

PENNSYLVANIA CONSOLIDATED STATUTES
CRIMES AND OFFENSES (TITLE 18)

PART II. DEFINITION OF SPECIFIC OFFENSES.

CHAPTER 31. SEXUAL OFFENSES

Subchapter A. General Provisions

Section 3101. Definitions

Section 3102. Mistake as to age

Section 3104. Evidence of victim's sexual conduct

Section 3105. Prompt complaint

Section 3106. Testimony of complainants

Section 3107. Resistance not required

Subchapter B. Definition Of Offenses

Section 3121. Rape

Section 3122.1. Statutory sexual assault

Section 3123. Involuntary deviate sexual intercourse

Section 3124.1. Sexual assault

Section 3124.2. Institutional sexual assault

Section 3125. Aggravated indecent assault

Section 3126. Indecent assault

Offense	Section	Grade
§ 3121	Rape	Felony 1
§ 3122.1	Statutory Sexual Assault	Felony 2
§ 3123	Involuntary Deviant Sexual Intercourse	Felony 1
§ 3124.1	Sexual Assault	Felony 2
§ 3124.2	Institutional Sexual Assault	Felony 2
§ 3125	Aggravated Indecent Assault	Misdemeanor 1
§ 3126	Indecent Assault	Felony 2

§ 3101. Definitions

Subject to additional definitions contained in subsequent provisions of this chapter which are applicable to specific provisions of this chapter, the following words and phrases when used in this chapter shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

"Complainant."

An alleged victim of a crime under this chapter.

"Deviate sexual intercourse."

Sexual intercourse per os or per anus between human beings and any form of sexual intercourse with an animal. The term also includes penetration, however slight, of the genitals or anus of another person with a foreign object for any purpose other than good faith medical, hygienic or law enforcement procedures.

"Forcible compulsion."

Compulsion by use of physical, intellectual, moral, emotional or psychological force, either express or implied. The term includes, but is not limited to, compulsion resulting in another person's death, whether the death occurred before, during or after sexual intercourse.

"Foreign object."

Includes any physical object not a part of the actor's body.

"Indecent contact."

Any touching of the sexual or other intimate parts of the person for the purpose of arousing or gratifying sexual desire, in either person.

"Sexual intercourse."

In addition to its ordinary meaning, includes intercourse per os or per anus, with some penetration however slight; emission is not required.

§ 3102. Mistake as to age

Except as otherwise provided, whenever in this chapter the criminality of conduct depends on a child being below the age of 14 years, it is no defense that the defendant did not know the age of the child or reasonably believed the child to be the age of 14 years or older. When criminality depends on the child's being below a critical age older than 14 years, it is a defense for the defendant to prove by a preponderance of the evidence that he or she reasonably believed the child to be above the critical age.

§ 3104. Evidence of victim's sexual conduct

(a) General rule.--Evidence of specific instances of the alleged victim's past sexual conduct, opinion evidence of the alleged victim's past sexual conduct, and reputation evidence of the alleged victim's past sexual conduct shall not be admissible in prosecutions under this chapter except evidence of the alleged victim's past sexual conduct with the defendant where consent of the alleged victim is at issue and such evidence is otherwise admissible pursuant to the rules of evidence.

(b) Evidentiary proceedings.--A defendant who proposes to offer evidence of the alleged victim's past sexual conduct pursuant to subsection (a) shall file a written motion and offer of proof at the time of trial. If, at the time of trial, the court determines that the motion and offer of proof are sufficient on their faces, the court shall order an in camera hearing and shall make findings on the record as to the relevance and admissibility of the proposed evidence pursuant to the standards set forth in subsection (a).

§ 3105. Prompt complaint

Prompt reporting to public authority is not required in a prosecution under this chapter: Provided, however, That nothing in this section shall be construed to prohibit a defendant from introducing evidence of the complainant's failure to promptly report the crime if such evidence would be admissible pursuant to the rules of evidence.

§ 3106. Testimony of complainants

The credibility of a complainant of an offense under this chapter shall be determined by the same standard as is the credibility of a complainant of any other crime. The testimony of a complainant need not be corroborated in prosecutions under this chapter. No instructions shall be given cautioning the jury to view the complainant's testimony in any other way than that in which all complainants' testimony is viewed.

§ 3107. Resistance not required

The alleged victim need not resist the actor in prosecutions under this chapter: Provided, however, That nothing in this section shall be construed to prohibit a defendant from introducing evidence that the alleged victim consented to the conduct in question.

§ 3121. Rape

(a) Offense defined.--A person commits a felony of the first degree when he or she engages in sexual intercourse with a complainant:

1. By forcible compulsion.
2. By threat of forcible compulsion that would prevent resistance by a person of reasonable resolution.
3. Who is unconscious or where the person knows that the complainant is unaware that the sexual intercourse is occurring.
4. Where the person has substantially impaired the complainant's power to appraise or control his or her conduct by administering or employing, without the knowledge of the complainant, drugs, intoxicants or other means for the purpose of preventing resistance.
5. Who suffers from a mental disability which renders the complainant incapable of consent.
6. Who is less than 13 years of age.

(b) Additional penalties.--In addition to the penalty provided for by subsection (a), a person may be sentenced to an additional term not to exceed ten years' confinement and an additional amount not to exceed \$100,000 where the person engages in sexual intercourse with a complainant and has substantially impaired the complainant's power to appraise or control his or her conduct by administering or employing, without the knowledge of the complainant, any substance for the purpose of preventing resistance through the inducement of euphoria, memory loss and any other effect of this substance.

§ 3122.1. Statutory sexual assault

Except as provided in section 3121 (relating to rape), a person commits a felony of the second degree when that person engages in sexual intercourse with a complainant under the age of 16 years and that person is four or more years older than the complainant and the complainant and the person are not married to each other.

§ 3123. Involuntary deviate sexual intercourse

(a) Offense defined.--A person commits a felony of the first degree when he or she engages in deviate sexual intercourse with a complainant:

1. by forcible compulsion;
2. by threat of forcible compulsion that would prevent resistance by a person of reasonable resolution;
3. who is unconscious or where the person knows that the complainant is unaware that the sexual intercourse is occurring;
4. where the person has substantially impaired the complainant's power to appraise or control his or her conduct by administering or employing, without the knowledge of the complainant, drugs, intoxicants or other means for the purpose of preventing resistance;
5. who suffers from a mental disability which renders him or her incapable of consent;
6. who is less than 13 years of age; or

7. who is less than 16 years of age and the person is four or more years older than the complainant and the complainant and person are not married to each other.

(b) Definition.--As used in this section, the term "forcible compulsion" includes, but is not limited to, compulsion resulting in another person's death, whether the death occurred before, during or after the sexual intercourse.

§ 3124.1. Sexual assault

Except as provided in section 3121 (relating to rape) or 3123 (relating to involuntary deviate sexual intercourse), a person commits a felony of the second degree when that person engages in sexual intercourse or deviate sexual intercourse with a complainant without the complainant's consent.

§ 3124.2. Institutional sexual assault

(a) General rule. Except as provided in sections 3121 (relating to rape), 3122.1 (relating to statutory sexual assault), 3123 (relating to involuntary deviate sexual intercourse), 3124.1 (relating to sexual assault) and 3125 (relating to aggravated indecent assault), a person who is an employee or agent of the Department of Corrections or a county correctional authority, youth development center, youth forestry camp, State or county juvenile detention facility, other licensed residential facility serving children and youth, or mental health or mental retardation facility or institution commits a felony of the third degree when that person engages in sexual intercourse, deviate sexual intercourse or indecent contact with an inmate, detainee, patient or resident.

(b) Definition.--As used in this section, the term "agent" means a person who is assigned to work in a State or county correctional or juvenile detention facility, a youth development center, youth forestry camp, other licensed residential facility serving children and youth, or mental health or mental retardation facility or institution who is employed by any State or county agency or any person employed by an entity providing contract services to the agency.

§ 3125. Aggravated indecent assault

Except as provided in sections 3121 (relating to rape), 3122.1 (relating to statutory sexual assault), 3123 (relating to involuntary deviate sexual intercourse) and 3124.1 (relating to sexual assault), a person who engages in penetration, however slight, of the genitals or anus of a complainant with a part of the person's body for any purpose other than good faith medical, hygienic or law enforcement procedures commits aggravated indecent assault, a felony of the second degree, if:

1. the person does so without the complainant's consent;
2. the person does so by forcible compulsion;
3. the person does so by threat of forcible compulsion that would prevent resistance by a person of reasonable resolution;
4. the complainant is unconscious or the person knows that the complainant is unaware that the penetration is occurring;
5. the person has substantially impaired the complainant's power to appraise or control his or her conduct by administering or employing, without the knowledge of the complainant, drugs, intoxicants or other means for the purpose of preventing resistance;
6. the complainant suffers from a mental disability which renders him or her incapable of consent;
7. the complainant is less than 13 years of age; or
8. the complainant is less than 16 years of age and the person is four or more years older than the complainant and the complainant and the person are not married to each other.

§ 3126. Indecent assault

(a) Offense defined.--A person who has indecent contact with the complainant or causes the complainant to have indecent contact with the person is guilty of indecent assault if:

1. the person does so without the complainant's consent;
2. the person does so by forcible compulsion;
3. the person does so by threat of forcible compulsion that would prevent resistance by a person of reasonable resolution;
4. the complainant is unconscious or the person knows that the complainant is unaware that the indecent contact is occurring;
5. the person has substantially impaired the complainant's power to appraise or control his or her conduct by administering or employing, without the knowledge of the complainant, drugs, intoxicants or other means for the purpose of preventing resistance;
6. the complainant suffers from a mental disability which renders him or her incapable of consent;
7. the complainant is less than 13 years of age; or
8. the complainant is less than 16 years of age and the person is four or more years older than the complainant and the complainant and the person are not married to each other.

(b) Grading.--Indecent assault under subsection (a)(7) is a misdemeanor of the first degree. Otherwise, indecent assault is a misdemeanor of the second degree.