

Statutes Criminalizing Sexual Acts with Prisoners/Detainees/Wards

(Taken from Æquitas Summary of Rape and Sexual Assault Analyses and Laws)

ALASKA STAT. § 11.41.425 (2010). SEXUAL ASSAULT IN THE THIRD DEGREE

Any person who while employed in a state correctional facility or other placement designated by the commissioner of corrections for the custody and care of prisoners, engages in sexual penetration with a person who the offender knows is committed to the custody of the Department of Corrections to serve a term of imprisonment or period of temporary commitment is guilty of sexual assault in the third degree.

ALASKA STAT. § 11.41.427 (2010). SEXUAL ASSAULT IN THE FOURTH DEGREE

Any person who while employed in a state correctional facility or other placement designated by the commissioner of corrections for the custody and care of prisoners, the offender engages in sexual contact with a person who the offender knows is committed to the custody of the Department of Corrections to serve a term of imprisonment or period of temporary commitment is guilty of sexual assault in the fourth degree.

ARIZONA REV. STAT. ANN. § 13-1419 (2012). UNLAWFUL SEXUAL CONDUCT; CORRECTIONAL FACILITIES; CLASSIFICATION; DETENTION

A person commits unlawful sexual conduct by intentionally or knowingly engaging in any act of a sexual nature with an offender who is in the custody of the state department of corrections, the department of juvenile corrections, a private prison facility, a juvenile detention facility or a city or county jail or with an offender who is under the supervision of either department or a city or county.

COLORADO REV. STAT. ANN. § 18-3-402 (WEST 2011). SEXUAL ASSAULT

Any actor who knowingly inflicts sexual intrusion or sexual penetration on a victim commits sexual assault if 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 to coerce the victim to submit, unless the act is incident to a lawful search, is guilty of sexual assault.

COLORADO REV. STAT. ANN. § 18-3-404 (WEST 2011). UNLAWFUL SEXUAL CONTACT

Any actor who knowingly subjects a victim to any sexual contact commits unlawful sexual contact if 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, is guilty of unlawful sexual contact.

CONNECTICUT GEN. STAT. ANN. § 53A-71 (WEST 2011). SEXUAL ASSAULT IN THE SECOND DEGREE: CLASS C OR B FELONY

A person is guilty of sexual assault in the second degree when such person engages in sexual intercourse with another person and 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.

D.C. CODE § 22-3013 (2011). FIRST DEGREE SEXUAL ABUSE OF A WARD

Any staff member, employee, contract employee, consultant, or volunteer at a hospital, treatment facility, detention or correctional facility, group home, or other institution; anyone who is an ambulance driver or attendant, a bus driver or attendant, or person who participates in the transportation of a ward, patient, client, or prisoner to and from such institutions; or any official custodian of a ward, patient, client, or prisoner, who engages in a sexual act with a ward, patient, client, or prisoner, or causes a ward, patient, client, or prisoner to engage in or submit to a sexual act, is guilty of first degree sexual abuse of a ward.

D.C. CODE § 22-3014 (2011). SECOND DEGREE SEXUAL ABUSE OF A WARD

Any staff member, employee, contract employee, consultant, or volunteer at a hospital, treatment facility, detention or correctional facility, group home, or other institution; anyone who is an ambulance driver or attendant, a bus driver or attendant, or person who participates in the transportation of a ward, patient, client, or prisoner to and from such institutions; or any official custodian of a ward, patient, client, or prisoner, who engages in a sexual contact with a ward, patient, client, or prisoner, or causes a ward, patient, client, or prisoner, to engage in or submit to a sexual contact, is guilty of second degree sexual abuse of a ward.

GEORGIA CODE ANN. § 16-6-5.1 (WEST 2010). SEXUAL ASSAULT

A person who has supervisory or disciplinary authority over another individual commits sexual assault when that person is an employee or agent of a correctional facility, juvenile detention facility, facility providing services to a person with a disability, as such term is defined in Code Section 37-1-1, or a facility providing child welfare and youth services, as such term is defined in Code Section 49-5-3, who engages in sexual contact with such other individual who the actor knew or should have known is in the custody of such facility.

IDAHO CODE ANN. § 18-6110 (2011). SEXUAL CONTACT WITH A PRISONER

It is a felony for any employee of the Idaho department of correction, Idaho department of juvenile corrections or any officer, employee or agent of a state, local or private correctional facility, as those terms are defined in section 18-101A, Idaho Code, to have sexual contact with a prisoner or juvenile offender, not their spouse, whether an in-state or out-of-state prisoner or juvenile offender, as those terms are defined in section 18-101A, Idaho Code.

It is a felony for any supervising officer, as that term is defined in section 18-101A, Idaho Code, to knowingly have sexual contact with any parolee or probationer, as those terms are defined in section 18-101A, Idaho Code, who is not the person's spouse.

For the purposes of this section “sexual contact” means sexual intercourse, genital-genital contact, manual-anal contact, manual-genital contact, oral-genital contact, anal-genital contact or oral-anal contact, between persons of the same or opposite sex.

720 ILLINOIS COMP. STAT. ANN. 5/11-9.2 (WEST 2010). CUSTODIAL SEXUAL MISCONDUCT

A person commits custodial sexual misconduct when he or she is an employee of a penal system and engages in sexual conduct or sexual penetration with a person who is in the custody of that penal system.

For purposes of this Section, the consent of the probationer, parolee, releasee, or inmate in custody of the penal system or person detained or civilly committed under the Sexually Violent Persons Commitment Act shall not be a defense to a prosecution under this Section. A person is deemed incapable of consent, for purposes of this Section, when he or she is a probationer, parolee, releasee, or inmate in custody of a penal system.

MAINE REV. STAT. ANN. TIT. 17-A, § 253 (2011). GROSS SEXUAL ASSAULT

A person is guilty of gross sexual assault if that person engages in a sexual act with another person and the other person, not the actor's spouse, is under official supervision as a probationer, a parolee, a sex offender on supervised release, a prisoner on supervised community confinement status or a juvenile on community reintegration status or is detained in a hospital, prison or other institution, and the actor has supervisory or disciplinary authority over the other person.

MAINE REV. STAT. ANN. TIT. 17-A, § 255-A (2011). UNLAWFUL SEXUAL CONTACT

A person is guilty of unlawful sexual contact if the actor intentionally subjects another person to any sexual contact and the other person, not the actor's spouse, is under official supervision as a probationer, a parolee, a sex offender on supervised release, a prisoner on supervised community confinement status or a juvenile on community reintegration status or is detained in a hospital, prison or other institution and the actor has supervisory or disciplinary authority over the other person and the sexual contact includes penetration.

MAINE REV. STAT. ANN. TIT. 17-A, § 260 (2011). UNLAWFUL SEXUAL TOUCHING

A person is guilty of unlawful sexual touching if the actor intentionally subjects another person to any sexual touching and 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 or the department of corrections who knows that the other person is under the county's jurisdiction.

MICHIGAN COMP. LAWS ANN. § 750.520C (WEST 2011). CRIMINAL SEXUAL CONDUCT IN SECOND DEGREE

A person is guilty of criminal sexual conduct in the second degree if the person engages in sexual contact with another person and if any of the following circumstances exists:

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 or the department of corrections who knows that the other person is under the county's jurisdiction.

MISSOURI ANN. STAT. § 566.145 (WEST 2011). SEXUAL CONTACT WITH AN INMATE, CRIME

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 an offender who is confined in a jail, prison, or correctional facility; 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.

Consent of a prisoner or offender is not an affirmative defense.

NEW JERSEY STAT. ANN. § 2C:14-2 (WEST 2011). SEXUAL ASSAULT

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: 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.

NORTH DAKOTA CENT. CODE § 12.1-20-07 (2009). SEXUAL ASSAULT

A person who knowingly has sexual contact with another person, or who causes another person to have sexual contact with that person, is guilty of an offense 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 that other person.

6 NORTHERN MARIANA ISLANDS CODE § 1303 (2013). SEXUAL ASSAULT IN THE THIRD DEGREE

Any person while employed in a Commonwealth correctional facility or other placement designated by the commissioner of corrections for the custody and care of prisoners, who engages in sexual penetration with a person who the offender knows is committed to the custody of the Department of Corrections to serve a term of imprisonment or period of temporary commitment, is guilty of sexual assault in the third degree.

6 NORTHERN MARIANA ISLANDS CODE § 1304 (2013). SEXUAL ASSAULT IN THE FOURTH DEGREE.

Any person while employed in the Commonwealth correctional facility or other placement designated by the commissioner of corrections for the custody and care of prisoners, who engages in sexual contact with a person who the offender knows is committed to the custody of the Department of Corrections to serve a term of imprisonment or period of temporary commitment, is guilty of sexual assault in the fourth degree.

18 U.S.C.A. § 2243 (WEST 2011). SEXUAL ABUSE OF A MINOR OR WARD

Of a Ward. - Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, 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, is guilty of sexual abuse of a ward.