

# Title IX, VAWA & Clery Act Training Guide for Undergraduate Students

Brown Mackie College

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## Introduction

Title IX, VAWA & Clery Act Training Guide for Undergraduate Students

Welcome!

Dear Students,

We are providing this training program to educate students about Title IX of the Education Amendments of 1972, the Campus Sexual Violence Elimination (SaVE) Act and the VAWA/Clery Act. This training provides information on several topics relevant to college life: sexuality, sexual violence prevention, dating/domestic violence and stalking prevention, bystander intervention and discrimination prevention.

The training also provides resources for reporting and resolving violence. Our schools prohibit the crimes of dating violence, domestic violence, sexual assault and stalking. These crimes will not be tolerated and will result in sanctions up to and including expulsion.

Thank you for your attention to this important campus safety training.

Deana C. Echols

Vice President, Student Finance & Compliance

## Brown Mackie College Policies and Title IX Coordinator

Refer to your campus's Catalog and College Bulletin for campus-specific safety policies. To access your campus's Catalog and College Bulletin online, select your campus using the link:

<https://www.brownmackie.edu/admissions/academic-catalog>

Select the link to Catalog. The relevant policies can be found under *Sexual Misconduct & Relationship Violence Policy; Procedures for Handling Sexual Misconduct and Relationship Violence Complaints*

**Brown Mackie College** has jurisdiction over complaints involving harassment, discrimination, sexual violence, dating violence, domestic violence and stalking pursuant to Title IX and the Clery Act. Title IX requires covered schools to have a policy against sex discrimination, to have a Title IX coordinator and to adopt and publish grievance procedures. Through VAWA and the Clery Act, covered schools also must investigate all complaints.

**Our Title IX Coordinator:** Michelle Toney

**Our Title IX Coordinator Contact Information:** [htoney@brownmackie.edu](mailto:htoney@brownmackie.edu)

**To file a complaint** at Brown Mackie College, you should follow these procedures:

Refer to your campus's Catalog and College Bulletin for campus-specific safety policies. To access your campus's Catalog and College Bulletin online, select your campus using the link:

<https://www.brownmackie.edu/admissions/academic-catalog>

Select the link to Catalog. The relevant policies can be found under *Sexual Misconduct & Relationship Violence Policy; Procedures for Handling Sexual Misconduct and Relationship Violence Complaints*

## **Glossary of Relevant Terms**

### **Abuse**

Abuse is causing or attempting to cause bodily harm to someone or causing fear of such harm.

### **Bystander**

A bystander is a person who observes a crime, impending crime, conflict, potentially violent or violent behavior, or conduct that is in violation of established rules or policies.

### **Clery Act**

The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act requires colleges and universities that participate in federal financial aid programs to keep and disclose information about crime on or near their respective campuses. It also includes rights that schools must provide survivors of sexual assault on campus.

### **Cohabitants**

Cohabitants are two unrelated adults living together for a substantial period of time.

### **Color**

Color refers to the color of an individual's skin. Color is a federally protected category.

### **Consent**

When thinking in general about consent as it relates to sexual activity and sexual contact, it is the best practice to follow an affirmative consent standard. Affirmative consent requires a conscious, positive and voluntary agreement to engage in sexual activity; the agreement must be clearly communicated by all parties to the encounter and must exist at every step - from the beginning to the end of the encounter. Consent can be revoked at any time, at which point sexual activity must immediately cease. Lack of protest or resistance does not mean you have consent, nor does silence equal consent. The existence of a dating relationship between the persons involved, or the fact of past sexual relations between them, should never by itself be assumed to be an indicator of consent.

Specific definitions of consent differ from state to state and are included at the end of this training guide.

### **Dating Violence**

Dating violence usually includes a pattern of physical, sexual, psychological or emotional actions or threats of those actions.

Specific definitions of dating violence differ from state to state and are included at the end of this training guide.

### **Equal Employment Opportunity Commission (EEOC)**

The Equal Employment Opportunity Commission (EEOC) is the federal agency that enforces Title VII and issues guidelines that interpret Title VII. The EEOC interprets Title VII as forbidding sexual harassment as a form of gender discrimination.

### **Gender / Sex**

Sex is the classification of people as male or female. At birth, infants are assigned a sex based on a combination of bodily characteristics, including chromosomes, hormones, internal reproductive organs and genitals. Gender is sometimes used interchangeably with sex. Discrimination based on a person's gender, including gender identity and sex stereotyping, is a form of sex discrimination.

### **Gender Identity**

Gender identity is frequently defined as an individual's internal, personal sense of being a man, a woman, a transgender person or a different gender entirely.

Federal law, and many state and local laws, protect both transgender and non-transgender people by prohibiting discrimination based on gender expression and gender-related identity, appearance or behavior.

### **Harassment**

Harassment is any behavior by a person or persons that is offensive, aggravating or otherwise unwelcome to another person.

### **Harassment because of Sex**

Harassment because of sex includes sexual harassment, gender harassment, gender identity harassment, sex stereotyping, harassment based on pregnancy or related medical conditions and harassment based on childbirth or related medical conditions.

### **Intimate Partner Violence**

Generally, intimate partner violence, also called domestic violence, is a pattern of abusive

behavior used by one partner, spouse or former partner or spouse to maintain control over the other. Intimate partner violence can be physical, psychological or sexual and can also include threats of physical or sexual violence. Intimate partner violence can be between same- or different-sex partners and does not require sexual intimacy.

## **LGBTQIA**

LGBTQIA is one variation of LGBT (a shorthand way of describing a diverse community composed of Lesbian, Gay, Bisexual, Transgender and other people).

"Gay" means a man attracted to members of the same gender. "Lesbian" refers to a woman attracted to members of the same gender.

"Bisexual" means a person who is attracted to men and women, though not necessarily in the same proportions or at the same time.

"Transgender" is a broad, umbrella term that includes, among others, those whose assigned birth sex/gender does not match their gender identity. Some transgender people alter their bodies with surgery or hormones; some do not. Sometimes "genderqueer" is included with transgender, and it refers to people with a fluid, non-linear gender identity, and those whose identity is neither man nor woman, or some combination of the two.

The "Q" stands for both "queer" and "questioning." Frequently, the community describes itself as queer. This word has been leveled at members of the community with hatred in the past, but many have reclaimed use of the word. Questioning applies to people who are exploring or questioning their sexual orientation.

The "I" stands for "intersex," and its inclusion is deeply debated. Intersex (sometimes called "Differences of Sex Development") is an umbrella term describing a wide range of physical conditions where the sexual or reproductive organs do not directly correlate with traditional definitions of male or female organs. Intersex and transgender are often confused, but they are not the same.

"A" stands for "asexual" and "ally." Asexual people generally do not experience sexual attraction. Not to be confused with celibacy, asexuality is not a choice, and some asexual people engage in romantic, non-sexual relationships. Romantic orientations are as varied as sexual orientations for sexual people, including homoromantic, heteroromantic, biromantic and more. Allies are people who advocate for communities that they don't belong to, for example, a

straight person who supports LGBT rights. Allies show their support in many ways, including educating themselves, educating others and participating in activism.

### **Office for Civil Rights (OCR)**

The Office for Civil Rights (OCR) is an agency of the U.S. Department of Education that enforces laws preventing discrimination in all schools that receive Department of Education Funds, including Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973 and the Age Discrimination Act of 1975.

### **Pansexual**

A pansexual person is attracted to people of all sexes or genders.

### **Pervasive**

A pervasive action refers to repeated incidents of the same or similar unwelcome and offensive behavior. In order to rise to the level of unlawful harassment, behavior must be either severe or pervasive.

### **Protected Categories**

The protected categories are the foundation of U.S. harassment and discrimination laws. They were first introduced in a law called Title VII (the Civil Rights Act of 1964). The federally protected categories include religion, race/color, disability/medical condition, national origin/ancestry and sex/gender. State and local protected categories vary and include many other groups.

### **Race**

Race is an individual's ancestry or ethnic characteristics strongly associated with ancestry. Race is a federally protected category.

### **Recipient**

A person who is on the receiving end of sex discrimination or sexual violence. Sometimes people refer to recipients of violence as *victims* of violence. Because this terminology can make the recipient seem passive, weak or disempowered, many people now use different words like recipient (neutral) or survivor (powerful).

### **Religion**

Religion is an individual's moral or ethical system of belief. Religion is a federally protected



category.

### **Reportable Offenses**

Under the Campus SaVE Act, the Annual Security Report that each university prepares must include statistics on incidents of domestic violence, dating violence and stalking that were reported to campus security or local law enforcement.

These reportable offenses are defined under Sec. 40002(a) of the Violence Against Women Act of 1994 (42 U.S.C. Sec. 13925(a)) and are now categorized as “hate” crimes under the Hate Crimes Statistics Act.

### **Retaliation**

Retaliation is any form of punishment in response to a harassment complaint. Harassment and discrimination laws (and in some states, "whistleblower" laws) protect employees who bring complaints of harassment by prohibiting retaliation from supervisors or coworkers. Most employers' harassment policies also specifically prohibit retaliation.

### **Sexual Assault**

Acts that fall under this prohibition typically include using manipulation or threats to force someone to perform sexual acts, sexual touching against someone's will and sexual contact with someone who is unable to give consent.

The federal Clery Act already requires sexual assault be reported in the Annual Security Report Statistics, but the Campus SaVE Act provides that crime means an offense classified as a forcible or nonforcible sex offense under the FBI's uniform crime reporting system. The SaVE Act also references state law definitions.

Specific definitions of sexual assault differ from state to state and are included at the end of this training guide.

### **Sexual Battery**

Sexual battery is a broad term that may be defined differently depending on state law. Generally, sexual battery includes any non-consensual touching of the intimate areas of the body of another person, whether or not through the clothing, for the purpose of inducing sexual arousal or gratification, or inflicting sexual abuse. In several states, however, sexual battery is defined more narrowly, applying only to non-consensual sexual acts such as intercourse, cunnilingus, or fellatio.

## **Sexual Coercion**

Sexual coercion is a broad term that may be defined differently depending on state law. Generally, sexual coercion includes wrongfully using threats to overcome the will of a person which induces the person to submit to sexual acts where they would have otherwise not submitted.

## **Sexual Orientation**

Sexual orientation describes an individual's enduring physical, romantic, emotional and/or spiritual attraction to others. Terms including lesbian, gay, bisexual (or "bi") and straight tend to be favored in many settings, though homosexual and heterosexual are preferred by some.

## **Sexual Violence**

Sexual violence is physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent. Sexual violence includes rape, sexual assault, sexual battery and sexual coercion.

Specific definitions of sexual violence differ from state to state and are included at the end of this training guide.

## **Stalking**

Stalking can be repeated harassment or threats that cause a target to feel fear or anxiety. Stalking may include following and spying on the target, sending unwanted presents, spreading rumors, damaging the target's property or defaming the target's character. As with bullying and intimate partner violence, stalkers are often motivated by a desire for power.

Specific definitions of stalking differ from state to state and are included at the end of this training guide.

## **Violence Against Women Act**

The Violence Against Women Act of 1994 (VAWA) provided \$1.6 billion to enhance investigation and prosecution of violent crimes perpetrated against women, imposed automatic and mandatory restitution on those convicted, and allowed civil redress in cases prosecutors chose to leave unprosecuted. It also established the Office on Violence Against Women, which develops federal policy around issues related to domestic violence, dating violence, sexual assault and stalking.

## The Reality of Sexual Violence in the United States Today

1: “1 in 4 women and 1 in 7 men have been the victim of severe intimate partner violence.”

Source: U.S. Department of Justice, *Crime in the United States, 2010*. Federal Bureau of Investigation, Uniform Crime Reports, Washington, DC: 2011.

2: “Each minute, there are 24 victims of rape, physical violence or stalking.”

Source: Centers for Disease Control and Prevention, *National Intimate Partner and Sexual Violence Survey: 2010*.

3: “73% of rapes are perpetrated by a non-stranger.”

Source: U.S. Department of Justice, *2005 National Crime Victimization Study: 2005*.

4. “34% of Native American women will be raped, which is twice the national average of all female rapes (18.2%).”

Source: National Institute of Justice and Centers for Disease Control & Prevention, *Prevalence, Incidence and Consequences of Violence Against Women Survey: 2000*.

5. “Only 32% of sexual assaults are reported to the police.”

Source: U.S. Department of Justice, *National Crime Victimization Survey: 2008-2012*

6. “Nearly 1 out of 10 women has been raped by an intimate partner.”

Source: National Center for Injury Prevention and Control: Division of Violence Prevention, *National Intimate Partner and Sexual Violence Survey, 2010*.

## Part One: The Laws

The goal of part one is to share information on several Federal laws and regulations including:

- Title IX of the Education Amendments Act of 1972
- SaVE Act Provisions in the reauthorized Violence Against Women Act (VAWA)
- The Jeanne Clery Act

Each of these laws and regulations interact together to create the environment and requirements for preventing discrimination and sexual violence on college campuses today.

### The Jeanne Clery Act

What Happened: In 1986, college freshman Jeanne Clery was raped and murdered in her dorm room by a fellow student. The circumstances surrounding this crime led Jeanne's parents to lobby for better notification of crimes in and around college campuses. As a result of their efforts in memory of their daughter, the Clery Act was passed on the Federal level, requiring colleges and universities to provide timely warnings about crimes that pose a threat to their communities, keep crime statistics that are shared with their communities and provide an annual security report.

The Law: The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act requires:

- Schools to provide rights to survivors of sexual assault on campus and new protections against sexual assault, dating violence, domestic violence and stalking
- Colleges and universities to keep and disclose information about crime on or near their respective campuses

### The VAWA, Clery Act and Title IX Together

The goals of these legislative measures are to:

- Prevent domestic violence, sexual assault, dating violence and stalking on campuses.
- Educate campus communities that it is against the law to commit violence against women
- Provide information about services available for victims and survivors in response to incidents
- Provide students, faculty and staff information on campus security policies and statistics

## **VAWA and the Campus SaVE Act**

On March 7, 2013, the Violence Against Women Reauthorization Act (VAWA) was enacted. VAWA now also includes the key requirements of the Campus Sexual Violence Elimination Act (Campus SaVE Act). The SaVE Act amended the Jeanne Clery Act and the Campus Sexual Assault Victim's Bill of Rights, both of which are part of the Higher Education Act of 1965. These regulations had implication on all colleges and universities. VAWA provided over \$1 billion to enhance investigation and prosecution of violent crimes perpetrated against women and men, imposed automatic and mandatory restitution on those convicted of committing such crimes and allowed civil redress in cases prosecutors decided not to prosecute. VAWA also established the Office on Violence Against Women, which develops additional federal policy around issues related to domestic violence, dating violence, sexual assault and stalking. The reauthorization also provided expanded protection to gay, lesbian, bisexual and transgendered victims as well as Native Americans and immigrants.

## **Title IX**

Title IX of the Education Amendments of 1972 protects people from discrimination on the basis of sex in any federally funded program or activity.

Combined under these three overlapping and overarching regulations, federal regulations address the following prohibited acts or behaviors under the law:

- Sexual assault
- Domestic violence
- Dating violence
- Stalking
- Discrimination on the basis of gender
- Discrimination on the basis of other protected characteristics such as sexual orientation (straight, gay, lesbian, bisexual, pansexual), immigration status and tribal affiliation

This training program will provide education regarding:

- Primary prevention and awareness programs for all incoming students and new employees
- Ongoing prevention and awareness campaigns

At Brown Mackie College, the crimes above are also contrary to our Code of Conduct and will not be tolerated. The Code of Conduct can be accessed at any time in your campus's Catalog.

Those who know or suspect that they have been sexually assaulted should prioritize taking care of themselves. They should consider seeking help as soon as possible.

## Part Two: Campus Environment Regarding Sexual Violence

Part two focuses on developing, fostering and maintaining and culture on our campuses where sexual violence is not tolerated. This part of our training will provide:

- Identify ways to recognize and prevent sexual assault and associated crimes
- Teach you ways to prevent and address stalking, dating violence, sexual assault and domestic violence
- Familiarize yourself with Brown Mackie College's policies for responding to these crimes and protecting the rights of victims and survivors

### Sexual Violence

Sexual violence is a broad category that includes physical sexual acts perpetrated against a person's will, or committed where a person is legally incapable of giving consent (even if they agree to the encounter).

Any person can be a perpetrator and any person can be a victim of sexual violence, regardless of their sex, gender or sexual orientation.

Rape, sexual battery, sexual assault and sexual coercion are examples of sexual violence. Sexual violence is prohibited. It is also a violation to use manipulation or threats to force someone to perform sexual acts, including sexual touching.

State laws often define sexual violence a little differently than federal law. In addition to generally violating criminal law, when sexual violence seriously interferes with a student's learning environment or employee's work environment, it creates a hostile environment under Title IX.

The Clery Act uses both federal definitions (for reporting) and state definitions (for training).

Federal definitions for each of the following are provided within the glossary to this training:

- Sexual assault
- Consent
- Domestic violence
- Dating violence
- Stalking

Specific state definitions for each of these terms are included at the end of this training guide.

Victims can talk to the Title IX Coordinator for assistance with filing a complaint. There are also other resources provided in this training guide that have additional resources for those affected by harassment, discrimination and sexual violence.

### **Facts about Sexual Violence**

- More than 80% of sexual assaults that occur on campuses across the United States are committed by people the victims know
- Survivors of sexual assault commonly suffer academically and face depression, post-traumatic stress disorder and trauma-induced neurobiological changes. They are also more likely to abuse drugs and alcohol and contemplate suicide. Fewer than five percent of completed or attempted rapes against college women were reported to law enforcement. Often, survivors face the issues alone.
- Twenty-five percent of college women face some kind of sexual assault during their academic career. Women between sixteen and twenty-four experience rape at rates four times higher than the rate for all women. A survey by the Office on Violence Against Women found that when asked if they had been made to have sexual intercourse by force or the threat of harm to them or someone close to them, almost half who said "yes" didn't realize the incident was rape or attempted rape.
- Drugs and alcohol impair judgment and can contribute to sexual violence. They may be used to incapacitate the victim. Rohypnal, GHB and Ketamine are commonly called date rape drugs because they cause the inability to move or speak normally. Drink drugging is a crime; it is not the survivor's fault and their use of alcohol or drugs does not make them at fault for sexual violence committed against them. Opening and monitoring your own drink is proactive. If you suspect you or a student has been drugged, seek medical help and contact Campus Security immediately.
- Consent to sex can be withdrawn at any time by either person, effective immediately. It is important to get ongoing, affirmative consent each step of the way before engaging in sexual or intimate acts. Consent to sex can always be revoked at any time, even during a sexual act. When someone physically pulls away for example, consent is no longer given and any sexual activity should promptly stop. If a sexual assault then occurs, victims may report the incident to both Campus Security and local authorities. He or she may also report the incident to the Title IX Coordinator. If the victim wishes, he or she may decline to file a report and/or discuss the incident confidentially with a counseling or health professional.
- Sexual violence is not about sex; it is about power. Although most often sexual violence is committed by men against women, men can be victims and women can be perpetrators. Sexual violence, including sexual assault, can also happen between members of the same sex, regardless of the sexual orientation of the perpetrator and



victim. Sexual violence can happen between people who are dating or married; having consensual sex in the past does not mean there is automatic consent for future sexual acts.

- Title IX requires schools to take effective steps to end sexual violence, even if there is no criminal investigation
- Survivors of sexual assault should consider immediately seeking medical assistance to address injuries and the potential for pregnancy and sexually transmitted diseases. Victims shouldn't shower, change, or use the bathroom (especially if date rape drugs are suspected) before the exam. **Note:** Even if a victim does not want to file a report now, he or she can have a forensic exam to preserve evidence in case he or she changes his/her mind about how to proceed in the future.

### **Survivor Rights and Actions**

Survivors of sexual assault, dating violence, stalking or domestic violence may:

- Notify appropriate law enforcement authorities, such as local police, and also on-campus authorities.
- If you choose to request assistance from school personnel in notifying law enforcement authorities, please do so.
- Decline to notify any such authorities. The decision to report an assault to the police is a personal one.
- Choose to change their academic, living, transportation or working situations if those changes are desired by the student and are reasonably available, regardless of whether or not the victim chooses to file a police report
- Seek confidential advocacy and support

### **Preventing Sexual Violence**

Brown Mackie College is actively creating culture on campus that does not tolerate and works to prevent sexual violence of any kind. There are key ways that our student community can participate in ensure this culture is carried forth throughout our community. Here are some ways that bystanders and friends can help to prevent sexual violence on our campuses:

- Don't leave someone alone if they are unconscious, drunk or high on drugs.
- Never allow people you don't know and trust into your home or housing.

- Don't let anyone engage in sexual activity with someone who is unconscious, drunk or high on drugs.
- Remember to check in with friends during parties and leave with them.
- Pick a designated driver and observer who will stay sober at parties.
- Offer help, including help calling the police or help making a report.

### **The Risk of Bystander Inaction**

The bystander effect occurs when the presence of others dissuades an individual from intervening or acting in an emergency situation. The bystander effect is attributed to the diffusion of responsibility and social influence. Bystanders often assume they should not act – an attitude reinforced by seeing that others are not acting.

These attitudes contribute to the continuation of sexual violence. Throughout this program, you will learn and have reinforced behaviors and things you can do to actively reverse the bystander effect with safe and positive options for bystander action and intervention.

You can actively help to ensure a culture that does not tolerate sexual violence of any kind by taking the following actions:

- Offer help to someone who is a target or at risk of sexual violence
- Call the police if you see a sexual assault or hear a confession of any type of sexual violence
- If someone jokes about rape or other sexual violence, speak up and let them know it is not acceptable
- If someone confides in you about a sexual assault, ask how you can help and offer to assist them in making a report to either local law enforcement or on-campus officials
- If someone confides in you about surviving sexual violence, do not try to force them to make a police report and do not violate their confidence

### **Introduction to Intimate Partner Violence**

Generally, intimate partner violence (sometimes called domestic violence, dating violence or relationship violence) is a pattern of abusive behavior used by one partner, spouse or former partner or spouse to maintain control over the other. Intimate partner violence can be physical, psychological or sexual and can also include threats of physical or sexual violence. Intimate

partner violence can be between same- or different-sex partners and does not require sexual intimacy.

See the glossary for the definitions of Domestic Violence and Dating Violence both federally and in your state.

### **Warning Signs for Domestic and Dating Violence:**

- Controlling or blaming behavior
- Telling you how to act or dress
- Pressuring you for sex
- Acting extremely possessive
- Putting you down constantly
- Threatening you, loved ones or pets
- Isolating you from family or friends
- Saying he or she cannot live without you
- Physical, emotional or psychological abuse
- Coercive, jealous or manipulative behavior
- Quick anger and/or mood swings

Dating violence often begins with attempts to control and exert power over a partner's actions. Abuse includes a pattern of actions that are meant to isolate a partner from friends and family, humiliate, harm physically or emotionally, coerce or manipulate.

Dating violence usually includes a pattern of physical, sexual, psychological or emotional actions or threats of those actions. Dating violence is not uncommon; in fact, women between sixteen and twenty-four face the highest rate of intimate partner violence, at almost three times the national average. Annually, about 1.3 million women and 835,000 men experience domestic or dating violence.

### **Intimate Partner Violence – Stalking**

Stalking is a major concern. Of women stalked by a former or current partner they lived with, eighty-one percent were physically assaulted by that person. Almost 3 out of 4 victims of stalking knew their stalker. Stalkers are 6 times more likely to sexually assault their victims.

Stalking is repeated harassment or threats that cause a target to feel fear. Stalking may include:

- following and spying on the target,
- sending unwanted presents,

- spreading rumors,
- damaging the target's property or defaming the target's character.

As with bullying and intimate partner violence, stalkers are often motivated by a desire for power. Usually, stalking involves a series or pattern of behaviors, including unwanted calls, emails, text messages and instant messages. Stalkers are often known by their victims and can be involved in personal relationships with them. Victims of stalking should contact campus authorities such as the Title IX Coordinator or local law enforcement. Targets of stalking can seek restraining orders and take other actions to help stop the stalking.

### **Your Role in Preventing Stalking and Relationship Violence**

Everyone on campus and in our community can help to prevent relationship violence and stalking:

- Don't encourage hostile or violent comments about anyone in our campus community
- Be a responsible bystander. If someone appears to be getting verbally or physically abused, ask if they are ok or you can assist in getting help if needed.
- If you witness an attack, someone being followed, or in distress, report it to campus authorities or the police.
- Watch for signs shared above that indicate a relationship could become or is violent
- Keep sight of an attacker and point the attacker out to authorities while maintain your own personal safety
- Never assume sexual violence will end on its own. Taking action early to get help reduces the chance it will continue.

### **International and Undocumented Students**

International and undocumented students face special challenges because of their unique status. They may be less likely to report sexual violence because of cultural reasons. They may be more susceptible to coercion and fraud due to language barriers and other cultural reasons. Furthermore, such students may be more subject to these acts because they could be far from home and family. These factors increase the likelihood and effectiveness of attempts to victimize these students.

Certain student visas require students to maintain full-time enrollment status. However, in facing sexual violence, it may be necessary for survivors to make changes in their course load.

Responsible employees at our campuses or our Title IX Coordinator can assist students (if assistance is welcomed) in approaching designated officials to facilitate these requests under the circumstances.

Survivors may be able to take advantage of special immigration statuses. The U nonimmigrant status is for victims of certain crimes who have suffered substantial mental or physical abuse as the result of crimes and is helpful to law enforcement agencies in investigations or prosecution of such criminal activity. The T nonimmigrant status is available for victims of human trafficking who assist in investigations or prosecution of the human trafficking and who would suffer extreme hardship involving unusual and severe harm if they were removed from the United States.

Threatening students with deportation or invoking a student's immigration status in an attempt to intimidate or deter a student from filing a compliance regarding sexual violence violates protections against retaliation under these laws. For more information on international students and sexual violence, please review resources provided by the National Online Resource Center on Violence Against Women: <http://vawnet.org/sc/immigrant-women-and-sexual-violence>

Another type of sexual violence is sex trafficking, and college campuses have become recruiting grounds for sex traffickers in recent years. Sex trafficking is where people are forced, coerced or tricked into the sex industry, and the recruitment often happens by other students or college-aged individuals.

Students are targeted through social media, at clubs, bars, malls or on campus. They may be lured with the promise of money to pay for school, modeling or other opportunities, or by feigned romantic interest. If an opportunity sounds too good to be true, it probably is.

Call the National Human Trafficking Hotline at 1-888-373-7888 or text BeFree (233733) for help.

## Part Three: Understanding Harassment and Discrimination

In this section will we accomplish the following:

- Understand discrimination, harassment and the relationship between both
- Learn to recognize unlawful harassment and discrimination
- Know how to avoid accidentally committing acts that could be perceived as unlawful harassment and discrimination
- Be prepared to address these acts if you witness them

### Sexual Harassment

Sexual harassment includes unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature that interferes with a student's learning environment. Sexual harassment is illegal because it is a form of discrimination. Sexual harassment can take many forms and includes:

- Comments about an individual's body,
- Physical touching
- Sexual stories
- Sexual comments
- Sexually explicit materials such as posters, calendars or cartoons
- Actions of a sexual nature

There are two forms of sexual harassment: quid pro quo and hostile environment

Quid pro quo means "this for that". For example, it occurs when a school employee causes a student to believe her or she must submit to or tolerate unwanted sexual conduct or materials to participate in a school program, class or activity. This includes a professor stating or implying that better grades will be given for sexual conduct.

Hostile environment harassment occurs when unwelcome conduct of a sexual nature is sufficiently serious that it affects the victim's ability to participate in an education program, activity or creates an intimidating environment that is abusive, threatening (or perceived to be). A hostile environment can be created by multiple parties in our community including a school employee, professor, another student or even a visitor.

A variety of factors are considered to determine if a hostile environment has been created by unwelcome conduct. Conduct will be evaluated from both a subjective and objective perspective. All relevant circumstances will be considered, including:

- The number of individuals involved and the degree to which the conduct affected education.
- The type, frequency, duration, location and context of the conduct.
- The age and sex of the alleged harasser and the subject or subjects of the harassment.
- The nature of the conduct and whether the conduct is gender-based.

We often think of harassers as male students and victims of harassment as female students, but this limited, stereotyped view is inaccurate. It is important to remember that harassers can be anyone involved in the educational environment, and similarly their victims are not limited to female students. Professors, school staff, students and parents (regardless of their gender, gender identity or sexual orientation) can be harassers or survivors of harassment.

### **Facts About Sexual Harassment**

- Harassment can be a result of nonconformity with gender stereotypes, which is covered by Title IX. Verbal comments and text messages, whether sent directly or indirectly to the victim, which contribute to a hostile environment by interfering with a student's ability to learn (or an employee's working environment) are unlawful.
- Electronic harassment is becoming more and more prevalent in today's social media world. It can include text messages, posts to social media or education sites, email and other electronic methods used to harass someone. It includes harassing conduct directed at the specific targeted individual; it also includes statements, pictures or other conduct that is spread to others and has the intent or effect of inflicting harm on the target.

### **Gender Based Harassment**

Sexual violence impacts all communities including the lesbian, gay, genderqueer bisexual, transgender, queer, questioning, intersex, ally and asexual (LGBTQIA) community. Survivors in these communities are at high risk for reoccurrence of such crimes by hostile or culturally insensitive responders.

We know that victims of harassment can be men and harassers can be women. The same is true regarding sexual violence. Because of all the societal and cultural norms that are

prominent in our society, it can be especially difficult for men to report these crimes. Sexual assault involving male targets and female perpetrators is more common than most people think! Sexual assault by women tends to be less physically violent and more coercive in nature. Men are often reluctant to label non-consensual sexual activity as sexual assault. It is important to know and recognize that there are many male survivors of sexual assault and men in these situations have the same rights to be believed, support and helped as women.

## **Discrimination**

Discrimination is prejudicial treatment based on an individual's membership in a particular category. Types of discrimination include disparate treatment, disparate impact and retaliation.

- Disparate treatment discrimination is action that treats similarly situated persons differently on the basis of a prohibited classification.
- Disparate impact discrimination is using a neutral procedure or practice that has a disproportionate effect on protected individuals, where such practice lacks a substantial legitimate justification.
- Retaliation is intimidating, threatening, coercing or discriminating against an individual for making a complaint, testifying, assisting or participating in an investigation, proceeding or hearing.

## **Protections Under the Law**

- Sex/Gender: Sex is the classification of people as male or female. At birth, infants are assigned a sex based on a combination of bodily characteristics including chromosomes, hormones, internal reproductive organs and genitals. Gender is sometimes used interchangeably with sex. Discrimination based on a person's gender, including gender identity and sex stereotyping, is a form of sex discrimination.
- Gender Identity and Expression: Gender identity is frequently defined as an individual's internal, personal sense of being a man, a woman, a transgender person or a different gender entirely. Federal law, and many state and local laws, protect both transgender and non-transgender people by prohibiting discrimination based on gender expression and gender-related identity, appearance or behavior.
- Race: Race is a person's ancestry and encompasses racial or ethnic characteristics such as facial features and hair texture. Actual race, perceived race and association with someone of a particular race are all protected within this group.



- **Color:** Color refers specifically to the color of one's skin. People of the same race or ethnicity may have different skin color.
- **National Origin / Ancestry:** National origin refers to a person's birthplace, ancestry, culture or language common to a specific ethnic group.
- **Religion:** Religion is broadly defined as an individual's moral or ethical system of belief. Nontraditional beliefs are also protected if they are held with the strength of traditional religious convictions.
- **Disability / Medical Condition:** Federally, disability is a mental or physical impairment that substantially limits one or more major life activities. Qualified individuals with a disability are protected from discrimination; both disabled and non-disabled people are protected from discrimination based on the perception they are disabled. Height and weight may be protected in certain circumstances under disability law, and these categories are specifically protected by separate law or case law in some states and localities.
- **Membership in The Armed Forces:** Veterans and those currently in service (whether active or on reserve) are protected by numerous laws including the Veterans' Readjustment Act of 1974 and the Uniformed Services Employment and Reemployment Rights Act. The laws prohibit discrimination and sometimes require affirmative actions. They also govern reemployment, including benefits issues and restoring employees in jobs of like seniority, status and pay.
- **Pregnancy:** In addition to pregnancy and the potential for pregnancy, childbirth and related medical conditions are also protected within this category.
- **Age:** The Age Discrimination in Employment Act protects individuals forty years of age and older. In some states and localities, protection may be extended to those younger than forty or only to those younger than eighteen.
- **Sexual Orientation:** Sexual orientation describes an individual's enduring physical, romantic, emotional and/or spiritual attraction to others. Terms including lesbian, gay, bisexual (or "bi") and straight tend to be favored in many settings, though homosexual and heterosexual are preferred by some.
- **Genetic Information:** As of November, 2009, the federal Genetic Information Nondiscrimination Act (GINA) prohibits discrimination based on genetic information about an individual or about the individual's family members at the federal level. GINA does not prohibit discrimination based on a condition or disease that is causing symptoms, that is being treated or that has been diagnosed.

## **Facts About Discrimination**

- Title IX prohibitions against sex discrimination also cover pregnancy. The school can't remove a student from an educational program or activity merely because she is pregnant, unless certain exemptions apply.
- Retaliation is any negative action taken in response to an individual's complaint or participation in a discrimination investigation. It includes threatening a negative action if an individual makes a complaint of discrimination. Title IX prohibits retaliation for filing a complaint of sex discrimination or for advocating for a right protected by Title IX.
- Title IX specifically prohibits discrimination in federally funded education programs and activities on the basis of sex. However, other laws prohibit discrimination and harassment based on additional protected categories, including race, ethnicity, disability, age, religion, sexual orientation, gender identity, genetic information and military status.

## Part Four: Responses and Resources

In this section will we accomplish the following:

- Prepare you to respond appropriately
- Gain understanding on the compliant process and your role
- Become familiar with available resources

### Responsible Employees and Campus Security Authorities

A responsible employee includes any employee who has the authority to take action to redress sexual violence and similar misconduct, who has been given the duty of reporting incidents of sexual violence or any other misconduct by students to the Title IX coordinator or other appropriate school designee, or whom a student could reasonably believe has this authority or duty. Responsible employees must report incidents of sexual violence to our Title IX coordinator or other appropriate school designee, subject to the exemption for school counseling employees.

A campus security authority (CSA) is an official of an institution who has significant responsibility for student and campus activities, including, but not limited to, student housing, student discipline and campus judicial proceedings. CSAs must report allegations of Clery Act crimes, including sexual assault, that are made in good faith.

It is possible to be both a responsible employee and a campus security authority.

Graduate students and students who are also employees may be responsible employees, CSAs, both or neither. If you are unsure about your responsibilities, please contact the Title IX coordinator.

Responsible employees who have observed or received reports of sexual harassment or sexual violence must:

- Notify the Title IX Coordinator as explained in the following pages. In addition, a report may be made to local law enforcement depending on the circumstances.
- Help the student contact law enforcement if that is his/her desire
- Help preserve an evidence of the incident, if applicable
- Keep any details about an incident or report confidential from people not required to respond

- Refer the student to Brown Mackie College’s academic advising and cooperate in making reasonable academic changes to avoid contact with the accused if requested by the student or school
- Must follow Brown Mackie College’s stated policies and procedures on sexual violence and misconduct, equal educational opportunities regardless of gender and policies regarding dating between employees and students.

### **Survivor’s Rights**

Campus security authorities must provide survivors of domestic violence, sexual assault, dating violence or stalking with written notice of their rights to obtain:

- Assistance from campus authorities in reporting a crime to law enforcement.
- A change in academic, working, living or transportation arrangements to avoid a hostile environment.
- Enforcement of a restraining order or “no contact” directive.
- A clear description of the school's disciplinary process including the range of possible sanctions.
- Information about existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid and other services available for victims, both within the institution and in the community.

### **Confidentiality**

Confidentiality is a sensitive and important issue. Typically, Brown Mackie College keeps reports confidential as much as possible. As part of achieving this, the victim’s name and other personally identifiable information will not usually be disclosed, except as is necessary for the investigation. The requirements for confidentiality, although heavily weighted, are determined on a case by case basis to fit the unique needs of the investigation. In addition, publicly available records, if any, related to a report and investigation will not usually include a name or personally identifiable information.

### **Certain Information Must Be Reported**

Responsible employees must promptly report all relevant details about alleged sexual violence that (1) has been shared, (2) that the school will need to determine what occurred, and (3) that

are needed to resolve the situation to the Title IX Coordinator. Subject to the exemption for school counseling employees, this includes:

- The names of the alleged perpetrator (if known).
- The student who experienced the alleged sexual violence.
- Other students involved in the alleged sexual violence.
- Other relevant facts (time, date, location).

Students have the option to request that the school maintains his or her confidentiality, which the Title IX Coordinator will consider based on the circumstances. Students always have the ability to share the information confidentially with counseling, advocacy, health, mental, health or sexual assault-related services. These services have been listed and provided within this training guide and will be listed again at the end.

### **Facts about Reporting**

Protections apply at all locations on campus, on public property near campus and on property owned or controlled by the school or an officially-recognized student organization. Even if a crime or events occurs off-campus, if the crimes happened at a building owned by the school, the same reporting rules and requirements apply.

Responsible employees, such as professors or faculty members, are obligated to help students in making a police report and getting medical and counseling services from the university, if such help is desired.

Regardless of whether there is a criminal investigation, once a school knows or reasonably should know of sexual violence, it must take immediate and appropriate action to investigate or determine what occurred. If sexual violence has occurred, a school must take prompt and effective steps to end it, prevent its recurrence and address its effects.

### **Campus Security Reports**

In the required Annual Security Report, campus security authorities (CSAs) must develop and include statistics for crimes of sexual assault, dating violence, domestic violence and stalking reported to CSAs or local police, as these crimes are defined by the Violence Against Women Act.

The annual security report must also include a policy statement about programs to prevent such crimes and the procedures to be followed when such crimes are reported. These reporting requirements and additional responsibilities of CSAs are beyond the scope of this training module.

Each individual campus security report for Brown Mackie College can be found in Student Consumer Information section of our website.

### **Investigations and Disciplinary Proceedings**

Brown Mackie College will conduct a prompt, fair and impartial investigation and resolution of all gender discrimination and sexual violence complaints such as sexual assault, domestic violence, dating violence and stalking. In conducting investigations and disciplinary proceedings as Brown Mackie College will:

- Use a preponderance of the evidence standard.
- Ensure investigations are conducted by officials who receive annual training on the issues related to such complaints and how to conduct an investigation and hearing process in a manner that protects the safety of victims and promotes accountability.
- Provide information regarding confidentiality of proceedings.
- Permit both parties to have an advisor or support person of their choice at the proceedings and any related meeting.
- Provide a statement of the required standard of proof in these proceedings.
- Provide prompt written notice of the outcome and any change in result to both parties simultaneously.
- Provide information for employees reporting covered offenses.
- Provide written notice of the report and the nature of the alleged misconduct to the accused. He/She will be advised in writing of the investigation process and opportunity to provide any relevant evidence.

### **How to File a Complaint**

Brown Mackie College has jurisdiction over complaints involving harassment, discrimination, sexual violence, dating violence, domestic violence and stalking pursuant to Title IX and the Clery Act. Title IX requires covered schools to have a policy against sex discrimination, to have a Title IX coordinator and to adopt and publish grievance procedures. Through VAWA and the Clery Act, covered schools also must investigate all complaints.

**Our Title IX Coordinator:** Michelle Toney

**Our Title IX Coordinator Contact Information:** [htoney@brownmackie.edu](mailto:htoney@brownmackie.edu)

**To file a complaint** at Brown Mackie College, you should follow these procedures:

Refer to your campus's Catalog and College Bulletin for campus-specific safety policies. To access your campus's Catalog and College Bulletin online, select your campus using the link:

<https://www.brownmackie.edu/admissions/academic-catalog>

Select the link to Catalog. The relevant policies can be found under *Sexual Misconduct & Relationship Violence Policy; Procedures for Handling Sexual Misconduct and Relationship Violence Complaints*

### **Facts about Complaints**

- Covered schools must provide a grievance procedure to file complaints of sex discrimination. The procedures must include an equal opportunity for both parties to present witnesses and other evidence. During investigations, the preponderance of the evidence standard is used and both parties will be notified of the outcome.
- The survivor has the option to request confidentiality and Brown Mackie College will take all reasonable steps to respond to the complaint in a manner consistent with such a request. Requirements for confidentiality will be determined on a case-by-case basis so that the needs of each case are served appropriately. Counselors and health professionals can provide confidential support. Schools must take necessary steps to protect the complainant, including interim steps taken before the investigation is complete and the outcome determined. Individuals may request their name be withheld, but a school must balance that with the needs of the investigation and reporting requirements.
- If a student disagrees with the result of the investigation by Brown Mackie College, she may be able to appeal the decision. She is also allowed to file a complaint with the U.S. Department of Education's Office for Civil Rights (OCR). If she uses the school's internal grievance procedure, she must file a complaint with the OCR within sixty days after the last act of the internal grievance procedure. An accuser also has the option to make a police report regardless of what happens with the investigation at the school.

## Other Resources

Office of Violence Against Women – designed to reduce violence against women and strengthen resources for all survivors of sexual assault, domestic violence, dating violence and stalking: <https://www.justice.gov/ovw>

National Domestic Violence Hotline – 24 hour support for people facing domestic violence: <http://www.thehotline.org/>

Stalking Resource Center – provides assistance and guidance for those impacted by stalking: <http://www.victimsofcrime.org/our-programs/stalking-resource-center>

NotAlone.gov – resources on responding to and preventing sexual assault in schools: <https://www.notalone.gov/>

Rape, Abuse and Incest National Network (RAINN): nonprofit organization has a 24 hour hotline for anonymous support for people dealing with sexual assault and their friends and families: <http://www.rainn.org/get-help/national-sexual-assault-online-hotline>

The National Suicide Prevention Hotline – nonprofit organization has 24 hour suicide prevention hotline: <http://www.suicidepreventionlifeline.org/>

Love is Respect – offers information on how to recognize dating violence and seek help: <http://www.loveisrespect.org/>

Pandora’s Project – information about working with LGBTQIA and gender-nonconforming students and same-sex sexual violence: <http://pandys.org/lgbtsurvivors.html>

Child Welfare Information Gateway – information on local state laws regarding mandatory reporting and confidentiality: <https://www.childwelfare.gov/topics/responding/reporting/>



## **Brown Mackie College Resources**

All students have complimentary access to Talk One-2-One counseling services for a range of personal problems including family and marital issues, stress, anxiety, and depression. These services include up to 4 confidential face-to-face or telephone counseling sessions, as well as a crisis hotline open 24 hours per day, 7 days per week. Talk One-2-One's counselors are licensed, experienced, and easy to talk to. To schedule an appointment, call 1-888-617-3362. This is a no charge, confidential service.

### **Filing Complaints**

In addition to filing a complaint through the school, which is detailed in the linked policy to this training guide, individuals can also file a sex discrimination complaint with the U.S. Department of Education's Office of Civil Rights (OCR). If a complainant uses the school's internal process and wants to also file a complaint with OCR, he or she must do so within sixty days of completion of the internal process. If a complainant does not use the school's internal process and wants to file with OCR, he or she must do so within one hundred and eighty days of the alleged discrimination.

## State Definitions of Dating Violence

### Alabama

The term dating violence is not defined by Alabama law, as such. However, the term dating violence is incorporated into the definition of domestic violence because the definition of domestic violence includes “dating or engagement” relationships. Accordingly, dating violence is properly defined as “Any incident resulting in the abuse, assault, harassment or the attempt or threats thereof, between members of a dating or engagement relationship.

### Alaska

The term dating violence does not appear within the Alaska statutory law. Accordingly, it is not possible to define the term as such. However, the definition of the term domestic violence includes a reference to dating relationships. Accordingly, it is proper to define dating violence as follows: Dating violence is a form of domestic violence occurring between persons in a current or previous dating relationship. It occurs when one or more of the following offenses (or an offense under a law or ordinance of another jurisdiction having elements similar to these offenses) or an attempt to commit such an offense is committed by a current or former dating partner against the other current or former dating partner:

A crime against the person under Alaska Statutes (AS) 11.41;

Burglary under AS 11.46.300--11.46.310;

Criminal trespass under AS 11.46.320--11.46.330;

Arson or criminally negligent burning under AS 11.46.400--11.46.430;

Criminal mischief under AS 11.46.475--11.46.486;

Terrorist threatening under AS 11.56.807 or 11.56.810;

Violating a protective order under AS 11.56.740(a)(1); or

Harassment under AS 11.61.120(a)(2)--(4).

### Arizona

There is overlap between Arizona’s concept of “domestic violence” and the federal concept of “dating violence.” Federally, the term “dating violence” means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. When determining the existence of such a relationship in Arizona, the following factors may be important:

the length of the relationship,  
the type of relationship,  
the frequency of interaction between the people involved in the relationship, and  
if the relationship has terminated, the length of time since termination.

#### Arkansas

Arkansas law does not define the term dating violence as such. However, the definition of domestic abuse includes a reference to persons in a past or present dating relationship. Accordingly, Dating violence can properly be defined as follows:

Physical harm, bodily injury, assault or the infliction of fear of imminent physical harm, bodily injury or assault between persons who are presently or in the past have been in a dating relationship together; or

Any sexual conduct between persons who are presently or in the past have been in a dating relationship together, whether minors or adults, that constitutes a crime under the laws of this state;

The term "Dating relationship" means a romantic or intimate social relationship between two individuals that is determined by examining the following factors:

The length of the relationship;

The type of the relationship; and

The frequency of interaction between the two (2) individuals involved in the relationship.

The term "Dating relationship" does not include a casual relationship or ordinary fraternization between two individuals in a business or social context.

#### California

California law does not define the term dating violence as such. However, violence between intimate or dating partners is a form of domestic violence.

A dating relationship means a serious courtship; it is a social relationship between two individuals who have or have had a reciprocally amorous and increasingly exclusive interest in one another, and shared expectation of the growth of that mutual interest, that has endured for such a length of time and stimulated such frequent interactions that the relationship cannot be deemed to have been casual.

#### Colorado

Colorado law does not define the term dating violence as such. However, as discussed above, dating violence is a form of domestic violence by virtue of the fact that Colorado defines domestic violence by reference to the term “intimate partner”. Accordingly, dating violence can be properly defined as follows:

“Dating violence means an act or threatened act of violence upon a person with whom the actor is or has been involved in a dating relationship. Domestic violence also includes any other crime against a person, or against property, including an animal, or any municipal ordinance violation against a person, or against property, including an animal, when used as a method of coercion, control, punishment, intimidation, or revenge directed against a person with whom the actor is or has been involved in dating relationship.

### Connecticut

Connecticut law does not define the term “dating violence,” as such. However, persons who are in or who have recently been in a dating relationship qualify as “family and household members” for the purpose of domestic violence protection laws. Thus, persons in a dating relationship, or who have recently severed such a relationship, are protected from dating violence.

Dating violence can be properly defined as an incident resulting in physical harm, bodily injury or assault, or an act of threatened violence that constitutes fear of imminent physical harm, bodily injury or assault, including, but not limited to, stalking or a pattern of threatening, between persons in, or who have recently been in, a dating relationship.

As discussed under the definition of domestic violence, Connecticut law also defines the term “intimate partner violence” to mean any physical or sexual harm against an individual by a current or former spouse of or person in a dating relationship with such individual that results from any action by such spouse or such person that may be classified as a sexual assault, stalking or family violence

### Delaware

Dating Violence is a form of domestic violence. Dating violence is properly defined as abuse perpetrated by one member of a current or former substantive dating relationship against another. Neither a casual acquaintanceship nor ordinary fraternization between two individuals in business or social contexts shall be deemed to constitute a substantive dating relationship. Factors to consider for a substantive dating relationship may include the length of the relationship, or the type of relationship or the frequency of interaction between the parties.

Delaware law also defines the term teen dating violence. The term "teen dating violence" means assaultive, threatening or controlling behavior, including stalking, that 1 person uses against another person in order to gain or maintain power or control in a current or past relationship. The behavior can occur in both heterosexual and same sex relationships, and in serious or casual relationships.

### District of Columbia

The District of Columbia does not define the term dating violence, as such. However, reference is made to dating relationships and other intimate relationships in the definition of domestic violence.

Accordingly, dating violence is a form of domestic violence.

Dating violence can be properly defined as a pattern of abusive behavior in any romantic, dating, intimate or sexual relationship that is used by one partner to gain or maintain power and control over another intimate partner or dating partner. The term "dating violence" includes physical, sexual, emotional, economic or psychological actions or threats of actions that influence another person. This consists of any behaviors that intimidate, manipulate, humiliate, isolate, frighten, terrorize, coerce, threaten, blame, hurt, injure or wound someone.

## Florida

Dating violence means violence between individuals who have currently, or have had in the past, a continuing and significant relationship of a romantic or intimate nature. The existence of such a relationship shall be determined based on the consideration of all the following factors:

A dating relationship must have existed within the past 6 months.

The nature of the relationship must have been characterized by the expectation of affection or sexual involvement between the parties.

The frequency and type of interaction between the persons involved in the relationship must have included that the persons have been involved over time and on a continuous basis during the course of the relationship.

The term dating violence does not include violence in a casual acquaintanceship or violence between individuals who only have engaged in ordinary fraternization in a business or social context.

## Georgia

Recent studies show that Georgia has the highest rate of teen dating violence in the country. However, Georgia's statutes on protective orders exclude protection for people in dating relationships currently or in the past.

Georgia law does require that the State Board of Education develop teen dating violence prevention programs for primary and secondary schools and make that information available to the Board of Regents of the University System of Georgia.

In general, social workers describe "dating violence" as

Abusive behavior (including: threats or acts of physical harm, sexual assault, stalking, intimidation, emotional abuse and limiting contact with family or friends or the ability to get to class or employment),

Used to get and keep power or control of the victim and

By a person who is or has been in a social relationship of a romantic or intimate nature.

## Hawaii

The term dating violence is not defined under Hawaii law as such. However, in the definition of Domestic violence, reference is made to the term “dating relationship.” Accordingly, it is proper to define dating violence as follows:

Physical harm, bodily injury, assault, or the threat of imminent physical harm, bodily injury, or assault, extreme psychological abuse or malicious property damage between persons in a current or former dating relationship; or

Any act which would constitute Criminal Domestic Abuse between persons in a current or former dating relationship

Any sex offence or child abuse committed against a minor who is in a current or former dating relationship with the adult offender.

"Dating relationship" means a romantic, courtship, or engagement relationship, often but not necessarily characterized by actions of an intimate or sexual nature, but does not include a casual acquaintanceship or ordinary fraternization between persons in a business or social context.

## Idaho

The term dating violence does not appear in the Idaho Code. Accordingly, the term dating violence cannot be defined as such. However, the term “dating relationship” is incorporated into the definition of domestic violence. Accordingly, it is proper to define the term dating violence as follows:

Dating violence means the physical injury, sexual abuse or forced imprisonment or threat thereof of any person by another person with whom the person has had or is having a dating relationship.

“Dating relationship” means a social relationship of a romantic nature. Factors that may be considered include:

The nature of the relationship;

The length of time the relationship has existed;

The frequency of interaction between the parties; and

The time since termination of the relationship, if applicable.

## Illinois

The term dating violence is not directly defined under Illinois Law. Rather, it is a form of domestic violence between “family members” as that term is defined under the Domestic Violence Act of 1986. The term family member includes “persons who have or have had a dating or engagement relationship.” Thus, the term dating violence can be understood as any act of abuse between persons who have or have had a dating or engagement relationship.

The term “dating or engagement relationship” likely describes a relationship that must be more serious and intimate than casual. A California court postulated that the dating relationship is a “social relationship between two individuals who have or have had a reciprocally amorous and increasingly exclusive interest in one another, and shared expectation of the growth of that mutual interest, that has endured for such a length of time and stimulated such frequent interactions that the relationship cannot be deemed to have been casual.” This definition was relied on by the Illinois case *Alison C. v. Westcot*

## Indiana

According to the State of Indiana Department of Education Model Dating Violence Educational Materials:

Dating violence is the intentional use of physical, sexual, emotional or verbal abuse by a person to harm, threaten, intimidate or control another person in a current, former or potential dating relationship with the abuser.

The Model Dating Violence Educational Materials also reference the Department of Justice definition of dating violence. Under that definition, dating violence is defined as a pattern of abusive behavior in any relationship that is used by one partner to gain or maintain power or control over another intimate partner.

## Iowa

The term dating violence is not defined under Iowa law, as such. However, the definition of domestic abuse incorporates the term “intimate relationship.” Accordingly, dating violence is properly defined as an assault occurring between persons who are in an intimate relationship.

In determining whether persons are or have been in an intimate relationship, consideration of the following nonexclusive list of factors is appropriate:

The duration of the relationship.

The frequency of interaction.

Whether the relationship has been terminated.

The nature of the relationship, characterized by either party's expectation of sexual or romantic involvement.

#### Kansas

Dating violence is properly defined as domestic violence occurring between persons involved or persons who have been involved in a dating relationship.

Dating relationship means a social relationship of a romantic nature. The following should be considered when making a determination of whether a dating relationship exists or existed: Nature of the relationship, length of time the relationship existed, frequency of interaction between the parties and time since termination of the relationship.

#### Kentucky

The State of Kentucky does not define the term dating violence. However, dating partners may qualify as “members of an unmarried couple.” As such, a member of that relationship may qualify for domestic violence protection. When violence occurs between such dating partners, it is a form of domestic violence under Kentucky law.

A dating partner qualifies as a member of an unmarried couple if either of the following is true:

They live together or have lived together.

They allegedly have a child in common.

In addition, any children of such a couple qualify for domestic violence protection.

The Office for Women of Louisville Kentucky has defined dating violence to include verbal, emotional, sexual or physical abuse used by one person to control their boyfriend or girlfriend.

#### Louisiana

Dating violence has been defined as follows under Louisiana Law:

Dating violence includes but is not limited to physical or sexual abuse and any offense against the person (except negligent injury and defamation) committed by one dating partner against the other.



Dating partner means any person who is or has been in a social relationship of a romantic or intimate nature with the victim and where the existence of such a relationship shall be determined based on a consideration of the following factors:

The length of the relationship.

The type of relationship.

The frequency of interaction between the persons involved in the relationship.

Maine

The term dating violence is not defined under the law of the State of Maine. However, the definition of domestic violence incorporates the term dating partner. Accordingly, dating violence can be defined as follows:

Dating violence is a form of domestic violence (abuse). Dating violence means the occurrence of the following acts between dating partners or by a dating partner upon a minor child of a dating partner:

Attempting to cause or causing bodily injury or offensive physical contact, including sexual assaults under Maine Revised Statutes Title 17-A, chapter 11;

Attempting to place or placing another in fear of bodily injury through any course of conduct, including, but not limited to, threatening, harassing or tormenting behavior;

Compelling a person by force, threat of force or intimidation to engage in conduct from which the person has a right or privilege to abstain or to abstain from conduct in which the person has a right to engage;

Knowingly restricting substantially the movements of another person without that person's consent or other lawful authority by:

Removing that person from that person's residence, place of business or school;

Moving that person a substantial distance from the vicinity where that person was found; or

Confining that person for a substantial period either in the place where the restriction commences or in a place to which that person has been moved.

Communicating to a person a threat to commit, or to cause to be committed, a crime of violence dangerous to human life against the person to whom the communication is made or another, and the natural and probable consequence of the threat, whether or not that consequence in fact occurs, is to place the person to whom the threat is communicated, or the

person against whom the threat is made, in reasonable fear that the crime will be committed;  
or

Repeatedly and without reasonable cause:

Following the victim; or

Being at or in the vicinity of the victim's home, school, business or place of employment.

Maryland

Maryland Law does not directly define the term dating violence. Rather, dating violence is properly defined as a form of domestic violence under Maryland Law.

Dating violence is abuse occurring between persons currently or formerly involved in a dating relationship. A dating relationship is a social relationship of a romantic or intimate nature. The existence of the relationship often depends on an assessment of the following factors:

The length of the relationship.

The type of relationship.

The frequency of interaction between the persons involved in the relationship.

Massachusetts

The term “dating violence” remains undefined under Massachusetts law. However, abuse occurring between persons in a dating relationship likely qualifies as domestic violence because persons in a dating or engagement relationship qualify as “family or household members.” The existence of a dating or engagement relationship involves the assessment of the following factors:

the length of time of the relationship,

the type of relationship,

the frequency of interaction between the parties and

if the relationship has been terminated by either person, the length of time elapsed since the termination of the relationship.

Michigan

Michigan law defines dating violence as a form of domestic violence. Thus, the term dating violence can be properly defined as the occurrence of any of the following acts by a person that is not an act of self-defense:

Causing or attempting to cause physical or mental harm to an individual with whom the person has or has had a dating relationship.

Placing an individual with whom the person has or has had a dating relationship in fear of physical or mental harm.

Causing or attempting to cause an individual with whom the person has or has had a dating relationship to engage in involuntary sexual activity by force, threat of force or duress.

Engaging in activity toward an individual with whom the person has or has had a dating relationship that would cause a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed or molested.

The term dating relationship means frequent, intimate associations primarily characterized by the expectation of affectional involvement. Dating relationship does not include a casual relationship or an ordinary fraternization between two individuals in a business or social context.

#### Minnesota

Minnesota law does not define the term dating violence, as such. However, the law does define domestic abuse by reference to “persons involved in a significant romantic or sexual relationship. Accordingly, dating violence can be defined as domestic abuse committed against a person involved in a significant romantic or sexual relationship with the abuser. In this context, domestic abuse would include any of the following:

Physical harm, bodily injury or assault.

The infliction of fear of imminent physical harm, bodily injury or assault.

Terroristic threats.

Criminal Sexual Conduct (Discussed above).

Interference with an emergency call.

#### Mississippi

The term dating violence is not defined as such under Mississippi law. However, domestic violence is defined by reference to the term “dating relationship. Accordingly, it is proper to define dating violence as follows:

Dating violence means any of the following acts committed against a person in a current or former dating relationship:

Attempts to cause serious bodily injury to another, or causes such an injury purposely, knowingly or recklessly under circumstances manifesting extreme indifference to the value of human life; or

Attempts to cause or purposely or knowingly causes bodily injury to another with a deadly weapon or other means likely to produce death or serious bodily harm; or

Strangles, or attempts to strangle another; or

Attempts to cause or purposely, knowingly or recklessly causes bodily injury to another; or

Negligently causes bodily injury to another with a deadly weapon or other means likely to produce death or serious bodily harm; or

Attempts by physical menace to put another in fear of imminent serious bodily harm; or

Violation of a domestic violence protection order; or

Stalking; or

Cyberstalking; or

Threats of such acts.

Dating relationship means a social relationship of a romantic or intimate nature between two individuals; it does not include a casual relationship or ordinary fraternization between two individuals in a business or social context. Whether a relationship is a dating relationship shall be determined by examining the following factors:

The length of the relationship;

The type of relationship; and

The frequency of interaction between the two individuals involved in the relationship.

Missouri

The term dating violence is defined under Missouri law as a form of domestic violence. Dating violence is abuse or stalking committed by a person who is or has been in a continuing social relationship of a romantic or intimate nature with the victim.

#### Montana

The term dating violence is undefined, as such, under Montana law. However, the crime of partner assault contains a reference to dating relationships. Accordingly, it is reasonable to define the term dating violence as follows.

Dating violence occurs when a perpetrator:

Purposely or knowingly causes bodily injury to another person who has been or is currently in a dating or ongoing intimate relationship with the perpetrator;

Negligently causes bodily injury with a weapon to a person who has been or is currently in a dating or ongoing intimate relationship with the perpetrator; or

Purposely or knowingly causes reasonable apprehension of bodily injury to a person who has been or is currently in a dating or ongoing intimate relationship with the perpetrator.

#### Nebraska

The term dating violence is not defined under Nebraska law, as such. However, domestic violence incorporates the term “intimate partner”. Accordingly, dating violence can be defined as follows:

A person commits the offense of domestic assault in the third degree if he or she:

Intentionally and knowingly causes bodily injury to his or her dating partner;

Threatens a dating partner with imminent bodily injury; or

Threatens an dating partner in a menacing manner.

A person commits the offense of domestic assault in the second degree if he or she intentionally and knowingly causes bodily injury to his or her dating partner with a dangerous instrument. A person commits the offense of domestic assault in the first degree if he or she intentionally and knowingly causes serious bodily injury to his or her dating partner.

#### Nevada

Nevada law does not define the term dating violence, as such. However, the definition of domestic violence includes a reference to dating relationships. Accordingly, it is proper to define dating violence as follows:

Dating violence is a form of domestic violence. It occurs when a person commits one of the following acts against any other person with whom the person has had or is having a dating relationship:

A battery.

An assault.

Compelling the other person by force or threat of force to perform an act from which the other person has the right to refrain or to refrain from an act which the other person has the right to perform.

A sexual assault.

A knowing, purposeful or reckless course of conduct intended to harass the other person. Such conduct may include, but is not limited to:

Stalking.

Arson.

Trespassing.

Larceny.

Destruction of private property.

Carrying a concealed weapon without a permit.

Injuring or killing an animal.

A false imprisonment.

Unlawful entry of the other person's residence, or forcible entry against the other person's will if there is a reasonably foreseeable risk of harm to the other person from the entry.

Dating relationship means frequent, intimate associations primarily characterized by the expectation of affectional or sexual involvement. The term does not include a casual relationship or an ordinary association between persons in a business or social context.

New Hampshire

The term dating violence does not appear in New Hampshire law, and is thus undefined under the law. However, the definition of domestic violence makes reference to the term “current or former sexual or intimate partner.” Accordingly dating violence is a form of domestic violence that occurs between current or former intimate or sexual partners, and it properly defined as follows:

Dating violence is abuse that occurs between current or former sexual or intimate partners. Dating violence occurs when a person commits or attempts to commit one or more of the following acts against a current or former sexual or intimate partner, where such conduct constitutes a credible present threat to the victim's safety:

Assault or reckless conduct that places the victim in danger of serious bodily injury.

Criminal Threatening.

Sexual Assault.

Interference with freedom (Kidnapping , Criminal Restraint , False Imprisonment , Stalking ).

Destruction of Property (Arson or Criminal Mischief ) .

Unauthorized Entry (Burglary or Criminal Trespass ).

Harassment

New Jersey

According to the New Jersey Model Policy and Guidance for Incidents Involving Dating Violence, dating violence means a pattern of behavior where one person threatens to use, or actually uses physical, sexual, verbal or emotional abuse to control a dating partner. Under the law, dating violence means domestic violence committed by a person against a victim with whom that person has (or has had) a dating relationship. To determine whether a “dating relationship” exists or has existed, the following should be considered:

Whether there was a minimal social interpersonal bonding of the parties over and above a mere casual fraternization;

How long alleged dating activities continued prior to acts of domestic violence alleged.

The nature and frequency of the parties' interactions;

The parties' ongoing expectations with respect to the relationship, either individually or jointly;

Whether parties demonstrated an affirmation of their relationship before others by statement or conduct;

Whether there are any other reasons unique to case that support or detract from a finding that a dating relationship exists.

#### New Mexico

New Mexico law does not define dating violence, as such. However, dating violence is a form of domestic abuse because the definition of domestic abuse includes a reference to dating relationships.

Accordingly, dating violence can be defined as follows:

Dating violence is a form of domestic abuse and means:

An incident of stalking or sexual assault committed by a dating partner; or

An incident by a dating partner against another dating partner consisting of or resulting in:

physical harm;

severe emotional distress;

bodily injury or assault;

a threat causing imminent fear of bodily injury by any household member;

criminal trespass;

criminal damage to property;

repeatedly driving by a residence or work place;

telephone harassment;

harassment; or

harm or threatened harm to children.

#### New York

New York law does not define the term dating violence as such. However, dating violence is incorporated into the definition of domestic violence because a family or household member is defined to include those people or are in or have been in an intimate relationship. Factors that may be considered in determining whether a relationship is an “intimate relationship” include,



but are not limited to: the nature or type of relationship, regardless of whether the relationship is sexual in nature; the frequency of interaction between the persons; and the duration of the relationship. Neither a casual acquaintance nor ordinary fraternization between two individuals in business or social contexts constitutes an “intimate relationship”.

#### North Carolina

The term dating violence is not defined as such under North Carolina Law. However, an opposite sex dating relationship qualifies as a personal relationship under the domestic violence definition.

Accordingly, dating violence can include the commission of one or more of the following acts (not including acts of self defense) upon a victim (or minor child residing with or in the custody of the victim) by a person with whom the victim has or has had a opposite sex dating relationship:

Attempting to cause bodily injury, or intentionally causing bodily injury; or

Placing the aggrieved party or a member of the aggrieved party's family or household in fear of imminent serious bodily injury or continued harassment that rises to such a level as to inflict substantial emotional distress; or

Committing certain sexual offences .

#### North Dakota

The term dating violence does not appear in the compiled statutes of North Dakota. Accordingly, it is not possible to define the term dating violence as such. However, the definition of domestic violence includes a reference to “persons who are in a dating relationship.” Thus, dating violence may be defined as follows:

Dating violence means violence between persons who are in a dating relationship, and includes physical harm, bodily injury, sexual activity compelled by physical force, assault, or the infliction of fear of imminent physical harm, bodily injury, sexual activity compelled by physical force or assault that occurs between such persons.

#### Ohio

Dating violence is not defined directly under Ohio Law. However, according to the Ohio Office of Criminal Justice Services, dating abuse (or Relationship Abuse) is a pattern of controlling behavior that someone uses against a girlfriend or boyfriend. Abuse can cause injury and even death, but it doesn't have to be physical. It can include verbal and emotional abuse - constant insults, isolation from family and friends, name calling, controlling what someone wears - and it

can also include sexual abuse. Additionally, as discussed in more detail above, dating violence can be a form of domestic violence under Ohio law if the persons involved with the relationship are (or have been) cohabiting.

Also, under federal law, dating violence is abuse occurring between persons currently or formerly involved in a dating relationship. A dating relationship is a social relationship of a romantic or intimate nature. The existence of the relationship often depends on an assessment of the following factors:

The length of the relationship.

The type of relationship.

The frequency of interaction between the persons involved in the relationship.

### Oklahoma

Oklahoma law does not define the term dating violence, as such. However, the definition of domestic abuse contains a reference to dating relationships, as discussed above. Accordingly, dating violence is properly defined as follows:

Dating violence is a form of domestic abuse. It occurs when an act of physical harm or threat of imminent physical harm is committed by an adult, emancipated minor or minor child thirteen (13) years of age or older against another adult, emancipated minor or minor child who are or were in a dating relationship with the abuser.

### Oregon

Teen dating violence means a pattern of behavior in which a person uses or threatens to use physical, mental or emotional abuse to control another person who is in a dating relationship with the person, where one or both persons are 13 to 19 years of age; or behavior by which a person uses or threatens to use sexual violence against another person who is in a dating relationship with the person, where one or both persons are 13 to 19 years of age.

Although only the term “teen dating violence” is defined under the law, dating violence can be defined by reference to that definition and omitting the age limitations. This is because that definition contains a basic definition of dating violence as modified by an age limit.

Accordingly, the term “dating violence” can be defined as “a pattern of behavior in which a person uses or threatens to use physical, mental or emotional abuse to control another person who is in a dating relationship with the person; or behavior by which a person uses or threatens to use sexual violence against another person who is in a dating relationship with the person.”

In addition, abuse occurring between persons who are or have been cohabitants, or who have been involved in a sexually intimate relationship, qualifies as domestic violence.

## Pennsylvania

Pennsylvania's Public School Code of 1949 requires that schools adopt prevention policies to stop 'dating violence,' which is defined as behavior where one person uses or threatens to use physical, sexual, verbal or emotional abuse to control his or her dating partner.

The Department of Education's Model Dating Violence Policy defines 'dating violence' to include any abusive behavior including:

Physical abuse, which is any unwanted, intentional contact with the victim's body by the accused or any object under his or her control

Emotional abuse, which is any intentional infliction of mental or emotional distress by verbal or nonverbal conduct such as threats, coercion, stalking, humiliation or harassment

Sexual abuse, which is sexual behavior or contact by the accused that is unwanted by the victim or interferes with the victim's ability to consent

## Rhode Island

Dating violence has been defined to mean a pattern of behavior where one person uses threats of, or actually uses, physical, sexual, verbal or emotional abuse to control his or her dating partner.

Dating partner means any person, regardless of gender, involved in an intimate relationship with another primarily characterized by the expectation of affectionate involvement whether casual, serious or long-term.

In addition, dating violence can be defined by reference to the law defining domestic violence, as defined above, because the definition of the term domestic violence references the term "substantive dating or engagement relationship". Accordingly, dating violence is a form of domestic violence when the act committed against the dating partner qualifies as domestic violence and occurs within a year of the ending of the dating relationship.

## South Carolina

The term dating violence is not defined under the laws of South Carolina. However, according to the South Carolina Department of Health and Environmental Control, Dating violence is the performance or threat of an act of violence by at least one member of an unmarried couple on the other member within the context of dating. This may include any form of sexual assault, physical violence, and verbal or emotional abuse.

## South Dakota

The term dating violence does not appear in South Dakota laws. Accordingly, the law does not define the term. However, the term domestic violence makes a reference to persons in a significant romantic relationship. Accordingly, dating violence can be defined as follows:

Dating violence is a form of domestic violence that occurs between persons in a significant romantic relationship. Any act of physical harm, bodily injury, or attempts to cause physical harm or bodily injury, or the infliction of fear of imminent physical harm or bodily injury occurring between persons in a significant romantic relationship. Any act of stalking, any violation of a protection/no contact order or commission of any crime of violence constitutes dating violence if the underlying criminal act is committed between persons in such a relationship.

When determining whether a relationship is a significant romantic relationship, consideration of the following factors (among others) is appropriate:

The length of time of the relationship;

The frequency of interaction between the parties;

The characteristics and the type of the relationship.

#### Tennessee

Dating violence is not defined under Tennessee Law, as such. However, if the dating relationship includes cohabitation, then such violence can be a form of domestic violence.

Dating violence has been defined in one county as a pattern of over-controlling behavior that someone uses against a girlfriend or boyfriend. Dating violence can take many forms, including mental/emotional abuse, physical abuse and sexual abuse. It can occur in both casual dating situations and serious, long-term relationships.

Also, under federal law, “dating violence” means violence by a person who has been in a romantic or intimate relationship with the victim. Whether there was such relationship will be gauged by its length, type and frequency of interaction.

#### Texas

Dating violence is an act committed against a victim (other than a defensive measure to protect oneself) intended to result in physical harm, bodily injury, assault or sexual assault or a threat that reasonably places the victim in fear of imminent physical harm, bodily injury, assault or sexual assault committed by an actor when any of the following apply:

The act or threat is against a victim with whom the actor has or has had a dating relationship; or

The act or threat is committed against a victim because of the victim's marriage to, or dating relationship with, an individual with whom the actor is in a dating relationship or marriage, or with whom the actor has formerly been in a dating relationship or marriage.

Dating relationship means a relationship between individuals who have or have had a continuing relationship of a romantic or intimate nature. The existence of such a relationship shall be determined based on consideration of (1) the length of the relationship; (2) the nature of the relationship; and (3) the frequency and type of interaction between the persons involved in the relationship.

A casual acquaintanceship or ordinary fraternization in a business or social context does not constitute a dating relationship.

Utah

Dating violence means any criminal offense involving violence or physical harm, or threat of violence or physical harm, when committed by a person against a dating partner of the person; or any attempt, conspiracy, or solicitation by a person to commit a criminal offense involving violence or physical harm against a dating partner of the person.

Dating partner means a person who is an emancipated minor or is 18 years of age or older ; and is, or has been, in a dating relationship with the other party.

Dating relationship means a social relationship of a romantic or intimate nature, or a relationship which has romance or intimacy as a goal by one or both parties, regardless of whether the relationship involves sexual intimacy. Dating relationship does not mean casual fraternization in a business, educational, or social context.

In determining, based on a totality of the circumstances, whether a dating relationship exists the following factors are considered:

Whether the parties developed interpersonal bonding above a mere casual fraternization;

The length of the parties' relationship;

The nature and the frequency of the parties' interactions, including communications indicating that the parties intended to begin a dating relationship;

The ongoing expectations of the parties, individual or jointly, with respect to the relationship;

Whether, by statement or conduct, the parties demonstrated an affirmation of their relationship to others; and

Whether other reasons exist that support or detract from a finding that a dating relationship exists.

## Vermont

The term dating violence does not appear in Vermont statutes. Accordingly, the law does not define the term dating violence as such. However, the term domestic violence incorporates sexual and dating relationships. Accordingly, it is proper to define the term dating violence as follows:

Dating violence is a form of domestic violence that occurs between persons who are engaged in or have engaged in a sexual relationship or persons who are dating or who have dated. It occurs when one or more of the following acts are committed between members of such a relationship:

Attempting to cause or causing physical harm.

Placing another in fear of imminent serious physical harm.

Abuse to children.

Stalking

Sexual assault.

## Virginia

According to the Virginia Department of Social Services Family Violence Department, domestic violence includes abusive conduct that occurs between persons in an intimate relationship. The Virginia Department of Criminal Justice Services has also adopted a similar definition. Accordingly, dating violence can properly be defined as a pattern of physically, sexually and/ or emotionally abusive behaviors used by one individual to assert power or maintain control over another in the context of an intimate dating relationship.

In addition, dating violence can qualify under the statutory definition of family abuse if the abuser and victim cohabit together or have cohabitated together within the past 12 months.

## Washington

The term "dating violence" is not specifically defined under Washington Law. However, the concept of dating violence means **violence committed by a person against a victim who is or has been in a social relationship of a romantic or intimate nature with the perpetrator.**

This concept is covered by the state's domestic violence statute.

## West Virginia

The term dating violence is undefined under West Virginia law, as such. However, the concept of dating violence is incorporated into the definition of domestic violence because the definition includes a reference to dating relationships. Accordingly, dating violence is properly defined as follows: domestic violence or abuse means the occurrence of one or more of the following acts between persons who are or were dating (note that a casual acquaintance or ordinary fraternization between persons in a business or social context does not establish a dating relationship):

Attempting to cause or intentionally, knowingly or recklessly causing physical harm to another with or without dangerous or deadly weapons;

Placing another in reasonable apprehension of physical harm;

Creating fear of physical harm by harassment, stalking, psychological abuse or threatening acts;

Committing either sexual assault or sexual abuse; and

Holding, confining, detaining or abducting another person against that person's will.

The term also includes such acts committed by a dating partner or former dating partner upon the following family members of the other dating partner or former dating partner:

Parent;

Stepparent;

Brother or sister;

Half-brother or half-sister;

Stepbrother or stepsister;

Father-in-law or mother-in-law;

Stepfather-in-law or stepmother-in-law;

Child or stepchild;

Daughter-in-law or son-in-law;

Stepdaughter-in-law or stepson-in-law;

Grandparent;

Step grandparent;

Aunt, aunt-in-law or step aunt;

Uncle, uncle-in-law or step uncle;

Niece or nephew;

First or second cousin

Wisconsin

Under Wisconsin law, dating violence is classified as a form of domestic abuse. Accordingly, dating violence is properly defined as any of the following acts engaged in by an adult against an adult with whom the individual has or had a dating relationship:

Intentional infliction of physical pain, physical injury or illness.

Intentional impairment of physical condition.

Sexual Assault.

Criminal Property Damage involving property that belongs to the individual.

A threat to engage in the above conduct.

Dating relationship means a romantic or intimate social relationship between 2 adult individuals. But, the term “dating relationship” does not include a casual relationship or an ordinary fraternization between 2 individuals in a business or social context. A court shall determine if a dating relationship existed by considering the length of the relationship, the type of the relationship, and the frequency of the interaction between the adult individuals involved in the relationship

Wyoming

The term dating violence does not appear in Wyoming statutory law. Accordingly, the term dating violence cannot be defined as such. However, the definition of domestic violence makes reference to the term “dating relationship”. Accordingly, dating violence is properly defined as follows:



Dating violence means the occurrence of one or more of the following acts against a current or former dating partner, but does not include acts of self defense:

Physically abusing, threatening to physically abuse, attempting to cause or causing physical harm or acts which unreasonably restrain the personal liberty of any current or former dating partner;

Placing a current or former dating partner in reasonable fear of imminent physical harm; or

Causing a current or former dating partner to engage involuntarily in sexual activity by force, threat of force or duress.

## State Definitions of Domestic Violence

### Alabama

Domestic violence means any incident resulting in the abuse , assault , harassment or the attempt or threats thereof, between family, household or dating or engagement relationship members.

The term “family, household or dating or engagement relationship members” includes a spouse, former spouse, parent, child or any other person related by marriage or common law marriage, a person with whom the victim has a child in common, a present or former household member or a person who has or had a dating or engagement relationship.

"Family violence" means the occurrence of one or more of the following acts between family or household members:

Attempting to cause or causing physical harm.

Placing another in fear of imminent serious physical harm.

The term "family or household members" encompasses children, spouses, former spouses, persons of the opposite sex living as spouses now or in the past or persons 60 years of age or older living in the same household and related by blood or marriage.

### Alaska

Domestic violence means one or more of the following offenses (or an offense under a law or ordinance of another jurisdiction having elements similar to these offenses) or an attempt to commit such an offense, by a household member against another household member:

A crime against the person under Alaska Statutes (AS) 11.41;

Burglary under AS 11.46.300--11.46.310;

Criminal trespass under AS 11.46.320--11.46.330;

Arson or criminally negligent burning under AS 11.46.400--11.46.430;

Criminal mischief under AS 11.46.475--11.46.486;

Terrorist threatening under AS 11.56.807 or 11.56.810;

Violating a protective order under AS 11.56.740(a)(1); or

Harassment under AS 11.61.120(a)(2)--(4).

The term household member includes:

Adults or minors who are current or former spouses;

Adults or minors who live together or who have lived together;

Adults or minors who are dating or who have dated;

Adults or minors who are engaged in or who have engaged in a sexual relationship;

Adults or minors who are related to each other up to the fourth degree of consanguinity, whether of the whole or half blood or by adoption, computed under the rules of civil law;

Adults or minors who are related or formerly related by marriage;

Persons who have a child of the relationship; and

Minor children of a person in such a relationship, as described above.

## Arizona

Depending on the relationship between the parties, many criminal acts will be considered domestic violence, including: dangerous crimes against children, homicide, endangerment, intimidation, assault, kidnapping, interfering with custody, sexual assault, trespassing, damage to property, interference with judicial proceedings, failure to obey courts orders, disorderly conduct, animal cruelty, preventing emergency use of a phone, certain electronic communications, harassment, stalking, surreptitious recordings and injury or permitting endangerment of a child or of a vulnerable adult.

The relationships covered by the domestic violence laws include:

when the victim and the perpetrator are or were married, reside or used to reside in the same home,

when they have a child in common,

either party is pregnant,

the victim and the perpetrator (or the perpetrator's spouse) are related a parent, grandparent, child, grandchild, brother, sister, parent-in-law, grandparent-in-law, stepparent, step-grandparent, stepchild, step-grandchild, brother-in-law or sister-in-law,

the victim is a child who resides or resided in the household with the perpetrator and is related to a former spouse of the perpetrator or to a person who resides or resided in the perpetrator's household, or

the victim and the perpetrator are or were in a romantic or sexual relationship.

#### Arkansas

Arkansas law defines domestic violence as domestic abuse. Domestic abuse means:

Physical harm, bodily injury, assault or the infliction of fear of imminent physical harm, bodily injury or assault between family or household members; or

Any sexual conduct between family or household members, whether minors or adults, that constitutes a crime under the laws of this state;

Family or household members means spouses, former spouses, parents and children, persons related by blood within the fourth degree of consanguinity, any children residing in the household, persons who presently or in the past have resided or cohabited together, persons who have or have had a child in common and persons who are presently or in the past have been in a dating relationship together.

#### California

Domestic Violence has been defined under California law to mean the infliction or threat of physical harm against past or present adult or adolescent intimate partners, including physical, sexual and psychological abuse against the person, that is a part of a pattern of assaultive, coercive, and controlling behavior directed at achieving compliance from or control over that person.

In addition, the California Family code has defined domestic violence to mean abuse perpetrated against any of the following persons:

A spouse or former spouse.

A cohabitant or former cohabitant.

A person with whom the respondent is having or has had a dating or engagement relationship.

A person with whom the perpetrator has had a child.

A child of or the presumed child of the perpetrator or victim.

Any other person related by consanguinity or affinity within the second degree.

Abuse means any of the following:

Intentionally or recklessly causing or attempting to cause bodily injury.

Sexual assault.

Placing a person in reasonable apprehension of imminent serious bodily injury to that person or to another.

Conduct that can be prohibited as abuse by a court, including: Molesting, attacking, striking, stalking, threatening, battering, credibly impersonating, falsely personating, harassing, telephoning, destroying personal property, contacting, either directly or indirectly, by mail or otherwise, coming within a specified distance of or disturbing the peace.

#### Colorado

Domestic violence means an act or threatened act of violence upon a person with whom the actor is or has been involved in an intimate relationship. Domestic violence also includes any other crime against a person, or against property, including an animal or any municipal ordinance violation against a person, or against property, including an animal, when used as a method of coercion, control, punishment, intimidation or revenge directed against a person with whom the actor is or has been involved in an intimate relationship.

Intimate relationship means a relationship between spouses, former spouses, past or present unmarried couples, or persons who are both the parents of the same child regardless of whether the persons have been married or have lived together at any time.

#### Connecticut

Domestic violence (also known as family violence) is an incident resulting in physical harm, bodily injury or assault, or an act of threatened violence that constitutes fear of imminent physical harm, bodily injury or assault, including, but not limited to, stalking or a pattern of threatening, between family or household members. Verbal abuse or argument shall not constitute family violence unless there is present danger and the likelihood that physical violence will occur.

“Family or household member” means any of the following persons, regardless of the age of such person:

Spouses or former spouses;

Parents or their children;

Persons related by blood or marriage;

Persons not related by blood or marriage presently residing together or who have resided together;

Persons who have a child in common regardless of whether they are or have been married or have lived together at any time; and

Persons in, or who have recently been in, a dating relationship.

Connecticut law also defines the term “intimate partner violence” to mean any physical or sexual harm against an individual by a current or former spouse of or person in a dating relationship with such individual that results from any action by such spouse or such person that may be classified as sexual assault, stalking or family violence.

Delaware

“Domestic violence” means abuse perpetrated by one member against another member of the following protected classes:

family,

former spouses,

persons cohabitating together who are holding themselves out as a couple, with or without a child in common.

persons living separate and apart with a child in common, and

persons in a current or former substantive dating relationship.

“Family” means husband and wife, a man and woman cohabiting in a home in which there is a child of either or both, custodian and child, or any group of persons related by blood or marriage who are residing in one home under one head or where one is related to the other by any of the following degrees of relationship:

mother,

father,

mother-in-law,

father-in-law,

brother,

sister,

brother-in-law,  
sister-in-law,  
son,  
daughter,  
son-in-law,  
daughter-in-law,  
grandfather,  
grandmother,  
grandson,  
stepfather,  
stepmother  
stepson or  
stepdaughter.

The relationships referred to include blood relationships without regard to legitimacy and relationships by adoption. "Abuse" means conduct which constitutes any of the following:

Intentionally or recklessly causing or attempting to cause physical injury or a sexual offense.

Intentionally or recklessly placing or attempting to place another person in reasonable apprehension of physical injury or sexual offense to such person or another.

Intentionally or recklessly damaging, destroying or taking the tangible property of another person.

Engaging in a course of alarming or distressing conduct in a manner which is likely to cause fear or emotional distress or to provoke a violent or disorderly response.

Trespassing on or in property of another person, or on or in property from which the trespasser has been excluded by court order.

Child abuse.

Unlawful imprisonment, kidnapping or interference with custody.

Any other conduct which a reasonable person under the circumstances would find threatening or harmful.

#### District of Columbia

In the District of Columbia, domestic violence can be defined as a pattern of abusive behavior in any relationship that is used by one partner to gain or maintain power and control over another intimate partner, dating partner, or family member. The term "domestic violence" includes physical, sexual, emotional, economic, or psychological actions or threats of actions that influence another person. This consists of any behaviors that intimidate, manipulate, humiliate, isolate, frighten, terrorize, coerce, threaten, blame, hurt, injure or wound someone.

The District of Columbia also defines domestic violence by reference to the terms intimate partner violence and IntraFamily Violence.

The term intimate partner violence means "an act punishable as a criminal offense that is committed or threatened to be committed by an offender upon a person:

To whom the offender is or was married;

With whom the offender is or was in a domestic partnership; or

With whom the offender is or was in a romantic, dating, or sexual relationship."

The term intrafamily violence means "an act punishable as a criminal offense that is committed or threatened to be committed by an offender upon a person to whom the offender is related by blood, adoption, legal custody, marriage, or domestic partnership or with whom the offender has a child in common."

#### Florida

In Florida, domestic violence means any assault, battery, sexual assault, sexual battery, stalking, kidnapping, false imprisonment or any criminal offense resulting in physical injury or death of one family or household member by another family or household member.

"Family or household member" means spouses, former spouses, persons related by blood or marriage, persons who are presently residing together as if a family or who have resided together in the past as if a family, and persons who are parents of a child in common regardless of whether they have been married. With the exception of persons who have a child in common, the family or household members must be currently residing together, or have resided together in the past, in the same single dwelling unit.

#### Georgia



Under Georgia law, a court may issue a protective order against a defendant for 'family violence' if the victim proves the defendant

Physically abused him or her or attempted or threatened to do so

Sexually abused him or her

Stalked or harassed him or her

Unlawfully restrained him or her

Destroyed or criminally trespassed on his or her property, or

Committed any felony.

In addition, the victim must also show that he or she and the defendant

Are married or living together currently (or were in the past)

Have a child together

Have a parent-child relationship

Have a stepparent-stepchild relationship currently or in the past, or

Have a foster parent and foster child relationship currently or in the past

Hawaii

Domestic violence is defined as domestic abuse. Domestic abuse means:

Physical harm, bodily injury, assault, or the threat of imminent physical harm, bodily injury, or assault, extreme psychological abuse or malicious property damage between family or household members; or

Any act which would constitute Criminal Domestic Abuse ;

Any sex offence or child abuse committed against a minor family or household member by an adult family or household member.

"Extreme psychological abuse" means an intentional or knowing course of conduct directed at an individual that seriously alarms or disturbs consistently or continually bothers the individual, and that serves no legitimate purpose; provided that such course of conduct would cause a reasonable person to suffer extreme emotional distress.

"Family or household member" means spouses, persons in a civil union, reciprocal beneficiaries, former spouses, persons formerly in a civil union, former reciprocal beneficiaries, persons who have a child in common, parents, children, persons related by consanguinity, persons jointly residing or formerly residing in the same dwelling unit, and persons who have or have had a dating relationship. "Malicious property damage" means an intentional or knowing damage to the property of another, without his consent, with an intent to thereby cause emotional distress.

## Idaho

The definition of domestic violence is set out in the Domestic Violence Crime Prevention Act. Domestic violence means the physical injury, sexual abuse or forced imprisonment or threat thereof of a family or household member, or of any person by another person with whom the person has had or is having a dating relationship.

"Family member" means spouses, former spouses and persons related by blood, adoption or marriage. "Household member" means persons who reside or have resided together, and persons who have a child in common regardless of whether they have been married or have lived together at any time.

## Illinois

Under the Illinois Domestic Violence Act of 1986, domestic violence can be defined as any act of abuse between persons "sharing intimate relationships." "Abuse" means physical abuse, harassment, intimidation of a dependent, interference with personal liberty, or willful deprivation (but does not include reasonable direction of a minor child by a parent or person in the place of a parent).

The act specifies that the following persons are protected:

Any person abused by a family or household member;

Any high-risk adult with disabilities who is abused, neglected, or exploited by a family or household member (including any minor child or dependent adult in the care of such person);  
and

Any person residing or employed at a private home or public shelter which is housing an abused family or household member.

## Indiana

Domestic violence has been defined under Indiana law to mean an offense or the attempt to commit an offense that:

Has as an element either

The use of physical force; or

The threatened use of a deadly weapon; and

Is committed against a

Current or former spouse, parent or guardian of the defendant;

Person with whom the defendant shared a child in common;

Person who was cohabiting with or had cohabited with the defendant as a spouse, parent or guardian; or

Person who was or had been similarly situated to a spouse, parent or guardian of the defendant.

Indiana Law has also defined the term domestic or family violence to mean a crime that occurs when a family or household member commits, attempts to commit or conspires to commit any of the following against another family or household member:

A homicide offense under IC 35-42-1

A battery offense under IC 35-42-2.

Kidnapping or confinement under IC 35-42-3.

Human and sexual trafficking crimes under IC 35-42-3.5.

A sex offense under IC 35-42-4.

Robbery under IC 35-42-5.

Arson or mischief under IC 35-43-1.

Burglary or trespass under IC 35-43-2.

Disorderly conduct under IC 35-45-1.

Intimidation or harassment under IC 35-45-2.

Voyeurism under IC 35-45-4.

Stalking under IC 35-45-10.

An offense against family (IC 35-46-1-2 through IC 35-46-1-8, IC 35-46-1-12, and IC 35-46-1-15.1)

A crime involving animal cruelty and a family or household member (IC 35-46-3-12(b)(2) or IC 35-46-3-12.5.)

An individual is a “family or household member” of another person if the individual:

Is a current or former spouse of the other person;

Is dating or has dated the other person;

Is or was engaged in a sexual relationship with the other person;

Is related by blood or adoption to the other person;

Is or was related by marriage to the other person;

Has or previously had an established legal relationship:

As a guardian of the other person;

As a ward of the other person;

As a custodian of the other person;

As a foster parent of the other person; or

In a capacity with respect to the other person similar to those listed in (A) through (D) above; or

Has a child in common with the other person.

An individual is a family or household member of both persons who qualify as family or household members if the individual is a minor child of one of those persons.

Iowa

In Iowa, domestic violence is called domestic abuse. “Domestic abuse” means committing assault under any of the following circumstances:

The assault is between family or household members who resided together at the time of the assault.

The assault is between separated spouses or persons divorced from each other and not residing together at the time of the assault.k

The assault is between persons who are parents of the same minor child, regardless of whether they have been married or have lived together at any time.

The assault is between persons who have been family or household members residing together within the past year and are not residing together at the time of the assault.

The assault is between persons who are in an intimate relationship or have been in an intimate relationship and have had contact within the past year of the assault.

## Kansas

Domestic violence means an act or threatened act of violence against a person with whom the offender is involved or has been involved in a dating relationship, or an act or threatened act of violence against a family or household member by a family or household member. Domestic violence also includes any other crime committed against a person or against property, or any municipal ordinance violation against a person or against property, when directed against a person with whom the offender is involved or has been involved in a dating relationship or when directed against a family or household member by a family or household member.

Family or household member means persons 18 years of age or older who are spouses, former spouses, parents or stepparents and children or stepchildren, and persons who are presently residing together or have resided together in the past, and persons who have a child in common regardless of whether they have been married or have lived together at any time. Family or household member also includes a man and woman if the woman is pregnant and the man is alleged to be the father, regardless of whether they have been married or have lived together at any time.

## Kentucky

Kentucky law defines ‘domestic violence and abuse’ as physical injury, sexual abuse, assault or the infliction of fear of such harm that occurs between ‘family members’ or ‘members of an unmarried couple.’

The category ‘family member’ includes a spouse or former spouse of the accused, a parent or grandparent of the accused, a child or stepchild of the accused and any child victim living in the same household as the accused.

A ‘member of an unmarried couple’ means each member of a couple is living together now or has in the past, or they have a child together, or there is any child of that couple.

## Louisiana

“Family violence” means any assault, battery or other physical abuse which occurs between family or household members, who reside together or who formerly resided together (or such acts committed by one parent against the other parent or against any of the children).

Domestic abuse battery is the intentional use of force or violence committed by one household member upon the person of another household member.

“Domestic abuse” includes but is not limited to physical or sexual abuse and any offense against the person (except negligent injury and defamation) committed by one family or household member against another. “Domestic abuse” also includes abuse of adults when committed by an adult child or adult grandchild.

## Maine

Domestic violence is defined by reference to the term abuse. Abuse means the occurrence of the following acts between family or household members or dating partners or by a family or household member or dating partner upon a minor child of a family or household member or dating partner:

Attempting to cause or causing bodily injury or offensive physical contact, including sexual assaults under Maine Revised Statutes Title 17-A, chapter 11.

Attempting to place or placing another in fear of bodily injury through any course of conduct, including, but not limited to, threatening, harassing or tormenting behavior.

Compelling a person by force, threat of force or intimidation to engage in conduct from which the person has a right or privilege to abstain or to abstain from conduct in which the person has a right to engage;

) Knowingly restricting substantially the movements of another person without that person's consent or other lawful authority by doing one or more of the following:

Removing that person from that person's residence, place of business or school.

Moving that person a substantial distance from the vicinity where that person was found.

Confining that person for a substantial period either in the place where the restriction commences or in a place to which that person has been moved.

Communicating to a person a threat to commit, or to cause to be committed, a crime of violence dangerous to human life against the person to whom the communication is made or another, and the natural and probable consequence of the threat, whether or not that consequence in fact occurs, is to place the person to whom the threat is communicated, or the

person against whom the threat is made, in reasonable fear that the crime will be committed;  
or

Repeatedly and without reasonable cause:

Following the victim; or

Being at or in the vicinity of the victim's home, school, business or place of employment.

Dating partners means individuals currently or formerly involved in dating each other, whether or not the individuals are or were sexual partners.

Family or household members means spouses or domestic partners or former spouses or former domestic partners, individuals presently or formerly living together as spouses, natural parents of the same child, adult household members related by consanguinity or affinity or minor children of a household member when the defendant is an adult household member and, which may include individuals presently or formerly living together and individuals who are or were sexual partners.

Maryland

Domestic violence means abuse occurring between any of the following:

Current or former spouses or cohabitants.

Persons who have a child in common.

Persons currently or formerly involved in a dating relationship.

Abuse means any of the following acts :

An act that causes serious bodily harm.

An act that places a person in fear of imminent serious bodily harm.

Assault in any degree.

Rape or sexual offense.

Attempted rape or sexual offense.

False imprisonment.

Stalking

Massachusetts

According to the Massachusetts Executive Office of Public Safety and Security, Domestic Violence means a pattern of coercive and controlling behaviors and tactics used by one person over another to gain power and control. This may include abuse that is verbal, financial, emotional, sexual and physical.

Under the law, a person suffering from abuse from an adult or minor family or household member may file a complaint in the court requesting protection from such abuse. Abuse means the occurrence of one or more of the following acts between family or household members:

attempting to cause or causing physical harm

placing another in fear of imminent serious physical harm, or

causing another to engage involuntarily in sexual relations by force, threat or duress.

The term “Family or household members” means persons who

are or were married to one another,

are or were residing together in the same household, (c) are or were related by blood or marriage,

have a child in common regardless of whether they have ever married or lived together, or

are or have been in a substantive dating or engagement relationship.

Michigan

Domestic violence means the occurrence of any of the following acts by a person that is not an act of self-defense:

Causing or attempting to cause physical or mental harm to a family or household member.

Placing a family or household member in fear of physical or mental harm.

Causing or attempting to cause a family or household member to engage in involuntary sexual activity by force, threat of force or duress.

Engaging in activity toward a family or household member that would cause a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed or molested.

Family or household member includes any of the following:

A spouse or former spouse.



An individual with whom the person resides or has resided.

An individual with whom the person has or has had a dating relationship.

An individual with whom the person is or has engaged in a sexual relationship.

An individual to whom the person is related or was formerly related by marriage.

An individual with whom the person has a child in common.

The minor child of an individual described above.

## Minnesota

Domestic violence is defined as Domestic Abuse under Minnesota law.

Domestic abuse means the following, if committed against a family or household member by a family or household member:

Physical harm, bodily injury or assault;

The infliction of fear of imminent physical harm, bodily injury or assault; or

Terroristic threats;

Criminal Sexual Conduct (Discussed above); or

Interference with an emergency call.

The term family or household members means any of the following:

Spouses and former spouses.

Parents and children.

Persons related by blood.

Persons who are presently residing together or who have resided together in the past.

Persons who have a child in common regardless of whether they have been married or have lived together at any time.

A man and woman if the woman is pregnant and the man is alleged to be the father, regardless of whether they have been married or have lived together at any time.

Persons involved in a significant romantic or sexual relationship.

## Mississippi

Domestic violence means any of the following acts committed against a current or former spouse, a person living as a spouse or who formerly lived as a spouse or a child of persons living as spouses or who formerly lived as spouses, a parent, grandparent, child, grandchild or someone similarly situated to the defendant, a person with whom the defendant has a biological or legally adopted child in common or a person in a current or former dating relationship:

Attempts to cause serious bodily injury to another, or causes such an injury purposely, knowingly or recklessly under circumstances manifesting extreme indifference to the value of human life; or

Attempts to cause or purposely or knowingly causes bodily injury to another with a deadly weapon or other means likely to produce death or serious bodily harm; or

Strangles, or attempts to strangle another; or

Attempts to cause or purposely, knowingly or recklessly causes bodily injury to another; or

Negligently causes bodily injury to another with a deadly weapon or other means likely to produce death or serious bodily harm; or

Attempts by physical menace to put another in fear of imminent serious bodily harm; or

Violation of a domestic violence protection order; or

Stalking ; or

Cyberstalking ; or

Threats of such acts.

## Missouri

Domestic Violence is abuse or stalking committed by a family or household member.

The term family or household member means any spouse or former spouses, any person related by blood or marriage, any people who are presently residing together or have resided together in the past, anyone who is or has been in a continuing social relationship of a romantic or intimate nature with the victim, and anyone who has a child in common regardless of whether they have been married or have resided together at any time.

Abuse includes, but is not limited to, the occurrence of any of the following acts, or any attempts or threats to perform any of the following acts:

Assault - Purposely or knowingly placing or attempting to place another in fear of physical harm.

Battery - Purposely or knowingly causing physical harm to another with or without a deadly weapon.

Coercion - Compelling another by force or threat of force to engage in conduct from which the latter has a right to abstain or to abstain from conduct in which the person has a right to engage.

Sexual Assault - Causing or attempting to cause another to engage involuntarily in any sexual act by force, threat of force, or duress.

Unlawful Imprisonment - Holding, confining, detaining or abducting another person against that person's will.

Harassment - Engaging in a purposeful or knowing course of conduct involving more than one incident that alarms or causes distress to an adult or child and serves no legitimate purpose. The course of conduct must be such as would cause a reasonable adult or child to suffer substantial emotional distress and must actually cause substantial emotional distress to the petitioner or child. Such conduct might include, but is not limited to, following another about in a public place or places, peering in the window or lingering outside the residence of another. It does not include constitutionally protected activity.

Note: Under Missouri law, abuse does not include abuse inflicted on a child by accidental means by an adult household member or discipline of a child, including spanking, in a reasonable manner.

## Montana

Montana has defined domestic violence for some purposes to mean “the physical, mental or emotional abuse of an individual or the individual's child by a person with whom that individual or the individual's child lives or has recently lived.”

Under Montana law, domestic violence can also be defined by reference to the crime of partner or family member assault. A person commits the offense of partner or family member assault if the person:

Purposely or knowingly causes bodily injury to a partner or family member;

Negligently causes bodily injury to a partner or family member with a weapon; or

Purposely or knowingly causes reasonable apprehension of bodily injury in a partner or family member.

Family member means mothers, fathers, children, brothers, sisters and other past or present family members of a household. These relationships include relationships created by adoption and remarriage, including stepchildren, stepparents, in-laws and adoptive children and parents. These relationships continue regardless of the ages of the parties and whether the parties reside in the same household.

Partners means spouses, former spouses, persons who have a child in common and persons who have been or are currently in a dating or ongoing intimate relationship.

Nebraska

A person commits the offense of domestic assault in the third degree if he or she:

Intentionally and knowingly causes bodily injury to his or her intimate partner;

Threatens an intimate partner with imminent bodily injury; or

Threatens an intimate partner in a menacing manner.

A person commits the offense of domestic assault in the second degree if he or she intentionally and knowingly causes bodily injury to his or her intimate partner with a dangerous instrument.

A person commits the offense of domestic assault in the first degree if he or she intentionally and knowingly causes serious bodily injury to his or her intimate partner.

Intimate partner means a spouse; a former spouse; persons who have a child in common whether or not they have been married or lived together at any time; and persons who are or were involved in a dating relationship. For purposes of this subsection, dating relationship means frequent, intimate associations primarily characterized by the expectation of affectional or sexual involvement, but does not include a casual relationship or an ordinary association between persons in a business or social context.

Nevada

Domestic violence occurs when a person commits one of the following acts against or upon the person's spouse or former spouse, any other person to whom the person is related by blood or marriage, any other person with whom the person is or was actually residing, any other person

with whom the person has had or is having a dating relationship, any other person with whom the person has a child in common, the minor child of any of those persons, the person's minor child or any other person who has been appointed the custodian or legal guardian for the person's minor child:

A battery.

An assault.

Compelling the other person by force or threat of force to perform an act from which the other person has the right to refrain or to refrain from an act which the other person has the right to perform.

A sexual assault.

A knowing, purposeful or reckless course of conduct intended to harass the other person.

Such conduct may include, but is not limited to:

Stalking.

Arson.

Trespassing.

Larceny.

Destruction of private property.

Carrying a concealed weapon without a permit.

Injuring or killing an animal.

A false imprisonment.

Unlawful entry of the other person's residence, or forcible entry against the other person's will if there is a reasonably foreseeable risk of harm to the other person from the entry

New Hampshire

Domestic violence is defined as abuse under N.H.Rev Stat. section 173-B:1, I. "Abuse" means the commission or attempted commission of one or more of the following acts committed by a family or household member or by a current or former sexual or intimate partner, where such conduct constitutes a credible present threat to the victim's safety:

Assault or reckless conduct that places the victim in danger of serious bodily injury.

Criminal Threatening.

Sexual Assault.

Interference with freedom (Kidnapping , Criminal Restraint , False Imprisonment , Stalking ).

Destruction of Property (Arson or Criminal Mischief ) .

Unauthorized Entry (Burglary or Criminal Trespass ).

Harassment

New Jersey

In New Jersey, domestic violence means the occurrence of one or more of the following acts inflicted upon a protected person by an adult or an emancipated minor:

Homicide - N.J.S.2C:11-1 et seq.

Assault - N.J.S.2C:12-1

Terroristic threats - N.J.S.2C:12-3

Kidnapping - N.J.S.2C:13-1

Criminal restraint - N.J.S.2C:13-2

False imprisonment - N.J.S.2C:13-3

Sexual assault - N.J.S.2C:14-2

Criminal sexual contact - N.J.S.2C:14-3

Lewdness - N.J.S.2C:14-4

Criminal mischief - N.J.S.2C:17-3

Burglary - N.J.S.2C:18-2

Criminal trespass - N.J.S.2C:18-3

Harassment - N.J.S.2C:33-4

Stalking - P.L.1992, c.209 (C.2C:12-10)

Criminal coercion - N.J.S.2C:13-5

Robbery - N.J.S.2C:15-1

Contempt of a domestic violence order pursuant to subsection b. of N.J.S.2C:29-9 that constitutes a crime or disorderly persons offense

Any other crime involving risk of death or serious bodily injury

A protected person includes any of the following:

Any person 18 years of age or older (or an emancipated minor ) who has been subjected to domestic violence by a spouse, former spouse or any other person who is a present or former household member of the victim.

Any person who has been subjected to domestic violence by a person with whom the victim has a child in common.

Any person who has been subjected to domestic violence by a person with whom the victim anticipates having a child in common, if one of the parties is pregnant.

New Mexico

The State of New Mexico defines the term domestic violence as domestic abuse. Domestic abuse does not include self defense conduct. However, it does mean:

An incident of stalking or sexual assault whether committed by a household member or not;

An incident by a household member against another household member consisting of or resulting in:

physical harm;

severe emotional distress;

bodily injury or assault;

a threat causing imminent fear of bodily injury by any household member;

criminal trespass;

criminal damage to property;

repeatedly driving by a residence or work place;

telephone harassment;

harassment; or

harm or threatened harm to children.

Household member means a spouse, former spouse, parent, present or former stepparent, present or former parent in-law, grandparent, grandparent-in-law, child, stepchild, grandchild, co-parent of a child or a person with whom the petitioner has had a continuing personal relationship. Cohabitation is not necessary to be deemed a household member.

New York

Victim of domestic violence means any person over the age of sixteen, any married person or any parent accompanied by his or her minor child or children in situations in which such person or such person's child is a victim of an act which would constitute a violation of the penal law, including, but not limited to acts constituting disorderly conduct, harassment, aggravated harassment, sexual misconduct, forcible touching, sexual abuse, stalking, criminal mischief, menacing, reckless endangerment, kidnapping, assault, attempted assault, attempted murder, criminal obstruction of breathing or blood circulation, or strangulation; and

such act or acts have resulted in actual physical or emotional injury or have created a substantial risk of physical or emotional harm to such person or such person's child; and

such act or acts are or are alleged to have been committed by a family or household member.

“Family or household members” mean the following individuals:

persons related by consanguinity or affinity;

persons legally married to one another;

persons formerly married to one another regardless of whether they still reside in the same household;

persons who have a child in common regardless of whether such persons are married or have lived together at any time;

unrelated persons who are continually or at regular intervals living in the same household or who have in the past continually or at regular intervals lived in the same household;

(f) persons who are or have been in an intimate relationship regardless of whether such persons have lived together at any time.

North Carolina



In North Carolina, domestic violence means the commission of one or more of the following acts (not including acts of self defense) upon a victim (or minor child residing with or in the custody of the victim) by a person with whom the victim has or has had a personal relationship:

Attempting to cause bodily injury, or intentionally causing bodily injury; or

Placing the aggrieved party or a member of the aggrieved party's family or household in fear of imminent serious bodily injury or continued harassment that rises to such a level as to inflict substantial emotional distress; or

Committing certain sexual offences .

The term "personal relationship" means a relationship wherein the parties involved:

Are current or former spouses;

Are persons of opposite sex who live together or have lived together;

Are related as parents and children, including others acting in loco parentis to a minor child, or as grandparents and grandchildren;

Have a child in common;

Are current or former household members;

Are persons of the opposite sex who are in a dating relationship or have been in a dating relationship. A dating relationship is one wherein the parties are romantically involved over time and on a continuous basis during the course of the relationship. A casual acquaintance or ordinary fraternization between persons in a business or social context is not a dating relationship.

## North Dakota

Domestic violence means violence between family or household members, and includes physical harm, bodily injury, sexual activity compelled by physical force, assault or the infliction of fear of imminent physical harm, bodily injury, sexual activity compelled by physical force or assault that occurs between family or household members. Conduct performed in self defense does not qualify.

“Family or household member” means a spouse, family member, former spouse, parent, child, persons related by blood or marriage, persons who are in a dating relationship, persons who are presently residing together or who have resided together in the past, or persons who have a child in common regardless of whether they are or have been married or have lived together at any time.

## Ohio

Ohio law has defined domestic violence as attempting to cause or causing bodily injury to a family or household member, or placing a family or household member by threat of force in fear of imminent physical harm. Domestic violence is a crime where a person knowingly causes or attempts to cause physical harm to a family or household member, recklessly causes serious physical harm to a family or household member or when a person, by threat of force, knowingly causes a family or household member to believe that the offender will cause imminent physical harm to the family or household member.

Domestic violence means the occurrence of one or more of the following acts against a family or household member:

Attempting to cause or recklessly causing bodily injury;

Placing another person by the threat of force in fear of imminent serious physical harm, menacing by stalking or aggravated trespass;

Committing any act with respect to a child that would result in the child being an abused child defined in Ohio Revised Code section 2151.031; or

Committing a sexually oriented offense.

“Family or household member” means any of the following:

Any of the following who is residing with or has resided with the respondent:

A spouse, a person living as a spouse or a former spouse of the respondent;

A parent, a foster parent, or a child of the respondent or another person related by consanguinity or affinity to the respondent;

A parent or a child of a spouse, person living as a spouse or former spouse of the respondent, or another person related by consanguinity or affinity to a spouse, person living as a spouse or former spouse of the respondent.

The natural parent of any child of whom the respondent is the other natural parent or is the putative other natural parent.

“Person living as a spouse” means a person who is living or has lived with the respondent in a common law marital relationship, who otherwise is cohabiting with the respondent, or who otherwise has cohabited with the respondent within five years prior to the date of the alleged occurrence of the act in question.

Oklahoma

Oklahoma law defines domestic violence as domestic abuse. Domestic abuse means any act of physical harm, or the threat of imminent physical harm which is committed by an adult, emancipated minor or minor child thirteen (13) years of age or older against another adult, emancipated minor or minor child who are family or household members or who are or were in a dating relationship.

## Oregon

Domestic violence means abuse between family or household members. It includes so called teen dating violence. Abuse means any of the following:

Attempting to cause or intentionally, knowingly or recklessly causing physical injury.

Intentionally, knowingly or recklessly placing another in fear of imminent serious physical injury.

Committing sexual abuse.

Family or household members means any of the following:

Spouses.

Former spouses.

Adult persons related by blood or marriage.

Persons cohabiting with each other.

Persons who have cohabited with each other or who have been involved in a sexually intimate relationship.

Unmarried parents of a minor child.

## Pennsylvania

In Pennsylvania, domestic violence is prosecuted under the Protection from Abuse Act, which prohibits 'domestic abuse.' The Act defines 'domestic abuse' as

Intentionally, knowingly, or recklessly

Causing bodily injury, assault, false imprisonment, rape, sexual abuse of minors or knowingly engaging in repetitive conduct without proper authority towards someone, including following the person, that places him or her in reasonable fear of bodily injury

If the victim and the accused are family or household members, sexual or intimate partners and persons who share biological parenthood of a child

## Rhode Island

Domestic violence occurs when any of the following crimes (or attempts to commit such crimes) are committed by one family or household member against another:

Simple assault;

Felony assaults;

Vandalism;

Disorderly conduct;

Trespassing;

Kidnapping;

Child-snatching;

Sexual assault;

Homicide;

Violation of the provisions of a protective order;

Stalking;

Refusal to relinquish or to damage or to obstruct a telephone;

Burglary and Unlawful Entry;

Arson;

Cyberstalking and cyberharassment; and

Domestic assault by strangulation.

“Family or household member” means spouses, former spouses, adult persons related by blood or marriage, adult persons who are presently residing together or who have resided together in the past three (3) years, and persons who have a child in common regardless of whether they have been married or have lived together.

The term also includes persons who are or have been in a substantive dating or engagement relationship within the past year. This determination involves an assessment of the following factors:

The length of time of the relationship;

The type of the relationship;

The frequency of the interaction between the parties

South Carolina

Domestic violence can be defined as abuse committed by one family or household member against another family or household member. "Abuse" means:

physical harm, bodily injury, assault, or the threat of physical harm;

sexual criminal offenses, as otherwise defined by statute, committed against a family or household member by a family or household member.

#### Criminal Domestic Violence

It is a crime to cause physical harm or injury to a person's own household member; or to offer or attempt to cause physical harm or injury to a person's own household member with apparent present ability under circumstances reasonably creating fear of imminent peril.

The term household member means:

a spouse;

a former spouse;

persons who have a child in common; or

a male and female who are cohabiting or formerly have cohabited.

South Dakota

In South Dakota, domestic violence means domestic abuse. Domestic abuse means physical harm, bodily injury or attempts to cause physical harm or bodily injury, or the infliction of fear of imminent physical harm or bodily injury when occurring between persons in the relationships listed below. Any act of stalking, any violation of a protection/no contact order or commission of any crime of violence constitutes domestic abuse if the underlying criminal act is committed between persons in such a relationship.

The following relationships apply to the definition of domestic abuse :

Spouse or former spouse.

Is in a significant romantic relationship.

Has a child or is expecting a child with the abusing party.

Parent and child, including a relationship by adoption, guardianship or marriage.

Siblings, whether of the whole or half blood, including a relationship through adoption or marriage.

## Tennessee

Tennessee law has defined the term family violence to mean causing or attempting to cause bodily injury to a family or household member or placing a family or household member in fear of imminent physical harm by threat of force, regardless of age or mental functioning. The term family or household member includes persons who customarily reside in the household.

Tennessee law has also defined the term “domestic violence offense” to mean an offense that:

Is classified as a misdemeanor in Tennessee;

Has as an element of the offense the use or attempted use of physical force or the threatened use of a deadly weapon; and

Is committed by a

Current or former spouse, parent or guardian of the victim;

Person with whom the victim shares a child in common;

Person who is cohabiting with or has cohabited with the victim as a spouse, parent or guardian; or

Person similarly situated to a spouse, parent or guardian of the victim.

## Texas

In Texas, Domestic Violence is called Family Violence. Family Violence is:

An act by a member of a family or household against another member of the family or household that is intended to result in physical harm, bodily injury, assault or sexual assault or that is a threat that reasonably places the member in fear of imminent physical harm, bodily injury, assault or sexual assault (not including defensive measures to protect oneself); or

Abuse by a member of a family or household toward a child of the family or household; or

Dating violence.

Utah

Domestic violence means any criminal offense involving violence or physical harm or threat of violence or physical harm, or any attempt, conspiracy, or solicitation to commit a criminal offense involving violence or physical harm, when committed by one cohabitant against another.

Domestic violence also means commission or attempt to commit, any of the following offenses by one cohabitant against another (all references are to the Utah Code):

Aggravated assault, as described in Section 76-5-103;

Assault, as described in Section 76-5-102;

Criminal homicide, as described in Section 76-5-201;

Harassment, as described in Section 76-5-106;

Electronic communication harassment, as described in Section 76-9-201;

Kidnapping, child kidnapping, or aggravated kidnapping, as described in Sections 76-5-301, 76-5-301.1, and 76-5-302;

Mayhem, as described in Section 76-5-105;

Sexual offenses, as described in Title 76, Chapter 5, Part 4, Sexual Offenses, and Section 76-5b-201, Sexual Exploitation of a Minor;

Stalking, as described in Section 76-5-106.5;

Unlawful detention or unlawful detention of a minor, as described in Section 76-5-304;

Violation of a protective order or ex parte protective order, as described in Section 76-5-108;

Any offense against property described in Title 76, Chapter 6, Part 1, Property Destruction, Part 2, Burglary and Criminal Trespass, or Part 3, Robbery;

Possession of a deadly weapon with intent to assault, as described in Section 76-10-507;

Discharge of a firearm from a vehicle, near a highway, or in the direction of any person, building, or vehicle, as described in Section 76-10-508;

Disorderly conduct, as defined in Section 76-9-102; or

Child abuse as described in Section 76-5-109.1.

Vermont

Domestic violence has been defined as the occurrence of one or more of the following acts between family or household members:

Attempting to cause or causing physical harm.

Placing another in fear of imminent serious physical harm.

Abuse to children.

Stalking.

Sexual assault.

“Household members” means persons who, for any period of time, are living or have lived together, are sharing or have shared occupancy of a dwelling, are engaged in or have engaged in a sexual relationship, or persons who are dating or who have dated.

“Dating” means a social relationship of a romantic nature. Factors that the court may consider when determining whether a dating relationship exists or existed include:

The nature of the relationship.

The length of time the relationship has existed.

The frequency of interaction between the parties.

The length of time since the relationship was terminated, if applicable.

Virginia

Domestic violence has been defined by several Virginia Government agencies as a pattern of physically, sexually and/ or emotionally abusive behaviors used by one individual to assert power or maintain control over another in the context of an intimate or family relationship. However, the term is also defined by statute as discussed below.

Domestic violence is also known as family abuse in Virginia. Family abuse means any act involving violence, force or threat that results in bodily injury or places one in reasonable apprehension of death, sexual assault or bodily injury and that is committed by a person against such person's family or household member. Such act includes, but is not limited to, any forceful detention, stalking, criminal sexual assault or any criminal offense that results in bodily injury or places one in reasonable apprehension of death, sexual assault or bodily injury.



Family or household member means any of the following:

The person's spouse, whether or not he or she resides in the same home with the person.

The person's former spouse, whether or not he or she resides in the same home with the person.

The person's parents, stepparents, children, stepchildren, brothers, sisters, half-brothers, half-sisters, grandparents and grandchildren, regardless of whether such persons reside in the same home with the person.

The person's mother-in-law, father-in-law, sons-in-law, daughters-in-law, brothers-in-law and sisters-in-law who reside in the same home with the person.

Any individual who has a child in common with the person, whether or not the person and that individual have been married or have resided together at any time.

Any individual who cohabits or who, within the previous 12 months, cohabited with the person, and any children of either of them then residing in the same home with the person.

Washington

Domestic violence means:

Physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury or assault, between family or household members; .

Sexual assault of one family or household member by another; or

Stalking of one family or household member by another family or household member.

"Family or household members" include spouses or domestic partners, former spouses or former domestic partners, people who have a child in common, adults related by blood or marriage, adults who are presently residing together or who have resided together in the past, people sixteen years of age or older who are presently residing together or who have resided together in the past and who have or have had a dating relationship, people sixteen years of age or older with whom a person sixteen years of age or older has or has had a dating relationship, and anyone that has a biological or legal parent-child relationship, including stepparents and stepchildren and grandparents and grandchildren.

West Virginia

Domestic violence or abuse means the occurrence of one or more of the following acts between family or household members:

Attempting to cause or intentionally, knowingly or recklessly causing physical harm to another with or without dangerous or deadly weapons;

Placing another in reasonable apprehension of physical harm;

Creating fear of physical harm by harassment, stalking, psychological abuse or threatening acts;

Committing either sexual assault or sexual abuse; and

Holding, confining, detaining or abducting another person against that person's will.

“Family or household members” means persons who:

Are or were married to each other;

Are or were living together as spouses;

Are or were sexual or intimate partners;

Are or were dating. (A casual acquaintance or ordinary fraternization between persons in a business or social context does not establish a dating relationship);

Are or were residing together in the same household;

Have a child in common regardless of whether they have ever married or lived together;

Have the following relationships to another person:

Parent;

Stepparent;

Brother or sister;

Half-brother or half-sister;

Stepbrother or stepsister;

Father-in-law or mother-in-law;

Stepfather-in-law or stepmother-in-law;

Child or stepchild;

Daughter-in-law or son-in-law;

Stepdaughter-in-law or stepson-in-law;

Grandparent;

Step grandparent;

Aunt, aunt-in-law or step aunt;

Uncle, uncle-in-law or step uncle;

Niece or nephew;

First or second cousin; or

Have the relationships set forth in paragraphs A) through P) to a family or household member.

#### Wisconsin

Wisconsin law defines domestic violence as domestic abuse. Although reference is made in the definition to adults only, similar acts upon a child are unlawful. Such acts would be classified as child abuse, not domestic abuse.

Domestic abuse means any of the following acts engaged in by an adult family member or adult household member against another adult family member or adult household member, by an adult caregiver against an adult who is under the caregiver's care, by an adult against his or her adult former spouse, by an adult against an adult with whom the individual has or had a dating relationship, or by an adult against an adult with whom the person has a child in common:

Intentional infliction of physical pain, physical injury or illness.

Intentional impairment of physical condition.

Sexual Assault.

Criminal Property Damage involving property that belongs to the individual.

A threat to engage in the above conduct.

#### Wyoming

Wyoming law defines domestic violence as domestic abuse. Domestic abuse means the occurrence of one or more of the following acts by a household member but does not include acts of self defense.

Physically abusing, threatening to physically abuse, attempting to cause or causing physical harm or acts which unreasonably restrain the personal liberty of any household member;

Placing a household member in reasonable fear of imminent physical harm; or

Causing a household member to engage involuntarily in sexual activity by force, threat of force or duress.

The term household member includes:

Persons married to each other.

Persons living with each other as if married.

Persons formerly married to each other.

Persons formerly living with each other as if married.

Parents and their adult children.

Other adults sharing common living quarters.

Persons who are the parents of a child but who are not living with each other.

Persons who are in, or have been in, a dating relationship.

## State Definitions of Consent

### Alabama

In Alabama, in reference to sexual assault, consent means that the sexual conduct must be in accordance with the will of the consenting person.

Lack of consent results from:

Forcible compulsion; or

Incapacity to consent; or

If the offense charged is sexual abuse, any circumstances, in addition to forcible compulsion or incapacity to consent, in which the victim does not expressly or impliedly acquiesce in the actor's conduct.

A person is deemed incapable of consent if he or she is:

Less than 16 years old; or

Mentally defective; or

Mentally incapacitated; or

Physically helpless.

### Alaska

In Alaska, consent, in reference to sexual conduct, means that such conduct is performed in accordance with the will of the other person. Sexual conduct performed upon a victim against the victim's will is non consensual sexual conduct.

In addition, Alaska law defines the term "without consent" in reference to sex offences. The term "without consent" means that a person (with or without resisting) is coerced by the use of force against a person or property, or by the express or implied threat of death, imminent physical injury or kidnapping to be inflicted on anyone; or is incapacitated as a result of an act of the defendant.

### Arizona

The Arizona Supreme Court noted that "consent" should be assessed according to its ordinary and plain meaning, which has been interpreted as a "willingness in fact for [sexual] conduct to occur." In reference to sexual assault, examples of what constitute sexual conduct that is "without consent" include (but are not limited to):

Coercion by the immediate use or threatened use of force.

When the victim is incapable of consent by reason of mental disorder, mental defect drugs, alcohol, sleep or any other similar impairment of cognition and such condition is known (or should have reasonably been known).

The victim is intentionally deceived as to the nature of the act.

The victim is intentionally deceived to erroneously believe that the person is the victim's spouse.

## Arkansas

The term consent, in reference to sexual conduct, means that the sexual conduct was performed in accordance with the will of the other person. Sexual conduct performed against the will of the other party is non consensual sexual conduct.

## California

In California, under Senate Bill 967 as of January 1, 2015, consent means affirmative consent. Affirmative consent means affirmative, conscious and voluntary agreement to engage in sexual activity. It is the responsibility of each person involved in the sexual activity to ensure that he or she has the affirmative consent of the other, or others, to engage in the sexual activity.

Lack of protest is not the same as consent.

Lack of resistance is not the same as consent.

Silence is not the same as consent.

Affirmative consent must be ongoing throughout a sexual activity. Affirmative consent can be revoked (taken back) at any time, including during a sexual encounter.

The existence of a dating relationship between the persons involved, or the fact of past sexual relations between them, should never by itself be assumed to be an indicator of consent.

Affirmative consent does not exist if a person engages in sexual contact when the other person is:

Asleep or unconscious.

Incapacitated due to the influence of drugs, alcohol, or medication, so that the other person could not understand the fact, nature or extent of the sexual activity.

Unable to communicate due to a mental or physical condition.

## Colorado

Consent means cooperation in act or attitude pursuant to an exercise of free will and with knowledge of the nature of the act. A current or previous relationship is not sufficient to constitute consent. Submission under the influence of fear does not constitute consent.

## Connecticut

Connecticut is one of several states that have attempted to adopt a definition of consent that requires affirmative consent.

Generally, consent always requires a voluntary and willing agreement to a sexual act. The consent required, however, must be actual and real, and not just mere surface acquiescence induced by fear or shock. The sexual act must be engaged in by the other person with no compulsion, no threat and no fear. In other words, it must be a truly voluntary and willing act. Under Connecticut Senate Bill No. 636, in relation to sexual activity, consent means "affirmative consent." Affirmative consent means there is an active, unambiguous and voluntary agreement by a person to engage in sexual activity with another person that is sustained throughout the sexual activity and which may be revoked at any time.

## Delaware

Consent, in reference to sexual conduct, means that such conduct is in accordance with the will of the other person. Sexual conduct that is against the will of the victim is non consensual sexual conduct. In addition, Delaware law defines the term "without consent."

"Without consent" means :

The defendant compelled the victim to submit by any act of coercion, 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

The defendant knew that the victim was unconscious, asleep or otherwise unaware that a sexual act was being performed; or

The defendant knew that the victim suffered from a cognitive disability, mental illness or mental defect which rendered the victim incapable of appraising the nature of the sexual conduct or incapable of consenting; or

Where the defendant is a health professional, 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. 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

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.

A child who has not yet reached that child's 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.

#### District of Columbia

Consent means words or overt actions indicating a freely given agreement to the sexual act or contact in question. Lack of verbal or physical resistance or submission by the victim, resulting from the use of force, threats or coercion by the defendant shall not constitute consent.

Consent is a defense to sexual abuse (in the 1st through the 4th degree) and misdemeanor sexual abuse.

#### Florida

In Florida, consent means intelligent, knowing and voluntary agreement. Consent may be express or implied from words or conduct that evidences an agreement to engage in the act.

It is important to note what is not consent:



Coerced submission is not consent.

The absence of physical resistance by the alleged victim to the offender is also not consent.

Note about using consent as a defense: Generally, a person charged with the crime of sexual battery may defend his or her actions on the grounds that the victim consented, but, a defendant may not use the defense of consent when charged with sexual battery upon a person less than 12 years of age or sexual activity upon a person less than 18 years of age by a person who stands in a position of familial or custodial authority.

## Georgia

Georgia laws on sexual offenses, including 'sexual battery' and 'statutory rape,' do not define the term 'consent.'

Under Georgia law, an adult victim's lack of 'consent' need be shown only for the crime of 'sexual battery.'

A 'sexual battery' is

Intentional

Physical contact with

The intimate parts of another person (genitals, genital area, anus, groin, inner thighs, buttocks or breasts)

Without that person's 'consent.'

Under Georgia's statutory rape law, a person younger than 16 years of age is considered unable to 'consent' to sexual intercourse with a defendant unless they are married.

## Hawaii

Under Hawaii law, in reference to sexual conduct, consent is defined by reference to its ordinary meaning. Consent means an express or implied voluntary agreement or concurrence to sexual conduct.

## Idaho

Consent, in reference to sexual conduct, means that such conduct is performed in accordance with the will of the other person. Sexual conduct performed against the will of the victim is non consensual sexual conduct.

## Illinois

The word consent means a freely given agreement to the act of sexual penetration in question.

Lack of verbal or physical resistance or submission by the victim resulting from the use of force or threat of force by the defendant shall not constitute consent.

## Indiana

Consent has been defined under Indiana law to mean authorization. In the context of sexual conduct, consent means willingness. Sexual conduct that occurs against the will of one party is without the consent of that party.

## Iowa

In Iowa, consent means acquiescence-that the sexual conduct in question was in accordance with the will of the consenting person. Sexual conduct that is against the will of the victim is non consensual.

## Kansas

In relation to sexual conduct by a person, consent means that the act of sexual conduct by that person is voluntary. Thus, consensual sexual conduct is that which is performed with the permission or agreement of all parties. The test for consent depends on whether the victim of sexual assault understands the nature and consequences of the proposed act and whether the victim can understand he or she has the right to refuse to participate, and possesses a rudimentary grasp of the possible results arising from participation in the act.

## Kentucky

Kentucky law has defined consent as a freely given agreement to the conduct at issue by a competent person.

Lack of consent results from:

Forcible compulsion;

Incapacity to consent; or

any circumstances in which the victim does not expressly or impliedly acquiesce in the actor's conduct.

A person is deemed incapable of consent when he or she is:

Less than sixteen years old;

An individual with an intellectual disability or an individual that suffers from a mental illness;

Mentally incapacitated;

Physically helpless; or

Under the care or custody of a state or local agency pursuant to court order and the actor is employed by or working on behalf of the state or local agency.

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#### Louisiana

Under Louisiana law, consent has been defined to mean freely given agreement to the conduct at issue by a competent person. An expression of lack of consent through words or conduct means there is no consent. Lack of verbal or physical resistance or submission resulting from the use of force, threat of force or placing another person in fear shall not constitute consent. A current or previous dating, social or sexual relationship by itself or the manner of dress of the person involved with the accused in the conduct at issue shall not constitute consent. In other words, consent exists in the context of sexual conduct when the other party manifests willingness to engage in a sexual act.

#### Maine

Consent means expressed or implied acquiescence. This means that sexual conduct that is against the expressed or implied will of the victim is non consensual sexual conduct.

#### Maryland

Consent means actually agreeing to the sexual act, rather than merely submitting as a result of force or threat of force. When a sexual act is performed without consent it is done against the will of the victim. In addition, submission to a compelling force, or as a result of being put in fear, is not consent.

#### Massachusetts

In Massachusetts, consent means willingness.

Willingness (consent) generally exists if there is a voluntary and freely-given agreement to a course of action.

A person who lacks capacity to consent cannot consent to sexual conduct. Under certain circumstances, people may not be legally capable of giving consent even though they appear to be agreeing to a course

of conduct. Lack of capacity exists when "a person is so impaired as to be incapable of consenting to sexual intercourse." A person may lack such capacity when the impairment is caused by the consumption of drugs or alcohol or for some other reason, such as sleep, unconsciousness, mental disability or helplessness.

#### Michigan

Consent means willingness. Consent exists only when there is a willing, noncoerced act of sexual intimacy or intercourse between persons of sufficient age who are neither mentally defective, mentally incapacitated, nor physically helpless.

#### Minnesota

Consent means a person's words or overt actions that indicate a freely given present agreement to perform a particular sexual act with a particular person. Consent does not mean the existence of a prior or current social relationship between victim and the perpetrator. Nor does it mean that a victim failed to resist a particular sexual act.

A person who is mentally incapacitated or physically helpless cannot legally consent to a sexual act, regardless of what they say. Corroboration of the victim's testimony is not needed to show lack of consent

#### Mississippi

Consent exists where a person, by his/her line of conduct, has shown a disposition to permit another person to do a certain thing without raising objection thereto. Consent may be manifested by signs, actions or facts, or by inaction or silence, from which arises an inference that the consent has been given.

#### Missouri

Consent or lack of consent may be expressed or implied. Voluntary agreement to engage in a particular act constitutes consent, unless:

It is given by a person who lacks the mental capacity when such mental incapacity is manifest or known to the actor; or

It is given by a person who by reason of youth, mental disease or defect, intoxication, a drug-induced state, or any other reason is manifestly unable or known by the actor to be unable to make a reasonable judgment as to the nature or harmfulness of conduct; or

It is induced by force, duress or deception.

#### Montana

In Montana, the term consent, in reference to sexual assault, has its ordinary meaning. It means a communication of willingness or implicit permission. In addition, resistance by the victim is not required to show lack of consent. Force, fear, or threat is sufficient alone to show lack of consent.

## Nebraska

In Nebraska, consent, in reference to sexual assault, means that the sexual conduct was in accordance with the will of the other person. Sexual conduct performed against the will of the victim is non consensual sexual conduct. Consent must be affirmatively and freely given. Consent may be manifested by words or conduct. From the facts and circumstances, consent must be objectively ascertainable.

Without consent means:

The victim was compelled to submit due to the use of force or threat of force or coercion; or the victim expressed a lack of consent through words; or the victim expressed a lack of consent through conduct; or the consent, if any was actually given, was the result of the actor's deception as to the identity of the actor or the nature or purpose of the act on the part of the actor. For lack of consent to be established, the victim need only resist, either verbally or physically, so as to make the victim's refusal to consent genuine and real and so as to reasonably make known to the actor the victim's refusal to consent. However, a victim need not resist verbally or physically where it would be useless or futile to do so.

## Nevada

In reference to sexual conduct, consent means that such conduct is in accordance with the will of the other person. Sexual conduct that is performed against the will of a victim is non consensual sexual conduct. Submission is not equivalent of consent and a lack of any protest by the victim is simply one factor among others used to assess whether or not there has been consent to sexual conduct.

## New Hampshire

Consent, in reference to sexual conduct, means that such conduct is performed in accordance with the objectively manifested will of the other person. Sexual conduct performed against the objectively manifested will of the victim is non consensual sexual conduct.

## New Jersey

Consent means affirmative and freely given permission.

Affirmatively given permission means the recipient did or said something which would lead a reasonable person to believe he or she was agreeing to engage in the act.

Freely given permission means the recipient agreed of his or her own free will to engage in the act.

Keep in mind, if the recipient is too young or legally incapable of giving consent, then “consent” is not a defense even if the recipient was willingly engaging in the act.

#### New Mexico

Consent, in reference to sexual conduct, means willingness. A person who overcomes the will of another in accomplishing sexual contact commits non consensual sexual contact upon that person. Consent does not exist if a person lacks the capacity or ability to consent.

#### New York

#### AFFIRMATIVE CONSENT

In relation to sexual activity, consent must be affirmative. Affirmative consent is a knowing, voluntary and mutual decision among all participants to engage in sexual activity. It can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity or gender expression.

Consent to any sexual act or prior consensual sexual activity between or with any party does not necessarily constitute consent to any other sexual act. Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol. Consent may be initially given but withdrawn at any time. Consent cannot be given when a person is incapacitated, which occurs when an individual lacks the ability to knowingly choose to participate in sexual activity. Incapacitation may be caused by the lack of consciousness or being asleep, being involuntarily restrained, or if an individual otherwise cannot consent. Depending on the degree of intoxication, someone who is under the influence of alcohol, drugs or other intoxicants may be incapacitated and therefore unable to consent. Consent cannot be given when it is the result of any coercion, intimidation, force or threat of harm. When consent is withdrawn or can no longer be given, sexual activity must stop.

#### CRIMINAL LAW DEFINITION OF CONSENT

The criminal law also sets forth its own general definition of consent. While failure to secure affirmative consent may result in sanctions under University policy (among other consequences), failure to secure general consent for sexual conduct may result in criminal sanctions and sanctions under University policy.

Under the criminal law, consent means willingness to engage in an act about to be performed. In reference to sexual conduct, such conduct is only consensual when performed in accordance with the will of the other person. Sexual conduct performed against the will of a victim is non consensual sexual conduct. Lack of consent may result from compulsion or from a victim's lack of capacity to consent.

In addition, New York statutory law sets out several situations where there can be no consent.

For example, a person is deemed incapable of consent when he or she is any of the following:

less than seventeen years old

mentally disabled

mentally incapacitated

physically helpless

North Carolina

Consent can be defined as affirmative (through words or conduct) and freely given permission to engage in a sexual act. In essence, consent to a sexual act means that the sexual act is done in accordance with the will of the consenting party. A sexual act accomplished without consent (against the will) of the other party can constitute a sexual crime, such as rape or sexual battery.

North Dakota

In North Dakota, in reference to sexual conduct, consent means that such conduct is performed in accordance with the will of the other person. Sexual conduct performed against the will of the victim is non consensual sexual conduct.

Ohio

Ohio law has defined consent to mean words or overt acts indicating a freely given agreement to the sexual conduct at issue by a competent person. Consent is a defense to a sexual assault charge when lack of consent is an element of the offence. However, consent is not a defense to a charge of statutory rape. Consent must be:

Freely given (without compulsion or duress);

By a person legally capable of consenting; and

Not based on fraud.

## Oklahoma

The Term consent means the affirmative, unambiguous and voluntary agreement to engage in a specific sexual activity during a sexual encounter. Consent can be revoked at any time.

Consent cannot be given by an individual who is asleep or is mentally or physically incapacitated either through the effect of drugs or alcohol or for any other reason.

Consent cannot be given by an individual who is under duress, threat, coercion or force.

Consent cannot be inferred under circumstances in which consent is not clear including, but not limited to, the absence of an individual saying “no” or “stop”, or the existence of a prior or current relationship or sexual activity.

## Oregon

In Oregon, consent in reference to sexual assault, means that the sexual conduct is wanted and in accordance with the will of the consenting party. Sexual contact performed upon another person and against that person’s will is non consensual, unwanted sexual contact.

## Pennsylvania

It is best to obtain uncoerced, affirmative, verbal consent before engaging in any sexual activity, but keep in mind that an affirmative assurance may not be sufficient. Under the law, some people are incapable of giving consent, regardless of what they say or even what they want. For example, an unconscious person cannot consent, even if he or she consented earlier, when conscious.

The crime of rape involves engaging in sexual intercourse with the victim by force, threat of force, or incapacity of the victim because of unconsciousness, mental disability, or the administration of drugs/intoxicants by the accused to prevent resistance.

A person may be incapable of giving legal consent because of their age. Statutory sexual assault occurs when the victim is under age 16 and the accused is four years or more older than the victim and they were not married. If the victim is under age 13, it is considered rape of a child.

## Rhode Island

In reference to sexual conduct, the term consent means that such sexual conduct is performed in accordance with the will of the other person. Sexual conduct accomplished upon a victim against his or her will is non consensual sexual conduct. Consent must involve a free and voluntary action.

## South Carolina



Consent, in reference to sexual assault, means that an act of sexual contact is in accordance with the will of the other person. Sexual contact that is contrary to the manifest will of the other party is without consent.

#### South Dakota

In South Dakota in reference to sexual conduct, consent means that such conduct is performed in accordance with the will of the other person. Sexual conduct performed against the will of the victim is non consensual sexual conduct. Consent must be freely and voluntary given to be effective.

#### Tennessee

In Tennessee, consent means express or apparent assent. Consent exists in the context of sexual contact only if such contact is in accordance with the will of the other person. Consent is not effective when induced by deception or coercion. Consent is not effective when given by a person who, by reason of youth, mental disease or defect, or intoxication, is known by the defendant to be unable to make reasonable decisions.

#### Texas

Consent means assent in fact, whether express or apparent. In any event, if there is no assent in fact, there can be no consent. Also, consent is not effective if it is induced by force, threat, or fraud; or if given by a person who by reason of youth, mental disease or defect, or intoxication is known by the actor to be unable to make reasonable decisions. Also, consent is not effective where the victim is a minor.

In addition, the following list of conduct satisfies the “without the consent” requirement of sexual assault:

The other person has not consented and the actor knows the other person is unconscious or physically unable to resist;

The other person has not consented and the actor knows the other person is unaware that the sexual assault is occurring;

The actor is a public servant who coerces the other person to submit or participate;

The actor is a mental health services provider or a health care services provider who causes the other person, who is a patient or former patient of the actor, to submit or participate by exploiting the other person's emotional dependency on the actor;

The actor is a clergyman who causes the other person to submit or participate by exploiting the other person's emotional dependency on the clergyman in the clergyman's professional character as spiritual adviser; or

The actor is an employee of a facility where the other person is a resident (unless the employee and resident are formally or informally married).

Utah

Generally, in reference to sexual conduct, consent means that the sexual conduct is performed in accordance with the will of the other person. Sexual conduct that is performed against the will of the victim is non consensual sexual conduct. However, lack of consent can exist in other circumstances, as discussed below.

The Utah Code lists several situations in which no consent can be found to exist. However, in a prosecution of a sex offense which requires lack of consent, the jury is not prevented from determining that circumstances outside those statutorily listed amount to lack of consent, and can consider whether the totality of the evidence supports a finding of lack of consent under its common, ordinary meaning.

Sexual conduct is without consent of the victim under any of the following circumstances :

The victim expresses lack of consent through words or conduct;

The actor overcomes the victim through the actual application of physical force or violence;

The actor is able to overcome the victim through concealment or by the element of surprise;

The actor coerces the victim to submit by threatening to retaliate in the immediate future against the victim or any other person, and the victim perceives at the time that the actor has the ability to execute this threat; or the actor coerces the victim to submit by threatening to retaliate in the future against the victim or any other person, and the victim believes at the time that the actor has the ability to execute this threat; "to retaliate" includes threats of physical force, kidnapping or extortion;

The victim has not consented and the actor knows the victim is unconscious, unaware that the act is occurring, or physically unable to resist;

The actor knows that as a result of mental disease or defect, the victim is at the time of the act incapable either of appraising the nature of the act or of resisting it;

The actor knows that the victim submits or participates because the victim erroneously believes that the actor is the victim's spouse;

The actor intentionally impaired the power of the victim to appraise or control his or her conduct by administering any substance without the victim's knowledge;

The victim is younger than 14 years of age;

The victim is younger than 18 years of age and at the time of the offense the actor was the victim's parent, stepparent, adoptive parent, or legal guardian or occupied a position of special trust in relation to the victim ( Position of Special Trust defined in U.C.A. 76-5-404.1(4)(h));

The victim is 14 years of age or older, but younger than 18 years of age, and the actor is more than three years older than the victim and entices or coerces the victim to submit or participate, under circumstances not amounting to the force or threat; or

The actor is a health professional or religious counselor , the act is committed under the guise of providing professional diagnosis, counseling, or treatment, and at the time of the act the victim reasonably believed that the act was for medically or professionally appropriate diagnosis, counseling, or treatment to the extent that resistance by the victim could not reasonably be expected to have been manifested;

#### Vermont

In Vermont, consent means words or actions by a person indicating a voluntary agreement to engage in a sexual act. Consent does not exist when a person overcomes the will of the victim by threat or coercion.

#### Virginia

Consent means willingness. It exists when sexual contact is in accordance with the voluntary will of the other person. Coerced submission to sexual intercourse is not consent. Submission through fear to sexual intercourse is not consent.

#### Washington

Consent means that at the time of a sexual act, there are actual words or conduct indicating freely given agreement to such an act. Generally, consent is a defense to a charge of sexual assault. Accordingly and as a general matter, if sexual conduct is consensual, it is not a sexual

assault to engage in such conduct. However, when a person is incapable of giving consent (either because of age or incapacity), consent is not a valid defense.

#### West Virginia

In West Virginia, consent, in reference to sexual conduct, means that such conduct is in accordance with the will of the other person. If the sexual conduct is against the will of the victim, the conduct is without consent.

In addition, consent may properly be defined as express or implied acquiescence.

Lack of consent results from:

Forcible compulsion;

Incapacity to consent; or

If the offense charged is sexual abuse, any circumstances in addition to the forcible compulsion or incapacity to consent in which the victim does not expressly or impliedly acquiesce in the actor's conduct.

In addition, a person is deemed incapable of consent when such person is:

Less than sixteen years old;

Mentally defective;

Mentally incapacitated;

Physically helpless

#### Wisconsin

Consent means an affirmative indication of willingness; but a failure to say no or to resist does not constitute consent. Consent, in reference to crimes of sexual assault, means words or overt actions by a person who is competent to give informed consent indicating a freely given agreement to have sexual intercourse or sexual contact.

“Without consent” means no consent in fact or that consent is given for one of the following reasons:

Because the actor put the victim in fear by the use or threat of imminent use of physical violence on the victim, or on a person in the victim's presence, or on a member of the victim's immediate family; or

Because the actor purports to be acting under legal authority; or

Because the victim does not understand the nature of the thing to which the victim consents, either by reason of ignorance or mistake of fact or of law other than criminal law or by reason of youth or defective mental condition, whether permanent or temporary.

Wyoming

Consent, in reference to sexual conduct, means that such conduct is performed in accordance with the will of the other person. Sexual conduct performed upon a victim against the will of the victim is non consensual sexual conduct. Acquiescence or submission is not consent, and a victim need do no more than manifest opposition to sexual conduct in order for such conduct to be against the victim's will.

## State Definitions of Sexual Assault

### Alabama

Sexual assault has been defined to include any sexual offense set out in Ala. Code 1975, §§ 13A-6-60 through 13A-6-70.

The following crimes are set out under those sections of the Alabama Criminal Code:

#### Rape

A person commits the crime of rape in the first degree if:

He or she engages in sexual intercourse with a member of the opposite sex by forcible compulsion ; or

He or she engages in sexual intercourse with a member of the opposite sex who is incapable of consent by reason of being physically helpless or mentally incapacitated ; or

He or she, being 16 years or older, engages in sexual intercourse with a member of the opposite sex who is less than 12 years old.

A person commits the crime of rape in the second degree if:

Being 16 years old or older, he or she engages in sexual intercourse with a member of the opposite sex less than 16 and more than 12 years old; provided, however, the actor is at least two years older than the member of the opposite sex.

He or she engages in sexual intercourse with a member of the opposite sex who is incapable of consent by reason of being mentally defective .

#### Sodomy

A person commits the crime of sodomy in the first degree if:

He engages in deviate sexual intercourse with another person by forcible compulsion; or

He engages in deviate sexual intercourse with a person who is incapable of consent by reason of being physically helpless or mentally incapacitated; or

He, being 16 years old or older, engages in deviate sexual intercourse with a person who is less than 12 years old.

A person commits the crime of sodomy in the second degree if:

He, being 16 years old or older, engages in deviate sexual intercourse with another person less than 16 and more than 12 years old.

He engages in deviate sexual intercourse with a person who is incapable of consent by reason of being mentally defective.

### Sexual Misconduct

A person commits the crime of sexual misconduct if:

Being a male, he engages in sexual intercourse with a female without her consent or with her consent where consent was obtained by the use of any fraud or artifice; or

Being a female, she engages in sexual intercourse with a male without his consent; or

He or she engages in deviate sexual intercourse with another person. Consent is no defense to a prosecution under this subdivision.

### Sexual Abuse

A person commits the crime of sexual abuse in the first degree if:

He subjects another person to sexual contact by forcible compulsion; or

He subjects another person to sexual contact who is incapable of consent by reason of being physically helpless or mentally incapacitated.

A person commits the crime of sexual abuse in the second degree if:

He subjects another person to sexual contact who is incapable of consent by reason of some factor other than being less than 16 years old; or

He, being 19 years old or older, subjects another person to sexual contact who is less than 16 years old, but more than 12 years old.

Alaska

### First Degree Sexual Assault

A person commits the crime of sexual assault in the first degree if:

The offender engages in sexual penetration with another person without consent of that person;

The offender attempts to engage in sexual penetration with another person without consent of that person and causes serious physical injury to that person;

The offender engages in sexual penetration with another person a

Who the offender knows is mentally incapable; and

Who is in the offender's care

By authority of law; or

) In a facility or program that is required by law to be licensed by the state; or

The offender engages in sexual penetration with a person who the offender knows is unaware that a sexual act is being committed and

The offender is a health care worker; and

The offense takes place during the course of professional treatment of the victim.

#### Second Degree Sexual Assault

A person commits the crime of sexual assault in the second degree if:

The offender engages in sexual contact with another person without consent of that person;

The offender engages in sexual contact with a person

Who the offender knows is mentally incapable; and

Who is in the offender's care

By authority of law; or

In a facility or program that is required by law to be licensed by the state;

) The offender engages in sexual penetration with a person who the offender knows is

Mentally incapable;

Incapacitated; or

Unaware that a sexual act is being committed; or

The offender engages in sexual contact with a person who the offender knows is unaware that a sexual act is being committed and



The offender is a health care worker; and

The offense takes place during the course of professional treatment of the victim.

### Third Degree Sexual Assault

A person commits the crime of sexual assault in the third degree if the offender

Engages in sexual contact with a person who the offender knows is

Mentally incapable;

Unaware that a sexual act is being committed;

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;

Engages in sexual penetration with a person 18 or 19 years of age who the offender knows is committed to the custody of the Department of Health and Social Services and the offender is the legal guardian of the person;

While employed in the state by a law enforcement agency as a peace officer, or while acting as a peace officer in the state, engages in sexual penetration with a person with reckless disregard that the person is in the custody or the apparent custody of the offender, or is committed to the custody of a law enforcement agency;

While employed by the state or a municipality of the state as a probation officer or parole officer, or while acting as a probation officer or parole officer in the state, engages in sexual penetration with a person with reckless disregard that the person is on probation or parole; or

While employed as a juvenile probation officer or as a juvenile facility staff, engages in sexual penetration with a person 18 or 19 years of age with reckless disregard that the person is committed to the custody or probationary supervision of the Department of Health and Social Services.

### Fourth Degree Sexual Assault

A person commits the crime of sexual assault in the fourth degree if:

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;

The offender engages in sexual contact with a person 18 or 19 years of age who the offender knows is committed to the custody of the Department of Health and Social Services and the offender is the legal guardian of the person;

While employed in the state by a law enforcement agency as a peace officer, or while acting as a peace officer in the state, the offender engages in sexual contact with a person with reckless disregard that the person is in the custody or the apparent custody of the offender, or is committed to the custody of a law enforcement agency;

While employed by the state or a municipality of the state as a probation officer or parole officer, or while acting as a probation officer or parole officer in the state, the offender engages in sexual contact with a person with reckless disregard that the person is on probation or parole; or

While employed as a juvenile probation officer or as a juvenile facility staff, the offender engages in sexual contact with a person 18 or 19 years of age with reckless disregard that the person is committed to the custody or probationary supervision of the Department of Health and Social Services.

#### Arizona

A person commits sexual assault by intentionally or knowingly engaging in sexual intercourse or oral sexual contact with any person without consent of such person.

#### Arkansas

Arkansas law defines sexual assault by reference to the crime of rape, four degrees of sexual assault, and incest. The definitions are set forth below.

#### Rape

A person commits rape if he or she engages in sexual intercourse or deviate sexual activity with another person:

By forcible compulsion ;

Who is incapable of consent because he or she is:

Physically helpless ;

Mentally defective ; or

Mentally incapacitated ;

Who is less than fourteen years of age (unless the actor was not more than three years older than the victim); or

Who is a minor and the actor is the victim's:

Guardian;

Uncle, aunt, grandparent, step-grandparent or grandparent by adoption;

Brother or sister of the whole or half blood or by adoption; or

Nephew, niece or first cousin.

### Sexual Assault in the First Degree

A person commits sexual assault in the first degree if:

The person engages in sexual intercourse or deviate sexual activity with a minor who is not the actor's spouse and the actor is:

Employed with the Department of Correction, the Department of Community Correction, the Department of 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 Human Services, any city or county jail or juvenile detention facility or their contractors or agents;

A mandated reporter under A.C.A § 12-18-402(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

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; or

The person is a teacher, principal, athletic coach, or counselor in a public or private school in kindergarten through grade twelve (K-12) and the actor:

Engages in sexual intercourse or deviate sexual activity with a person who is not the actor's spouse and the victim is:

Less than twenty-one (21) years of age; and

A student enrolled in the public or private school employing the actor; and

Is in a position of trust or authority over the victim and uses his or her position of trust or authority over the victim to engage in sexual intercourse or deviate sexual activity.

### Sexual Assault in the Second Degree

A person commits sexual assault in the second degree if the person:

Engages in sexual contact with another person by forcible compulsion;

Engages in sexual contact with another person who is incapable of consent because he or she is:

Physically helpless;

Mentally defective; or

Mentally incapacitated;

Being eighteen (18) years of age or older, engages in sexual contact with another person who is:

Less than fourteen (14) years of age; and

Not the person's spouse;

Engages in sexual contact with a minor and the actor is:

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;

A mandated reporter under A.C.A § 12-18-402(b) and is in a position of trust or authority over the minor; or

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.

Being a minor, engages in sexual contact with another person who is:

Less than fourteen (14) years of age; and

Not the person's spouse.

Note: It is an affirmative defense to a prosecution to criminal act (5) that the actor was not more than: Three years older than the victim if the victim is less than twelve years of age; or Four years older than the victim if the victim is twelve years of age or older; or

Is a teacher, principal, athletic coach or counselor in a public or private school in a grade kindergarten through twelve (K-12), in a position of trust or authority, and uses his or her position of trust or authority over the victim to engage in sexual contact with a victim who is:

A student enrolled in the public or private school; and

Less than twenty-one years of age.

#### Sexual Assault in the Third Degree

A person commits sexual assault in the third degree if the person:

Engages in sexual intercourse or deviate sexual activity with another person who is not the actor's spouse, and the actor is:

Employed with the Department of Correction, Department of Community Correction, Department of Human Services, or any city or county jail, and the victim is in the custody of the Department of Correction, Department of Community Correction, Department of Human Services or any city or county jail;

Employed or contracted with or otherwise providing services, supplies, or supervision to an agency maintaining custody of inmates, detainees or juveniles, and the victim is in the custody of the Department of Correction, Department of Community Correction, Department of Human Services or any city or county jail; or

A mandated reporter under A.C.A § 12-18-402(b) or a member of the clergy 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

Being a minor, engages in sexual intercourse or deviate sexual activity with another person who is:

Less than fourteen (14) years of age; and

Not the person's spouse.

Note: It is an affirmative defense under this subdivision (a)(2) that the actor was not more than three (3) years older than the victim.

#### Sexual Assault in the Fourth Degree

A person commits sexual assault in the fourth degree if the person:

Being twenty years of age or older:

Engages in sexual intercourse or deviate sexual activity with another person who is:

Less than sixteen (16) years of age; and

Not the person's spouse; or

Engages in sexual contact with another person who is:

Less than sixteen (16) years of age; and

Not the person's spouse; or

Engages in sexual contact with another person who is not the actor's spouse, and the actor is employed with the Department of Correction, Department of Community Correction, department of Human Services, or any city or county jail, and the victim is in the custody of the Department of Correction, Department of Community Correction, Department of Human Services, or a city or county jail.

### Incest

A person commits incest if the person, being sixteen (16) years of age or older, purports to marry, has sexual intercourse with, or engages in deviate sexual activity with another person sixteen (16) years of age or older whom the actor knows to be:

An ancestor or a descendant;

A stepchild or adopted child;

A brother or sister of the whole or half blood;

An uncle, aunt, nephew, or niece; or

A stepgrandchild or adopted grandchild.

### California

California's criminal law does not define sexual assault, as such. Rather, California has defined many separate sex crimes such as unlawful sexual penetration, rape and sexual battery.

### Sexual Battery

Generally, sexual battery consists of unlawfully touching the intimate part of another person's body. "Intimate part" means the sexual organ, anus, groin or buttocks of any person, and the breast of a female. Sexual battery occurs when any of the following circumstances exist:

Any person touches an intimate part of another person while that person is unlawfully restrained when the touching is against the will of the person touched and is for the purpose of sexual arousal, sexual gratification or sexual abuse.

Any person touches an intimate part of another person who is institutionalized for medical treatment and who is seriously disabled or medically incapacitated when the touching is against the will of the person touched, and if the touching is for the purpose of sexual arousal, sexual gratification or sexual abuse, is guilty of sexual battery.

Any person touches an intimate part of another person for the purpose of sexual arousal, sexual gratification or sexual abuse, and the victim is at the time unconscious of the nature of the act because the perpetrator fraudulently represented that the touching served a professional purpose.

Any person who, for the purpose of sexual arousal, sexual gratification or sexual abuse, causes another, against that person's will while that person is unlawfully restrained either by the accused or an accomplice, or is institutionalized for medical treatment and is seriously disabled or medically incapacitated, to masturbate or touch an intimate part of either of those persons or a third person, is guilty of sexual battery.

Any person touches an intimate part of another person, if the touching is against the will of the person touched, and is for the specific purpose of sexual arousal, sexual gratification or sexual abuse.

### Unlawful Sexual Penetration

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.

Any person who commits an act of sexual penetration is guilty of a crime under the following circumstances:

When the act is accomplished against the victim's will by means of force, violence, duress, menace or fear of immediate and unlawful bodily injury on the victim or another person.

When the act is accomplished against a victim who is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act or causing the act to be committed.

When the act is accomplished against a victim who is at the time unconscious of the nature of the act and this is known to the person committing the act or causing the act to be committed. “Unconscious of the nature of the act” means incapable of resisting because the victim meets one of the following conditions:

Was unconscious or asleep.

Was not aware, knowing, perceiving or cognizant that the act occurred.

Was not aware, knowing, perceiving or cognizant of the essential characteristics of the act due to the perpetrator's fraud in fact.

Was not aware, knowing, perceiving or cognizant of the essential characteristics of the act due to the perpetrator's fraudulent representation that the sexual penetration served a professional purpose when it served no professional purpose.

When the act is accomplished against a victim when the victim is prevented from resisting by any intoxicating or anesthetic substance, or any controlled substance, and this condition was known, or reasonably should have been known by the accused.

When the act is accomplished against a victim who submits under the belief that the person committing the act or causing the act to be committed is someone known to the victim other than the accused and this belief is induced by any artifice, pretense or concealment practiced by the accused, with intent to induce the belief.

When the act is accomplished against the victim's will by threatening to use the authority of a public official to incarcerate, arrest or deport the victim or another, and the victim has a reasonable belief that the perpetrator is a public official.

When the act is accomplished with another person who is under 18 years of age.

### Rape

Rape is an act of sexual intercourse accomplished with a person, under any of the following circumstances:

Where a person is incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the



person committing the act. This provision does not apply when the victim and perpetrator are spouses.

Where it is accomplished against a person's will by means of force, violence, duress, menace or fear of immediate and unlawful bodily injury on the person or another.

Where a person is prevented from resisting by any intoxicating or anesthetic substance, or any controlled substance, and this condition was known, or reasonably should have been known by the accused.

Where a person is at the time unconscious of the nature of the act, and this is known to the accused. "Unconscious of the nature of the act" means incapable of resisting because the victim meets any one of the following conditions:

Was unconscious or asleep.

Was not aware, knowing, perceiving or cognizant that the act occurred.

Was not aware, knowing, perceiving or cognizant of the essential characteristics of the act due to the perpetrator's fraud in fact.

Was not aware, knowing, perceiving or cognizant of the essential characteristics of the act due to the perpetrator's fraudulent representation that the sexual penetration served a professional purpose when it served no professional purpose. This provision does not apply when the victim and the spouse are married.

Where a person submits under the belief that the person committing the act is someone known to the victim other than the accused, and this belief is induced by any artifice, pretense or concealment practiced by the accused, with intent to induce the belief. This provision does not apply if the victim and perpetrator are spouses.

Where the act is accomplished against the victim's will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat. "Threatening to retaliate" means a threat to kidnap or falsely imprison, or to inflict extreme pain, serious bodily injury or death.

Where the act is accomplished against the victim's will by threatening to use the authority of a public official to incarcerate, arrest or deport the victim or another, and the victim has a reasonable belief that the perpetrator is a public official. The perpetrator does not actually have to be a public official.

### Unlawful Oral Copulation

Oral copulation is the act of copulating the mouth of one person with the sexual organ or anus of another person. It is a crime under the following circumstances:

The act of oral copulation is with another person who is under 18 years of age.

When the act is accomplished against the victim's will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat

When the act is accomplished against the victim's will by means of force or fear of immediate and unlawful bodily injury on the victim or another person

Where the victim is at the time of the act incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act.

The act is accomplished while confined in any state prison.

The victim is at the time unconscious of the nature of the act and this is known to the person committing the act. "Unconscious of the nature of the act" means incapable of resisting because the victim meets one of the following conditions:

Was unconscious or asleep.

Was not aware, knowing, perceiving or cognizant that the act occurred.

Was not aware, knowing, perceiving or cognizant of the essential characteristics of the act due to the perpetrator's fraud in fact.

Was not aware, knowing, perceiving or cognizant of the essential characteristics of the act due to the perpetrator's fraudulent representation that the oral copulation served a professional purpose when it served no professional purpose.

The victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act.

The victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act, and both the defendant and the victim are at the time confined in a state hospital for the care and treatment of the mentally disordered or in any other public or private facility for the care and treatment of the mentally disordered.

The victim is prevented from resisting by any intoxicating or anesthetic substance, or any controlled substance, and this condition was known, or reasonably should have been known by the accused.

The victim submits under the belief that the person committing the act someone known to the victim other than the accused, and this belief is induced by any artifice, pretense or concealment practiced by the accused.

Where the act is accomplished against the victim's will by threatening to use the authority of a public official to incarcerate, arrest or deport the victim or another, and the victim has a reasonable belief that the perpetrator is a public official.

### Unlawful Sexual Intercourse with a Person Under 18

Unlawful sexual intercourse is an act of sexual intercourse accomplished with a person who is not the spouse of the perpetrator, if the person is a minor. A "minor" is a person under the age of 18 years and an "adult" is a person who is at least 18 years of age.

### Sodomy

Sodomy is sexual conduct consisting of contact between the penis of one person and the anus of another person. Any sexual penetration, however slight, is sufficient to complete the act of sodomy. Sodomy is a crime when the act is accomplished upon a person under the age of 18 or when it is accomplished against the victim's will by means of force, violence, duress, menace or fear of immediate and unlawful bodily injury.

### Colorado

Any actor who knowingly inflicts sexual intrusion or sexual penetration on a victim commits sexual assault if:

The actor causes submission of the victim by means of sufficient consequence reasonably calculated to cause submission against the victim's will; or

The actor knows that the victim is incapable of appraising the nature of the victim's conduct; or

The actor knows that the victim submits erroneously, believing the actor to be the victim's spouse; or

At the time of the commission of the act, the victim is less than fifteen years of age and the actor is at least four years older than the victim and is not the spouse of the victim; or

At the time of the commission of the act, the victim is at least fifteen years of age but less than seventeen years of age and the actor is at least ten years older than the victim and is not the spouse of the victim; or

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; or

The actor, while purporting to offer a medical service, engages in treatment or examination of a victim for other than a bona fide medical purpose or in a manner substantially inconsistent with reasonable medical practices; or

The victim is physically helpless and the actor knows the victim is physically helpless and the victim has not consented.

### Unlawful Sexual Contact

Any actor who knowingly subjects a victim to any sexual contact commits unlawful sexual contact if:

The actor knows that the victim does not consent; or

The actor knows that the victim is incapable of appraising the nature of the victim's conduct; or

The victim is physically helpless and the actor knows that the victim is physically helpless and the victim has not consented; or

The actor has substantially impaired the victim's power to appraise or control the victim's conduct by employing, without the victim's consent, any drug, intoxicant, or other means for the purpose of causing submission; or

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; or

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.

### Connecticut

Connecticut law defines sexual assault in varying degrees. Throughout the law, reference is made to the terms "sexual intercourse" and "sexual contact." The terms are defined as follows:

“Sexual intercourse” means vaginal intercourse, anal intercourse, fellatio or cunnilingus between persons regardless of sex. Its meaning is limited to persons not married to each other. Penetration, however slight, is sufficient to complete vaginal intercourse, anal intercourse or fellatio and does not require emission of semen. Penetration may be committed by an object manipulated by the actor into the genital or anal opening of the victim's body.

“Sexual contact” means either or both of the following:

Any contact with the intimate parts of a person not married to the actor for the purpose of sexual gratification of the actor or for the purpose of degrading or humiliating such person.

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.

#### Sexual Assault: First Degree

A person is guilty of sexual assault in the first degree when such person:

Compels another person to engage in sexual intercourse by the use of force against such other person or a third person, or by the threat of use of force against such other person or against a third person which reasonably causes such person to fear physical injury to such person or a third person, or

Engages in sexual intercourse with another person and such other person is under thirteen years of age and the actor is more than two years older than such person, or

Commits sexual assault in the second and in the commission of such offense is aided by two or more other persons actually present, or

Engages in sexual intercourse with another person and such other person is mentally incapacitated to the extent that such other person is unable to consent to such sexual intercourse.

#### Aggravated Sexual Assault

A person commits aggravated sexual assault when, in the commission of a first degree sexual assault:

Such person uses or is armed with and threatens the use of or displays or represents by such person's words or conduct that such person possesses a deadly weapon,

with intent to disfigure the victim seriously and permanently, or to destroy, amputate or disable permanently a member or organ of the victim's body, such person causes such injury to such victim,

under circumstances evincing an extreme indifference to human life such person recklessly engages in conduct which creates a risk of death to the victim, and thereby causes serious physical injury to such victim, or

such person is aided by two or more other persons actually present.

#### Sexual Assault: Second Degree

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 thirteen years of age or older but under sixteen years of age and the actor is more than three years older than such other person; or

Such other person is impaired because of mental disability or disease to the extent that such other person is unable to consent to such sexual intercourse; or

Such other person is physically helpless; or

Such other person is less than eighteen years old and the actor is such person's guardian or otherwise responsible for the general supervision of such person's welfare; or

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; or

The actor is a psychotherapist and such other person is (A) a patient of the actor and the sexual intercourse occurs during the psychotherapy session, (B) a patient or former patient of the actor and such patient or former patient is emotionally dependent upon the actor, or (C) a patient or former patient of the actor and the sexual intercourse occurs by means of therapeutic deception; or

The actor accomplishes the sexual intercourse by means of false representation that the sexual intercourse is for a bona fide medical purpose by a health care professional; or

The actor is a school employee and such other person is a student enrolled in a school in which the actor works or a school under the jurisdiction of the local or regional board of education which employs the actor; or

The actor is a coach in an athletic activity or a person who provides intensive, ongoing instruction and such other person is a recipient of coaching or instruction from the actor and (A) is a secondary school student and receives such coaching or instruction in a secondary school setting, or (B) is under eighteen years of age; or

The actor is twenty years of age or older and stands in a position of power, authority or supervision over such other person by virtue of the actor's professional, legal, occupational or volunteer status and such other person's participation in a program or activity, and such other person is under eighteen years of age; or

Such other person is placed or receiving services under the direction of the Commissioner of Developmental Services in any public or private facility or program and the actor has supervisory or disciplinary authority over such other person.

#### Sexual Assault: Third Degree

A person is guilty of sexual assault in the third degree when such person compels another person to submit to sexual contact by the use of force against such other person or a third person, or by the threat of use of force against such other person or against a third person, which reasonably causes such other person to fear physical injury to himself or herself or a third person.

It is also sexual assault in the third degree to engage in sexual intercourse with another person when the actor knows he or she is related to that person within a specified degree. The following relationships qualify: parent, grandparent, child, grandchild, sibling, parent's sibling, sibling's child, stepparent or stepchild.

#### With a Firearm

A person is guilty of sexual assault in the third degree with a firearm when such person commits sexual assault in the third degree, and in the commission of such offense, such person uses or is armed with and threatens the use of or displays or represents by such person's words or conduct that such person possesses a pistol, revolver, machine gun, rifle, shotgun or other firearm.

#### Sexual Assault: Fourth Degree

A person is guilty of sexual assault in the fourth degree when:

Such person subjects another person to sexual contact who is (A) under thirteen years of age and the actor is more than two years older than such other person, or (B) thirteen years of age or older but under fifteen years of age and the actor is more than three years older than such other person, or (C) mentally incapacitated or impaired because of mental disability or disease to the extent that such other person is unable to consent to such sexual contact, or (D) physically helpless, or (E) less than eighteen years old and the actor is such other person's guardian or otherwise responsible for the general supervision of such other person's welfare, or (F) in custody of law or detained in a hospital or other institution and the actor has supervisory or disciplinary authority over such other person; or

Such person subjects another person to sexual contact without such other person's consent; or

Such person engages in sexual contact with an animal or dead body; or

Such person is a psychotherapist and subjects another person to sexual contact who is (A) a patient of the actor and the sexual contact occurs during the psychotherapy session, or (B) a patient or former patient of the actor and such patient or former patient is emotionally dependent upon the actor, or (C) a patient or former patient of the actor and the sexual contact occurs by means of therapeutic deception; or

Such person subjects another person to sexual contact and accomplishes the sexual contact by means of false representation that the sexual contact is for a bona fide medical purpose by a health care professional; or

Such person is a school employee and subjects another person to sexual contact who is a student enrolled in a school in which the actor works or a school under the jurisdiction of the local or regional board of education which employs the actor; or

Such person is a coach in an athletic activity or a person who provides intensive, ongoing instruction and subjects another person to sexual contact who is a recipient of coaching or instruction from the actor and (A) is a secondary school student and receives such coaching or instruction in a secondary school setting, or (B) is under eighteen years of age; or

Such person subjects another person to sexual contact and (A) the actor is twenty years of age or older and stands in a position of power, authority or supervision over such other person by virtue of the actor's professional, legal, occupational or volunteer status and such other person's participation in a program or activity, and (B) such other person is under eighteen years of age; or

Such person subjects another person to sexual contact who is placed or receiving services under the direction of the Commissioner of Developmental Services in any public or private facility or program and the actor has supervisory or disciplinary authority over such other person.

#### Sexual Assault between Married Persons or Cohabitants

For purposes of this crime, the term sexual intercourse means vaginal intercourse, anal intercourse, fellatio or cunnilingus between persons regardless of sex. Penetration, however slight, is sufficient to complete vaginal intercourse, anal intercourse or fellatio and does not require emission of semen. Penetration may be committed by an object manipulated by the actor into the genital or anal opening of the victim's body.



For the purposes of this crime, “use of force” means: Use of a dangerous instrument; or use of actual physical force or violence or superior physical strength against the victim.

The crime defined: no spouse or cohabiter shall compel the other spouse or cohabiter to engage in sexual intercourse by the use of force against such other spouse or cohabiter, or by the threat of the use of force against such other spouse or cohabiter which reasonably causes such other spouse or cohabiter to fear physical injury.

## Delaware

Sexual assault has been defined to mean unwanted sexual contact committed by a perpetrator who is either known or unknown to the victim. Sexual assault has also been defined to mean any sex offense against a person set forth in §768 through 780, and 787 of Title 11 of the Delaware Code, or any equivalent provision in the laws of any other state, the United States, or any territory, District or subdivision thereof or any other foreign jurisdiction. The following is a list of crimes that constitute sexual assault under Title 11 of the Delaware Code:

Unlawful Sexual Contact

Rape

Sexual Extortion

Continuous Sexual Abuse on a Child

Dangerous Crime Against a Child

Unlawful Sexual Conduct on a Child by a Sex Offender

Sex Abuse of Child by Person of Authority/Trust

Female Genital Mutilation

Trafficking of Persons (Sexual Servitude)

Unlawful Sexual Conduct in the Third Degree

In addition, Delaware defines a crime known as Unlawful Sexual Conduct in the Third Degree. A person is guilty of unlawful sexual contact in the third degree when the person has sexual contact with another person or causes the victim to have sexual contact with the person or a third person and the person knows that the contact is either offensive to the victim or occurs without the victim's consent.

“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, or (3) intentionally causing or allowing another person to touch the defendant's anus, breast, buttocks or genitalia which touching, under the circumstances as viewed by a reasonable person, is intended to be sexual in nature. Sexual contact also includes touching when covered by clothing.

#### District of Columbia

The District of Columbia criminal law does not define the term “sexual assault”, as such. However, the District of Columbia has defined crimes known as sexual abuse. The crimes distinguish between sexual acts and sexual contacts. The specified meaning of those terms is set forth below.

Sexual act means:

The penetration, however slight, of the anus or vulva of another by a penis;

Contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus; or

The penetration, however slight, of the anus or vulva by a hand or finger or by any object, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.

Sexual contact means the touching with any clothed or unclothed body part or any object, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.

#### Sexual Abuse in the First Degree

A person commits First Degree Sexual Abuse if that person engages in or causes another person to engage in or submit to a sexual act in the following manner:

By using force against that other person;

By threatening or placing that other person in reasonable fear that any person will be subjected to death, bodily injury or kidnapping;

After rendering that other person unconscious; or

After administering to that other person by force or threat of force, or without the knowledge or permission of that other person, a drug, intoxicant or other similar substance that substantially impairs the ability of that other person to appraise or control his or her conduct.

#### Sexual Abuse in the Second Degree

A person commits Second Degree Sexual Abuse if that person engages in or causes another person to engage in or submit to a sexual act in the following manner:

By threatening or placing that other person in reasonable fear (other than by threatening or placing that other person in reasonable fear that any person will be subjected to death, bodily injury, or kidnapping); or

Where the person knows or has reason to know that the other person is:

Incapable of appraising the nature of the conduct;

Incapable of declining participation in that sexual act; or

Incapable of communicating unwillingness to engage in that sexual act.

#### Sexual Abuse in the Third Degree

A person commits sexual abuse in the third degree if that person engages in or causes sexual contact with or by another person in the following manner:

By using force against that other person;

By threatening or placing that other person in reasonable fear that any person will be subjected to death, bodily injury, or kidnapping;

After rendering that person unconscious; or

After administering to that person by force or threat of force, or without the knowledge or permission of that other person, a drug, intoxicant, or similar substance that substantially impairs the ability of that other person to appraise or control his or her conduct.

#### Sexual Abuse in the Fourth Degree

A person commits the crime of sexual abuse in the fourth degree, if that person engages in or causes sexual contact with or by another person in the following manner:

By threatening or placing that other person in reasonable fear (other than by threatening or placing that other person in reasonable fear that any person will be subjected to death, bodily injury, or kidnapping); or

Where the person knows or has reason to know that the other person is:  
Incapable of appraising the nature of the conduct;  
Incapable of declining participation in that sexual contact; or  
Incapable of communicating unwillingness to engage in that sexual contact.

### Misdemeanor Sexual Abuse

Whoever engages in a sexual act or sexual contact with another person and who should have knowledge or reason to know that the act was committed without that other person's permission, is guilty of misdemeanor sexual abuse.

#### Florida

Florida Law does not define the term sexual assault. However, Florida criminal law defines a broad crime of "sexual battery."

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 (unless done for a bona fide medical purpose).

Generally, a person charged with a sexual battery may use the defense of consent if it applies, as discussed in the Florida State definition of consent.

#### Georgia

Under Georgia law, sexual assault is

Sexual contact

Between the defendant and another person

Involving either person's genital area, groin, inner thighs, buttocks or breasts

For the purpose of sexual gratification of the defendant

When the defendant has supervisory or disciplinary authority over the victim as a

teacher, principal or administrator in a primary or secondary school attended by the victim

parole, probation, correctional or police officer

employee of a facility providing services to youths or disabled persons

employee of a hospital in which the victim is being treated

psychotherapist of the victim

an employee or volunteer at licensed hospital, health care facility, personal care home, home health agency or hospice facility treating the victim

With or without the person's 'consent.'

NOTE: It is important to understand that sexual assault can occur even if the person 'consents' to the encounter.

Hawaii

Hawaii defined four degrees of sexual assault. The terms "sexual contact" and "sexual penetration" are used in these definitions. Those terms are defined as follows:

"Sexual contact" means any touching, other than acts of sexual penetration, 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.

"Sexual penetration" means:

Vaginal intercourse, anal intercourse, fellatio, 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. The term "genital opening" includes the anterior surface of the vulva or labia majora; or

Cunnilingus or anilingus, whether or not actual penetration has occurred.

### Sexual Assault in the First Degree

A person commits the offense of sexual assault in the first degree if:

The person knowingly subjects another person to an act of sexual penetration by strong compulsion ;

The person knowingly engages in sexual penetration with another person who is less than fourteen years old;

The person knowingly engages in sexual penetration with a person who is at least fourteen years old but less than sixteen years old; provided that:

The person is not less than five years older than the minor; and

The person is not legally married to the minor;

The person knowingly subjects to sexual penetration another person who is mentally defective;  
or

The person knowingly subjects to sexual penetration another person who is mentally incapacitated or physically helpless as a result of the influence of a substance that the actor knowingly caused to be administered to the other person without the other person's consent.

#### Sexual Assault in the Second Degree

A person commits the offense of sexual assault in the second degree if:

The person knowingly subjects another person to an act of sexual penetration by compulsion ;

The person knowingly subjects to sexual penetration another person who is mentally incapacitated or physically helpless; or

The perpetrator knowingly subjects an imprisoned, detained or committed person to sexual penetration while the perpetrator is employed:

In a state correctional facility;

By a private company providing services at a correctional facility;

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;

By a private correctional facility operating in the State of Hawaii; or

As a law enforcement officer.

#### Sexual Assault in the Third Degree

A person commits the offense of sexual assault in the third degree if:

The person recklessly subjects another person to an act of sexual penetration by compulsion;

The person knowingly subjects to sexual contact another person who is less than fourteen years old or causes such a person to have sexual contact with the person;

The person knowingly engages in sexual contact with a person who is at least fourteen years old but less than sixteen years old or causes the minor to have sexual contact with the person; provided that:

The person is not less than five years older than the minor; and

The person is not legally married to the minor;

The person knowingly subjects to sexual contact another person who is mentally defective, mentally incapacitated, or physically helpless, or causes such a person to have sexual contact with the actor;

The perpetrator knowingly subjects (or causes another person to subject) an imprisoned, detained, or committed person to sexual contact while the perpetrator is employed:

In a state correctional facility;

By a private company providing services at a correctional facility;

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;

By a private correctional facility operating in the State of Hawaii; or

As a law enforcement officer.

The person knowingly, by strong compulsion, has sexual contact with another person or causes another person to have sexual contact with the actor.

#### Sexual Assault in the Fourth Degree

A person commits the offense of sexual assault in the fourth degree if:

The person knowingly subjects another person to sexual contact by compulsion or causes another person to have sexual contact with the actor by compulsion;

The person knowingly exposes the person's genitals to another person under circumstances in which the actor's conduct is likely to alarm the other person or put the other person in fear of bodily injury; or

The person knowingly trespasses on property for the purpose of subjecting another person to surreptitious surveillance for the sexual gratification of the actor.

Idaho

Idaho criminal law does not define the term sexual assault, as such. However, Idaho law does proscribe, rape, male rape, forceable sexual penetration by an object, and so called crimes against nature. These terms are defined below.

## Rape

Except as provided by parts (4) and (5) below, rape cannot be committed upon one's spouse. Rape is defined as the penetration, however slight, of the oral, anal or vaginal opening with the perpetrator's penis accomplished with a female under any one of the following circumstances:

Where the female is under the age of sixteen years and the perpetrator is eighteen years of age or older.

Where the female is sixteen or seventeen years of age and the perpetrator is three years or more older than the female.

Where she is incapable, through any unsoundness of mind, due to any cause including, but not limited to, mental illness, mental disability or developmental disability, whether temporary or permanent, of giving legal consent.

Where she resists but her resistance is overcome by force or violence.

Where she is prevented from resistance by the infliction, attempted infliction, or threatened infliction of bodily harm, accompanied by apparent power of execution; or is unable to resist due to any intoxicating, narcotic, or anesthetic substance.

Where she is at the time unconscious of the nature of the act. Unconscious of the nature of the act" means incapable of resisting because the victim meets one of the following conditions:

Was unconscious or asleep;

Was not aware, knowing, perceiving, or cognizant that the act occurred.

Where she submits under the belief that the person committing the act is her husband, and the belief is induced by artifice, pretense or concealment practiced by the accused, with intent to induce such belief.

Where she submits under the belief that the person committing the act is someone other than the accused, and the belief is induced by artifice, pretense or concealment practiced by the accused, with the intent to induce such belief.

) Where she submits under the belief, instilled by the actor, that if she does not submit, the actor will cause physical harm to some person in the future; or cause damage to property; or engage in other conduct constituting a crime; or accuse any person of a crime or cause criminal charges to be instituted against her; or expose a secret or publicize an asserted fact, whether true or false, tending to subject any person to hatred, contempt or ridicule.



## Male Rape

Male rape is defined as the penetration, however slight, of the oral or anal opening of another male, with the perpetrator's penis, for the purpose of sexual arousal, gratification or abuse, under any of the following circumstances:

Where the victim is under the age of sixteen years and the perpetrator is eighteen years of age or older.

Where the victim is sixteen or seventeen years of age and the perpetrator is three years or more older than the victim.

Where the victim is incapable, through any unsoundness of mind, whether temporary or permanent, of giving consent.

Where the victim resists but his resistance is overcome by force or violence.

Where the victim is prevented from resistance by threats of immediate and great bodily harm, accompanied by apparent power of execution.

Where the victim is prevented from resistance by the use of any intoxicating, narcotic, or anesthetic substance administered by or with the privity of the accused.

Where the victim is at the time unconscious of the nature of the act, and this is known to the accused.

## Forceable Sexual Penetration by Object

The crime of forcible sexual penetration by object occurs when a person, for the purpose of sexual arousal, gratification or abuse, causes the penetration, however slight, of the genital or anal opening of another person, by any object, instrument or device:

Against the victim's will by:

Use of force or violence; or

By duress; or

By threats of immediate and great bodily harm, accompanied by apparent power of execution;  
or

Where the victim is incapable, through any unsoundness of mind, whether temporary or permanent, of giving legal consent; or

Where the victim is prevented from resistance by any intoxicating, narcotic or anesthetic substance; or

Where the victim is at the time unconscious of the nature of the act because the victim:

Was unconscious or asleep; or

Was not aware, knowing, perceiving or cognizant that the act occurred

### Infamous Crime Against Nature

Idaho criminal law prohibits so called infamous crimes against nature. Any penetration that constitutes an unnatural carnal copulation qualifies as the crime of infamous crime against nature.

The term is undefined by statute. However, cases have defined the term. The term includes an act of fellatio. The term also includes anal intercourse. The term includes cunnilingus and all other “unnatural carnal copulations.”

The law does not prohibit private consensual marital conduct. Furthermore, in light of the US Supreme Court’s ruling in Lawrence v Texas , it is unlikely that prohibiting such conduct between consenting adults is constitutional.

### Illinois

Illinois criminal law defines sexual assault any of the following:

An act of sexual penetration by the use of force or threat of force; or

An act of sexual penetration when the accused knew that the victim was unable to understand the nature of the act or was unable to give knowing consent ; or

An act of sexual penetration with a victim who was under 18 years of age when the act was committed and the accused was a family member; or

An act of sexual penetration with a victim who was at least 13 years of age but under 18 years of age when the act was committed and the accused was 17 years of age or over and held a position of trust, authority, or supervision in relation to the victim. (Note: Acts of sexual penetration with minors under 13 would constitute other crimes, like child molestation.)

### Indiana

Indiana Criminal Law does not define the terms sexual assault, as such. Instead, Indiana recognizes certain sex offence crimes, including rape and sexual battery.

However, Indiana Law has defined sexual assault for some purposes, other than criminal prosecutions.

Under that definition, sexual assault means conduct or attempted conduct that constitutes:

A misdemeanor or felony sex crime, including incest; OR

A substantially similar misdemeanor or felony sex crime under the laws of:

The United States.

Another state.

An Indian tribe.

### Rape

Rape occurs when a person knowingly or intentionally has sexual intercourse with another person or knowingly or intentionally causes another person to perform or submit to other sexual conduct when:

The other person is compelled by force or imminent threat of force;

The other person is unaware that the sexual intercourse or other sexual conduct is occurring; or

The other person is so mentally disabled or deficient that consent to sexual intercourse or other sexual cannot be given.

### Sexual Battery

Sexual battery occurs when a person who, with intent to arouse or satisfy the person's own sexual desires or the sexual desires of another person:

Touches another person when that person is:

Compelled to submit to the touching by force or the imminent threat of force; or

So mentally disabled or deficient that consent to the touching cannot be given; or

Touches another person's genitals, pubic area, buttocks or female breast when that person is unaware that the touching is occurring.

Iowa

Sexual assault has been defined by Iowa law to mean sexual abuse.

Sexual abuse is any sex act of a person when the act is performed with the other person in any of the following circumstances:

The act is done by force or against the will of the other. If the consent or acquiescence of the other is procured by threats of violence toward any person or if the act is done while the other is under the influence of a drug inducing sleep or is otherwise in a state of unconsciousness, the act is done against the will of the other.

Such other person is suffering from a mental defect or incapacity which precludes giving consent, or lacks the mental capacity to know the right and wrong of conduct in sexual matters.

Such other person is a child.

Kansas

The term sexual assault is not defined under Kansas criminal law. However, the following crimes are listed in the Criminal Code:

Rape is:

Knowingly engaging in sexual intercourse with a victim who does not consent to the sexual intercourse under any of the following circumstances:

When the victim is overcome by force or fear; or

when the victim is unconscious or physically powerless;

Knowingly engaging in sexual intercourse with a victim when the victim is incapable of giving consent because of mental deficiency or disease, or when the victim is incapable of giving consent because of the effect of any alcoholic liquor, narcotic, drug or other substance, which condition was known by the offender or was reasonably apparent to the offender;

sexual intercourse with a child who is under 14 years of age;

sexual intercourse with a victim when the victim's consent was obtained through a knowing misrepresentation made by the offender that the sexual intercourse was a medically or therapeutically necessary procedure; or

sexual intercourse with a victim when the victim's consent was obtained through a knowing misrepresentation made by the offender that the sexual intercourse was a legally required procedure within the scope of the offender's authority.

Criminal sodomy is:

Sodomy between persons who are 16 or more years of age and members of the same sex ;

Sodomy between a person and an animal;

Sodomy with a child who is 14 or more years of age but less than 16 years of age; or

Causing a child 14 or more years of age but less than 16 years of age to engage in sodomy with any person or animal.

Aggravated criminal sodomy is:

Sodomy with a child who is under 14 years of age;

Causing a child under 14 years of age to engage in sodomy with any person or an animal; or

Sodomy with a victim who does not consent to the sodomy or causing a victim, without the victim's consent, to engage in sodomy with any person or an animal under any of the following circumstances:

When the victim is overcome by force or fear;

When the victim is unconscious or physically powerless; or

When the victim is incapable of giving consent because of mental deficiency or disease, or when the victim is incapable of giving consent because of the effect of any alcoholic liquor, narcotic, drug or other substance, which condition was known by, or was reasonably apparent to, the offender.

Sexual Battery

Sexual battery is the touching of a victim who is not the spouse of the offender, who is 16 or more years of age and who does not consent thereto, with the intent to arouse or satisfy the sexual desires of the offender or another.

Aggravated sexual battery is the touching of a victim who is 16 or more years of age and who does not consent thereto with the intent to arouse or satisfy the sexual desires of the offender or another and under any of the following circumstances:

When the victim is overcome by force or fear;

when the victim is unconscious or physically powerless; or

when the victim is incapable of giving consent because of mental deficiency or disease, or when the victim is incapable of giving consent because of the effect of any alcoholic liquor, narcotic,

drug or other substance, which condition was known by, or was reasonably apparent to, the offender.

## Kentucky

Under Kentucky law, sexual assault means committing a sexual act with a victim without his or her consent. There are three kinds of sexual assault: rape, sodomy and sexual abuse.

Rape is when a defendant nonconsensually engages in sexual intercourse with the victim, including penetration with a foreign object. Sodomy is oral or anal sex. Sexual abuse is when the defendant touches the genitals or other intimate parts of the victim to gratify either party's sexual desire.

In Kentucky, a lack of consent is when the perpetrator uses "forcible compulsion" or if the victim has an incapacity to consent.

## Louisiana

Sexual assault has been defined to mean any act that is a crime under the following Louisiana Revised Statute sections: R.S. 14:41 (Rape), 42 (Aggravated Rape), 42.1 (Forceable Rape), 43 (Simple Rape), 43.1 (Sexual Battery), 43.2 (Second Degree Sexual Battery), 43.3 (Oral Sexual Battery), and 43.5 (Intentional Exposure to Aids Virus).

### Rape

Rape is the act of anal, oral or vaginal sexual intercourse with a male or female person committed without the person's lawful consent. It can be classified as the crime of simple rape, aggravated rape or forcible rape depending on the surrounding circumstances and consequences of the rape.

### Sexual Battery

Sexual battery is the intentional touching of the anus or genitals of the victim by the offender using any instrumentality or any part of the body of the offender or the touching of the anus or genitals of the offender by the victim using any instrumentality or any part of the body of the victim, when any of the following occur:

The offender acts without the consent of the victim.

The act is consensual but the other person, who is not the spouse of the offender, has not yet attained fifteen years of age and is at least three years younger than the offender.

The offender is seventeen years of age or older and any of the following exist:

The act is without consent of the victim, and the victim is prevented from resisting the act because either of the following conditions exist:

The victim has paraplegia, quadriplegia, or is otherwise physically incapable of preventing the act due to a physical disability.

The victim is incapable, through unsoundness of mind, of understanding the nature of the act, and the offender knew or should have known of the victim's incapacity.

The act is without consent of the victim, and the victim is sixty-five years of age or older.

### Second Degree Sexual Battery

Second degree sexual battery is the intentional engaging in any of the following acts with another person when the offender intentionally inflicts serious bodily injury on the victim:

The touching of the anus or genitals of the victim by the offender using any instrumentality or any part of the body of the offender; or

The touching of the anus or genitals of the offender by the victim using any instrumentality or any part of the body of the victim.

### Oral Sexual Battery

Oral sexual battery is the intentional touching of the anus or genitals of the victim by the offender using the mouth or tongue of the offender, or the touching of the anus or genitals of the offender by the victim using the mouth or tongue of the victim, when any of the following occur:

The victim, who is not the spouse of the offender, is under the age of fifteen years and is at least three years younger than the offender.

The offender is seventeen years of age or older and any of the following exist:

The act is without the consent of the victim, and the victim is prevented from resisting the act because either of the following conditions exist:

The victim has paraplegia, quadriplegia, or is otherwise physically incapable of preventing the act due to a physical disability.

The victim is incapable, through unsoundness of mind, of understanding the nature of the act, and the offender knew or should have known of the victim's incapacity.

The act is without the consent of the victim, and the victim is sixty-five years of age or older.

## Maine

Sexual assault has been defined to mean any crime as defined in Chapter 11 of the Maine Revised Statutes. These crimes include gross sexual assault, unlawful sexual contact, and unlawful sexual touching.

### Gross Sexual Assault

Gross Sexual Assault can be defined as a sexual act with another person when:

The other person submits as a result of compulsion;

The other person, not the actor's spouse, has not in fact attained the age of 14 years;

The actor has substantially impaired the other person's power to appraise or control the other person's sexual acts by furnishing, administering or employing drugs, intoxicants or other similar means;

The actor compels or induces the other person to engage in the sexual act by any threat;

The other person suffers from mental disability that is reasonably apparent or known to the actor, and which in fact renders the other person substantially incapable of appraising the nature of the contact involved or of understanding that the person has the right to deny or withdraw consent;

The other person is unconscious or otherwise physically incapable of resisting and has not consented to the sexual act.

When a person has a specified relationship with the victim and is in a certain position of authority or supervision.

Sexual act means any act between two persons involving direct physical contact between the genitals of one and the mouth or anus of the other, or direct physical contact between the genitals of one and the genitals of the other; 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 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.



## Unlawful Sexual Touching and Unlawful Sexual Contact

In addition, the State of Maine proscribes certain sexual contact and certain sexual touching. Sexual contact means any touching of the genitals or anus, directly or through clothing, other than as would constitute a sexual act, for the purpose of arousing or gratifying sexual desire or for the purpose of causing bodily injury or offensive physical contact. 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. In addition to many of the circumstances that would qualify a sexual act as sexual assault, sexual contact or touching without the expressed or implied acquiescence of the other person may constitute the crime of criminal sexual contact or unlawful sexual touching.

### Maryland

Sexual assault means rape or a sexual offense in any degree that is specified in § 3-303 through 3-312, § 3-314, or § 3-315 of the Maryland Criminal Code (Rape, attempted rape, other sexual offenses and sexual conduct with minors under specified circumstances).

A person is guilty of rape in the first degree if the person engages in vaginal intercourse with another person by force or threat of force against the will and without the consent of the other person, if the perpetrator does any of the following:

Employs or displays a dangerous or deadly weapon or an article which the other person reasonably concludes is a dangerous or deadly weapon.

Inflicts suffocation, strangulation, disfigurement or serious physical injury upon the other person or upon anyone else in the course of committing the offense.

Threatens or places the victim in fear that the victim or any person known to the victim will be imminently subjected to death, suffocation, strangulation, disfigurement, serious physical injury or kidnapping.

Commits the offense aided and abetted by one or more other persons.

Commits the offense in connection with burglary in the first, second or third degree.

A person is guilty of rape in the second degree if the person engages in vaginal intercourse with another person under one or more of the following circumstances:

By force or threat of force without the consent of the other person.

With someone who is mentally defective, mentally incapacitated or physically helpless, and the person performing the act knows or should reasonably know the other person is mentally defective, mentally incapacitated or physically helpless.

With someone who is under 14 years of age and the person performing the act is at least four years older than the victim.

## Massachusetts

Sexual Assault is defined by the Massachusetts Office of Public Safety as any sexual activity that is forced or coerced or unwanted. Under Massachusetts criminal law, sexual assault includes both indecent assault and battery and rape. Indecent assault and battery includes the intentional physical contact of a sexual nature with a person without the person's consent. Massachusetts law defines rape as having sexual intercourse with a person and compelling such person to submit by force and against his/her will, or compelling such person to submit by threat of bodily injury.

## Michigan

Sexual assault means an act, attempted act or conspiracy to engage in an act of criminal sexual conduct (Michigan Penal Code section 750.520(b-e), or an assault with intent to commit criminal sexual conduct Michigan Penal Code 750.520(g).

Also, under Michigan law, the meaning of the term sexual assault includes any offense under a law of the United States, another state, or a foreign country or tribal or military law that is substantially similar to the crimes of criminal sexual conduct or assault with intent to commit criminal sexual conduct as those terms are defined under the Michigan penal code.

## Minnesota

Sexual assault means criminal sexual conduct in the first degree (Minnesota Criminal Code section 609.342), criminal sexual conduct in the second degree (Minnesota Criminal Code section 609.343), criminal sexual conduct in the third degree (Minnesota Criminal Code section 609.344), criminal sexual conduct in the fourth degree (Minnesota Criminal Code section 609.345) or incest (Minnesota Criminal Code section 609.365).

Under Minnesota law, sexual contact or intercourse that is performed without consent is a form of criminal sexual conduct. Depending on the circumstances, it can lead to imprisonment for 30 years or more.

In addition, Minnesota law has a crime known as Criminal Sexual Conduct in the 5<sup>th</sup> degree. A person is guilty of criminal sexual conduct in the fifth degree:

If the person engages in nonconsensual sexual contact; or

The person engages in masturbation or lewd exhibition of the genitals in the presence of a minor under the age of 16, knowing or having reason to know the minor is present.

Mississippi

Mississippi State criminal law does not define the term sexual assault. Rather, the criminal code sets forth such crimes as rape or sexual battery. The definition of these terms is set forth below.

### Rape

Every person who has forcible sexual intercourse with any person, or who has sexual intercourse with any person without that person's consent by administering to such person any substance or liquid which shall produce such stupor or such imbecility of mind or weakness of body as to prevent effectual resistance, is guilty of rape.

For this crime sexual intercourse means:

A joining of the sexual organs of a male and female human being in which the penis of the male is inserted into the vagina of the female; or

The penetration of the sexual organs of a male or female human being in which the penis or an object is inserted into the genitals, anus or perineum of a male or female.

### Statutory Rape

The crime of statutory rape is committed when:

Any person seventeen years of age or older has sexual intercourse with a child who:

Is at least fourteen but under sixteen years of age;

Is thirty-six or more months younger than the person; and

Is not the person's spouse; or

A person of any age has sexual intercourse with a child who:

Is under the age of fourteen years;

Is twenty-four or more months younger than the person; and

Is not the person's spouse.

Neither the victim's consent nor the victim's lack of chastity is a defense to a charge of statutory rape. For this crime, Sexual intercourse has the same meaning under rape, above.

### Sexual Battery

A person is guilty of sexual battery if he or she engages in sexual penetration with:

Another person without his or her consent;

A mentally defective, mentally incapacitated or physically helpless person;

A child at least fourteen but under sixteen years of age, if the person is thirty-six or more months older than the child; or

A child under the age of fourteen years of age, if the person is twenty-four or more months older than the child.

For purposes of sexual battery, sexual penetration includes cunnilingus, fellatio, buggery or pederasty, any penetration of the genital or anal openings of another person's body by any part of a person's body and insertion of any object into the genital or anal openings of another person's body.

A "mentally defective person" is one who suffers from a mental disease, defect or condition which renders that person temporarily or permanently incapable of knowing the nature and quality of his or her conduct.

A mentally incapacitated person is one rendered incapable of knowing or controlling his or her conduct, or incapable of resisting an act due to the influence of any drug, narcotic, anesthetic, or other substance administered to that person without his or her consent.

A physically helpless person is one who is unconscious or one who for any other reason is physically incapable of communicating an unwillingness to engage in an act. A spouse of the victim, not living separate and apart from the victim, cannot be found guilty of this crime unless the sexual penetration is forceable.

### Missouri

Sexual assault can be defined under Missouri law as causing or attempting to cause another to engage involuntarily in any sexual act by force, threat of force, or duress.

Missouri criminal law also states that a person commits the offense of rape if he or she has sexual intercourse with another person knowing that he or she does so without that person's consent.

Rape in the first degree is a crime which occurs when a person has sexual intercourse with another person who is incapacitated, incapable of consent or lacks the capacity to consent, or by the use of forcible compulsion.

Forcible compulsion includes the use of a substance administered without a victim's knowledge or consent which renders the victim physically or mentally impaired so as to be incapable of making an informed consent to sexual intercourse.

## Montana

In Montana, a person who knowingly subjects another person to any sexual contact without consent commits the offense of sexual assault.

Sexual contact means touching of the sexual or other intimate parts of the person of another, directly or through clothing, in order to knowingly or purposely:

Cause bodily injury to or humiliate, harass or degrade another; or

Arouse or gratify the sexual response or desire of either party.

Sexual Intercourse without Consent A person who knowingly has sexual intercourse without consent with another person commits the offense of sexual intercourse without consent. This crime carries with it a potential punishment of life in prison. Sexual intercourse means penetration of the vulva, anus or mouth of one person by the penis of another person, penetration of the vulva or anus of one person by a body member of another person, or penetration of the vulva or anus of one person by a foreign instrument or object manipulated by another person to knowingly or purposely:

Cause bodily injury or humiliate, harass or degrade; or

Arouse or gratify the sexual response or desire of either party.

## Nebraska

### First Degree Sexual Assault

Any person who subjects another person to sexual penetration is guilty of sexual assault in the first degree in the following circumstances:

Penetration was without the consent of the victim, or

The perpetrator knew or should have known that the victim was mentally or physically incapable of resisting or appraising the nature of his or her conduct, or

When the actor is nineteen years of age or older and the victim is at least twelve but less than sixteen years of age (if a child is under 12 under these circumstances, the crime is sexual assault on a child, under Neb.Rev.St. § 28-319.01)

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 nonhealth purposes.

### Second and Third Degree Sexual Assault

Any person who subjects another person to sexual contact 1) without consent of the victim, or 2) who knew or should have known that the victim was physically or mentally incapable of resisting or appraising the nature of his or her conduct is guilty of sexual assault in either the second degree or third degree. Second degree sexual assault would require serious personal injury to the victim; otherwise, it is sexual assault in the third degree.

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. 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. 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.

### Nevada

A person who subjects another person to sexual penetration, or who forces another person to make a sexual penetration on himself or herself or another, or on a beast, against the will of the victim or under conditions in which the perpetrator knows or should know that the victim is mentally or physically incapable of resisting or understanding the nature of his or her conduct, is guilty of sexual assault. An attempt or conspiracy to perform such acts is also considered a sexual assault under Nevada law.

Sexual penetration means cunnilingus, fellatio, or any intrusion, however slight, of any part of a person's body or any object manipulated or inserted by a person into the genital or anal openings of the body of another, including sexual intercourse in its ordinary meaning.

### Statutory Sexual Seduction

Nevada also has a crime known as statutory sexual seduction. Statutory sexual seduction means:

Ordinary sexual intercourse, anal intercourse, cunnilingus or fellatio committed by a person 18 years of age or older with a person under the age of 16 years; or

Any other sexual penetration committed by a person 18 years of age or older with a person under the age of 16 years with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of either of the persons.

#### New Hampshire

New Hampshire has defined sexual assault as any act proscribed by Chapter 632-A of the Criminal Code of New Hampshire. The acts described in Chapter 632-A of the Criminal Code generally proscribes non consensual sexual penetration or non consensual sexual contact. In addition, the Criminal Code proscribes certain sexual conduct (regardless of consent) with minors, or sexual conduct with persons with whom the perpetrator has a position of authority.

“Sexual contact” means the intentional touching whether directly, through clothing, or otherwise, of the victim's or actor's sexual or intimate parts, including emissions, tongue, anus, breasts, and buttocks. Sexual contact includes only that conduct, mentioned above, which can be reasonably construed as being for the purpose of sexual arousal or gratification.

“Sexual penetration” means:

Sexual intercourse; or

Cunnilingus; or

Fellatio; or

Anal intercourse; or

Any intrusion, however slight, of any part of the actor's body, including emissions, or any object manipulated by the actor into genital or anal openings of the victim's body; or

Any intrusion, however slight, of any part of the victim's body, including emissions, or any object manipulated by the victim into the oral, genital, or anal openings of the actor's body; or

Any act which forces, coerces, or intimidates the victim to perform any sexual penetration on the actor, on another person, or on himself.

The crimes that constitute sexual assault include the following:

Aggravated Felonious Sexual Assault

Felonious Sexual Assault

## Misdemeanor Sexual Assault

New Jersey

### Aggravated Sexual Assault

Knowing sexual penetration is considered aggravated sexual assault when:

The victim was less than thirteen years old;

The victim was at least thirteen years old but less than sixteen years old and either:

The actor is related to the victim by blood or affinity to the third degree; or

The actor has supervisory or disciplinary power over the victim by virtue of the actor's legal, professional or occupational status; or

The actor is a resource family parent, a guardian or a person who stands in loco parentis within the household;

The act is committed during the commission or attempted commission (whether alone or with one or more other persons) of robbery, kidnapping, homicide, aggravated assault on another, burglary, arson or criminal escape;

The actor is armed with a weapon or any object fashioned in such a manner as to lead the victim to reasonably believe it to be a weapon and threatens by word or gesture to use the weapon or object;

The actor is aided or abetted by one or more other persons and the actor uses physical force or coercion;

The actor uses physical force or coercion and severe personal injury is sustained by the victim;

The victim is one whom the actor knew or should have known was physically helpless, mentally incapacitated or had a mental disease or defect which rendered the victim temporarily or permanently incapable of understanding the nature of his conduct, including, but not limited to, being incapable of providing consent.

### Sexual Assault (non-aggravated)

Sexual Assault exists in the following situations:

When a person commits an act of sexual contact with a victim and the victim is less than 13 years old and the person is at least four years older than the victim;



When a person knowingly commits an act of sexual penetration with a victim and uses physical force or coercion, but the victim does not sustain severe personal injury;

When a person knowingly commits an act of sexual penetration with a victim while the victim is on probation or parole, or is detained in a hospital, prison or other institution and the person has supervisory or disciplinary power over the victim by virtue of the person's legal, professional or occupational status;

When a person knowingly commits an act of sexual penetration with a victim and the victim is at least 16 but less than 18 years old and either:

The person is related to the victim by blood or affinity to the third degree; or

The person has supervisory or disciplinary power of any nature or in any capacity over the victim; or

The person is a resource family parent, a guardian or stands in loco parentis within the household;

When a person knowingly commits an act of sexual penetration with a victim and the victim is at least 13 but less than 16 years old and the person is at least four years older than the victim.

#### Criminal Sexual Contact

“Sexual contact” means an intentional touching by the victim or actor, either directly or through clothing, of the victim's or actor's intimate parts (sexual organs, genital area, anal area, inner thigh, groin, buttock or breast of a person) for the purpose of degrading or humiliating the victim or sexually arousing or sexually gratifying the actor. Sexual contact of the actor with himself must be in view of the victim whom the actor knows to be present. When the sexual contact occurs under circumstances described under notes 2-7 in the Aggravated Sexual Assault section above, then the act is Aggravated Criminal Sexual Contact. When the sexual contact occurs under the circumstances described under notes 2-5 in the Sexual Assault (Non-Aggravated) section above, then the act is Non-Aggravated Criminal Sexual Contact.

#### New Mexico

Sexual assault has been defined to mean the crime of criminal sexual penetration. As discussed below, criminal sexual penetration can be charged in 4 degrees. The most basic version is criminal sexual penetration in the third degree. Since the basic crime is in the third degree, it is appropriate to omit degrees 1, 2, and 4 in the definition because those crimes set out extenuating circumstances that enhance punishment. Thus, the basic definition of Criminal Sexual Penetration (immediately below) combined with the definition of the crime in the third

degree (thereafter, below) is sufficient to define sexual assault for the purposes of this course. Nonetheless, the other degrees are also listed below. In addition, the definition of criminal sexual contact should also be set forth. It is defined later.

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.

### 3rd Degree

In all circumstances where force or coercion is used (other than those set out below), the crime of criminal sexual penetration is in the third degree.

### 3rd Degree

Criminal sexual penetration in the first degree consists of all criminal sexual penetration perpetrated:

On a child under thirteen years of age; or

By the use of force or coercion that results in great bodily harm or great mental anguish to the victim.

### 2nd Degree

Criminal sexual penetration in the second degree consists of all criminal sexual penetration perpetrated:

By the use of force or coercion on a child thirteen to eighteen years of age;

On an inmate confined in a correctional facility or jail when the perpetrator is in a position of authority over the inmate;

By the use of force or coercion that results in personal injury to the victim;

By the use of force or coercion when the perpetrator is aided or abetted by one or more persons;

In the commission of any other felony; or

When the perpetrator is armed with a deadly weapon.

### 4th Degree

Criminal sexual penetration in the fourth degree consists of all criminal sexual penetration:

That is not defined above and perpetrated on a child thirteen to sixteen years of age when the perpetrator is at least eighteen years of age and is at least four years older than the child and not the spouse of that child; or

Perpetrated on a child thirteen to eighteen years of age when the perpetrator, who is a school employee, volunteer, or contractor an (at least eighteen years of age and at least four years older than the child and not the spouse of that child) learns while performing services in or for a school that the child is a student in a school.

### Criminal Sexual Contact

Criminal sexual contact is the unlawful and intentional touching of or application of force, without consent, to the unclothed intimate parts of another who has reached his eighteenth birthday , or intentionally causing another who has reached his eighteenth birthday to touch one's intimate parts.

New York

New York criminal law does not define the term Sexual Assault, as such. However, New York has created several sex offences, including, Rape, Sexual Misconduct, and Criminal Sex Abuse.

### Rape in the 1st degree

A person is guilty of rape in the first degree when he or she engages in sexual intercourse with another person:

By forcible compulsion; or

Who is incapable of consent by reason of being physically helpless; or

Who is less than eleven years old; or

Who is less than thirteen years old and the actor is eighteen years old or more.

### Rape in the 2nd Degree

A person is guilty of rape in the second degree when:

being eighteen years old or more, he or she engages in sexual intercourse with another person less than fifteen years old (unless the defendant was less than four years older than the victim);  
or

he or she engages in sexual intercourse with another person who is incapable of consent by reason of being mentally disabled or mentally incapacitated.

### Rape in the 3rd degree

A person is guilty of rape in the third degree when:

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;

Being twenty-one years old or more, he or she engages in sexual intercourse with another person less than seventeen years old; or

He or she engages in sexual intercourse with another person without such person's consent where such lack of consent is by reason of some factor other than incapacity to consent.

### Sexual Misconduct

A person is guilty of sexual misconduct when:

He or she engages in sexual intercourse with another person without such person's consent; or

He or she engages in oral sexual conduct or anal sexual conduct with another person without such person's consent; or

He or she engages in sexual conduct with an animal or a dead human body.

### Criminal Sexual Act in the 1st degree

A person is guilty of criminal sexual act in the first degree when he or she engages in oral sexual conduct or anal sexual conduct with another person:

By forcible compulsion; or

Who is incapable of consent by reason of being physically helpless; or

Who is less than eleven years old; or

Who is less than thirteen years old and the actor is eighteen years old or more.

### Criminal Sexual Act in the 2nd Degree

A person is guilty of criminal sexual act in the second degree when:

being eighteen years old or more, he or she engages in oral sexual conduct or anal sexual conduct with another person less than fifteen years old (unless the defendant was less than four years older than the victim at the time of the act); or

he or she engages in oral sexual conduct or anal sexual conduct with another person who is incapable of consent by reason of being mentally disabled or mentally incapacitated.

### Criminal Sexual Act in the 3rd Degree

A person is guilty of criminal sexual act in the third degree when:

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;

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

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.

### Sex Abuse in the 1st Degree

A person is guilty of sexual abuse in the first degree when he or she subjects another person to sexual contact:

By forcible compulsion; or

When the other person is incapable of consent by reason of being physically helpless; or

When the other person is less than eleven years old; or

When the other person is less than thirteen years old and the actor is twenty-one years old or older.

### Sex Abuse in the 2nd Degree

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:

Incapable of consent by reason of some factor other than being less than seventeen years old;  
or

Less than fourteen years old.

### Sex Abuse in the 3rd Degree

A person is guilty of sexual abuse in the third degree when he or she subjects another person to sexual contact without the latter's consent.

### Forceable Touching

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 purpose of gratifying the actor's sexual desire. Such touching may include squeezing, grabbing or pinching

### North Carolina

North Carolina law does not define the term sexual assault, as such. However, the law does criminalize certain sexual acts and contacts, such as rape or sexual battery, as defined below.

### First degree Rape

A person is guilty of rape in the first degree if the person engages in vaginal intercourse:

With a victim who is a child under the age of 13 years and the defendant is at least 12 years old and is at least four years older than the victim; or

With another person by force and against the will of the other person, and:

Employs or displays a dangerous or deadly weapon or an article which the other person reasonably believes to be a dangerous or deadly weapon; or

Inflicts serious personal injury upon the victim or another person; or

The person commits the offense aided and abetted by one or more other persons.

### Second Degree Rape

A person is guilty of rape in the second degree if the person engages in vaginal intercourse with another person:

By force and against the will of the other person; or

Who is mentally disabled, mentally incapacitated, or physically helpless, and the person performing the act knows or should reasonably know the other person is mentally disabled, mentally incapacitated or physically helpless.

### Sexual Offence in the First Degree

A person is guilty of a sexual offense in the first degree if the person engages in a sexual act :

With a victim who is a child under the age of 13 years and the defendant is at least 12 years old and is at least four years older than the victim; or

With another person by force and against the will of the other person, and:

Employs or displays a dangerous or deadly weapon or an article which the other person reasonably believes to be a dangerous or deadly weapon; or

Inflicts serious personal injury upon the victim or another person; or

The person commits the offense aided and abetted by one or more other persons.

### Sexual Offense in the Second Degree

A person is guilty of a sexual offense in the second degree if the person engages in a sexual act with another person:

By force and against the will of the other person; or

Who is mentally disabled, mentally incapacitated, or physically helpless, and the person performing the act knows or should reasonably know that the other person is mentally disabled, mentally incapacitated, or physically helpless.

### Sexual Battery

A person is guilty of sexual battery if the person, for the purpose of sexual arousal, sexual gratification or sexual abuse, engages in sexual contact with another person:

By force and against the will of the other person; or

Who is mentally disabled, mentally incapacitated or physically helpless, and the person performing the act knows or should reasonably know that the other person is mentally disabled, mentally incapacitated, or physically helpless.

### North Dakota

Sexual assault in North Dakota can be defined by reference to the crimes of sexual assault, sexual imposition and gross sexual imposition. Accordingly, all the following definitions should be listed.

### Sexual Assault

Sexual assault occurs when a person knowingly has sexual contact with another person, or causes another person to have sexual contact with that person, if any of the following apply:

That person knows or has reasonable cause to believe that the contact is offensive to the other person.

That person knows or has reasonable cause to believe that the other person suffers from a mental disease or defect which renders that other person incapable of understanding the nature of that other person's conduct.

That person or someone with that person's knowledge has substantially impaired the victim's power to appraise or control the victim's conduct, by administering or employing without the victim's knowledge intoxicants, a controlled substance as defined, or other means for the purpose of preventing resistance.

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.

The other person is a minor, fifteen years of age or older, and the actor is the other person's parent, guardian or is otherwise responsible for general supervision of the other person's welfare.

The other person is a minor, fifteen years of age or older, and the actor is an adult.

### Sexual Imposition

Sexual imposition occurs when a person engages in a sexual act or sexual contact with another, or causes another to engage in a sexual act or sexual contact, if the actor:

Compels the other person to submit by any threat or coercion that would render a person reasonably incapable of resisting; or

Engages in a sexual act or sexual contact with another, whether consensual or not, as part of an induction, initiation, ceremony, pledge, hazing or qualification to become a member or an associate of any criminal street gang.

### Gross Sexual Imposition

The crime of gross sexual imposition occurs when a person engages in a sexual act with another, or causes another to engage in a sexual act, if:

That person compels the victim to submit by force or by threat of imminent death, serious bodily injury or kidnapping, to be inflicted on any human being;

That person or someone with that person's knowledge has substantially impaired the victim's power to appraise or control the victim's conduct by administering or employing without the victim's knowledge intoxicants, a controlled substance or other means with intent to prevent resistance;



That person knows or has reasonable cause to believe that the victim is unaware that a sexual act is being committed upon him or her;

The victim is less than fifteen years old; or

That person knows or has reasonable cause to believe that the other person suffers from a mental disease or defect which renders him or her incapable of understanding the nature of his or her conduct.

In addition, the crime of gross sexual imposition occurs when a person engages in sexual contact with another, or causes another to engage in sexual contact, if:

The victim is less than fifteen years old;

That person compels the victim to submit by force or by threat of imminent death, serious bodily injury or kidnapping, to be inflicted on any human being; or

That person knows or has reasonable cause to believe that the victim is unaware that sexual contact is being committed on the victim.

Ohio

According to Ohio law, a sexual assault occurs when any of the following crimes are committed. Throughout the following listed crimes, use is made of the terms “sexual conduct” and “sexual contact.” Sexual conduct means vaginal intercourse between a male and female; anal intercourse, fellatio and cunnilingus between persons regardless of sex; and, without privilege to do so, the insertion, however slight, of any part of the body or any instrument, apparatus or other object into the vaginal or anal opening of another. Penetration, however slight, is sufficient to complete vaginal or anal intercourse. Sexual contact means any touching of an erogenous zone of another, including without limitation the thigh, genitals, buttock, pubic region, or, if the person is a female, a breast, for the purpose of sexually arousing or gratifying either person.

Rape

No person shall engage in sexual conduct with another when the offender purposely compels the other person to submit by force or threat of force.

No person shall engage in sexual conduct with another who is not the spouse of the offender or who is the spouse of the offender but is living separate and apart from the offender, when any of the following applies:

For the purpose of preventing resistance, the offender substantially impairs the other person's judgment or control by administering any drug, intoxicant or controlled substance to the other person surreptitiously or by force, threat of force or deception.

The other person is less than thirteen years of age, whether or not the offender knows the age of the other person.

The other person's ability to resist or consent is substantially impaired because of a mental or physical condition or because of advanced age, and the offender knows or has reasonable cause to believe that the other person's ability to resist or consent is substantially impaired because of a mental or physical condition or because of advanced age.

### Sexual Battery

No person shall engage in sexual conduct with another, not the spouse of the offender, when any of the following apply:

The offender knowingly coerces the other person to submit by any means that would prevent resistance by a person of ordinary resolution.

The offender knows that the other person's ability to appraise the nature of or control the other person's own conduct is substantially impaired.

The offender knows that the other person submits because the other person is unaware that the act is being committed.

The offender knows that the other person submits because the other person mistakenly identifies the offender as the other person's spouse.

The offender is the other person's natural or adoptive parent, stepparent, guardian, custodian or person in loco parentis of the other person.

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.

The offender is a teacher, administrator, coach or other person in authority employed by or serving in a school for which the state board of education prescribes minimum standards, the other person is enrolled in or attends that school, and the offender is not enrolled in and does not attend that school.

The other person is a minor, the offender is a teacher, administrator, coach or other person in authority employed by or serving in an institution of higher education, and the other person is enrolled in or attends that institution.

The other person is a minor, and the offender is the other person's athletic or other type of coach, is the other person's instructor, is the leader of a scouting troop of which the other person is a member or is a person with temporary or occasional disciplinary control over the other person.

The offender is a mental health professional, the other person is a mental health client or patient of the offender, and the offender induces the other person to submit by falsely representing to the other person that the sexual conduct is necessary for mental health treatment purposes.

The other person is confined in a detention facility, and the offender is an employee of that detention facility.

The other person is a minor, the offender is a cleric and the other person is a member of, or attends, the church or congregation served by the cleric.

The other person is a minor, the offender is a peace officer and the offender is more than two years older than the other person.

#### Unlawful Sexual Conduct with a Minor

No person who is eighteen years of age or older shall engage in sexual conduct with another, who is not the spouse of the offender, when the offender knows the other person is thirteen years of age or older but less than sixteen years of age, or the offender is reckless in that regard.

#### Gross Sexual Imposition

No person shall have sexual contact with another (who not the spouse of the offender), cause another (who is not the spouse of the offender) to have sexual contact with the offender, or cause two or more other persons to have sexual contact when any of the following applies:

The offender purposely compels the other person, or one of the other persons, to submit by force or threat of force.

For the purpose of preventing resistance, the offender substantially impairs the judgment or control of the other person or of one of the other persons by administering any drug, intoxicant, or controlled substance to the other person surreptitiously or by force, threat of force or deception.

The offender knows that the judgment or control of the other person or of one of the other persons is substantially impaired as a result of the influence of any drug or intoxicant

administered to the other person with the other person's consent for the purpose of any kind of medical or dental examination, treatment or surgery.

The other person, or one of the other persons, is less than thirteen years of age, whether or not the offender knows the age of that person.

The ability of the other person to resist or consent or the ability of one of the other persons to resist or consent is substantially impaired because of a mental or physical condition or because of advanced age, and the offender knows or has reasonable cause to believe that the ability to resist or consent of the other person or of one of the other persons is substantially impaired because of a mental or physical condition or because of advanced age.

In addition, no person shall knowingly touch the genitalia of another, when the touching is not through clothing, the other person is less than twelve years of age, whether or not the offender knows the age of that person, and the touching is done with an intent to abuse, humiliate, harass, degrade or arouse or gratify the sexual desire of any person.

#### Oklahoma

Sexual assault is any type of sexual contact or behavior that occurs without the explicit consent of the recipient. Sexual assault includes, but is not limited to, forced sexual intercourse, forcible sodomy, child molestation, child sexual abuse, incest and fondling (including any attempt to complete such acts).

#### Oregon

Sexual assault means any unwanted sexual contact. 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.

In addition, Oregon has various criminal laws making certain sexual conduct a crime. One such crime is Rape in the first degree. A person who has sexual intercourse with another person commits the crime of rape in the first degree if the victim is subjected to forcible compulsion by the person. Forcible compulsion means to compel by:

Physical force; or

A threat, express or implied, that places a person in fear of immediate or future death or physical injury to self or another person, or in fear that the person or another person will immediately or in the future be kidnapped.

#### Pennsylvania

In Pennsylvania, 'sexual assault' means:

Engaging in sexual intercourse

With another person

Without their consent

Pennsylvania also prosecutes the crimes of statutory sexual assault, rape and rape of a child. If crime is accomplished through use of a foreign object for penetration, the crime is considered 'involuntary deviate sexual intercourse.'

Rhode Island

The State of Rhode Island defines sexual assault in varying degrees. The definitions are set forth below. In addition, the terms sexual penetration and sexual contact are used in the definitions of sexual assault. Those terms are defined immediately below.

Sexual contact means the intentional touching of the victim's or accused's intimate parts, clothed or unclothed, if that intentional touching can be reasonably construed as intended by the accused to be for the purpose of sexual arousal, gratification, or assault.

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 genital or anal openings of another person's body, or the victim's own body upon the accused's instruction.

#### First degree Sexual Assault

First degree sexual assault occurs if a person engages in sexual penetration with another person if any of the following circumstances exist:

The accused, not being the spouse, knows or has reason to know that the victim is mentally incapacitated, mentally disabled, or physically helpless.

The accused uses force or coercion.

The accused, through concealment or by the element of surprise, is able to overcome the victim.

The accused engages in the medical treatment or examination of the victim for the purpose of sexual arousal, gratification, or stimulation.

#### Second Degree Sexual Assault

Second degree sexual assault occurs if a person engages in sexual contact with another person if any of the following circumstances exist:

The accused knows or has reason to know that the victim is mentally incapacitated, mentally disabled or physically helpless.

The accused uses force or coercion.

The accused engages in the medical treatment or examination of the victim for the purpose of sexual arousal, gratification or stimulation.

### Third Degree Sexual Assault

Third degree sexual assault occurs if a person (over the age of eighteen) engages in sexual penetration with another person over the age of fourteen but under the age of consent (sixteen years of age).

Sexual conduct with a child under fourteen would constitute the crime of child molestation.

### South Carolina

South Carolina Criminal Law does not define the term sexual assault as such. Instead, South Carolina has defined the term sexual battery. Sexual Battery is a crime when performed without consent of the victim, as discussed below.

In the discussion below, it is important to note that, unless living apart, a spouse cannot be charged with criminal sexual conduct when the alleged conduct occurred against the another spouse. However, the act may qualify as the crime of spousal sexual battery if aggravated force is used.

### Sexual Battery Defined

Sexual battery means sexual intercourse, cunnilingus, fellatio, anal intercourse, or any intrusion, however slight, of any part of a person's body or of any object into the genital or anal openings of another person's body (except when such intrusion is accomplished for medically recognized treatment or diagnostic purposes).

Sexual battery can be a crime when performed without consent. Depending on the circumstances surrounding the non-consensual sexual battery, the crime may be classified as Criminal Sexual Conduct in the varying degrees discussed below.

### First Degree Criminal Sexual Conduct

This crime occurs when a person commits sexual battery with the victim and any of the following circumstances exist:

The actor uses aggravated force to accomplish sexual battery.

The victim submits to sexual battery by the actor under circumstances where the victim is also the victim of forcible confinement, kidnapping, trafficking in persons, robbery, extortion, burglary, housebreaking, or any other similar offense or act.

The actor causes the victim, without the victim's consent, to become mentally incapacitated or physically helpless by administering, distributing, dispensing, delivering, or causing to be administered, distributed, dispensed, or delivered a controlled substance, a controlled substance analogue, or any intoxicating substance.

### Second Degree Criminal Sexual Conduct

A person is guilty of criminal sexual conduct in the second degree if the actor uses aggravated coercion to accomplish sexual battery.

### Third Degree Criminal Sexual Conduct

If sexual battery does not qualify as first or second degree Criminal Sexual Conduct, then the crime may be Criminal Sexual Conduct in the Third Degree. If sexual battery is accomplished by use of force or coercion or is performed when the actor knows or has reason to know that the victim is mentally defective, mentally incapacitated, or physically helpless, then non consensual sexual battery constitutes the crime of Third Degree Criminal Sexual Conduct.

## South Dakota

South Dakota criminal laws do not define the specific term sexual assault. However, South Dakota does define the crime of rape and the crime of sexual contact without consent.

### Rape

Rape is an act of sexual penetration accomplished with any person under any of the following circumstances:

If the victim is less than thirteen years of age.

Through the use of force, coercion, or threats of immediate and great bodily harm against the victim or other persons within the victim's presence, accompanied by apparent power of execution.

If the victim is incapable, because of physical or mental incapacity, of giving consent to such act.

If the victim is incapable of giving consent because of any intoxicating, narcotic, or anesthetic agent or hypnosis.

If the victim is thirteen years of age, but less than sixteen years of age, and the perpetrator is at least three years older than the victim.

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.

#### Sexual Contact without Consent

No person fifteen years of age or older may knowingly engage in sexual contact with another person (other than his or her spouse) who has not consented to such contact.

Sexual contact includes touching, not amounting to rape, whether or not through clothing or other covering, of the breasts of a female or the genitalia or anus of any person with the intent to arouse or gratify the sexual desire of either party.

#### Tennessee

Sexual assault occurs when a person, regardless of the relationship with the perpetrator, has been subjected to, threatened with, or placed in fear of any form of rape or sexual battery. The crimes which can amount to sexual assault are listed in the following sections of the Tennessee Code: § 39-13-502 (Aggravated Rape), § 39-13-503 (Rape), § 39-13-506 (statutory rape) or § 39-13-522 (Rape of a Child), § 39-13-504 (Aggravated Sexual Battery), § 39-13-505 (Sexual Battery), or § 39-13-527 (Sexual Battery by an Authority Figure).

Rape occurs when there is unlawful sexual penetration of a victim by the defendant or of the defendant by a victim accompanied by any of the following circumstances:

Force or coercion is used to accomplish the act;

The sexual penetration is accomplished without the consent of the victim and the defendant knows or has reason to know at the time of the penetration that the victim did not consent;

The defendant knows or has reason to know that the victim is mentally defective, mentally incapacitated or physically helpless; or

The sexual penetration is accomplished by fraud.



Aggravated Rape occurs when there is unlawful sexual penetration of a victim by the defendant or the defendant by a victim accompanied by any of the following circumstances:

Force or coercion is used to accomplish the act and the defendant is armed with a weapon or any article used or fashioned in a manner to lead the victim reasonably to believe it to be a weapon;

The defendant causes bodily injury to the victim;

The defendant is aided or abetted by one or more other persons; and

Force or coercion is used to accomplish the act; or

The defendant knows or has reason to know that the victim is mentally defective, mentally incapacitated or physically helpless.

Sexual battery is unlawful sexual contact with a victim by the defendant or the defendant by a victim accompanied by any of the following circumstances:

) Force or coercion is used to accomplish the act;

The sexual contact is accomplished without the consent of the victim and the defendant knows or has reason to know at the time of the contact that the victim did not consent;

The defendant knows or has reason to know that the victim is mentally defective, mentally incapacitated or physically helpless; or

The sexual contact is accomplished by fraud.

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 parts, if that intentional touching can be reasonably construed as being for the purpose of sexual arousal or gratification.

Texas

A person commits sexual assault if the person intentionally or knowingly does any of the following:

Causes the penetration of the anus or sexual organ of another person by any means, without that person's consent;

Causes the penetration of the mouth of another person by the sexual organ of the actor, without that person's consent;

Causes the sexual organ of another person, without that person's consent, to contact or penetrate the mouth, anus or sexual organ of another person, including the actor;

Causes the penetration of the anus or sexual organ of a child by any means;

Causes the penetration of the mouth of a child by the sexual organ of the actor;

Causes the sexual organ of a child to contact or penetrate the mouth, anus or sexual organ of another person, including the actor;

Causes the anus of a child to contact the mouth, anus or sexual organ of another person, including the actor; or

Causes the mouth of a child to contact the anus or sexual organ of another person, including the actor.

## Utah

According to the Utah Department of Health Sexual Assault is any unwanted sexual contact or attention resulting from force, threats, bribes, manipulation, pressure, or violence. The department includes the crime rape as a form of sexual assault. A person commits rape when the actor has sexual intercourse with another person without the victim's consent.

### Sexual Battery

Sexual Battery occurs if a person, intentionally touches, whether or not through clothing, the anus, buttocks, or any part of the genitals of another person, or the breast of a female person, and the actor's conduct is under circumstances the actor knows or should know will likely cause affront or alarm to the person touched.

### Sodomy

A person commits sodomy when the actor engages in any sexual act with a person who is 14 years of age or older involving the genitals of one person and mouth or anus of another person, regardless of the sex of either participant. It is the crime of forcible sodomy when the actor commits sodomy upon another without the other's consent.

A person commits sodomy upon a child if the actor engages in any sexual act upon or with a child who is under the age of 14, involving the genitals or anus of the actor or the child and the mouth or anus of either person, regardless of the sex of either participant. Consent is not a defense.

## Vermont

There are five independent definitions of sexual assault under the laws of Vermont. In addition, infliction of serious injury, use of deadly force or the age difference between the perpetrator and a child victim are some of the circumstances that can elevate the crime of sexual assault to aggravated sexual assault.

) Sexual Assault occurs when a person engages in a sexual act with another person and compels the other person to participate in a sexual act:

Without the consent of the other person; or

) By threatening or coercing the other person; or

By placing the other person in fear that any person will suffer imminent bodily injury.

Sexual Assault occurs when a person engages in a sexual act with another person and when the person substantially impairs the ability of the other person to appraise or control conduct by administering or employing drugs or intoxicants without the knowledge or against the will of the other person.

Sexual Assault occurs when a person engages in a sexual act with a child who is under the age of 16, except:

Where the persons are married to each other and the sexual act is consensual; or

Where the person is less than 19 years old, the child is at least 15 years old, and the sexual act is consensual.

Sexual Assault occurs when a person engages in a sexual act with a child who is under the age of 18 and is entrusted to the actor's care by authority of law or is the actor's child, grandchild, foster child, adopted child or stepchild.

Sexual Assault occurs when a person engages in a sexual act with a child under the age of 16 if:

The victim is entrusted to the actor's care by authority of law or is the actor's child, grandchild, foster child, adopted child or stepchild; or

The actor is at least 18 years of age, resides in the victim's household, and serves in a parental role with respect to the victim.

Virginia

According to a 2008 report of the Attorney general of Virginia, the term sexual assault implies "sexual contact without consent."

Although Virginia criminal law does not define the term sexual assault, as such, Virginia criminal law does define the crime of rape. According to the Virginia Code § 18.2-61, “If any person has sexual intercourse with a complaining witness, whether or not his or her spouse, or causes a complaining witness, whether or not his or her spouse, to engage in sexual intercourse with any other person and such act is accomplished (i) against the complaining witness's will, by force, threat or intimidation of or against the complaining witness or another person; or (ii) through the use of the complaining witness's mental incapacity or physical helplessness; or (iii) with a child under age 13 as the victim, he or she shall be guilty of rape.”

Physical helplessness means unconsciousness or any other condition existing at the time of an offense which otherwise rendered the complaining witness physically unable to communicate an unwillingness to act and about which the accused knew or should have known.

Mental incapacity means that condition of the complaining witness existing at the time of an offense which prevents the complaining witness from understanding the nature or consequences of the sexual act involved in such offense and about which the accused knew or should have known.

## Washington

Sexual assault is not specifically defined separately under Washington Law, however, the following Washington definitions are generally included under the umbrella term ‘sexual assault.’

## Rape

A person is guilty of rape when such person engages in sexual intercourse with another person by forcible compulsion where the perpetrator or an accessory uses or threatens to use a deadly weapon or what appears to be a deadly weapon; or kidnaps the victim; or inflicts serious physical injury; or feloniously enters into the building or vehicle where the victim is situated.

Rape includes when the person engages in sexual intercourse by forcible compulsion, the victim is incapable of consent due to physical helplessness or mental incapacity, or the victim is a person with a developmental disability and the perpetrator is a person who is not married to the victim and who has supervisory authority over the victim; or was providing transportation, within the course of his or her employment, to the victim at the time of the offense.

Rape includes when the perpetrator is a health care provider, the victim is a client or patient, and the sexual intercourse occurs during a treatment session, consultation, interview, or examination (unless the client or patient consented to the sexual intercourse with the knowledge that the sexual intercourse was not for the purpose of treatment).

Rape also applies when the victim is a resident of a facility for persons with a mental disorder or chemical dependency and the perpetrator is a person who is not married to the victim and has supervisory authority over the victim. There are also special provisions when the victim is a frail elder or vulnerable adult.

Rape also occurs when such person engages in sexual intercourse and the victim's lack of consent was clearly expressed by the victim's words or conduct or the victim engaged in sexual intercourse because of a threat of substantial unlawful harm to his or her property rights.

The State of Washington makes **Indecent Liberties** a crime similar to rape, but the focus is on unlawful sexual contact rather than sexual intercourse.

**Rape of Children** is a crime that makes it unlawful to have sexual intercourse with children less than sixteen years of age in a variety of circumstances.

West Virginia

#### 1st Degree Sexual Assault

A person is guilty of sexual assault in the first degree when:

The person engages in sexual intercourse or sexual intrusion with another person and, in so doing:

Inflicts serious bodily injury upon anyone; or

Employs a deadly weapon in the commission of the act; or

The person, being fourteen years old or more, engages in sexual intercourse or sexual intrusion with another person who is younger than twelve years old and is not married to that person.

#### 2nd Degree Sexual Assault

A person is guilty of sexual assault in the second degree when:

Such person engages in sexual intercourse or sexual intrusion with another person without the person's consent, and the lack of consent results from forcible compulsion; or

Such person engages in sexual intercourse or sexual intrusion with another person who is physically helpless.

#### 3rd Degree Sexual Assault

A person is guilty of sexual assault in the third degree when:

The person engages in sexual intercourse or sexual intrusion with another person who is mentally defective or mentally incapacitated; or

The person, being sixteen years old or more, engages in sexual intercourse or sexual intrusion with another person who is less than sixteen years old and who is at least four years younger than the defendant and is not married to the defendant.

### 1st Degree Sexual Abuse

A person is guilty of sexual abuse in the first degree when:

Such person subjects another person to sexual contact without their consent, and the lack of consent results from forcible compulsion; or

Such person subjects another person to sexual contact who is physically helpless; or

Such person, being fourteen years old or more, subjects another person to sexual contact who is younger than twelve years old.

### 2nd Degree Sexual Abuse

A person is guilty of sexual abuse in the second degree when such person subjects another person to sexual contact who is mentally defective or mentally incapacitated.

### 3rd Degree Sexual Abuse

A person is guilty of sexual abuse in the third degree when he subjects another person to sexual contact without the latter's consent, when such lack of consent is due to the victim's incapacity to consent by reason of being less than sixteen years old. There are two exceptions:

The defendant was less than sixteen years old; or

The defendant was less than four years older than the victim.

## Wisconsin

Wisconsin law defines the term “sexual assault” in varying degrees, depending on whether certain extenuating circumstances exist. The crime of sexual assault can be a Class A felony, or a misdemeanor, depending on the surrounding facts. However, the basic act of sexual assault can be defined as sexual intercourse or sexual contact with a person without the consent of that person.

Also, Wisconsin law recognizes a sexual assault when a person commits the following crimes:

Sexual Assault in the First through Fourth Degrees (Wisconsin Statutes section 940.225),

Sexual assault of a child (Wisconsin Statutes section 948.02),

Engaging in repeated acts of sexual assault of the same child (Wisconsin Statutes section 948.025),

Physical abuse of a child (Wisconsin Statutes section 948.03),

Causing a child to view or listen to sexual activity (Wisconsin Statutes section 948.055),

Incest with a child (Wisconsin Statutes section 948.06),

Child enticement (Wisconsin Statutes section 948.07),

Soliciting a child for prostitution (Wisconsin Statutes section 948.08),

Sexual assault of a child placed in substitute care (Wisconsin Statutes section 948.085),

Sexual intercourse with a child age 16 or older (Wisconsin Statutes section 948.09)

Exposing genitals or pubic area (Wisconsin Statutes section 948.10)

## Wyoming

The State of Wyoming defines sexual assault in varying degrees. In addition, the state of Wyoming defines a crime of sexual battery. In reviewing the definitions of those terms, the following terms are used.

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.

Sexual intrusion means any intrusion, however slight, by any object or any part of a person's body, except the mouth, tongue or penis, into the genital or anal opening of another person's body if that sexual intrusion can reasonably be construed as being for the purposes of sexual arousal, gratification or abuse; or sexual intercourse, cunnilingus, fellatio, anilingus or anal intercourse with or without emission.

Intimate parts mean the external genitalia, perineum, anus or pubes of any person or the breast of a female person.

### First Degree Sexual Assault

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

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;

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;

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

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.

In addition, sexual contact (not amounting to an intrusion) committed under any of these circumstances constitutes the crime of third degree sexual assault.

### Second Degree Sexual Assault

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:

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;

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

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;

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

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

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, secure treatment facilities or work release 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

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

In addition, 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 above in sections i- vi. If such conduct does not cause serious bodily harm, the crime is third degree sexual assault.

### Sexual Battery

An actor who unlawfully subjects another person to any sexual contact may be guilty of sexual battery. Nonconsensual sexual contact is included in what is “unlawful” and would constitute sexual battery.

## State Definitions of Stalking

### Alabama

A person who intentionally and repeatedly follows or harasses another person and who makes a threat, either expressed or implied, with the intent to place that person in reasonable fear of death or serious bodily harm is guilty of the crime of stalking in the first degree.

A person who, acting with an improper purpose, intentionally and repeatedly follows, harasses, telephones or initiates communication, verbally, electronically or otherwise, with another person, any member of the other person's immediate family or any third party with whom the other person is acquainted, and causes material harm to the mental or emotional health of the other person, or causes such person to reasonably fear that his or her employment, business or career is threatened, and the perpetrator was previously informed to cease that conduct is guilty of the crime of stalking in the second degree.

"Credible threat" means a threat, expressed or implied, made with the intent and the apparent ability to carry out the threat so as to cause the person who is the target of the threat to fear for his or her safety or the safety of a family member and to cause reasonable mental anxiety, anguish or fear.

"Harasses" means the actor engages in an intentional course of conduct directed at a specified person which alarms or annoys that person, or interferes with the freedom of movement of that person, and which serves no legitimate purpose. The course of conduct must be such as would cause a reasonable person to suffer substantial emotional distress, and must actually cause substantial emotional distress.

"Course of conduct" means a pattern of conduct composed of a series of acts over a period of time which evidences a continuity of purpose.

### Alaska

A person commits the crime of stalking if the person knowingly engages in a course of conduct that recklessly places another person in fear of death or physical injury, or in fear of the death or physical injury of a family member.

Course of conduct means repeated acts of nonconsensual contact involving the victim or a family member.

Nonconsensual contact means any contact with another person that is initiated or continued without that person's consent, that is beyond the scope of the consent provided by that person, or that is in disregard of that person's expressed desire that the contact be avoided or discontinued. It includes

Following or appearing within the sight of that person;

Approaching or confronting that person in a public place or on private property;

Appearing at the workplace or residence of that person;

Entering onto or remaining on property owned, leased, or occupied by that person;

Contacting that person by telephone;

Sending mail or electronic communications to that person;

Placing an object on, or delivering an object to, property owned, leased, or occupied by that person;

Following or monitoring that person with a global positioning device or similar technological means;

Using, installing, or attempting to use or install a device for observing, recording, or photographing events occurring in the residence, vehicle, or workplace used by that person, or on the personal telephone or computer used by that person.

## Arizona

A person commits stalking if the person intentionally or knowingly engages in a “course of conduct” that is directed toward another person if that conduct would cause a reasonable person to fear for their safety or the safety of their immediate family, and such fear happens.

“Course of conduct” includes maintaining visual or physical proximity to a specific person or directing verbal, written or other threats, whether express or implied, to a specific person on two or more occasions over a period of time, however short. It also includes using any electronic, digital or global positioning system device to surveil a specific person or a specific person's internet or wireless activity continuously for twelve hours or more or on two or more occasions over a period of time, however short, without authorization.

## Arkansas

### Stalking in the First Degree

A person commits stalking in the first degree if he or she knowingly engages in a course of conduct that would place a reasonable person in the victim's position under emotional distress and in fear for his or her safety or a third person's safety, and the actor:

Does so in contravention of an order of protection or no contact order;

Has been convicted within the previous ten (10) years of:

Stalking in the second degree;

Terroristic threatening, A.C.A. § 5-13-301 or terroristic act, A.C.A. § 5-13-310; or

Stalking or threats against another person's safety under the statutory provisions of any other state jurisdiction; or

Is armed with a deadly weapon or represents by word or conduct that he or she is armed with a deadly weapon.

#### Stalking in the Second Degree

A person commits stalking in the second degree if he or she knowingly engages in a course of conduct that harasses another person and makes a terroristic threat with the purpose of placing that person in imminent fear of death or serious bodily injury or placing that person in imminent fear of the death or serious bodily injury of his or her immediate family.

#### Stalking in the Third Degree

A person commits stalking in the third degree if he or she knowingly commits an act that would place a reasonable person in the victim's position under emotional distress and in fear for his or her safety or a third person's safety.

#### Harassment

A person commits the offense of harassment if, with purpose to harass, annoy, or alarm another person, without good cause, he or she:

Strikes, shoves, kicks, or otherwise touches a person, subjects that person to offensive physical contact or attempts or threatens to do so;

In a public place, directs obscene language or makes an obscene gesture to or at another person in a manner likely to provoke a violent or disorderly response;

Follows a person in or about a public place;

In a public place repeatedly insults, taunts or challenges another person in a manner likely to provoke a violent or disorderly response;

Engages in conduct or repeatedly commits an act that alarms or seriously annoys another person and that serves no legitimate purpose; or

Places a person under surveillance by remaining present outside that person's school, place of employment, vehicle, other place occupied by that person, or residence, other than the residence of the defendant, for no purpose other than to harass, alarm, or annoy.

California

Any person who willfully, maliciously and repeatedly follows or willfully and maliciously harasses another person and who makes a credible threat with the intent to place that person in reasonable fear for his or her safety, or the safety of his or her immediate family is guilty of the crime of stalking.

Harasses means engages in a knowing and willful course of conduct directed at a specific person that seriously alarms, annoys, torments or terrorizes the person, and that serves no legitimate purpose.

Course of conduct means two or more acts occurring over a period of time, however short, evidencing a continuity of purpose.

Credible threat means a verbal or written threat, including that performed through the use of an electronic communication device, or a threat implied by a pattern of conduct or a combination of verbal, written, or electronically communicated statements and conduct, made with the intent to place the person that is the target of the threat in reasonable fear for his or her safety or the safety of his or her family, and made with the apparent ability to carry out the threat so as to cause the person who is the target of the threat to reasonably fear for his or her safety or the safety of his or her family.

#### Colorado

A person commits stalking if directly, or indirectly through another person, the person knowingly:

Makes a credible threat to another person and, in connection with the threat, repeatedly follows, approaches, contacts or places under surveillance that person, a member person's immediate family , or someone with whom that person has or has had a continuing relationship; or of that

Makes a credible threat to another person and, in connection with the threat, repeatedly makes any form of communication with that person, a member of that person's immediate family, or someone with whom that person has or has had a continuing relationship, regardless of whether a conversation ensues; or

Repeatedly follows, approaches, contacts, places under surveillance, or makes any form of communication with another person, a member of that person's immediate family, or someone with whom that person has or has had a continuing relationship in a manner that would cause a reasonable person to suffer serious emotional distress and does cause that person, a member of that person's immediate family, or someone with whom that person has or has had a continuing relationship to suffer serious emotional distress.

#### Connecticut

A person commits stalking when:

Such person knowingly engages in a course of conduct directed at a specific person that would cause a reasonable person to fear for such person's physical safety or the physical safety of a third person; or

Such person intentionally, and for no legitimate purpose, engages in a course of conduct directed at a specific person that would cause a reasonable person to fear that such person's employment, business or career is threatened, where

such conduct consists of the actor telephoning to, appearing at or initiating communication or contact at such other person's place of employment or business, provided the actor was previously and clearly informed to cease such conduct, and

such conduct does not consist of constitutionally protected activity.

Course of conduct means two or more acts, including, but not limited to, acts in which a person directly, indirectly or through a third party, by any action, method, device or means:

Follows, lies in wait for, monitors, observes, surveils, threatens, harasses, communicates with or sends unwanted gifts to, a person, or

Interferes with a person's property.

A person also commits stalking when he or she recklessly causes another person to reasonably fear for his or her physical safety by willfully and repeatedly following or lying in wait for such other person.

Delaware

A person is guilty of stalking when the person knowingly engages in a course of conduct directed at a specific person and that conduct would cause a reasonable person to:

Fear physical injury to himself or herself or that of another person; or

Suffer other significant mental anguish or distress that may, but does not necessarily, require medical or other professional treatment or counseling.

“Course of conduct” means three or more separate incidents, including, but not limited to, acts in which the person directly, indirectly, or through third parties, by any action, method, device or means, follows, monitors, observes, surveys, threatens or communicates to or about another, or interferes with, jeopardizes, damages or disrupts another’s daily activities, property, employment, business, career, education or medical care.

Harassment is similar in some senses to stalking. A person is guilty of harassment when, with intent to harass, annoy or alarm another person:

That person insults, taunts or challenges another person or engages in any other course of alarming or distressing conduct which serves no legitimate purpose and is in a manner which the person knows is likely to provoke a violent or disorderly response or cause a reasonable person to suffer fear, alarm, or distress;

Communicates with a person by telephone, telegraph, mail or any other form of written or electronic communication in a manner which the person knows is likely to cause annoyance or alarm including, but not limited to, intrastate telephone calls initiated by vendors for the purpose of selling goods or services;

Knowingly permits any telephone under that person's control to be used for a purpose prohibited by this section;

In the course of a telephone call that person uses obscene language or language suggesting that the recipient of the call engage with that person or another person in sexual relations of any sort, knowing that the person is thereby likely to cause annoyance or alarm to the recipient of the call; or

Makes repeated or anonymous telephone calls to another person whether or not conversation ensues, knowing that person is thereby likely to cause annoyance or alarm.

District of Columbia

The act of stalking occurs when a person purposefully engages in a course of conduct directed at a specific individual with the intent to cause that individual to:

Fear for his or her safety or the safety of another person;

Feel seriously alarmed, disturbed, or frightened; or

Suffer emotional distress;

Such conduct constitutes the crime of stalking if that the person knows the conduct would cause that individual reasonably to:

Fear for his or her safety or the safety of another person;

Feel seriously alarmed, disturbed, or frightened; or

Suffer emotional distress.

Such conduct constitutes the crime of stalking if the person should have known the conduct would cause a reasonable person in the individual's circumstances to

Fear for his or her safety or the safety of another person;

Feel seriously alarmed, disturbed, or frightened; or

Suffer emotional distress.

“To engage in a course of conduct” means directly or indirectly, or through one or more third persons, in person or by any means, on 2 or more occasions, to:

Follow, monitor, place under surveillance, threaten, or communicate to or about another individual;

Interfere with, damage, take, or unlawfully enter an individual's real or personal property or threaten or attempt to do so; or

Use another individual's personal identifying information.

## Florida

A person who willfully, maliciously, and repeatedly follows, harasses, or cyberstalks another person commits the offense of stalking under Florida law.

“Harass” means to engage in a course of conduct directed at a specific person which causes substantial emotional distress to that person and serves no legitimate purpose.

“Course of conduct” means a pattern of conduct composed of a series of acts over a period of time, however short, which evidences a continuity of purpose. The term does not include constitutionally protected activity such as picketing or other organized protests.

“Cyberstalk” means to engage in a course of conduct to communicate, or to cause to be communicated, words, images or language by or through the use of electronic mail or electronic communication, directed at a specific person, causing substantial emotional distress to that person and serving no legitimate purpose.

## Georgia

In Georgia, stalking means

Knowingly and willfully



Harassing, intimidating, following or putting a person under surveillance or contacting him or her in person or by telephone, mail, broadcast, computer or electronic device

At a public or private property occupied by the person (other than the defendant's property)

Without the person's consent, and

Causing the victim to reasonably fear for his or her safety or that of an immediate family member.

Broadcasting or publishing (electronically or otherwise) the picture, name, address or telephone number of a person protected by a restraining order knowing the person is likely to be harassed or intimidated by others is also stalking.

## Hawaii

Stalking has been defined as engaging in a course of conduct directed at a specifically targeted person that would cause a reasonable person to suffer substantial emotional distress or to fear bodily injury, sexual assault, or death to the person or to the person's spouse, parent, child, or any other person who regularly resides in the person's household, and where the conduct does cause the targeted person to have such distress or fear.

"Course of conduct" means acts over any period of time of repeatedly maintaining a visual or physical proximity to a person or conveying verbal or written threats, including threats conveyed through electronic communications or threats implied by conduct.

In addition, criminal offences related to stalking have been defined by the Hawai'i Penal Code, as discussed below.

### Harassment by Stalking

A person commits the offense of harassment by stalking if, with intent to harass, annoy, or alarm another person, or in reckless disregard of the risk thereof, that person engages in a course of conduct involving pursuit, surveillance, or nonconsensual contact upon the other person on more than one occasion without legitimate purpose.

"Nonconsensual contact" means any contact that occurs without that individual's consent or in disregard of that person's express desire that the contact be avoided or discontinued. Nonconsensual contact includes direct personal visual or oral contact and contact via telephone, facsimile, or any form of electronic communication, including electronic mail transmission.

### Harassment

A person commits the offense of harassment if, with intent to harass, annoy, or alarm any other person, that person:

Strikes, shoves, kicks, or otherwise touches another person in an offensive manner or subjects the other person to offensive physical contact;

Insults, taunts, or challenges another person in a manner likely to provoke an immediate violent response or that would cause the other person to reasonably believe that the actor intends to cause bodily injury to the recipient or another or damage to the property of the recipient or another;

Repeatedly makes telephone calls, facsimile transmissions, or any form of electronic communication, including electronic mail transmissions, without purpose of legitimate communication;

Repeatedly makes a communication anonymously or at an extremely inconvenient hour;

Repeatedly makes communications, after being advised by the person to whom the communication is directed that further communication is unwelcome; or

Makes a communication using offensively coarse language that would cause the recipient to reasonably believe that the actor intends to cause bodily injury to the recipient or another or damage to the property of the recipient or another.

Idaho

A person commits the crime of stalking if the person knowingly and maliciously:

Engages in a course of conduct that seriously alarms, annoys or harasses the victim and is such as would cause a reasonable person substantial emotional distress; or

Engages in a course of conduct such as would cause a reasonable person to be in fear of death or physical injury, or in fear of the death or physical injury of a family or household member.

“Course of conduct” means repeated acts of nonconsensual contact (not including constitutionally protected conduct) involving the victim or a family or household member of the victim.

“Family or household member” means:

A spouse or former spouse of the victim, a person who has a child in common with the victim regardless of whether they have been married, a person with whom the victim is cohabiting whether or not they have married or have held themselves out to be husband or wife, and persons related to the victim by blood, adoption or marriage; or

A person with whom the victim is or has been in a dating relationship; or

A person living in the same residence as the victim.

“Nonconsensual contact” means any contact with the victim that is initiated or continued without the victim's consent, that is beyond the scope of the consent provided by the victim, or that is in disregard of the victim's expressed desire that the contact be avoided or discontinued. “Nonconsensual contact” includes, but is not limited to:

Following the victim or maintaining surveillance, including by electronic means, on the victim;

Contacting the victim in a public place or on private property;

Appearing at the workplace or residence of the victim;

Entering onto or remaining on property owned, leased or occupied by the victim;

Contacting the victim by telephone or causing the victim's telephone to ring repeatedly or continuously regardless of whether a conversation ensues;

Sending mail or electronic communications to the victim; or

Placing an object on, or delivering an object to, property owned, leased or occupied by the victim.

## Illinois

Stalking occurs when a person does any of the following:

Knowingly engages in a course of conduct directed at a specific other person, and the perpetrator knows or should know that this course of conduct would cause a reasonable person to:

fear for his or her safety or the safety of a third person; or

suffer other emotional distress;

Knowingly and without lawful justification, on at least 2 separate occasions follows another person or places the person under surveillance or any combination thereof and:

at any time transmits a threat of immediate or future bodily harm, sexual assault, confinement or restraint and the threat is directed towards that person or a family member of that person; or

places that person in reasonable apprehension of immediate or future bodily harm, sexual assault, confinement or restraint to or of that person, or a family member of that person (including people who resided in the house for six months);

Has previously been convicted of stalking another person and knowingly and without lawful justification on one occasion:

follows that same person or places that same person under surveillance; and

transmits a threat of immediate or future bodily harm, sexual assault, confinement or restraint to that person or a family member of that person.

#### Indiana

"Stalking" means a knowing or an intentional course of conduct involving repeated or continuing harassment of another person that would cause a reasonable person to feel terrorized, frightened, intimidated or threatened and that actually causes the person who is the object of the stalking to feel terrorized, frightened, intimidated or threatened.

"Harassment" means conduct directed toward a victim that includes but is not limited to repeated or continuing impermissible contact that would cause a reasonable person to suffer emotional distress and that actually causes the victim to suffer emotional distress.

"Impermissible contact" includes, but is not limited to, knowingly or intentionally following or pursuing the victim.

#### Iowa

A person commits stalking when all of the following occur:

The person purposefully engages in a course of conduct directed at a specific person that would cause a reasonable person to fear bodily injury to, or the death of, that specific person or a member of the specific person's immediate family.

The person has knowledge or should have knowledge that the specific person will be placed in reasonable fear of bodily injury to, or the death of, that specific person or a member of the specific person's immediate family by the course of conduct.

The person's course of conduct induces fear in the specific person of bodily injury to, or the death of, the specific person or a member of the specific person's immediate family.

"Course of conduct" means repeatedly maintaining a visual or physical proximity to a person without legitimate purpose or repeatedly conveying oral or written threats, threats implied by conduct, or a combination thereof, directed at or toward a person.

"Immediate family member" means a spouse, parent, child, sibling or any other person who regularly resides in the household of a specific person, or who within the prior six months regularly resided in the household of a specific person.

“Repeatedly” means on two or more occasions.

#### Kansas

"Stalking" means an intentional harassment of another person that places the other person in reasonable fear for that person's safety.

"Harassment" means a knowing and intentional course of conduct directed at a specific person that seriously alarms, annoys, torments or terrorizes the person, and that serves no legitimate purpose.

"Course of conduct" means conduct consisting of two or more separate acts over a period of time, however short, evidencing a continuity of purpose which would cause a reasonable person to suffer substantial emotional distress.

#### Kentucky

In Kentucky, stalking means an intentional "course of conduct" towards a "specific person" that

Does not serve any legitimate purpose,

Seriously alarms, annoys, intimidates or harasses that person and

Would cause a reasonable person to suffer substantial mental distress.

Constitutionally protected activity is excluded.

The "course of conduct" must include at least two acts, one of which can be the use of a device to communicate or transmit information, such as a telephone, computer, camera, scanner, copier, audio or video recorder and any equipment that enables use of the device.

#### Louisiana

"Stalking" is the intentional and repeated following or harassing of another person that would cause a reasonable person to feel alarmed or to suffer emotional distress. Stalking shall include but not be limited to the intentional and repeated uninvited presence of the perpetrator at another person's home, workplace, school or any place which would cause a reasonable person to be alarmed, or to suffer emotional distress as a result of verbal or behaviorally implied threats of death, bodily injury, sexual assault, kidnapping or any other statutory criminal act to himself or any member of his family or any person with whom he is acquainted.

“Harassing” means the repeated pattern of verbal communications or nonverbal behavior without invitation which includes but is not limited to making telephone calls, transmitting electronic mail, sending messages via a third party, or sending letters or pictures.

#### Maine

A person is guilty of stalking if:

The actor intentionally or knowingly engages in a course of conduct directed at or concerning a specific person that would cause a reasonable person:

To suffer serious inconvenience or emotional distress;

To fear bodily injury or to fear bodily injury to a close relation;

To fear death or to fear the death of a close relation;

To fear damage or destruction to or tampering with property; or

To fear injury to or the death of an animal owned by or in the possession and control of that specific person.

#### Maryland

Stalking means a malicious course of conduct that includes approaching or pursuing another where the person intends to place or knows or reasonably should have known the conduct would place another in reasonable fear of any of the following:

Serious bodily injury.

Assault.

Rape or sexual offense.

Attempted rape or sexual offense in any degree.

False imprisonment.

Death.

That a third person likely will suffer any of the acts listed above.

#### Massachusetts

Stalking occurs when a person makes a threat with the intent to place a specific person in imminent fear of death or bodily injury by:

Willfully and maliciously engaging in a knowing pattern of conduct or series of acts over a period of time

Which are directed at a specific person

Which seriously alarms or annoys that person

And would cause a reasonable person to suffer substantial emotional distress.

The requisite conduct, acts or threats include, but are not limited to, conduct, acts or threats conducted by mail or by use of a telephonic or telecommunication device or electronic communication device.

An electronic communication device includes, but is not limited to, any device that transfers signs, signals, writing, images, sounds, data or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photo-electronic or photo-optical system, electronic mail, internet communications, instant messages or facsimile communications.

## Michigan

Stalking means a willful course of conduct involving repeated or continuing harassment of another individual that would cause a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed or molested and that actually causes the victim to feel terrorized, frightened, intimidated, threatened, harassed or molested.

Course of conduct means a pattern of conduct composed of a series of two or more separate noncontinuous acts evidencing a continuity of purpose.

Harassment means conduct directed toward a victim that includes, but is not limited to, repeated or continuing unconsented contact that would cause a reasonable individual to suffer emotional distress and that actually causes the victim to suffer emotional distress.

Unconsented contact means any contact with another individual that is initiated or continued without that individual's consent or in disregard of that individual's expressed desire that the contact be avoided or discontinued. Unconsented contact includes, but is not limited to, any of the following:

Following or appearing within the sight of that individual.

Approaching or confronting that individual in a public place or on private property.

Appearing at that individual's workplace or residence.

Entering onto or remaining on property owned, leased or occupied by that individual.

Contacting that individual by telephone.

Sending mail or electronic communications to that individual.

Placing an object on, or delivering an object to, property owned, leased or occupied by that individual.

## Minnesota

Stalking means to engage in conduct which the actor knows or has reason to know would cause the victim under the circumstances to feel frightened, threatened, oppressed, persecuted or intimidated, and causes this reaction on the part of the victim regardless of the relationship between the actor and victim.

A person who stalks another by committing any of the following acts is guilty of a gross misdemeanor:

Directly or indirectly, or through third parties, manifests a purpose or intent to injure the person, property or rights of another by the commission of an unlawful act.

Follows, monitors or pursues another, whether in person or through any available technological or other means.

Returns to the property of another if the actor is without claim of right to the property or consent of one with authority to consent.

Repeatedly makes telephone calls, sends text messages or induces a victim to make telephone calls to the actor, whether or not conversation ensues.

Makes or causes the telephone of another repeatedly or continuously to ring.

Repeatedly mails or delivers or causes the delivery by any means, including electronically, of letters, telegrams, messages, packages, through assistive devices for people with vision impairments or hearing loss or any communication made through any available technologies or other objects.

Knowingly makes false allegations against a peace officer concerning the officer's performance of official duties with intent to influence or tamper with the officer's performance of official duties.

## Mississippi

Any person who purposefully engages in a course of conduct directed at a specific person, or who makes a credible threat, and who knows or should know that the conduct would cause a reasonable person to fear for his or her own safety, to fear for the safety of another person or to fear damage or destruction of his or her property, is guilty of the crime of stalking.

Course of conduct means a pattern of conduct composed of a series of two or more acts over a period of time, however short, evidencing a continuity of purpose and that would cause a reasonable person to fear for his or her own safety, to fear for the safety of another person, or to fear damage or destruction of his or her property. Such acts may include, but are not limited to, the following or any combination thereof, whether done directly or indirectly:



Following or confronting the other person in a public place or on private property against the other person's will;

Contacting the other person by telephone or mail, or by electronic mail or communication; or

Threatening or causing harm to the other person or a third party.

Credible threat means a verbal or written threat to cause harm to a specific person or to cause damage to property that would cause a reasonable person to fear for the safety of that person or damage to the property.

### Cyber Stalking

Cyber Stalking occurs when

A person uses in an electronic mail or electronic communication any words or language threatening to inflict bodily harm to any person or to that person's child, sibling, spouse or dependent, or physical injury to the property of any person, or for the purpose of extorting money or other things of value from any person.

A person electronically mails or electronically communicates to another person repeatedly, whether or not conversation ensues, for the purpose of threatening, terrifying or harassing any person.

A person electronically mails or electronically communicates to another person and knowingly makes any false statement concerning death, injury, illness, disfigurement, indecent conduct, or criminal conduct of the person electronically mailed or of any member of the person's family or household with the intent to threaten, terrify or harass.

A person knowingly permits an electronic communication device under the person's control to be used for any purpose prohibited above.

### Missouri

Stalking according to Missouri law occurs when any person purposely and repeatedly engages in an unwanted course of conduct that causes alarm to another person when it is reasonable in that person's situation to have been alarmed by the conduct.

Here are additional definitions:

Alarm means to cause fear of danger of physical harm.

Course of conduct means a pattern of conduct composed of repeated acts over a period of time, however short, that serves no legitimate purpose. Such conduct may include, but is not limited to, following the other person, unwanted communication or unwanted contact.

Repeated means two or more incidents evidencing a continuity of purpose.

## Montana

A person commits the offense of stalking in Montana if the person purposely or knowingly causes another person substantial emotional distress or reasonable apprehension of bodily injury or death by repeatedly:

Following the stalked person; or

Harassing, threatening or intimidating the stalked person, in person, by mail, via electronic communication, or any other action, device or method.

## Nebraska

Any person who willfully harasses another person or a family or household member of such person with the intent to injure, terrify, threaten or intimidate commits the offense of stalking.

The following words, as used in the definition of stalking, are defined below:

“Harass” means to engage in a knowing and willful course of conduct directed at a specific person which seriously terrifies, threatens or intimidates the person and which serves no legitimate purpose

“Course of conduct” means a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose, including a series of acts of following, detaining, restraining the personal liberty of, or stalking the person or telephoning, contacting or otherwise communicating with the person

“Family or household member” means a spouse or former spouse of the victim, children of the victim, a person presently residing with the victim or who has resided with the victim in the past, a person who had a child in common with the victim, other persons related to the victim by consanguinity or affinity or any person presently involved in a dating relationship with the victim or who has been involved in a dating relationship with the victim.

“Dating relationship” means frequent, intimate associations primarily characterized by the expectation of affectional or sexual involvement but does not include a casual relationship or an ordinary association between persons in a business or social context.

## Nevada

A person who, without lawful authority, willfully or maliciously engages in a course of conduct that would cause a reasonable person to feel terrorized, frightened, intimidated, harassed or fearful for the immediate safety of a family or household member, and that actually causes the victim to feel terrorized, frightened, intimidated, harassed or fearful for the immediate safety of a family or household member, commits the crime of stalking .

“Course of conduct” means a pattern of conduct which consists of a series of acts over time that evidences a continuity of purpose directed at a specific person.

“Family or household member” means a spouse, a former spouse, a parent or other person who is related by blood or marriage or is or was actually residing with the person.

“Without lawful authority” includes acts which are initiated or continued without the victim's consent. The term does not include acts which are otherwise protected or authorized by constitutional or statutory law, regulation or order of a court of competent jurisdiction, including, but not limited to:

Picketing which occurs during a strike, work stoppage or any other labor dispute.

The activities of a reporter, photographer, camera operator or other person while gathering information for communication to the public if that person is employed or engaged by or has contracted with a newspaper, periodical, press association or radio or television station and is acting solely within that professional capacity.

The activities of a person that are carried out in the normal course of his or her lawful employment.

Any activities carried out in the exercise of the constitutionally protected rights of freedom of speech and assembly.

### Harassment

A person is guilty of harassment if:

Without lawful authority, the person knowingly threatens:

To cause bodily injury in the future to the person threatened or to any other person;

To cause physical damage to the property of another person;

To subject the person threatened or any other person to physical confinement or restraint; or

To do any act which is intended to substantially harm the person threatened or any other person with respect to his or her physical or mental health or safety; and

The person by words or conduct places the person receiving the threat in reasonable fear that the threat will be carried out.

### New Hampshire

A person commits stalking if such person:

Purposely, knowingly, or recklessly engages in a course of conduct targeted at a specific person which would cause a reasonable person to fear for his or her personal safety or the safety of a member of that person's immediate family, and the person is actually placed in such fear;

Purposely or knowingly engages in a course of conduct targeted at a specific individual, which the actor knows will place that individual in fear for his or her personal safety or the safety of a member of that individual's immediate family;

Under the ordinary definition of stalking, a person must engage in a course of conduct, which requires two or more acts. However, stalking also occurs when a person engages in a single act that violates a protective order and includes the conduct described above.

“Course of conduct” means 2 or more acts over a period of time, however short, which evidences a continuity of purpose. A course of conduct may include, but not be limited to, any of the following acts or a combination thereof:

Threatening the safety of the targeted person or an immediate family member.

Following, approaching, or confronting that person, or a member of that person's immediate family.

Appearing in close proximity to, or entering the person's residence, place of employment, school, or other place where the person can be found, or the residence, place of employment or school of a member of that person's immediate family.

Causing damage to the person's residence or property or that of a member of the person's immediate family.

Placing an object on the person's property, either directly or through a third person, or that of an immediate family member.

Causing injury to that person's pet, or to a pet belonging to a member of that person's immediate family.

Any act of communication (to impart a message by any method of transmission, including but not limited to telephoning or personally delivering or sending or having delivered any information or material by written or printed note or letter, package, mail, courier service or electronic transmission, including electronic transmissions generated or communicated via a computer. For purposes of this section, “computer” means a programmable, electronic device capable of accepting and processing data).

“Immediate family” means father, mother, stepparent, child, stepchild, sibling, spouse or grandparent of the targeted person, any person residing in the household of the targeted person, or any person involved in an intimate relationship with the targeted person.

### Harassment

A person is guilty of harassment, if such person:

Makes a telephone call, whether or not a conversation ensues, with no legitimate communicative purpose or without disclosing his or her identity and with a purpose to annoy, abuse, threaten, or alarm another; or

Makes repeated communications at extremely inconvenient hours or in offensively coarse language with a purpose to annoy or alarm another; or

Insults, taunts, or challenges another in a manner likely to provoke a violent or disorderly response; or

Knowingly communicates any matter of a character tending to incite murder, assault, or arson; or

With the purpose to annoy or alarm another, communicates any matter containing any threat to kidnap any person or to commit a violation of N.H. Rev. Stat. § 633:4 (Interference with Custody); or a threat to the life or safety of another; or

With the purpose to annoy or alarm another, having been previously notified that the recipient does not desire further communication, communicates with such person, when the communication is not for a lawful purpose or constitutionally protected.

“Communicates” means to impart a message by any method of transmission, including but not limited to telephoning or personally delivering or sending or having delivered any information or material by written or printed note or letter, package, mail, courier service or electronic transmission, including electronic transmissions generated or communicated via a computer (“Computer” means a programmable, electronic device capable of accepting and processing data).

### New Jersey

Stalking occurs when a person purposely or knowingly engages in a course of conduct directed at a specific person. This conduct must be such that a reasonable person would:

Fear for his/her safety, or

Fear for the safety of a third person, or

Suffer other emotional distress.

Depending on the circumstances, “course of conduct” can include repeatedly watching, following, monitoring, threatening, being close to someone, interfering with a person’s property or harassing the person. The law prohibits repeated verbal, written and electronic threats and threatening gestures.

#### New Mexico

Stalking consists of knowingly pursuing a pattern of conduct, without lawful authority, directed at a specific individual when the person intends that the pattern of conduct would place the individual in reasonable apprehension of death, bodily harm, sexual assault, confinement or restraint of the individual or another individual.

Lawful authority means within the scope of lawful employment or constitutionally protected activity; and pattern of conduct means two or more acts, on more than one occasion, in which the alleged stalker by any action, method, device or means, directly, indirectly or through third parties, follows, monitors, surveils, threatens or communicates to or about a person.

#### Harassment

Harassment consists of knowingly pursuing a pattern of conduct that is intended to annoy, seriously alarm or terrorize another person and that serves no lawful purpose. The conduct must be such that it would cause a reasonable person to suffer substantial emotional distress.

#### New York

A person is guilty of stalking when he or she intentionally, and for no legitimate purpose, engages in a course of conduct directed at a specific person, and knows or reasonably should know that such conduct:

is likely to cause reasonable fear of material harm to the physical health, safety or property of such person, a member of such person's immediate family or a third party with whom such person is acquainted; or

causes material harm to the mental or emotional health of such person, where such conduct consists of following, telephoning or initiating communication or contact with such person, a member of such person's immediate family or a third party with whom such person is acquainted, and the actor was previously clearly informed to cease that conduct; or

is likely to cause such person to reasonably fear that his or her employment, business or career is threatened, where such conduct consists of appearing, telephoning or initiating communication or contact at such person's place of employment or business, and the actor was previously clearly informed to cease that conduct.

The basic crime of Stalking is a crime in the fourth degree. However, aggravating circumstances or multiple convictions may elevate the crime to the 3rd, 2nd, or 1st degree-a more serious offence.

## North Carolina

Stalking occurs when a person willfully on more than one occasion harasses another person without legal purpose or willfully engages in a course of conduct directed at a specific person without legal purpose and the defendant knows or should know that the harassment or the course of conduct would cause a reasonable person to do any of the following:

Fear for the person's safety or the safety of the person's immediate family or close personal associates.

Suffer substantial emotional distress by placing that person in fear of death, bodily injury, or continued harassment.

Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly or through third parties, by any action, method, device or means, is in the presence of, or follows, monitors, observes, surveils, threatens or communicates to or about a person, or interferes with a person's property.

Harasses or harassment means knowing conduct, including written or printed communication or transmission, telephone, cellular or other wireless telephonic communication, facsimile transmission, pager messages or transmissions, answering machine or voice mail messages or transmissions, and electronic mail messages or other computerized or electronic transmissions directed at a specific person that torments, terrorizes or terrifies that person and that serves no legitimate purpose.

## North Dakota

Stalking occurs when a person stalks another person. It is a crime to intentionally stalk another person. To stalk means to engage in an intentional course of conduct directed at a specific person which frightens, intimidates or harasses that person, and that serves no legitimate purpose. The course of conduct may be directed toward that person or a member of that person's immediate family and must cause a reasonable person to experience fear, intimidation, or harassment.

"Course of conduct" means a pattern of conduct consisting of two or more acts evidencing a continuity of purpose.

"Harassment" occurs when a person, with intent to frighten or harass another person:

Communicates in writing or by electronic communication a threat to inflict injury on any person, to any person's reputation, or to any property;

Makes a telephone call anonymously or in offensively coarse language;

Makes repeated telephone calls or other electronic communication, whether or not a conversation ensues, with no purpose of legitimate communication; or

Communicates a falsehood in writing or by electronic communication and causes mental anguish.

## Ohio

Stalking occurs when a person, by engaging in a pattern of conduct, knowingly causes another person to believe that the offender will cause physical harm to the other person or cause mental distress to the other person. In addition, the stalking law prohibits a person from posting an electronic message with purpose to urge or incite another person to commit stalking.

## Oklahoma

Stalking occurs when any person willfully, maliciously and repeatedly follows or harasses another person in a manner that:

Would cause a reasonable person or a member of the immediate family of that person to feel frightened, intimidated, threatened, harassed or molested; and

Actually causes the person being followed or harassed to feel terrorized, frightened, intimidated, threatened, harassed or molested.

“Harasses” means a pattern or course of conduct directed toward another individual that includes, but is not limited to, repeated or continuing unconsented contact, that would cause a reasonable person to suffer emotional distress, and that actually causes emotional distress to the victim. Harassment includes harassing or obscene phone calls (a crime under 21 Okl.St. Ann. § 1172) and conduct that amounts to Malicious Intimidation or Harassment (a crime under 21 Okl.St. Ann. § 850).

“Course of conduct” means a pattern of conduct composed of a series of two (2) or more separate acts over a period of time, however short, evidencing a continuity of purpose.

“Unconsented contact” means any contact with another individual that is initiated or continued without the consent of the individual, or in disregard of that individual's expressed desire that the contact be avoided or discontinued. Unconsented contact includes but is not limited to any of the following:

Following or appearing within the sight of that individual.

Approaching or confronting that individual in a public place or on private property.

Appearing at the workplace or residence of that individual.

Entering onto or remaining on property owned, leased or occupied by that individual.

Contacting that individual by telephone.



Sending mail or electronic communications to that individual.

Placing an object on, or delivering an object to, property owned, leased or occupied by that individual.

## Oregon

Stalking occurs when a person knowingly alarms or coerces another person or a member of that person's immediate family or household by engaging in repeated and unwanted contact with the other person; and it is objectively reasonable for a person in the victim's situation to have been alarmed or coerced by the contact; and the repeated and unwanted contact causes the victim reasonable apprehension regarding the personal safety of the victim or a member of the victim's immediate family or household.

“Contact” includes but is not limited to:

Coming into the visual or physical presence of the other person;

Following the other person;

Waiting outside the home, property, place of work or school of the other person or of a member of that person's family or household;

Sending or making written or electronic communications in any form to the other person;

Speaking with the other person by any means;

Communicating with the other person through a third person;

Committing a crime against the other person;

Communicating with a third person who has some relationship to the other person with the intent of affecting the third person's relationship with the other person;

Communicating with business entities with the intent of affecting some right or interest of the other person;

Damaging the other person's home, property, place of work or school;

Delivering directly or through a third person any object to the home, property, place of work or school of the other person; or

Service of process or other legal documents unless the other person is served as provided in the Oregon Rules of Civil Procedure, Rule 7 or Rule 9.

## Pennsylvania

In Pennsylvania, the crime of stalking is defined as 'engaging in acts or course of conduct towards another person, including communicating with the person or following the person without having authority, under circumstances that show intent to cause substantial emotional distress to the person or make the person reasonably fear bodily injury.

The forms of communication covered by this stalking law include verbal, nonverbal, written and electronic means, such as telephone, e-mail, wireless communication and use of the Internet. A course of conduct includes threatening or obscene words, drawings or actions in person or anonymously.

## Rhode Island

"Stalking" occurs when a person harasses another person or willfully, maliciously, and repeatedly follows another person with the intent to place that person in reasonable fear of bodily injury. Harasses means a knowing and willful course of conduct directed at a specific person with the intent to seriously alarm, annoy, or bother the person, and which serves no legitimate purpose. The course of conduct must be such as would cause a reasonable person to suffer substantial emotional distress, or be in fear of bodily injury.

"Course of conduct" means a pattern of conduct composed of a series of acts over a period of time, evidencing a continuity of purpose.

### Cyber Stalking/ Cyber Harassment

This crime occurs when a person transmits any communication by computer or other electronic device to any other person or causes any person to be contacted for the sole purpose of harassing that person. "Harassing" means any knowing and willful course of conduct directed at a specific person which seriously alarms, annoys, or bothers the person, and which serves no legitimate purpose. The course of conduct must be of a kind that would cause a reasonable person to suffer substantial emotional distress, or be in fear of bodily injury.

Course of conduct means a pattern of conduct composed of a series of acts over a period of time, evidencing a continuity of purpose.

## South Carolina

Stalking means a pattern of words, whether verbal, written, or electronic, or a pattern of conduct that serves no legitimate purpose and is intended to cause and does cause a targeted person and would cause a reasonable person in the targeted person's position to fear:

death of the person or a member of his family ;

assault upon the person or a member of his family;  
bodily injury to the person or a member of his family;  
criminal sexual contact on the person or a member of his family;  
kidnapping of the person or a member of his family; or  
damage to the property of the person or a member of his family.

#### South Dakota

Stalking occurs when a person:

Willfully, maliciously and repeatedly follows or harasses another person;

Makes a credible threat to another person with the intent to place that person in reasonable fear of death or great bodily injury; or

Willfully, maliciously and repeatedly harasses another person by means of any verbal, electronic, digital media, mechanical, telegraphic or written communication.

“Harasses” means a knowing and willful course of conduct directed at a specific person which seriously alarms, annoys or harasses the person, and which serves no legitimate purpose. “Course of conduct” means a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose.

“Credible threat” means a threat made with the intent and the apparent ability to carry out the threat. A credible threat need not be expressed verbally.

#### Tennessee

"Stalking" means a willful course of conduct involving repeated or continuing harassment of another individual that would cause a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed or molested, and that actually causes the victim to feel terrorized, frightened, intimidated, threatened, harassed or molested. Intentional stalking is a crime.

"Course of conduct" means a pattern of conduct composed of a series of two or more separate noncontinuous acts evidencing a continuity of purpose.

"Emotional distress" means significant mental suffering or distress that may, but does not necessarily, require medical or other professional treatment or counseling.

"Harassment" means conduct directed toward a victim that includes, but is not limited to, repeated or continuing unconsented contact that would cause a reasonable person to suffer emotional distress, and

that actually causes the victim to suffer emotional distress. Harassment does not include constitutionally protected activity or conduct that serves a legitimate purpose.

"Unconsented contact" means any contact with another person that is initiated or continued without that person's consent, or in disregard of that person's expressed desire that the contact be avoided or discontinued. Unconsented contact includes, but is not limited to, any of the following:

Following or appearing within the sight of that person;

Approaching or confronting that person in a public place or on private property;

Appearing at that person's workplace or residence;

Entering onto or remaining on property owned, leased or occupied by that person;

Contacting that person by telephone;

Sending mail or electronic communications to that person; or

Placing an object on, or delivering an object to, property owned, leased or occupied by that person.

Texas

A person commits the crime of stalking if the person, on more than one occasion and pursuant to the same scheme or course of conduct that is directed specifically at another person, knowingly engages in conduct that:

Causes the other person, a member of the other person's family or household or an individual with whom the other person has a dating relationship to:

fear of bodily injury or death or

fear that an offense will be committed against the other person's property, or

to feel harassed, annoyed, alarmed, abused, tormented, embarrassed or offended; AND

Would cause a reasonable person to

fear bodily injury or death for himself or herself;

fear bodily injury or death for a member of the person's family or household or for an individual with whom the person has a dating relationship;

fear that an offense will be committed against the person's property; or

feel harassed, annoyed, alarmed, abused, tormented, embarrassed or offended; AND EITHER  
Constitutes an offense under Texas Penal Code Section 42.07 (Criminal Harassment), or

The actor knows or reasonably should know the other person will regard the conduct as threatening any of the following:

Bodily injury or death for the other person;

Bodily injury or death for a member of the other person's family or household or for an individual with whom the other person has a dating relationship; or

That an offense will be committed against the other person's property.

Utah

Stalking occurs when a person intentionally or knowingly engages in a course of conduct directed at a specific person and knows or should know that the course of conduct would cause a reasonable person:

to fear for the person's own safety or the safety of a third person; or

to suffer other emotional distress.

Stalking also occurs when a person intentionally or knowingly violates a stalking injunction (court order) or a permanent criminal stalking.

The term "course of conduct" means two or more acts directed at or toward a specific person, including:

Acts in which the actor follows, monitors, observes, photographs, surveils, threatens, or communicates to or about a person, or interferes with a person's property:

Directly, indirectly, or through any third party; and

By any action, method, device, or means; or

When the actor engages in any of the following acts or causes someone else to engage in any of these acts:

Approaches or confronts a person;

Appears at the person's workplace or contacts the person's employer or coworkers;

Appears at a person's residence or contacts a person's neighbors, or enters property owned, leased, or occupied by a person;

Places an object on or delivers an object to property owned, leased, or occupied by a person, or to the person's place of employment with the intent that the object be delivered to the person; or

Uses a computer, the Internet, text messaging, or any other electronic means to commit an act that is a part of the course of conduct.

### Harassment

Utah Criminal Law also defines a crime known as harassment. A person is guilty of harassment if, with intent to frighten or harass another, he communicates a written or recorded threat to commit any violent felony.

### Vermont

Stalking occurs when a person stalks another person. Intentional stalking is a crime. To stalk means to engage in a course of conduct which consists of following, lying in wait, or harassing, which (a) serves no legitimate purpose and (b) would cause a reasonable person to fear for his or her physical safety or would cause a reasonable person substantial emotional distress.

“Course of conduct” means a pattern of conduct composed of two or more acts over a period of time, however short, evidencing a continuity of purpose.

“Following” means maintaining over a period of time a visual or physical proximity to another person in such manner as would cause a reasonable person to have a fear of unlawful sexual conduct, unlawful restraint, bodily injury or death.

“Harassing” means actions directed at a specific person, or a member of the person's family, which would cause a reasonable person to fear unlawful sexual conduct, unlawful restraint, bodily injury or death, including but not limited to verbal threats, written, telephonic, or other electronically communicated threats, vandalism or physical contact without consent.

“Lying in wait” means hiding or being concealed for the purpose of attacking or harming another person.

### Virginia

Stalking occurs when a person, on more than one occasion, engages in conduct directed at another person with the intent to place that other person in reasonable fear of death, criminal sexual assault or bodily injury to that other person or to that other person's family or household member.

Stalking also occurs when a person, on more than one occasion, engages in conduct directed at another person when the person knows or reasonably should know that such conduct places a person in reasonable fear of death, criminal sexual assault or bodily injury to that other person or to that other person's family or household member.

## Washington

A person commits the crime of stalking if, without lawful authority the person:

Intentionally and repeatedly harasses or repeatedly (on more than one occasion) follows another person; and

The person being harassed or followed is placed in fear that the stalker intends to injure the person, another person, or property of the person or of another person; and the stalker either:

Intends to frighten, intimidate, or harass the person (even if the stalker was not given actual notice that the person did not want the stalker to contact or follow the person); or

Knows (or reasonably should know) that the person is afraid, intimidated, or harassed (even if the stalker did not intend to place the person in fear or intimidate or harass the person).

## West Virginia

Any person who repeatedly follows another knowing or having reason to know that the conduct causes the person followed to reasonably fear for his or her safety or suffer significant emotional distress, is guilty of stalking .

Any person who repeatedly harasses or repeatedly makes credible threats against another is guilty of harassment.

“Credible threat” means a threat of bodily injury made with the apparent ability to carry out the threat and with the result that a reasonable person would believe that the threat could be carried out.

“Harasses” means willful conduct directed at a specific person or persons which would cause a reasonable person mental injury or emotional distress.

## Wisconsin

Stalking occurs when all of the following exists

The actor intentionally engages in a course of conduct directed at a specific person that would cause a reasonable person under the same circumstances to suffer serious emotional distress or to fear bodily injury to or the death of himself or herself or a member of his or her family or household.

The actor knows or should know that at least one of the acts that constitute the course of conduct will cause the specific person to suffer serious emotional distress or place the specific person in reasonable fear of bodily injury to or the death of himself or herself or a member of his or her family or household.

The actor's acts cause the specific person to suffer serious emotional distress or induce fear in the specific person of bodily injury to or the death of himself or herself or a member of his or her family or household.

The term "Course of conduct" means a series of 2 or more acts carried out over time, however short or long, that show a continuity of purpose, including any of the following:

Maintaining a visual or physical proximity to the victim.

Approaching or confronting the victim.

Appearing at the victim's workplace or contacting the victim's employer or coworkers.

Appearing at the victim's home or contacting the victim's neighbors.

Entering property owned, leased, or occupied by the victim.

Contacting the victim by telephone or causing the victim's telephone or any other person's telephone to ring repeatedly or continuously, regardless of whether a conversation ensues.

Photographing, videotaping, audio taping, or, through any other electronic means, monitoring or recording the activities of the victim. This subdivision applies regardless of where the act occurs.

Sending material by any means to the victim or, for the purpose of obtaining information about, disseminating information about, or communicating with the victim, to a member of the victim's family or household or an employer, coworker, or friend of the victim.

Placing an object on or delivering an object to property owned, leased, or occupied by the victim.

Delivering an object to a member of the victim's family or household or an employer, coworker, or friend of the victim or placing an object on, or delivering an object to, property owned, leased, or occupied by such a person with the intent that the object be delivered to the victim.

Causing a person to engage in any of the acts described in 1. to 9.

## Wyoming

A person commits the crime of stalking if, with intent to harass another person, the person engages in a course of conduct reasonably likely to harass that person, including but not limited to any combination of the following:



Communicating, anonymously or otherwise, or causing a communication with another person by verbal, electronic, mechanical, telegraphic, telephonic or written means in a manner that harasses;

Following a person, other than within the residence of the perpetrator;

Placing a person under surveillance by remaining present outside his or her school, place of employment, vehicle, other place occupied by the person, or residence other than the residence of the perpetrator; or

Otherwise engaging in a course of conduct that harasses another person.

“Course of conduct” means a pattern of conduct composed of a series of acts over any period of time evidencing a continuity of purpose.

“Harass” means to engage in a course of conduct, including but not limited to verbal threats, written threats, lewd or obscene statements or images, vandalism or nonconsensual physical contact, directed at a specific person or the family of a specific person, which the perpetrator knew or should have known would cause a reasonable person to suffer substantial emotional distress, and which does in fact seriously alarm the person toward whom it is directed.