;</p> <p>(d) Section 76-5-402.2, object rape;</p> <p>(e) Section 76-5-402.3, object rape of a child;</p> <p>(f) Section 76-5-403, forcible sodomy;</p> <p>(g) Section 76-5-403.1, sodomy on a child;</p> <p>(h) Section 76-5-404, forcible sexual abuse;</p> <p>(i) Section 76-5-404.1, sexual abuse of a child or aggravated sexual abuse of a child; or</p> <p>(j) Section 76-5-405, aggravated sexual assault.</p> <p>(7) (a) It is not a defense to the commission of the offense of custodial sexual relations under Subsection (2) or custodial sexual misconduct under Subsection (4), or an attempt to commit either of these offenses, if the person in custody is younger than 18 years of age, that the actor:</p> <p>(i) mistakenly believed the person in custody to be 18 years of age or older at the time of the alleged offense; or</p> <p>(ii) was unaware of the true age of the person in custody.</p> <p>(b) Consent of the person in custody is not a defense to any violation or attempted violation of Subsection (2) or (4).</p> <p>(8) It is a defense that the commission by the actor of an act under</p>		

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State	Statute	Coverage	Definitions/Notes	Penalties	Defenses
Utah (cont.)		Subsection (2) or (4) is the result of compulsion, as the defense is described in Subsection 76-2-302(1).			
Vermont	SEXUAL EXPLOITATION OF AN INMATE VT. STAT. ANN. tit. 13, § 3257 (2006).	VT. STAT. ANN. tit. 13, § 3257 (2006). (A) No correctional employee, contractor, or other person providing services to offenders on behalf of the department of corrections or pursuant to a court order or in accordance with a condition of parole, probation, supervised community sentence or furlough shall engage in a sexual act with a person who the employee, contractor, or other person providing services knows. (1) is confined to a correctional facility; or (2) is being supervised by the department of corrections while on parole, probation, supervised community sentence or furlough, where the employee, contractor, or other service provider is currently engaged in a direct supervisory relationship with the person being supervised. For purposes of this subdivision, person is engaged in a direct supervisory relationship with a supervisee if the supervisee is assigned to the caseload of that person.	VT. STAT. ANN. tit. 13, § 3257 (2006). (B) A person who violates this subsection (A) of this section shall be imprisoned for not more than five years or fined not more than \$10,000.00 or both.	VA. CODE ANN. § 18.2-64.2 (2006). For the purposes of this section, "carnal knowledge" includes the acts of sexual intercourse, cunnilingus, fellatio, anal intercourse and anality or inanimate object sexual penetration.	VA. CODE ANN. § 18.2-64.2 (2006). Such offense is a Class 6 felony. Punishment for conviction of felony VA. CODE ANN. § 18.2-10(f) (2006). The penalty for a Class 6 felony is imprisonment for 1-5 years if tried by a jury or up to 12 months if tried by the court and/or a fine not to exceed \$2,500.
Virginia	Carnal knowledge of an inmate, parolee, probationer, or pretrial or post-trial offender; penalty: VA. CODE ANN. § 18.2-64.2 (2006).	An accused shall be guilty of carnal knowledge of an inmate, parolee, detainee, probationer, or pretrial or post-trial offender if he or she is an employee or contractual employee of, or a volunteer with, a state or local correctional facility or regional jail, the Department of Corrections, the Department of Juvenile Justice, a secure facility or detention home,			

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State	Statute	Coverage	Definitions/Notes	Penalties	Defenses
Virginia (cont.)		a local community correction program or a pretrial program; is in a position of authority over the inmate, probationer, parolee, detainee or a pretrial or posttrial offender; knows that the inmate, probationer, parolee, detainee or pretrial or posttrial offender is under the jurisdiction of the state or local correctional facility, a regional jail, the Department of Corrections, the Department of Juvenile Justice, a secure facility or detention home, a local community corrections program, or a pretrial program; and carnally knows without the use of force, threat or intimidations (i) an inmate who has been committed to jail or convicted and sentenced to confinement in a state or local correctional facility or regional jail or (ii) a probationer, parolee, detainee or a pretrial or post-trial offender under the jurisdiction of the department of corrections, the Department of Juvenile Justice, a secure facility or detention home, a local community corrections program, a pretrial program, a local or regional jail for the purposes of imprisonment, a work program or any other parole/probationary or pretrial program.		WASH. REV. CODE ANN. § 9A.44.160 (LexisNexis 2006). A person is guilty of custodial sexual misconduct in the first degree when the person has sexual intercourse with another person: (a) when (i) the victim is a resident of a state, county, or city adult or juvenile correctional facility, including but not limited to jails, prisons, detention centers, or work release facilities, or is under correctional supervision; and (ii) the perpetrator is an employee or contract personnel of a correctional agency and the perpetrator has, or the resident reasonably believes the perpetrator has, the	WASH. REV. CODE ANN. § 9A.44.160 (LexisNexis 2006). (3) Custodial sexual misconduct in the first degree is a class C felony. (2) Consent of the victim is not a defense.
Washington		Custodial sexual misconduct in the first degree. WASH. REV. CODE ANN. § 9A.44.160 (LexisNexis 2006).		Maximum sentences for crimes committed July 1, 1984 and after. WASH. REV. CODE ANN. § 9A.20.021 (LexisNexis 2006). (1)(c) The penalty for a class C felony is imprisonment for no more than 5 years and/or a fine of no more than \$10,000. WASH. REV. CODE ANN. § 9A.44.170 (LexisNexis 2006). (3) Custodial sexual misconduct in	WASH. REV. CODE ANN. § 9A.44.160 (LexisNexis 2006). (2) Consent of the victim is not a defense. WASH. REV. CODE ANN. § 9A.44.170 (LexisNexis 2006). (2) Consent of the victim is not a defense. Custodial Sexual Misconduct Defense. WASH. REV. CODE ANN. § 9A.44.180 (LexisNexis 2006).

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State	Statute	Coverage	Definitions/Notes	Penalties	Defenses
Washington (cont.)		ability to influence the terms, conditions, length or fact of incarceration or correctional supervision; or (b) when the victim is being detained, under arrest or in the custody of a law enforcement officer and the perpetrator is a law enforcement officer.	WASH. REV. CODE ANN. § 9A.44.170 (LexisNexis 2006). A person is guilty of custodial misconduct in the second degree when the person has sexual contact with another person (a) when (i) the victim is a resident of a state, county, or city adult or juvenile correctional facility, including but not limited to jails, prisons, detention centers, or work release facilities, or is under correctional supervision; and (ii) the perpetrator is an employee or contract personnel of a correctional agency and the perpetrator has, or the resident reasonably believes the perpetrator has, the ability to influence the terms, conditions, length or fact of incarceration or correctional supervision; or (b) when the victim is being detained, under arrest or in the custody of a law enforcement officer and the perpetrator is a law enforcement officer.	the second degree is a gross misdemeanor. WASH. REV. CODE ANN. § 9A.20.021 (LexisNexis 2006). (2)(c) The penalty for a gross misdemeanor is imprisonment for up to 1 year and/or a fine of up to \$5,000.	It is an affirmative defense to prosecution under §§ 10 and 170, to be proven by the defendant by a preponderance of the evidence, that the act of sexual intercourse or sexual contact resulted from forcible compulsion by the other person.
West Virginia		Imposition of sexual intercourse or sexual intrusion on incarcerated persons; penalty.	W. VA. CODE ANN. § 61-8B-10 (LexisNexis 2006). (a) Any person, employed by the division of corrections, working at a correctional facility managed by the commissioner of corrections pursuant to contract or as an employee of a state agency, working at a correctional facility managed by the division of juvenile services pursuant to contract or as an employee of a state agency, employed by a county jail or by the regional jail and correctional facility authority or a county jail who engages in sexual intercourse or sexual intrusion with a person who is incarcerated is guilty of a felony.	W. VA. CODE ANN. § 61-8B-10 (LexisNexis 2006). (a) Upon conviction thereof, the employee shall be sentenced to one to five years or fined up to \$5,000. W. VA. CODE ANN. § 61-8B-10 (LexisNexis 2006). (b) Upon conviction thereof, the employee shall be sentenced to one to five years or fined up to \$5,000.	W. VA. CODE ANN. § 61-8B-2 Lack of consent. (a) Whether or not specifically stated, it is an element of every offense defined in this article that the sexual act was committed without the consent of the victim. (b) Lack of consent results from: (1) Forceable compulsion; or (2) Incapacity to consent; or (3) If the offense charged is sexual abuse, any circumstances in addition to the

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State	Statute	Coverage	Definitions/Notes	Penalties	Defenses
West Virginia (cont.)	W. VA. CODE ANN. § 61-8B-10(a) (LexisNexis 2006).	Any person employed by the division of corrections as a parole officer or by the West Virginia Supreme Court of Appeals as an adult or juvenile probation officer who engages in sexual intercourse or sexual intrusion with someone said parole officer or probation officer is charged with supervising is guilty of a felony.	Definition of jail. WIS. STAT. ANN. § 302.30 (West 2006). (2)(h) Has sexual contact or sexual intercourse with an individual who is confined in a correctional institution if the actor is a correctional staff member. This paragraph does not apply if the individual with whom the actor has sexual contact or sexual intercourse is subject to prosecution for the sexual contact or sexual intercourse under this section.	WIS. STAT. ANN. § 940.225 (West 2006). In ss. 302.30 to 302.43, "jail" includes municipal prisons and rehabilitation facilities established under s. 59.53 (8) by whatever name they are known. In s. 302.37 (1) (a) and (3) (a), "jail" does not include lockup facilities. "Lockup facilities" means those facilities of a temporary place of detention at a police station which are used exclusively to hold persons under arrest until they can be brought before a court, and are not used to hold persons pending trial who have appeared in court or have been committed to imprisonment for nonpayment of fines or forfeitures. In s. 302.365, "jail" does not include rehabilitation facilities established under s. 59.53 (8).	forcible compulsion or incapacity to consent in which the victim does not expressly or impliedly acquiesce in the actor's conduct. (C) A person is deemed incapable of consent when such person is: (1) Less than sixteen years old; or (2) Mentally defective; or (3) Mentally incapacitated; or (4) Physically helpless.
Wisconsin	Second Degree Sexual Assault. WIS. STAT. ANN. § 940.225 (West 2006).	Abuse of residents of penal facilities. WIS. STAT. ANN. § 940.29 (West 2006).	WIS. STAT. ANN. § 940.225 (West 2006). In ss. 302.30 to 302.43, "jail" includes municipal prisons and rehabilitation facilities established under s. 59.53 (8) by whatever name they are known. In s. 302.37 (1) (a) and (3) (a), "jail" does not include lockup facilities. "Lockup facilities" means those facilities of a temporary place of detention at a police station which are used exclusively to hold persons under arrest until they can be brought before a court, and are not used to hold persons pending trial who have appeared in court or have been committed to imprisonment for nonpayment of fines or forfeitures. In s. 302.365, "jail" does not include rehabilitation facilities established under s. 59.53 (8).	WIS. STAT. ANN. § 940.225 (West 2006). The abuse of residents of penal facilities is a Class I felony.	Classification of felonies. WIS. STAT. ANN. § 939.50 (West 2006). (3)(i) The penalty for a Class I felony shall be imprisonment for a term not to exceed 3 years and/or a fine not to exceed \$10,000.

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State	Statute	Coverage	Definitions/Notes	Penalties	Defenses
Wisconsin (cont.)	WIS. STAT. ANN. § 940.29 (West 2006).	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>"facility" means any of the following:</p> <ul style="list-style-type: none"> (a) A Type 1 prison, as defined in s. 301.01 (5). (b) A jail, as defined in s. 302.30. (c) A house of correction. (d) A Huber facility under s. 303.09. (e) A lockup facility, as defined in s. 302.30. (f) A work camp under s. 303.10. <p>WIS. STAT. ANN. § 938.02 (WEST 2006).</p> <p>(15m) "Secured correctional facility" means a correctional institution operated or contracted for by the department of corrections or operated by the department of health and family services for holding in secure custody persons adjudged delinquent. "Secured correctional facility" includes the Mendota juvenile treatment center under s. 46.057 and a facility authorized under s. 938.533 (3) (b), 938.538 (4) (b), or 938.539 (5).</p>	WIS. STAT. ANN. § 938.02 (WEST 2006)	

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State	Statute	Coverage	Definitions/Notes	Penalties	Defenses
Wisconsin (cont.)			<p>degrading; or for the purpose of sexually humiliating the complainant or sexually arousing or gratifying the defendant or if the touching contains the elements of actual or attempted battery under s. 940.19 (1).</p> <p>2. Intentional penile ejaculation of ejaculate or intentional emission of urine or feces by the defendant upon any part of the body clothed or unclothed of the complainant if that ejaculation or emission is either for the purpose of sexually degrading or sexually humiliating the complainant or for the purpose of sexually arousing or gratifying the defendant.</p> <p>3. For the purpose of sexually degrading or humiliating the complainant or sexually arousing or gratifying the defendant, intentionally causing the complainant to ejaculate or emit urine or feces on any part of the defendant's body, whether clothed or unclothed.</p>	<p>WIS. STAT. ANN. § 940.225 (West 2006).</p> <p>(5)(c) "Sexual intercourse" includes the meaning assigned under s. 939.22 (36) as well as cunnilingus, fellatio or anal intercourse between persons or any other intrusion, however slight, of any part of a person's body or of any object into the genital or anal opening either by the defendant or upon the defendant's instruction. The emission of semen is not required.</p>	<p>WYO. STAT. ANN. § 6-2-306 (2006). (a)(ii) Sexual assault in the 2nd degree is a felony punishable by imprisonment for not more than 20 years.</p>
Wyoming		Sexual assault in the second degree	<p>WYO. STAT. ANN. § 6-2-303 (2006).</p> <p>(a)(Any actor who inflicts sexual intrusion on a victim commits sexual assault in the second degree if, under circumstances not constituting assault in the first degree: (vi) the actor is in a position of authority over the victim and uses this position of authority to cause the victim to submit.</p>	<p>WYO. STAT. ANN. § 6-2-301 (2006). (a)(iv)Position of authority means that position occupied by a parent, guardian, relative, household member, teacher, employer, custodian or any other person who, by reason of his position, is able to exercise significant influence over a person. (vii) "Sexual intrusion" means: (A) Any intrusion, however slight,</p>	

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State	Statute	Coverage	Definitions/Notes	Penalties	Defenses
Wyoming (cont.)			by any object or any part of a person's body, except the mouth, tongue or penis, into the genital or anal opening of another person's body if that sexual intrusion can reasonably be construed as being for the purposes of sexual arousal, gratification or abuse; or (B) Sexual intercourse, cunnilingus, fellatio, analingus or anal intercourse with or without emission.	CASE NOTE: <i>Scadden v. Wyoming</i> , 732 P.2d 1036, 1039 (Wyo. 1987). In <i>Scadden</i> , the Wyoming Supreme Court stated that "a jailer ... [has] power over his prisoner, and therefore, the jailer is in a position of authority over the prisoner." <i>Id</i> at 1042.	For offenders with 0 to 1 prior offenses:
United States <small>(NOTE: This law also covers all federal territories including Guam, Northern Marianas, Puerto Rico and the Virgin Islands)</small>	Aggravated sexual abuse. 18 U.S.C.S. § 2241 (LexisNexis 2006).	18 U.S.C.S. § 2241 (LexisNexis 2006). (a) 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 Attorney General, knowingly causes another person to engage in a sexual act (1) by using force against that person, (2) by threatening or placing that other person in fear that any person will be subjected to death, serious bodily injury or kidnapping; or attempts to do so, shall be fined under this title, imprisoned for any term of years or life, or both; (b)(1) renders another person unconscious, and thereby engages in a sexual act with that person, or (2) administers to another person by force or threat of force or without the knowledge or permission of that person a drug, intoxicant or other similar substance and thereby (A): substantially impairs the ability of that other person to appraise or control conduct, and (B) engages in a sexual act with that other person;	Definitions for chapter 18 U.S.C.S. § 2246 (LexisNexis 2006). As used in this chapter [18 USC §§ 2241 et seq.]- (1) the term "prison" means a correctional, detention, or penal facility; (2) the term "sexual act" means- (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; (B) contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus; (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 (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,	18 U.S.C.S. § 2243 (LexisNexis 2006). (c)(1)In a prosecution under subsection (a) of this section, it is a defense, which the defendant must establish by a preponderance of the evidence, that the defendant reasonably believed that the other person had attained the age of 16 years. (2) In a prosecution under this section, it is a defense, which the defendant must establish by a preponderance of the evidence, that the persons engaging in the sexual act were at that time married to each other.	
	Sexual abuse. 18 U.S.C.S. § 2242 (LexisNexis 2006).	Sexual abuse of a minor or ward. 18 U.S.C.S. § 2243 (LexisNexis 2006).	18 U.S.C.S. Appx. § 2A3.1(b)(1) (LexisNexis 2006). The base penalty for aggravated sexual abuse shall be imprisonment for a term of 108-135 months.	18 U.S.C.S. Appx. § 2A3.1(a) (LexisNexis 2006). The base penalty for sexual abuse shall be imprisonment for a term of 70-87 months.	18 U.S.C.S. Appx. § 2A3.2(a) (LexisNexis 2006). The base penalty for sexual abuse of a minor shall be imprisonment for a term of 18-24 months.
	Abusive sexual contact. 18 U.S.C.S. § 2244 (LexisNexis 2006).	Puerto Rico and the Virgin Islands)	18 U.S.C.S. Appx. § 2A3.3(a) (LexisNexis 2006). The base penalty for sexual abuse of a ward shall be imprisonment for a term of 4-10 months.	18 U.S.C.S. Appx. § 2A3.3(a) (LexisNexis 2006). The base penalty for sexual abuse of a ward shall be imprisonment for a term of 4-10 months.	18 U.S.C.S. Appx. § 2A3.4(a)(3) (LexisNexis 2006). The base penalty for abusive sexual

Fifty-State Survey of Criminal Laws Prohibiting Sexual Abuse of Individuals in Custody

State	Statute	Coverage	Definitions/Notes	Penalties	Defenses
United States (cont.)		or attempts to do so, shall be fined under this title, imprisonment for any term of years, or life, or both. (C) With children. Whoever, in the special maritime and territorial jurisdiction of the U.S. 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 Attorney General, knowingly engages in a sexual act under the circumstances described in subsections (a) and (b) with another person who has attained the age of 12 but not 16 (and is at least 4 years younger than the person so engaging), or attempts to do so, shall be fined under this title, imprisoned for any term of years or life or both.	degrade, or arouse or gratify the sexual desire of any person; (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 desire of any person; (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; (5) the term "official detention" means--	contact shall be imprisonment for a term of 6-27 months depending on the circumstances. 18 U.S.C.S. § 2244(a) (LexisNexis 2006). Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, knowingly engages in or causes sexual contact with or by another person, if so to do would violate - (1) 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; (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; (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; or (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 fifteen years, or both.	

18 U.S.C.S. § 2242 (LexisNexis 2006).
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 Attorney General, knowingly -
(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
(2) engages in a sexual act with another person if that other person is - (A) incapable of appraising the nature of the conduct; or
(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, imprisoned not more than 20 years, or both.

18 U.S.C.S. § 2243 (LexisNexis 2006).
(b) Whoever, in the special maritime

Fifty-State Survey of Criminal Laws Prohibiting Sexual Abuse of Individuals in Custody

State	Statute	Coverage	Definitions/Notes	Penalties	Defenses
United States (cont.)		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 Attorney General, knowingly engages in a sexual act with another person who is (1) in official detention; and (2) under the custodial, supervisory, or disciplinary authority of the person so engaging; or attempts to do so, shall be fined under this title, imprisoned not more than five years, or both.	(6) the term "State" means a State of the United States, the District of Columbia, and any commonwealth, possession, or territory of the United States.	18 U.S.C.S. § 2244 (LexisNexis 2006). Abusive sexual conduct is sexual conduct in circumstances where sexual acts are punished under this chapter, if the sexual contact, had it been a sexual act, would have violated § 2241, § 2242, or § 2243.	

Evaluation

The NIC/WCL Project staff and consultants are evaluating Breaking the Code of Silence: A Correction Officers' Handbook on Identifying and Addressing Sexual Misconduct, to determine how well it serves the field of corrections. We are primarily interested in its usability and applicability.

We would like you to complete the enclosed survey by going to
www.imperialresolutions.com/coheval.htm
 or by filling this in and mailing it back to us at:

The NIC Project
 Washington College of Law
 4801 Massachusetts Ave, N.W.
 Washington, D.C. 20016

Please circle your answer to the following questions:

1. This handbook provides a favorable user/reader experience.

Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree	Not Applicable/ Don't know
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2. This handbook clearly describes each topic to any interested party.

Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree	Not Applicable/ Don't know
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3. This handbook treats each topic in a balanced and fair manner.

Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree	Not Applicable/ Don't know
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4. All topics in this handbook are treated impartially on their merits.

Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree	Not Applicable/ Don't know
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5. Correctional professionals can easily locate the topic/information they are looking for.

Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree	Not Applicable/ Don't know
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6. This handbook is a useful/realistic reference for corrections officers.

Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree	Not Applicable/ Don't know
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7. The use of this handbook will improve my job performance.

Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree	Not Applicable/ Don't know
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8. This handbook can be understood by staff on every level – line, management, and leadership

Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree	Not Applicable/ Don't know
----------------	-------	---------	----------	-------------------	-------------------------------

9. My perception of this handbook compares favorably with my experience with other similar handbooks.

Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree	Not Applicable/ Don't know
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10. I would recommend this handbook to other correctional professionals.

Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree	Not Applicable/ Don't know
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11. How did you first learn about this handbook?

- Information and resource assistance through an NIC division
- Word of mouth
- Training [regional or academy]
- Professional book list
- Presentation
- NIC/WCL Website
- Other _____

12. Indicate the last time you contacted the NIC/WCL Project on Addressing Prison Rape for training?

1-12 months ago	13-18 months ago	19-24 months ago	25-36 months ago
37-48 months ago	49-60 months ago	more than 61 months ago	

13. Indicate the last time you contacted the NIC/WCL Project on Addressing Prison Rape for information or resources?

1-12 months ago	13-18 months ago	19-24 months ago	25-36 months ago
37-48 months ago	49-60 months ago	more than 61 months ago	

Reader Profile

The following questions are to collect demographic information only and are strictly voluntary.

Please circle your answer to the following questions

1. Job title/occupation:

1. Executive: (such as: Commissioner, Deputy Commissioner, Secretary etc.)
2. Facility Administrator: (such as: Warden, Superintendent, Jail Administrator, etc.)
3. Investigations: (such as: Investigator, Inspector General, Special Agent, etc.)
4. Line Staff: (such as correctional officer, guard etc.)
5. Law Enforcement: (such as: Sheriff, Deputy, Police Officer etc.)
6. Legal: (such as: Prosecutor, Attorney, Counsel, EEO etc.)
7. Advocacy: (such as: Psychologist, Victim Advocate, etc.)
8. Support Personnel: (such as: Human Resources, Training etc.)
9. Other: _____

2. Gender: Male Female

3. Race:	African American	Arab American/Middle Eastern
	Asian or Pacific Islander	Caucasian (White) non-Hispanic
	Hispanic	Native American/Alaskan Native
	Other _____	

4. Age: Less than 20 20-29 30-39 40-49 50-59 more than 60 years

5. What is your highest level of education?

- | | |
|--------------------------|-------------------|
| High School graduate/GED | Associates Degree |
| BA/BS | MA/MS/MSW |
| PhD/MD | JD |

6. How long have you worked in your career field?

- | | | |
|-------------------|----------------|--------------------|
| Less than 3 years | 3 to 5 years | 6 to 10 years |
| 11 to 20 years | 21 to 30 years | more than 31 years |

7. How long have you worked at your current organization?

- | | | |
|-------------------|----------------|--------------------|
| Less than 3 years | 3 to 5 years | 6 to 10 years |
| 11 to 20 years | 21 to 30 years | more than 31 years |

8. What is your current work location?

- | | | | |
|-----------|--------------|-------------|-------|
| Northeast | Mid-Atlantic | Mid-West | South |
| Southwest | Northwest | Other _____ | |

Jurisdiction (state or county): _____

9. Type of Facility:

- | | |
|------------------------------|---|
| Prison | Jail |
| Detention Center Private | Correctional Facility (Adult/ Juvenile) |
| State Juvenile Facility | Residential Facility (Adult/ Juvenile) |
| Community Supervision Agency | Other: _____ |

10. Your facility or agency is: male only female only mixed gender

Thank you for completing the survey.

Breaking the Code of

SILENCE

Correctional Officers' Handbook on Identifying and Addressing Sexual Misconduct



Brenda V. Smith and Jaime M. Yarussi

National Institute of Corrections/Washington College of Law Project on Addressing Prison Rape
American University Washington College of Law
www.wcl.american.edu/nic