

ARTICLE 3 - SEXUAL ASSAULT

**6-2-301. Definitions.**

(a) As used in this article:

(i) "Actor" means the person accused of criminal assault;

(ii) "Intimate parts" means the external genitalia, perineum, anus or pubes of any person or the breast of a female person;

(iii) "Physically helpless" means unconscious, asleep or otherwise physically unable to communicate unwillingness to act;

(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;

(v) "Sexual assault" means any act made criminal pursuant to W.S. 6-2-302 through 6-2-319;

(vi) "Sexual contact" means touching, with the intention of sexual arousal, gratification or abuse, of the victim's intimate parts by the actor, or of the actor's intimate parts by the victim, or of the clothing covering the immediate area of the victim's or actor's intimate parts;

(vii) "Sexual intrusion" means:

(A) Any intrusion, however slight, by any object or any part of a person's body, except the mouth, tongue or penis, into the genital or anal opening of another person's body if that sexual intrusion can reasonably be construed as being for the purposes of sexual arousal, gratification or abuse; or

(B) Sexual intercourse, cunnilingus, fellatio, analingus or anal intercourse with or without emission.

(viii) "Victim" means the person alleged to have been subjected to sexual assault;

(ix) "This article" means W.S. 6-2-301 through 6-2-320.

**6-2-302. Sexual assault in the first degree.**

(a) Any actor who inflicts sexual intrusion on a victim commits a sexual assault in the first degree if:

(i) The actor causes submission of the victim through the actual application, reasonably calculated to cause submission of the victim, of physical force or forcible confinement;

(ii) The actor causes submission of the victim by threat of death, serious bodily injury, extreme physical pain or kidnapping to be inflicted on anyone and the victim reasonably believes that the actor has the present ability to execute these threats;

(iii) The victim is physically helpless, and the actor knows or reasonably should know that the victim is physically helpless and that the victim has not consented; or

(iv) The actor knows or reasonably should know that the victim through a mental illness, mental deficiency or developmental disability is incapable of appraising the nature of the victim's conduct.

**6-2-303. Sexual assault in the second degree.**

(a) Any actor who inflicts sexual intrusion on a victim commits sexual assault in the second degree if, under circumstances not constituting sexual assault in the first degree:

(i) The actor causes submission of the victim by threatening to retaliate in the future against the victim or the victim's spouse, parents, brothers, sisters or children, and the victim reasonably believes the actor will execute this threat. "To retaliate" includes threats of kidnapping, death, serious bodily injury or extreme physical pain;

(ii) The actor causes submission of the victim by any means that would prevent resistance by a victim of ordinary resolution;

(iii) The actor administers, or knows that someone else administered to the victim, without the prior knowledge or consent of the victim, any substance which substantially impairs the victim's power to appraise or control his conduct;

(iv) The actor knows or should reasonably know that the victim submits erroneously believing the actor to be the victim's spouse;

(v) Repealed By Laws 2007, Ch. 159, § 3.

(vi) The actor is in a position of authority over the victim and uses this position of authority to cause the victim to submit;

(vii) The actor is an employee, independent contractor or volunteer of a state, county, city or town, or privately operated adult or juvenile correctional system, including but not limited to jails, penal institutions, detention centers, juvenile residential or rehabilitative facilities, adult community correctional facilities or secure treatment facilities and the victim is known or should be known by the actor to be a resident of such facility or under supervision of the correctional system; or

(viii) The actor inflicts sexual intrusion in treatment or examination of a victim for purposes or in a manner substantially inconsistent with reasonable medical practices.

(b) A person is guilty of sexual assault in the second degree if he subjects another person to sexual contact and causes serious bodily injury to the victim under any of the circumstances listed in W.S. 6-2-302(a)(i) through (iv) or paragraphs (a)(i) through (vii) of this section.

(c) Repealed By Laws 1997, ch. 135, § 2.

**6-2-304. Sexual assault in the third degree.**

(a) An actor commits sexual assault in the third degree if, under circumstances not constituting sexual assault in the first or second degree:

(i) Repealed By Laws 2007, Ch. 159, § 3.

(ii) Repealed By Laws 2007, Ch. 159, § 3.

(iii) The actor subjects a victim to sexual contact under any of the circumstances of W.S. 6-2-302(a)(i) through (iv) or 6-2-303(a)(i) through (vii) without inflicting sexual intrusion on the victim and without causing serious bodily injury to the victim.

**6-2-305. Repealed By Laws 1997, ch. 135, § 2.**

**6-2-306. Penalties for sexual assault.**

(a) An actor convicted of sexual assault under W.S.

6-2-302 through 6-2-304 who does not qualify under the criteria of subsection (b) or (d) of this section shall be punished as follows:

(i) Sexual assault in the first degree under W.S. 6-2-302 is a felony punishable by imprisonment for not less than five (5) years nor more than fifty (50) years;

(ii) Sexual assault in the second degree under W.S. 6-2-303 is a felony punishable by imprisonment for not less than two (2) years nor more than twenty (20) years;

(iii) Sexual assault in the third degree under W.S. 6-2-304 is a felony punishable by imprisonment for not more than fifteen (15) years;

(iv) Repealed By Laws 1997, ch. 135, § 2.

(b) An actor who is convicted of sexual assault under W.S. 6-2-302 through 6-2-304, who has previously been convicted of any crime containing the same or similar elements as the crimes defined in W.S. 6-2-302 through 6-2-304 and who does not qualify under the criteria of subsection (d) of this section shall be punished as follows:

(i) Repealed By Laws 2007, Ch. 159, § 3.

(ii) Repealed By Laws 2007, Ch. 159, § 3.

(iii) Sexual assault in the first or second degree under W.S. 6-2-302 or 6-2-303 is a felony punishable by imprisonment for not less than twenty-five (25) years or for life; or

(iv) Sexual assault in the third degree under W.S. 6-2-304 is a felony punishable by imprisonment for not more than twenty (20) years.

(c) Repealed By Laws 1997, Ch. 135, § 2; 2007, Ch. 159, § 3.

(d) An actor who is convicted of sexual assault under W.S. 6-2-302 through 6-2-304, or sexual abuse of a minor under W.S. 6-2-316 through 6-2-317, shall be punished by life imprisonment without parole if the actor has two (2) or more previous convictions for any of the following designated offenses, which convictions resulted from charges separately brought and which arose out of separate occurrences in this state or elsewhere and which convictions were for offenses committed after the actor reached the age of eighteen (18) years of age:

(i) A crime defined in W.S. 6-2-302 through 6-2-304 or a criminal statute from another jurisdiction containing the same or similar elements as a crime defined by W.S. 6-2-302 through 6-2-304.

(ii) Repealed By Laws 1997, ch. 135, § 2.

(iii) Repealed By Laws 2007, Ch. 159, § 3.

(e) An actor who is convicted of sexual abuse of a minor under W.S. 6-2-314 or 6-2-315 shall be punished by life imprisonment without parole if the actor has one (1) or more previous convictions for a violation of W.S. 6-2-302 through 6-2-304, 6-2-314 or 6-2-315, or a criminal statute containing the same or similar elements as the crimes defined by W.S. 6-2-302 through 6-2-304, 6-2-314 or 6-2-315, which convictions resulted from charges separately brought and which arose out of separate occurrences in this state or elsewhere and which convictions were for offenses committed after the actor reached the age of eighteen (18) years of age.

**6-2-307. Evidence of marriage as defense.**

(a) The fact that the actor and the victim are married to each other is not by itself a defense to a violation of W.S. 6-2-302(a)(i), (ii) or (iii) or 6-2-303(a)(i), (ii), (iii), (vi) or (vii).

(b) Consent of the victim is not a defense to a violation of W.S. 6-2-303(a)(vii) or 6-2-304(a)(iii).

**6-2-308. Criminality of conduct; victim's age.**

(a) Except as provided by subsection (b) of this section, if criminality of conduct in this article depends on a victim being under sixteen (16) years of age, it is an affirmative defense that the actor reasonably believed that the victim was sixteen (16) years of age or older.

(b) If criminality of conduct in this article depends upon a victim being under twelve (12) years or under fourteen (14) years, it is no defense that the actor did not know the victim's age, or that he reasonably believed that the victim was twelve (12) years or fourteen (14) years of age or older, as applicable.

**6-2-309. Medical examination of victim; costs; use of report; minors; rights of victims; reimbursement.**

(a) A law enforcement agency receiving a report of a sexual assault may, with the victim's consent, arrange for an examination of the victim by a licensed health care provider acting within the scope of the provider's practice. The examination may include a medical examination and treatment, evidence collection and evaluation, and appropriate referrals for follow-up treatment and services. Upon consent of the victim to release of the results of the examination, the evidence, record and reports shall be delivered to the law enforcement agency.

(b) Repealed By Laws 2006, Chapter 77, § 2.

(c) Repealed by Laws 1991, ch. 130, § 2.

(d) Repealed By Laws 2006, Chapter 77, § 2.

(e) If a report of a sexual assault is received from a minor victim, and the parents or guardian of the minor cannot be located promptly with diligent effort, the examination provided for by subsection (a) of this section may be conducted with the minor's consent. If a report of a sexual assault is received alleging a minor as the victim and a parent or guardian is the suspected perpetrator, the parent or guardian who is the suspected perpetrator shall not be notified pursuant to this section.

(f) Repealed By Laws 2006, Chapter 77, § 2.

(g) Except as provided by subsection (j) of this section, the costs of any examination relating to the investigation or prosecution of a sexual assault shall be billed to and paid by the investigating law enforcement agency. These examination costs shall include the following:

(i) The cost of gathering evidence; and

(ii) Any other examinations authorized by law enforcement to aid in the investigation and prosecution of the sexual assault.

(h) Except as provided by subsection (j) of this section, any examination costs directly incurred by a sexual assault victim that are not covered by subsection (g) of this section, or other collateral source, shall be submitted to the victim services division within the office of the attorney general for determination of eligibility for payment from the crime victims compensation account established by W.S. 1-40-114. All requests for compensation from the account shall be subject to the eligibility guidelines set forth in the Crime Victims

Compensation Act, W.S. 1-40-101 through 1-40-119.

(j) A convicted offender of a sexual assault shall be ordered to reimburse any costs incurred under subsections (g) and (h) of this section and any other costs incurred as a direct result of the sexual assault.

(k) Each victim reporting a sexual assault shall be informed of the rights enumerated in this section, the victim's rights to informed consent and the victim's rights as a victim of crime. The victim shall also be informed of available medical, legal and advocacy services.

(m) The examinations authorized by this section shall remain confidential healthcare information unless the victim or the victim's parent or legal guardian executes a release of medical information for the purpose of prosecution to the county attorney, the state of Wyoming or any relevant court. However, if the report of sexual assault described in subsection (a) of this section results in the filing against any person of a criminal charge, or the filing of a petition alleging a delinquent act which would be a felony if committed by an adult, the written report disclosing the results of an examination made pursuant to this section shall be made available to the person charged or his counsel upon demand.

**6-2-310. Repealed By Laws 2009, Ch. 18, § 2.**

**6-2-311. Corroboration unnecessary.**

Corroboration of a victim's testimony is not necessary to obtain a conviction for sexual assault.

**6-2-312. Evidence of victim's prior sexual conduct or reputation; procedure for introduction.**

(a) In any prosecution under this article or for any lesser included offense, if evidence of the prior sexual conduct of the victim, reputation evidence or opinion evidence as to the character of the victim is to be offered the following procedure shall be used:

(i) A written motion shall be made by the defendant to the court at least ten (10) days prior to the trial stating that the defense has an offer of proof of the relevancy of evidence of the sexual conduct of the victim and its relevancy to the defense;

(ii) The written motion shall be accompanied by affidavits in which the offer of proof is stated;

(iii) If the court finds the offer of proof sufficient, the court shall order a hearing in chambers, and at the hearing allow the questioning of the victim regarding the offer of proof made by the defendant and other pertinent evidence;

(iv) At the conclusion of the hearing, if the court finds that the probative value of the evidence substantially outweighs the probability that its admission will create prejudice, the evidence shall be admissible pursuant to this section. The court may make an order stating what evidence may be introduced by the defendant, which order may include the nature of the questions to be permitted.

(b) This section does not limit the introduction of evidence as to prior sexual conduct of the victim with the actor.

(c) Any motion or affidavit submitted pursuant to this section is privileged information and shall not be released or made available for public use or scrutiny in any manner, including posttrial proceedings.

**6-2-313. Sexual battery.**

(a) Except under circumstances constituting a violation of W.S. 6-2-302 through 6-2-304, 6-2-314 through 6-2-317 or 6-2-502, an actor who unlawfully subjects another person to any sexual contact is guilty of sexual battery.

(b) Sexual battery is a misdemeanor punishable by imprisonment for not more than one (1) year, a fine of not more than one thousand dollars (\$1,000.00), or both.

**6-2-314. Sexual abuse of a minor in the first degree; penalties.**

(a) An actor commits the crime of sexual abuse of a minor in the first degree if:

(i) Being sixteen (16) years of age or older, the actor inflicts sexual intrusion on a victim who is less than thirteen (13) years of age;

(ii) Being eighteen (18) years of age or older, the actor inflicts sexual intrusion on a victim who is less than eighteen (18) years of age, and the actor is the victim's legal guardian or an individual specified in W.S. 6-4-402;



(iii) Being eighteen (18) years of age or older, the actor inflicts sexual intrusion on a victim who is less than sixteen (16) years of age and the actor occupies a position of authority in relation to the victim.

(b) Except as provided in subsection (c) of this section, a person convicted under subsection (a) of this section is subject to imprisonment for not more than fifty (50) years, unless the person convicted qualifies under W.S. 6-2-306(e).

(c) A person convicted under paragraph (a)(i) of this section, where the actor is at least twenty-one (21) years of age, is subject to imprisonment for not less than twenty-five (25) years nor more than fifty (50) years, unless the person convicted qualified under W.S. 6-2-306(e).

**6-2-315. Sexual abuse of a minor in the second degree; penalties.**

(a) Except under circumstance constituting sexual abuse of a minor in the first degree as defined by W.S. 6-2-314, an actor commits the crime of sexual abuse of a minor in the second degree if:

(i) Being seventeen (17) years of age or older, the actor inflicts sexual intrusion on a victim who is thirteen (13) through fifteen (15) years of age, and the victim is at least four (4) years younger than the actor;

(ii) Being sixteen (16) years of age or older, the actor engages in sexual contact of a victim who is less than thirteen (13) years of age;

(iii) Being eighteen (18) years of age or older, the actor engages in sexual contact with a victim who is less than eighteen (18) years of age and the actor is the victim's legal guardian or an individual specified in W.S. 6-4-402; or

(iv) Being eighteen (18) years of age or older, the actor engages in sexual contact with a victim who is less than sixteen (16) years of age and the actor occupies a position of authority in relation to the victim.

(b) A person convicted under subsection (a) of this section is subject to imprisonment for not more than twenty (20) years, unless the person convicted qualifies under W.S. 6-2-306(e).

**6-2-316. Sexual abuse of a minor in the third degree.**

(a) Except under circumstance constituting sexual abuse of a minor in the first or second degree as defined by W.S. 6-2-314 and 6-2-315, an actor commits the crime of sexual abuse of a minor in the third degree if:

(i) Being seventeen (17) years of age or older, the actor engages in sexual contact with a victim who is thirteen (13) through fifteen (15) years of age, and the victim is at least four (4) years younger than the actor;

(ii) Being twenty (20) years of age or older, the actor engages in sexual intrusion with a victim who is either sixteen (16) or seventeen (17) years of age, and the victim is at least four (4) years younger than the actor, and the actor occupies a position of authority in relation to the victim;

(iii) Being less than sixteen (16) years of age, the actor inflicts sexual intrusion on a victim who is less than thirteen (13) years of age, and the victim is at least three (3) years younger than the actor; or

(iv) Being seventeen (17) years of age or older, the actor knowingly takes immodest, immoral or indecent liberties with a victim who is less than seventeen (17) years of age and the victim is at least four (4) years younger than the actor.

(b) A person convicted under subsection (a) of this section is subject to imprisonment for not more than fifteen (15) years.

(c) A person charged with violating the provisions of paragraph (a)(iii) of this section shall be subject to the original jurisdiction of the juvenile court, except the matter may be transferred to the district court having jurisdiction of the offense as provided in W.S. 14-6-237.

**6-2-317. Sexual abuse of a minor in the fourth degree.**

(a) Except under circumstance constituting sexual abuse of a minor in the first, second or third degree as defined by W.S. 6-2-314 through 6-2-316, an actor commits the crime of sexual abuse of a minor in the fourth degree if:

(i) Being less than sixteen (16) years of age, the actor engages in sexual contact with a victim who is less than thirteen (13) years of age, and the victim is at least three (3) years younger than the actor; or

(ii) Being twenty (20) years of age or older, the actor engages in sexual contact with a victim who is either

sixteen (16) or seventeen (17) years of age, and the victim is at least four (4) years younger than the actor, and the actor occupies a position of authority in relation to the victim.

(b) A person convicted under subsection (a) of this section is subject to imprisonment for not more than five (5) years.

(c) A person charged with violating the provisions of paragraph (a)(i) of this section shall be subject to the original jurisdiction of the juvenile court, except the matter may be transferred to the district court having jurisdiction of the offense as provided in W.S. 14-6-237.

**6-2-318. Soliciting to engage in illicit sexual relations; penalty.**

Except under circumstances constituting sexual assault in the first, second or third degree as defined by W.S. 6-2-302 through 6-2-304, or sexual abuse of a minor in the first, second, third or fourth degree as defined by W.S. 6-2-314 through 6-2-317, anyone who has reached the age of majority and who solicits, procures or knowingly encourages anyone less than the age of fourteen (14) years, or a person purported to be less than the age of fourteen (14) years, to engage in sexual intrusion as defined in W.S. 6-2-301 is guilty of a felony, and upon conviction shall be imprisoned for a term of not more than five (5) years.

**6-2-319. Names not to be released; restrictions on disclosures or publication of information; violations; penalties.**

(a) Prior to the filing of an information or indictment in district court charging a violation of an offense under this article, neither the names of the alleged actor or the victim of the charged offense nor any other information reasonably likely to disclose the identities of the parties shall be released or negligently allowed to be released to the public by any public employee except as authorized by the judge with jurisdiction over the criminal charges. The actor's name may be released to the public to aid or facilitate an arrest. This subsection shall not apply if release of the name or information is necessary to enforce an order for protection against the alleged actor.

(b) After the filing of an information or indictment in district court and absent a request to release the identity of a minor victim by the minor or another acting on behalf of a minor victim, the trial court shall, to the extent necessary to protect the welfare of the minor victim, restrict the disclosure

of the name of the minor victim, unless the name has been publicly disclosed by the parent or legal guardian of the minor or by law enforcement in an effort to find the victim. The trial court may, to the extent necessary to protect the welfare of the minor victim, restrict disclosure of the information reasonably likely to identify the minor victim.

(c) Any person who willfully violates subsection (a) of this section is guilty of a misdemeanor and upon conviction shall be fined not more than seven hundred fifty dollars (\$750.00) or be imprisoned in the county jail not more than ninety (90) days, or both.

(d) A release of a name or other information to the public in violation of the proscriptions of this section shall not stand as a bar to the prosecution of a defendant nor be grounds for dismissal of any charges against a defendant.

(e) As used in this section "minor victim" means a person less than the age of eighteen (18) years.

**6-2-320. Prohibited access to school facilities by adult sex offenders; exceptions; penalties; definitions.**

(a) Except as provided in subsection (b) of this section, no person who is eighteen (18) years of age or older who is required to register as a sex offender pursuant to W.S. 7-19-302 shall:

(i) Be upon or remain on the premises of any school building or school grounds in this state, or upon other properties owned or leased by a school when the registered offender has reason to believe children under the age of eighteen (18) years are present and are involved in a school activity or when children are present within thirty (30) minutes before or after a scheduled school activity;

(ii) Knowingly loiter on a public way within one thousand (1,000) feet from the property line of school grounds in this state, including other properties owned or leased by a school when children under the age of eighteen (18) years are present and are involved in a school activity or when children are present within thirty (30) minutes before or after a scheduled school activity;

(iii) Be in any vehicle owned or leased by a school to transport students to or from school or a school related activity when children under the age of eighteen (18) years are present in the vehicle;

(iv) Reside within one thousand (1,000) feet of the property on which a school is located, measured from the nearest point of the exterior wall of the registered offender's dwelling unit to the school's property line, except that this paragraph shall not apply if the registered offender's residence was established prior to July 1, 2010.

(b) The provisions of paragraphs (a)(i) and (ii) shall not apply to the extent the registered offender:

(i) Is a student in attendance at the school;

(ii) Is attending an academic conference or other scheduled extracurricular school event with school officials present when the registered offender is a parent or legal guardian of a child who is participating in the conference or extracurricular event;

(iii) Resides at a state licensed or certified facility for incarceration, health or convalescent care that is within one thousand (1,000) feet from the property on which a school is located;

(iv) Is dropping off or picking up a child and the registered offender is the child's parent or legal guardian;

(v) Is temporarily on school grounds during school hours for the purpose of making a mail, food or other delivery;

(vi) Is exercising his right to vote in a public election;

(vii) Is taking delivery of his mail through an official post office located on school grounds;

(viii) Has written permission from the school principal, vice-principal, or person with equivalent authority, to be on the school grounds or upon other property that is used by a school; or

(ix) Stays at a homeless shelter or resides at a recovery facility that is within one thousand (1,000) feet from the property on which a school is located if such shelter or facility has been approved for sex offenders by the sheriff or police chief.

(c) Any person who violates the provisions of subsection (a) of this section is guilty of a misdemeanor and upon conviction, shall be punished by imprisonment for not more than six (6) months, a fine of not more than seven hundred fifty

dollars (\$750.00), or both.

(d) Nothing in this section shall prevent a school district from adopting more stringent safety and security requirements for employees and nonemployees while they are in district facilities or on district properties.

(e) As used in this section:

(i) "Extracurricular event" means any school sponsored activity that is outside the regular curriculum, occurring during or outside regular school hours, including academic, artistic, athletic or recreational activities;

(ii) "Registered offender" means a person who is eighteen (18) years of age or older who is required to register as a sex offender pursuant to W.S. 7-19-302.