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Rape II

Leigh Bienen

I. INTRODUCTION

This is the second of a special two-part survey of rape laws in the United States. Rape I, published in the *Women's Rights Law Reporter* (December 1976), consisted of commentary on the legislative history of the New Jersey and Pennsylvania rape statutes, federal laws regarding rape and recent Supreme Court decisions. Rape II consists primarily of a chart of the rape laws, a proposed model statute and an analysis of recent statutory changes.

The chart was compiled while the author was a research attorney at the Center for Rape Concern at Philadelphia General Hospital in 1975-76. It began as an attempt to set out recent pro-victim reforms. As research continued, the author found that it was impossible to understand the new laws without understanding the statutory structure of existing sex offense laws. The chart was designed to simplify and summarize an area of the law which is developing very rapidly.

The attempt to publish an up-to-date compilation was optimistic at best, and perhaps foolhardy. In terms of details no publication, not even the pocket parts of the annotated statutes, can ever be completely up-to-date. For example, West Virginia and Wisconsin enacted new statutes as we were going to press. Wisconsin's was received in time to include in the chart; West Virginia's was not. Neither is included in the analysis of recent changes. However, this up to the minute quality is perhaps the least important aspect of the chart. Rather, as the chart developed and became refined through several edited versions, it became clear that it would be most useful as a guide to the extraordinarily varied types of statutes.

The model statute grew out of research on the chart and was drafted with the explicit intent of incorporating a variety of reforms favorable to victims. It was also written as a bill to be introduced in states where reform of the sex offense statutes has not yet taken place. For this reason the model statute does not deal with sentencing, penalties or with other related areas of the law such as prostitution and child abuse.

The chart is intended to answer specific questions and to allow for structural comparisons. Detailed

analyses and state by state cross references were not attempted, although recent trends are summarized. While we would have liked to have included such analyses, neither time nor space permitted. Instead our concern was to set out the law as accurately and comprehensibly as possible. We hope our readers find that the considerable effort involved is of use to them.

II. PHILADELPHIA CENTER FOR RAPE CONCERN

Joseph J. Peters, Director

Linda C. Meyer, Research Director

The Philadelphia Center for Rape Concern was founded in 1970 by Joseph J. Peters, M.D. Funded in 1972 by the National Institute of Mental Health, the Center has investigated the social and psychological effects of rape on victims, the effects of interaction with the criminal justice system, and the factors which influence outcome of sexual assault cases.

The study design included a survey of 1,401 victims who reported rape between April 1, 1973 and June 30, 1975. Approximately 800 victims responded to the questions of trained research social workers at four time periods: first, immediately following the reported rape

c.l. = common law

def. = definition, defined

> = greater than

< = less than

am. = amended, amendment(s)

stat. = statute, statutory

corrob. = corroboration

rep. = reputation

admiss. = admissible, admission

off. = offense, offender

psych. eval. = psychiatric evaluation

b/c = because

w/ = with

w/o = without

incl. = includes, included, including

excl. = excludes, excluded, excluding

MPC = Model Penal Code

min. = minimum

max. = maximum

co. = county

ch. = chapter

art. = article

L. = Laws of, law

tit. = title

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**The author wishes to acknowledge the editorial assistance of Pamela Kaufelt.

(usually within five days),¹ and then at 3, 7, and 11 to 12 months after the report. This social work interview had the following objectives: to detail the particulars of the rape incident, to assess the victim's adjustment prior to the assault, to record the responses of others to the rape allegation (such as family, friends, associates, medical personnel, police and district attorneys) and to document the victim's reactions and subsequent adjustments to the assault.

Psychiatrists interviewed 331 victims, 41 percent of the sample, soon after the report to make an assessment of the psychological impact of the incident on the victim and to record the victim's pre-rape psycho-sexual development.

In addition to the extensive social and psychological data collected, the complete court records for cases brought to Philadelphia Court of Common Pleas from 1970 to December 1974 were obtained for analysis and will be linked to the victim's record to study its outcome in the criminal justice system.

In 1974 the Center received a supplementary grant to study the evidentiary requirements to substantiate accusations of rape. Included in this was funding for court observation in an attempt to understand the low conviction rate for sexual assaults and to document factors affecting the victim's reaction to the trial. The study also focused on the decision-making processes of the police, assistant district attorneys, defense attorneys, court administrators and judges. The 1974 grant also included funds for an evaluation of rape law in the fifty states, which culminated in the Chart of the Rape Laws published *infra*.

The efforts of the project staff have been directed toward obtaining as much relevant information as possible in a systematic manner, through a multidisciplinary approach and based on the perspectives of psychiatrists, social workers, psychologists, sociologists, criminologists, attorneys, pathologists and gynecologists. This multidisciplinary effort resulted in what can be considered the most comprehensive collection of data on, and experience with, rape victims in the country.

The Philadelphia Center for Rape Concern has been funded by Philadelphia Mental Health/Mental Retardation to provide comprehensive services to victims of rape in Philadelphia. Staffed by social

workers and psychiatrists, the Center provides crisis intervention and counseling to rape victims and their families. The Center is located at Philadelphia General Hospital, whose adult and pediatric emergency rooms treat approximately 1,000 victims of rape and sexual assault each year.

III: PHILADELPHIA CENTER FOR RAPE CONCERN MODEL SEX OFFENSE STATUTE²

Leigh Bienen, Staff Attorney

Linda C. Meyer, Research Director

Chapter 100

Criminal Sexual Assault

100.01 Definitions

100.02 Criminal Sexual Assault in the First Degree

100.03 Criminal Sexual Assault in the Second Degree

100.04 Criminal Sexual Assault in the Third Degree

100.05 Criminal Sexual Assault in the Fourth Degree

100.06 Assault with Intent to Commit Criminal Sexual

Assault in the First or Second Degree

100.07 Resistance Not Required

100.08 Corroboration Not Required

100.09 Prompt Complaint Not Required

100.10 Presumptions of Inability Abolished

100.11 Mistake as to Victim's Age No Defense

100.12 Medical Exception

100.13 Admissibility of Evidence

100.14 Jury Instruction

100.15 Saving Clause

100.16 Repealing Clause

100.01 Definitions

1. "Actor" shall mean the person accused of a sex offense.

2. "Victim" shall mean the person claiming to have been subjected to a sex offense.

3. "Sexual penetration" shall mean sexual intercourse, in its ordinary meaning, cunnilingus, fellatio, anal

¹These data refer only to reported cases. There is almost no information about unreported cases. For an interesting discussion of the decision to report and prosecute, see S. Reisner, Factors Influencing the Decision of the Rape Victim to Participate in the Process of Law Enforcement, Spring 1975 (unpublished thesis in Firestone Library, Princeton University). The author collected information from a number of rape crisis centers in different parts of the country.

²Supported by NIMH Grant #21304, Philadelphia Assault Victim Study, Joseph J. Peters, M.D., Director, Philadelphia General Hospital. This model statute was compiled in part by reviewing all recently enacted, pro-victim statutes. Except for minor changes in language every section is currently in force in some state. The only exception is § 100.13, Admissibility of Evidence, which combines features from several statutes. This section attempts to accommodate the victim's right to privacy with the defendant's constitutional rights to a fair trial, with particular regard to *Chambers v. Mississippi*, 410 U.S. 284 (1973) and *Cox Broadcasting Corp. v. Cohn*, 420 U.S. 469 (1975) discussed in Bienen, *Recent Developments in Constitutional Law Regarding Rape*, 3 WOMEN'S RIGHTS LAW REPORTER 45, 55 (Dec. 1976).

intercourse between persons regardless of sex, or any intrusion, however slight, of any part of the actor's body or any object manipulated by the actor into the genital or anal opening of the victim's body. Sexual penetration shall not require emission of semen. Any penetration is sufficient to complete the crime.

4. "Sexual contact" shall mean the intentional touching of the victim's clothing covering the immediate area of the victim's sexual or intimate parts. Sexual contact shall include the victim's touching the sexual or intimate parts of the offender when such touching is reasonably construed as being for the sexual arousing or gratification of the actor.

5. "Intimate parts" includes the primary genital area, inner thigh, buttock or breast of any person.

6. "Serious personal injury" shall mean bodily injury lesser than great bodily harm and includes but is not limited to disfigurement, bruising, laceration, mental anguish or trauma, chronic or recurrent pain, pregnancy, disease or impairment of a sexual organ.

7. "Great mental anguish" means psychological or emotional damage that requires psychiatric or psychological care or treatment, either on an in-patient or out-patient basis, and is characterized by behavioral change or physical symptoms.

8. "Great bodily harm" includes any gunshot wound, any knife wound, or any wound by any cutting instrument used as a weapon. It includes but is not limited to loss of a limb, sight, or any other faculty, either on a temporary or permanent basis.

9. "Position of authority" means position occupied by a parent, guardian, relative, household member, teacher, employer, supervisor, or custodian of an institution or other person who by reason of that position is able to exercise more than ordinary influence over the victim.

10. "Mentally incapacitated" means that a person is rendered temporarily incapable of appraising or controlling his or her conduct due to the influence of a narcotic, anesthetic or other substance administered without consent or due to any other act committed upon that person without consent.

11. "Mental defective" means a person who suffers from a mental disease or defect which renders that person temporarily or permanently incapable of appraising the nature of his or her conduct.

12. "Physically helpless" means a person is unconscious, asleep, or for any other reason is physically unable to communicate unwillingness to act.

13. "Force" means the use of actual physical force or physical violence.

14. "Threat of force" means the use of threats to use physical force or physical violence against the victim, including the use of threats of physical punishment, kidnapping, serious bodily injury and great bodily harm. Threat of force includes threats of present or

future retaliation against the victim or another, when the victim believes there is an ability to execute such threats.

100.02 Criminal sexual assault in the first degree shall consist of sexual penetration perpetrated:

1. on a victim less than thirteen years old.
2. by the use of force.
3. by the use of force or threats of force which results in great bodily harm, serious personal injury or great mental anguish.
4. when the actor knew or should have known that the victim was physically helpless, mentally incapacitated or mentally defective.
5. by the use of force or threat of force when the actor is aided or abetted by one or more persons.
6. when the actor is armed with a deadly weapon.

Criminal sexual assault in the first degree is a Class 1 felony.

100.03 Criminal sexual assault in the second degree shall consist of sexual penetration perpetrated:

1. on a victim at least thirteen and no more than fifteen years of age when the actor is over 21 years of age or in a position of authority over the victim and uses that authority to compel the victim to submit.
2. by the threat of force.
3. while the victim is in official custody or detained in a hospital, prison or other institution and the actor is in a position of authority over the victim.

Criminal sexual assault in the second degree is a Class 2 felony.

100.04 Criminal sexual assault in the third degree shall consist of sexual contact perpetrated:

1. on a victim less than thirteen years old.
2. on a victim who is at least thirteen years old and no more than fifteen years old, and the actor is over 21 years of age.
3. by the use of force or threat of force.
4. when the actor knew or should have known that the victim was physically helpless, mentally incapacitated, or mentally defective.
5. when the actor is armed with a deadly weapon.

Criminal sexual assault in the third degree is a Class 3 felony.

100.05 Criminal sexual assault in the fourth degree shall consist of sexual contact perpetrated:

1. when the actor knows or has reason to know the contact is offensive to the victim.

2. when the actor knows that the victim is unaware that the contact is being committed.
Criminal sexual assault in the fourth degree shall be a class A misdemeanor.

100.06 Assault with intent to commit criminal sexual assault in the first or second degree

An actor who commits assault with intent to commit criminal sexual assault of the first or second degree is guilty of a Class 3 felony.

100.07 Resistance not required

The prosecution shall not be required to offer proof that the victim resisted, or resisted to the utmost, or reasonably resisted the sexual assault in any offense defined by this chapter.

100.08 Corroboration not required

The testimony of a victim need not be corroborated in prosecutions under this chapter. The prosecution may proceed upon the testimony of the victim alone.

100.09 Prompt complaint not required

There shall be no stated time limitation for the filing of complaints under this section; however, the time of complaint may be offered in evidence to support or rebut the victim's testimony.

100.10 Presumptions of inability abolished

No offender shall be presumed to be incapable of committing the act prescribed by this chapter because of age or previous or subsequent impotence.

100.11 Mistake as to victim's age no defense

In prosecutions under this chapter it shall be no defense that the actor believed the victim to be above the age stated for the definition of the offense, even if such a mistaken belief was reasonable.

100.12 Medical exception

The offenses in this chapter shall not be applied to acts performed for bona fide medical purposes, provided such acts are performed in a manner consistent with reasonable and professionally accepted medical practices.

100.13 Admissibility of evidence

A. Evidence of the victim's previous sexual conduct, whether in the form of specific incidents, reputation evidence or opinion evidence, shall not be admitted in prosecutions under this chapter, either for the purpose of proving the conduct of the victim or for the purpose of impeaching the credibility of the victim as a witness, except and only to the extent that the judge finds that the probative value of the following proposed evidence substantially outweighs its prejudicial effect:

1. evidence of the victim's past sexual conduct with the actor within the twelve (12) months preceding the offense.
2. evidence of specific instances of sexual activity showing the source or origin of semen, pregnancy or disease.

B. If the defendant proposes to offer evidence described in A(1) or (2) above:

1. A written motion shall be made at least 30 days prior to trial, unless later for good cause shown, to the court and the opposing parties, stating the moving party has an offer of proof of the relevancy and materiality of evidence of the following: evidence of specific instances of sexual activity showing the source of semen, pregnancy or disease or of the victim's prior conduct with the actor, opinion evidence of the same, or reputation evidence of the same.
2. The written motion shall be accompanied by an affidavit in which the offer of proof shall be stated.
3. If the court finds that the offer of proof is sufficient, the court shall notify the other party and set a hearing to be held in camera prior to trial. In such hearing the court shall allow the questioning of the victim regarding the offer of proof made by the moving party and shall otherwise allow a full presentation of the offer of proof including, but not limited to, the presentation of witnesses. During the in camera hearing, the victim has a right to have counsel present, and the taking of testimony shall be a matter of record.
4. An in camera hearing may be held during trial upon application by the defense if evidence first becomes available at the time of trial or for good cause shown.
5. At the conclusion of the hearing, if the court finds the offered evidence relevant to a material issue in the case, the court shall order that the relevant evidence may be introduced; and the court shall prescribe the nature of the evidence and the questions to be permitted. The moving party then may offer the evidence pursuant to a court order.

C. In any prosecution under this chapter the accused may not present evidence of any previous sexual conduct of the victim to challenge the victim's reliability as a witness, unless the prosecutor has



presented testimony concerning such conduct, or of the absence of such conduct, in which case the scope of the cross examination shall be limited to evidence presented by the prosecutor or complaining witness. This section does not limit the ability of either the state or the defense to impeach credibility by offering proof of prior felony convictions.

100.14 Jury instruction

In any prosecution under this chapter, or in prosecutions for attempts or conspiracies to commit an offense under this chapter, the jury shall not be instructed to examine the testimony of the victim with caution because of the nature of the charge. Nor shall the jury be instructed that such a charge is easy to make but difficult to defend against, nor shall any other instruction be given to the jury which suggests that the victim is to be regarded any differently from the complaining witness in any other criminal offense. The term "unchaste character" shall not be used in any court in any case in which an offense under this chapter is charged. Nor shall the jury be instructed that it may be inferred that a victim who has previously consented to sexual activity with the defendant would be likely to consent to sexual activity with the defendant again.

100.15 Saving clause

If any part or application of this chapter is held to be invalid, the remainder of its application to other situations, persons or circumstances shall not be affected.

100.16 This act repeals and replaces former sections concerning Rape, Attempted Rape, Sodomy, Deviate Sexual Intercourse, Molestation of a Child, Corruption of Minors, Seduction, Fornication, Incest and Sexual Assault.

IV. CHART OF CURRENT STATE LAWS

This chart is intended as a reference tool for comparative study and analysis of sex offenses and rape laws, and for those monitoring legislative change in these laws. It consists of the statutes currently in force in the 50 states plus Guam, the Virgin Islands, the District of Columbia and Puerto Rico.

Column 1 indicates the statute's location in the compiled laws of the jurisdiction, including section numbers and headings. If the bound volume on file had not yet been updated with a 1976 pocket part, or replaced, the citation refers to the session laws of 1975. When this was necessary, the attempt was to be as specific as possible, rather than simply to adhere to the accepted citation formula. The session laws are often imperfectly indexed, and it was felt that easy accessibility was more important than conformity to an arbitrary standard.

The statute cited in column 1 is the rape statute. Where the rape and sodomy statutes are the same (*i.e.*, if the statute is sex neutral) the sodomy statute is included. Where the statutes are separate, sodomy, along with incest and other sex-related offenses, appears in the statutory cross-reference section (column 6).

Section numbers are included to describe the statute and indicate how precise it is, where rape is broken down into sub-categories, or where separate offenses

are delineated. For example, while space limitations do not allow listing every provision of the Michigan Sexual Conduct Law, a glance at the elaborate numbering system in column 1 tells the reader it is a very detailed and precise statute. The shortest statute on the books, which also happens to be one of the least favorable to victims, is the District of Columbia's. One sentence includes rape, statutory rape and punishment. The more recently enacted statutes tend to be more specific, as is the Center for Rape Concern Model Sex Offense Statute, reprinted *supra*.

Column 2 indicates the source of the present law and recent amendments. Detailed research on legislative history was not done for all states, in the sense that amendments cited were not checked by going back to relevant session laws. A detailed legislative history of New Jersey and Pennsylvania, published in 3 *Women's Rights Law Reporter* 45 (Dec. 1976), shows the amount of extensive research needed to accomplish that objective. This author discovered that it is virtually impossible to do legislative history outside of the state which enacted the statute. Even law libraries with excellent facilities are unlikely to have session laws for all states going back to the 18th century. The legislative history and source of law listed, then, is that which is included in the annotated statutes. Sometimes there was none, and sometimes the legislative history was incomplete. Whatever was provided in notes to the statutes is stated as the source of law.

Column 2 also attempts to provide information on the statute's form. Some are wholly original. Some are modeled after the statute of 18 Elizabeth 1, others after the pro-victim Michigan statute or the Model Penal Code. Some use the Model Penal Code terminology, but do not follow the Model Penal Code in substance. Even those which explicitly follow the Model Penal Code (e.g. Pennsylvania) often make important changes in formulation. Yet the derivation and influence of the Code is so clear that it is listed as the source of the law.

Column 3 states age definitions delineated in the statute. The statutory age limits for both victims and offenders are included in this section, if both are specified by statute. Sometimes the age of consent is included, if it is stated in the annotations and if there is no statement as to the age for statutory rape. (The age of consent and the age for statutory rape, while often identical, are not always the same.) Several states define two types of statutory rape: for example, one for females under 12 or 10, and the other for females between the ages of 12 and 16. These statutes attempt to distinguish the cases involving adolescents from those involving children and adults. Most such statutes define lesser penalties when adolescents are involved.

Column 4 indicates the precise statutory language used. The words themselves are important, because the

terminology used indicates the definition of the offense and what must be proved. Also, the terminology indicates the type of statute in force. Since the chart does not reprint all statutes, the attempt was to make it more descriptive by the addition of some exact statutory language.

Column 5 sets out the statutory structure, to include the elements of the offense, and to provide a quick checklist for certain features, *i.e.* corroboration, prompt complaint and other characteristic features.

Column 6 has statutory cross references, including evidence rules and procedures. This column is a place for miscellaneous features of the law and for referencing other relevant statutes in force in the jurisdiction. For example, if the state had a seduction statute in the same section as its rape law, a cross reference to that section is included. If there is a statute mandating emergency room treatment for victims, that is referenced. Sodomy is included if it is not defined by the statute governing rape. Due to space limitations, all statutes relating to sexual behavior mores could not be included. With some of the long, complicated new statutes, details of various provisions are included in column 6. Also included are references to statutory placement, where relevant. If the crime was listed under "Offenses to the Person," for example, or if all sex offenses were in a separate chapter, this is noted.

The evidence provisions were an especially difficult problem, since several states still have common law provisions. Where the reference is to common law, there was no attempt to cover material not listed in the annotated statutes. Nor was it possible to summarize all developments in the case law in all states. Most of the evidence references are new statutes recently enacted which restrict the admissibility of the victim's prior sexual conduct or reputation. Some states include the evidence provisions in their sex offense statutes, some enact them as part of an evidence code. Reference is to section in order to make that distinction. Where the evidence rule does not include a citation to a statute, the reference is to the common law rule in the jurisdiction.

Column 7 sets out the penalties for rape in the jurisdiction, including maximum and minimum prison terms and fines. Where sentences are indeterminate, this is indicated. The penalties for rape are listed first, in order of the degree of the offense. Where the source of law for the penalty is different from the sex offense statute, a cross reference is included. If the penalty section was exceedingly complex, citation is only to statute and section number. The attempt here was to indicate severity of penalty and recent changes. If the chart seems crowded, it is because the preference was to include as much relevant information as possible. Hopefully, the chart will either quickly answer the reader's question or refer to the section of the statute in the jurisdiction where the answer may be found.

	DERIVATION	STATUTORY AGE REQUIREMENTS	TERMINOLOGY
ALABAMA ALA CODE tit. 14 (1959) § 395: Punishment of rape § 396: Proof of rape § 397: Carnal knowledge of woman or girl by administering drugs § 398: Carnal knowledge of girl under 12 years of age § 399: Carnal knowledge of girl over 12 and under 16 years of age § 400: Carnal knowledge of married woman by falsely impersonating husband	§ 395 (1896) codified c.l. § 399 (1915)	§ 397: woman or girl > 14 § 398: girl < 12 § 399: girl > 12 and < 16; exempts boys < 16 age of consent = 12	unlawful carnal knowledge of a woman, forcibly or against her will (c.l. def. not def. by stat.)
ALASKA ALASKA STAT. (1970) (Supp. 1975) § 11.15.120: Rape (1) (2) § 11.15.130: Punishment for rape § 11.15.134: Lewd or lascivious acts towards children (a) (b)	§ 11.15.120 (1949), am. 1974 § 11.15.130 (1949), am. 1951, 1957, 1959, 1974	§ 11.15.120(2): offender > 16 victim < 16 age of consent = 16 § 11.15.130(a): offender > 19 victim < 16 § 11.15.130(b): offender < 19 victim < 16 § 11.15.134: child < 16	<i>rape</i> : carnal knowledge forcibly and against the will of the other person (c.l. def. made sex neutral) <i>stat. rape</i> : carnally knows and abuses
ARIZONA ARIZ. REV. STAT. ANN. (1956) (Supp. 1975-76) § 13-611: Definition; degrees (A) 1-5 (B) § 13-612: Essence of crime; penetration § 13-613: Age limitation for conviction; exception, proof § 13-614: Punishment § 13-615: Carnal knowledge of female pupil by teacher; punishment	Penal Code (1901), am. 1962	age of consent = 18 § 13-613: offender < 14 presumed incapable	<i>rape 1st</i> : sexual intercourse with a female, incapable of consent, where resistance overcome or prevented, or under mistaken belief offender is her husband <i>rape 2d</i> : all other "circumstances," female < 18

STATUTORY STRUCTURE	EVIDENCE PROVISIONS & CROSS REFERENCES	PENALTIES
<p>male/female proof of penetration required force, actual or constructive "effectual" resistance required spousal exception c.l. offense also in effect</p>	<p>corrob. not required except for § 400: rep. for chastity admiss. if consent defense fact of prompt complaint admiss. § 401: attempt to have carnal knowledge of married woman by such deception tit. 14: crimes & offenses ch. 71: rape</p>	<p>§§ 395, 397, 398, 400: min. 10 yrs., max. death § 399: min. 2 yrs., max. 10 yrs. jury fixes penalty death penalty can be set aside</p>
<p>§ 11.15.120: person/ person, rape, stat. rape, punishment (severity changes with ages of victim and offender) § 11.15.130: person/ daughter, sister or female person</p>	<p>§ 12.45.045: new (1975) evidence provisions limit admiss. of prior sexual conduct of complaining witness corrob. not required c.l. spousal exception § 11.15.130: combines incest and stat. rape by offender > 19 § 11.15.160: assault with intent to commit rape ch. 15: offenses against the person</p>	<p>§ 11.15.130(a): "any" term of yrs. § 11.15.130(b): max. 20 yrs. § 11.15.130(c): min. 1 yr., max. 20 yrs. § 11.15.134: min. 1 yr., max. 20 yrs. § 11.15.134(b): parole & suspended sentence restricted until psych. eval.</p>
<p>§ 13-611: rape 1st & 2d, male/female, spousal exception, "circum- stances" def. § 13-612: any penetration resistance required only when evidence con- flicts separate penalty §</p>	<p>corrob. not required unless conflict in evidence of victim's intimida- tion cautionary instruction allowed § 13-611: spousal exception for both rape and stat. rape § 13-612: essence of crime is outrage to person and feelings of female § 13-613: offender < 14 presumed incapable § 13-615: teacher/pupil oddity § 13-252: assault with certain intents art. 13: rape</p>	<p>§ 13-614: rape 1st: min. 5 yrs., max. life. rape 2d: "any" term > 1 yr., max. life. rape 1st & 2d: if armed, 1st off. min. 5 yrs.; 2d off. min. 10 yrs.; 3d off. min. 20 yrs. § 13-615: min. 1 yr., max. 10 yrs.</p>

	DERIVATION	STATUTORY AGE REQUIREMENTS	TERMINOLOGY
ARKANSAS ARK. STAT. ANN. (1976) § 41-1801: Definitions (1) a, b, (2) - (9) § 41-1802: General provisions applicable to sexual offenses (1) - (4) § 41-1803: Rape (1) a, b, c (2) § 41-1804: Carnal abuse in the first degree (1) (2) § 41-1805: Carnal abuse in the second degree (1) (2) § 41-1806: Carnal abuse in the third degree (1) (2) § 41-1807: Sexual misconduct (1) (2) § 41-1808: Sexual abuse in the first degree (1), a, b, c (2) § 41-1809: Sexual abuse in the second degree (1) (2)	Acts of 1975, new Title 41 effective Jan. 1, 1976 replacing § 41-3401 <i>et. seq.</i> similar to MPC but w/ significant variations § 41-1807 new	§ 41-1802: child < 11, no defense as to age; child > 11, mistake as to age is affirm. defense § 41-1803 (1) c: person < 11, person > 18. § 41-1804: person > 18 with another < 14 § 41-1806: person > 20 with another < 16 § 41-1807: person < 16. § 41-1808: person > 18 with person < 14 § 41-1810: person > 18 solicits person < 14	<i>rape</i> : sexual intercourse or deviate sexual activity by forcible compulsion; or person incapable of consent <i>deviate sexual activity</i> : any act of sexual gratification involving penetration of anus or mouth by penis, or of vagina or anus by any body member or foreign instrument <i>forcible compulsion</i> : physical force, or threat, express or implied, of death or physical injury or kidnapping
CALIFORNIA CAL. PENAL. CODE (West 1970) (West Supp. 1975) § 261: Rape defined § 261.5: Unlawful sexual intercourse with female under age 18 § 262: Rape; defendant under 14; proof of physical ability § 263: Rape; essentials; sufficiency of penetration § 264: Rape; unlawful sexual intercourse; recommendation of jury; discretion of court § 264.1: Rape; acting in concert by force or violence; punishment	en. 1872 am. 1889, 1913, 1970 § 261.5 en. 1970 § 264 am. 1970 § 264.1 en. 1967 new evidence code provisions en. 1974	§ 261.5: age of consent = 18 § 262: defendant < 14	<i>rape</i> : sexual intercourse when she is incapable of consent; where resistance overcome or prevented; where she is unconscious; where she submits by artifice

STATUTORY STRUCTURE	EVIDENCE PROVISIONS & CROSS REFERENCES	PENALTIES
<p>person/person carnal abuse and sexual misconduct = sexual intercourse and deviance sexual abuse = sexual contact spousal exception only for carnal abuse, sexual misconduct, sexual abuse 2d spouse can be accomplice where excluded as principal</p>	<p>§§ 41-1805, 1809: person mentally defective or incapacitated § 41-1810: sexual solicitation of a child § 41-1811: public sexual indecency § 41-1812: indecent exposure conclusive presumption that person mentally defective or incapacita- ted, or physically helpless, is incapable of consent rape 1st and 2d replaced by rape and carnal abuse, both w/penetration ch. 18: sexual offenses (new)</p>	<p>§ 41-1803: min. 5 yrs., max. 50 yrs. or life § 41-1804: min. 1 yr., max. 5 yrs. § 41-1805: max. 3 yrs. § 41-1806: max. 1 yr. § 41-1807: max. 90 days § 41-1808: max. 3 yrs. § 41-1809: max. 1 yr. § 41-1810: max. 1 yr. fines possible for all offenses</p>
<p>male/female spousal exception rape def. by female victim's behavior codification of c.l. presumption males < 14 cannot commit offense essential guilt = outrage to person & feelings of female province of jury & judge re punishment</p>	<p>Calif. Evid. Code: §§ 1101, 1103 (am. 1974): re evidence of victim's character § 1127d (en. 1974): outlaws jury instruction re likelihood of consent § 1127e (en. 1974): outlaws term "unchaste character" Robbins Rape Evidence Law: §§ 782 <i>et. seq.</i>: procedures to restrict & regulate admiss. of victim's prior sexual conduct to impeach § 220: assaults w/ intent § 653f: soliciting commission of certain offenses defense can ask for psych. exam. of victim if no corrob. prostitution laws (§§ 266 <i>et seq.</i>): made sex neutral in 1975</p>	<p>§ 264: rape: min. 3 yrs.; 15 yrs. to life if w/great bodily injury; stat. rape: max. 1 yr. in county jail or 50 yrs. in state prison, jury to recommend which; jury recommends punishment in jury trials § 1203(5): no probation if convicted of rape w/force or violence & it is 2d off.</p>

	DERIVATION	STATUTORY AGE REQUIREMENTS	TERMINOLOGY
COLORADO COLO. REV. STAT. ANN. (1973) (L. 1975) <p>§ 18-3-401: Definitions (1)-(7) § 18-3-402: Sexual assault in the first degree (1) a-e, (2) a-c § 18-3-403: Sexual assault in the second degree (1) a-h, (2) § 18-3-404: Sexual assault in the third degree (1) a-g, (2) § 18-3-405: Sexual assault upon a child (1)</p>	Ch. 171 (L. 1975) repeals & reenacts §§ 18-3-401 - 409 former law (en. 1971) was MPC derivation which replaced c.l. formulation	§ 403(1)e: victim < 15; actor 4 yrs. older § 403(1)f: victim < 18; actor is guardian, etc. § 405(1): victim < 15; actor 4 yrs. older former age requirements for rape: victim < 16; actor 2 yrs. older	<i>sexual assault 1st:</i> sexual penetration = sexual intercourse, cunnilingus, fellatio, analingus, or anal intercourse <i>sexual intrusion:</i> any intrusion by an object or any part of the body except mouth, tongue or penis into the genital or anal opening <i>sexual contact:</i> intentional touching for the purposes of sexual arousal, gratification or abuse
CONNECTICUT CONN. GEN. STAT. REV. (1975) (L. 1975) <p>§ 53a-65: Definitions (1)-(8) § 53a-67: Affirmative defenses § 53a-70: Sexual assault in the first degree § 53a-71: Sexual assault in the second degree § 5 (new, P.A. 75-619): Sexual assault in the third degree § 6 (new, P.A. 75-619): Sexual assault in the fourth degree</p>	L. 1975 P.A. 75-619 repealed former §§ 65-80 former law en. 1969, am. 1971, 1972 former law derived from NY & MPC	§ 71(a) (1): person < 15 § 71(a) (3): person < 18 & actor is guardian, etc. § 6(a) (1) (A): person < 15 § 6(a) (1) (C): person < 18 & actor is guardian, etc.	<i>sexual intercourse:</i> vaginal intercourse, anal intercourse, fellatio, cunnilingus between persons regardless of sex. Penetration may be by any object. <i>sexual contact:</i> any contact for the purpose of actor's sexual gratification <i>use of force:</i> use of dangerous instrument, actual physical force or violence, or superior physical strength

STATUTORY STRUCTURE	EVIDENCE PROVISIONS & CROSS REFERENCES	PENALTIES
<p>actor/victim</p> <p>§ 402: sexual assault 1st: sexual penetration by force or threats</p> <p>§ 403: sexual assault 2d: actor causes victim to submit to sexual pene- tration or intrusion</p> <p>§ 404: sexual assault 3rd: sexual contact w/o consent</p> <p>classification raised if actor armed, aided & abetted, or if victim suffers serious personal injury</p> <p>resistance not required</p> <p>spousal exception, includ- ing c.l. marriages</p> <p>separate penalty §</p>	<p>§ 18-3-406: mistake as to age defense permitted only if child >15</p> <p>§ 18-3-407: victim's prior or subsequent sexual conduct pre- sumed irrelevant except w/actor or to show pregnancy. Relevance proved in camera prior to or during trial.</p> <p>§ 13-3-408: Lord Hale's cautionary jury instruction outlawed</p> <p>§ 18-3-410: exempts acts performed for bona fide medical purposes</p> <p>prompt complaint requirement not re-enacted</p> <p>ch. 171: unlawful sexual behavior</p>	<p>sexual assault</p> <p>1st = felony 3: min. 5 yrs., max. 40 yrs.; or felony 2: min. 10 yrs., max. 50 yrs.</p> <p>sexual assault</p> <p>2d = felony 4: min. 1 yr., max. 10 yrs. &/or fine; or felony 3</p> <p>sexual assault</p> <p>3d = misdemeanor or felony 4.</p> <p>§ § 18-1-105, 106</p>
<p>actor/person</p> <p>§ 70: sexual assault 1st: sexual intercourse by force or threat of force</p> <p>§ 71: sexual assault 2d: sexual intercourse when victim < 15; mentally defective & actor guardian; victim in custody</p> <p>sexual assault 3d & 4th: sexual contact</p> <p>resistance not required</p> <p>former formulation: rape 1st & 2d, sexual misconduct & deviate sexual intercourse</p> <p>separate penalty §</p>	<p>former §§ 66-69 repealed: consent defense, mistake as to age defense, corroboration requirement & prompt complaint requirement</p> <p>consensual cohabitation is an affirmative defense</p> <p>P.A. 75-380: defines new offense for armed attacks; no suspended sentence for at least 1 yr.</p>	<p>§ 53a-35: imprisonment for felonies</p> <p>§ 53a-36: imprisonment for misdemeanors</p> <p>§ 53a-41: fines for felonies</p> <p>§ 53a-42: fines for misdemeanors</p>

	DERIVATION	STATUTORY AGE REQUIREMENTS	TERMINOLOGY
DELAWARE DEL. CODE ANN. tit. 11 (1974) (Supp. 1975) § 761: Sexual assault; Class A misdemeanor § 762: Sexual misconduct; Class E felony § 763: Rape in 2d degree; Class B felony § 764: Rape in 1st degree; Class A felony § 767: Rape, Sodomy; Sexual assault; definition of "without consent" § 772: Provisions generally applicable to sexual offenses § 773: Definitions generally applicable to sexual offenses	L. 1935, 1953 §§ 761, 762 am. 1971 & 1973 §§ 763, 772 am. 1971, 1973 & 1974 § 764 added 1973, am. 1974 §§ 767, 773 am. 1971 & 1973	§ 761: off. knows victim < 16 & off. 4 yrs. older § 762: female < 16 & off. 4 yrs. older § 767: age of consent = 12	<i>rape</i> : sexual intercourse w/ female w/o her consent <i>rape 1st</i> : (1) serious physical, mental or emotional injury; (2) victim not voluntary social companion <i>rape 2d</i> : all other sexual intercourse: any act of coitus, including w/ mouth or anus
DISTRICT OF COLUMBIA D.C. CODE ANN. (1973) § 22-2801: Definition and penalty § 22-501: Assault with intent to rape	L. 1901, am. re penalty 1920, 1925 & 1970	stat. rape: female < 16 age of consent = 16	carnal knowledge forcibly & against her will carnally knows & abuses
FLORIDA FLA STAT. ANN. (Supp. 1975) (L. 1975) § 794.011: Sexual battery (1) a-h (2) (3) (4) a-f (5) § 794.02: Common law presumption as to age abolished § 794.021: Ignorance or belief as to victim's age no defense	L. 1974 repealed former § 794.01 en. 1965, am. 1971 & 1972 new def. re-moved term "involuntary" from off. L. 1975 am. re penalties	§ 794.011(2): person < 12 person > 18; if off. < 18. life. not capital off. § 794.011(3). (4): person > 11 § 794.011(4)e: victim > 11 < 18, off. in authority § 794.02: boy < 14	<i>sexual battery</i> : oral, anal or vaginal penetration by, or union w/, sexual organ of another; or by any other object w/o consent <i>consent</i> : intelligent, knowing & voluntary consent, & shall not be construed to include coerced submission

STATUTORY STRUCTURE	EVIDENCE PROVISIONS & CROSS REFERENCES	PENALTIES
<p>male/female 1973 am. introduced degrees, separated sodomy 1974 am. removed provision for male victim § 772: male = male or female spousal exception, including c.l. marriages sexual misconduct = stat. rape sexual assault = sexual contact w/o consent</p>	<p>corrob. requirement (former § 772 (c)) repealed 1974 rep. of victim, but not prior acts of unchastity, admiss. as to consent § 765: sodomy 2d § 766: sodomy 1st § 771: incest (w/in exclusive original juris. of family ct.) § 772(a): mistake as to age defense allowed if victim > 12 offenses against the person: sub part D. sexual offenses</p>	<p>Class A felony: life Class B felony: 3-30 yrs. Class E felony: 7 yrs. Class A misdemeanor: 2 yrs. plus fine at ct.'s discretion Ch. 37, § 3704: jury may return verdict of assault in rape trial § 4214: if 3d conviction for §§ 763 or 764, habitual criminal stat. applies</p>
<p>c.l. definition codified</p>	<p>corrob. required, but not for every element corrob. required for every element for child victims impotence of accused is defense tit. 22 criminal offenses</p>	<p>life or any term of years (death penalty removed 1970)</p>
<p>offender/victim § 794.011(2): sexual battery or injures sexual organs § 794.011(3): sexual battery w/o consent w/use or threat of deadly weapon § 794.011(4): victim physically helpless, threat of force, retalia- tion, drugs, off. in position of authority § 794.011(5): physical force not likely to cause serious physical injury separate penalty §</p>	<p>§ 794.022 Rules of evidence: corrob. not required specific acts w/other than off. inadmiss. unless consent at issue, unless relevance established away from jury medical exclusion § 794.03: unlawful to publish or broadcast information identifying sexual offense victim held unconstitutional in <i>Cox Broad- casting</i> § 794.05: carnal intercourse w/unmarried person under 18 (of previous chaste character) L. 1975 ch. 75-182: provisions re emergency hospital care for victims</p>	<p>§§ 775.082 <i>et seq.</i> § 794.011(2): capital felony, min. 25 yrs. before parole § 794.011(3): life felony, min. 30 yrs. § 794.011(4): max. 30 yrs.-life § 794.011(5): max. 15 yrs. L. 1975, ch. 75-298 re min. & suspended sentences for repeated off.</p>

	DERIVATION	STATUTORY AGE REQUIREMENTS	TERMINOLOGY
GEORGIA GA. CODE ANN. (1972) § 26-2001: Rape § 26-2018: Statutory rape	L. 1968 former code 1933	§ 26-2018: female < 14 § 26-2019: child < 14	<i>rape</i> : carnal knowledge of a female forcibly & against her will; any penetration <i>stat. rape</i> : sexual intercourse w/ female < 14
GUAM GUAM PENAL CODE (1970) § 261: Rape defined (1)-(6) § 262: When physical ability must be proved § 263: Penetration sufficient § 264.1: Rape; acting in concert; by force or violence; punishment	en. 1953 based on Cal. Penal Code re-en. 1970 w/ no change	§ 261(1): female < 16 § 262: male < 14	<i>rape</i> : sexual intercourse where female incapable of consent, resistance overcome or prevented, unconscious, or deceived
HAWAII HAWAII REV. STAT. (1972) (Supp. 1974) (L. 1975) § 730: Rape in the first degree (1) (a) i, ii (b) (2) § 731: Rape in the second degree (1) (a) (b) (2) § 732: Rape in the third degree (1) (2) § 736: Sexual abuse in the first degree § 737: Sexual abuse in the second degree	P.C. 1869, rev. 1925, am. 1932, 1955 L. 1972, am. 1973 & 1974 L. 1975, Act #83: new evid. rules	§§ 730, 731, 733, 734, 736: female < 14 § 737: person < 16 & actor > 4 yrs. older § 740: victim < 16 & female < 14 exempt from prompt complaint req.	<i>rape 1st</i> : sexual intercourse by forcible compulsion & female not volun- tary social compan- ion or bodily injury inflicted; incl. stat. rape <i>rape 2d</i> : sexual intercourse by forcible compulsion; stat. rape <i>rape 3d</i> : female mentally defective or incapacitated, or physically helpless <i>sexual abuse</i> : sexual contact

STATUTORY STRUCTURE	EVIDENCE PROVISIONS & CROSS REFERENCES	PENALTIES
<p>male/female c.l. def. spousal exception for both rape & stat rape; explicit in latter</p>	<p>corrob. required of facts, but not identification evidence of prior acts w/others inadmiss. § 25-1302: aggravated assault with intent to rape § 26-2002: sodomy; aggravated sodomy § 26-2004: bestiality § 26-2005: seduction § 26-2006: incest § 26-2019: child molestation § 26-9901: publication of name or identity of raped female (constitu- tionality dubious in light of <i>Cox</i> <i>Broadcasting</i>) ch. 26-20: sexual offenses</p>	<p>rape: 1-20 yrs., life or death stat. rape: 1-20 yrs.</p>
<p>male/female def. in terms of female's behavior or state of mind spousal exception</p>	<p>penetration & resistance required male < 14 presumed incapable § 264.1: additional penalties if off. committed w/violence or w/others § 269(d): person convicted of crime against chastity may also be liable for civil penalty offenses against the person</p>	<p>§ 264.1: 5 yrs. to life</p>
<p>male/female def. by female's situation 1974 am. excludes prior sexual partners spousal exception sodomy & sexual abuse are sex neutral</p>	<p>new evidence act requires separate filing where defense seeks to impeach by prior sexual conduct § 740: prompt complaint requirement (1 mo.) § 700: definitions; victim compen- sation available §§ 733-35: sodomy 1st, 2d & 3d § 737(3): affirmative def. that victim had prior promiscuous relations § 738: indecent exposure § 739: knowledge of incapacity to consent § 741: incest ch. 7: offenses against the person</p>	<p>rape & sodomy 1st: max. 20 yrs. - life rape & sodomy 2d: max. 10-20 yrs. rape & sodomy 3d, sexual abuse 1st & incest: max. 5-10 yrs. sexual abuse 2d: max. 1 yr.</p>

	DERIVATION	STATUTORY AGE REQUIREMENTS	TERMINOLOGY
IDAHO IDAHO CODE (1972) § 18-6101: Rape defined (1)-(6) § 18-6102: Proof of physical ability § 18-6103: Penetration § 18-6104: Punishment for rape	L. 1864, am. 1895 re-en. 1899, am. 1941 re-en. 1972 § 18-6102 <i>et</i> <i>seq.</i> from Cal. Code	§ 18-6101(1): female < 18 § 18-6102: off. < 14 (prior to 1955 am., off. < 16)	<i>rape</i> : sexual intercourse when female underage, incapable of consent, resistance overcome or prevented, unconscious, or deceived
ILLINOIS ILL. ANN. STAT. (Smith-Hurd 1972) (Supp. 1975) ch. 38, § 11-1: Rape (a) (1) (2) (b) (c) ch. 38, § 11-2: Deviate sexual conduct ch. 38, § 11-3: Deviate sexual assault ch. 38, § 11-4: Indecent liberties with a child ch. 38, § 11-5: Contributing to the sexual delinquency of a child	en. 1961, am. 1967 & 1973 as to penalties	male > 14 female < 16 age of consent = 16	<i>rape</i> : sexual intercourse by force & against her will, where female unconscious, or so mentally deranged or deficient that she cannot consent
INDIANA IND. ANN. STAT. (1975) § 35-13-4-3: Rape	L. 1941, am. 1974 § renumbered in 1975 replace- ment vol.	female child < 16	carnal knowledge forcibly, against her will or of woman insane, idiotic or feeble-minded
IOWA IOWA CODE ANN. (1950) § 698.1 Definition - punishment	en. 1851, rev. 1921 & 1925 L. 1974 repealed corrob. & changed evid. rules	victim < 16, or victim < 17 & off. > 25 age of consent changed from 15 to 16 in 1921	ravish, carnally know by force or against her will, carnally know & abuse

STATUTORY STRUCTURE	EVIDENCE PROVISIONS & CROSS REFERENCES	PENALTIES
male/female rape def. by female's behavior or situation penetration required state must prove force or violence spousal exception rebuttable presumption as to male's capability	corrob. not required where victim's character as to chastity or truth not impeached prior acts of prosecutrix inadmiss. for stat. rape no mistake as to age defense for stat. rape essential guilt consists of outrage to person & feelings of female	§ 18-6104: min. 1 yr., max. life, at judge's discretion § 20-223 (1974): restricts parole where violence an element; psych. exam required
male/female any penetration resistance required rape & stat. rape in 1 § impotency a defense	corrob. required prompt complaint required rep. for chastity admiss. to impeach credibility medical testimony not required 3d party female may be guilty as accessory § 11-2: deviate sexual conduct § 11-3: deviate sexual assault § 11-4: indecent liberties with a child § 11-5: contributing to the sexual delinquency of a child Art. 11: sex offenses	ch. 38, § 1001-1: penalties rape: min. 4 yrs.-life; fine; death
male/female rape & stat. rape in 1 § penetration required attempted rape repealed 1941 spousal exception	corrob. not required §§ 35-1-32.5-1 to -4: evidence rules restrict opinion, rep. evidence & prior sexual conduct of victim; burden on defense to show relevance § 35-12-1-1: rape while armed § 35-1-89-1: sodomy § 35-1-82-1: incest	rape: determinate period; min. 2 yrs., max. 21 yrs. if female < 12 & off. > 18, mandatory life 1974 am. adds provision prohibiting suspended sentence
person/any female § 782.3: proof of penetration required resistance required	corrob. not required § 782.4: prior sexual conduct of victim > 1 yr. before rape must be proved relevant away from jury; delay in reporting goes to credibility § 698.2: jurisdiction of the board of parole § 698.3: carnal knowledge of imbecile § 698.4: assault with intent to rape § 699.1: compelling to marry or be defiled ch. 698: rape	min. 5 yrs. to life

	DERIVATION	STATUTORY AGE REQUIREMENTS	TERMINOLOGY
KANSAS KAN. STAT. ANN. (1974) § 21-3501: Definitions § 21-3502: Rape (1) a, b, c, d (2) § 21-3503: Indecent liberties with a child (1) a, b (2) § 21-3504: Indecent liberties with a ward	L. 1969 (formerly was c.l. off. of carnal know- ledge	§ 21-3503: victim < 16	<i>rape</i> : sexual intercourse w/o consent, when resistance overcome, woman incapable of consent or resistance prevented
KENTUCKY KY. REV. STAT. (1975) § 510.010: Definitions (1)-(8) § 510.020: Lack of consent (1) (2) a, b, c (3) a, b, c, d § 510.030: Defenses § 510.040: Rape in the first degree (1)a, b(1), 2 (2) § 510.050: Rape in the second degree (1) (2) § 510.060: Rape in the third degree (1) a, b (2)	L. 1974 former §§ 435.060-110 repealed variation of detailed but modernized MPC	rape 1st: victim < 12 rape 2d: victim < 14 off. > 18 rape 3d: victim < 16 off. > 21 age of consent = 16	<i>rape 1st</i> : sexual intercourse by force or when person incapable of consent <i>sexual abuse</i> : sexual contact w/o consent <i>forcible compulsion</i> : physical force or threat that overcomes resistance by placing person in fear of immediate death or injury or kidnapping
LOUISIANA LA. REV. STAT. (L. 1975, Acts 333, 612 & 732) § 14:41: Rape; heterosexual; defined § 14:41.1: Rape; homosexual; defined § 14:42: Aggravated rape (1) (2) (3) § 14:43: Simple rape (1) (2) (3) § 14:43.1: Forcible rape	new L. 1975, evidence changes, new crimes: homo- sexual & for- cible rape former law en. 1805	§ 14:42(3): victim < 12 presumption re incapacity of males < 14 abolished	<i>hetero- & homosexual & aggravated rape</i> : where resistance overcome or prevented by force or threat of force <i>simple rape</i> : sexual intercourse w/o consent <i>forcible rape</i> : sexual intercourse w/o consent where female prevented from resisting.

STATUTORY STRUCTURE	EVIDENCE PROVISIONS & CROSS REFERENCES	PENALTIES
<p>male/female spousal exception any penetration sodomy is sex neutral separate penalty §</p>	<p>corrob. not required impotence of accused is a defense prior rapes of accused admiss. § 21-3505: sodomy § 21-3506: aggravated sodomy</p>	<p>§ 21-4501 <i>et seq.</i>: indeterminate terms class B felony: min 5 yrs., max. 15 yrs., or life class C felony: min. 1-5 yrs., max. 20</p>
<p>person/person, but sexual intercourse has ordi- nary meaning lack of consent an element of every offense resistance required rape 1st, 2d & 3d: latter 2 define statutory ages & when victim men- tally incapacitated any penetration spousal exception applies to all offenses</p>	<p>corrob. not required prior chastity admiss. re consent impotence of accused is a defense defense may prove ignorance or mistake of fact of incapacity to consent §§ 510.070 <i>et seq.</i>: sodomy 1st, 2d & 3d §§ 510.110 <i>et seq.</i>: sexual abuse §§ 510.140 <i>et seq.</i>: sexual misconduct ch. 500-534: sex offenses</p>	<p>§ 532.030 rape 1st: 10-20 yrs. If victim < 12 or receives serious injury, 20 yrs. rape 2d: 5-10 yrs. rape 3d: 1-5 yrs.</p>
<p>male/female male/male aggravated & simple rape both homosexual & heterosexual offenses forcible rape heterosexual only spousal exception for heterosexual rape, incl. judicial separation any penetration</p>	<p>victim's prior conduct & rep. inadmiss. to impeach except that w/ accused mistake as to age defense not allowed when victim < 12 §14.89: crime against nature (un- natural carnal copulation or w/ an animal)</p>	<p>aggravated rape: death simple & forcible rape: 1-20 yrs. at hard labor</p>

	DERIVATION	STATUTORY AGE REQUIREMENTS	TERMINOLOGY
MAINE ME. REV. STAT. ANN. tit. 17-A (1975) § 251: Definitions and general provisions § 252: Rape (1) A, B, 1, 2 (2) (3) § 253: Gross sexual misconduct (1) A, 1, 2, B (2) A, B, C, D, E (3) (4) (5) § 254: Sexual abuse of minors § 255: Unlawful sexual contact (1) A, B, C, D, E (2)	prior L. (tit. 17, §§ 3151 <i>et seq.</i>) en. 1954, based on Mass. stat. new L. based on proposed Mass. L. & fed. code similar to MPC entire crim. code revised, eff. March 1, 1976	none, except § 254: off. > 18, victim > 14 & < 16; difference between ages > 5 yrs. prior L.: age of consent = 14	<i>rape</i> : sexual intercourse by force or threat <i>sexual misconduct</i> : sexual act or any act involving direct physical contact, by force or threat <i>sexual abuse</i> : sexual intercourse or sexual act <i>sexual contact</i> : unconsented touching
MARYLAND MD. ANN. CODE art. 27 (Cum. Supp. 1975) § 461: Rape generally § 462: Carnal knowledge of child under 14 or of insane, etc., woman § 462A: Carnal knowledge of male under 14 by female over 18 § 464: Carnal knowledge of female between 14 and 16, proviso	new L. 1975 replaces 1951 code en. 1809, am. 1935 § 462A en. 1972 § 463 Verdict w/o capital punishment repealed 1975	§ 462: female child < 14 § 462A: male victim < 14; female off. > 18 § 464: female > 14, < 16	penetration shall be evidence of rape
MASSACHUSETTS MASS. GEN. LAWS ch. 265 (Supp. 1975) § 22: Rape in general, punishment § 22A: Rape of a child; use of force § 23: Rape and abuse of a child	source: c.l. §§ 22 & 23 am. 1974 § 22A am. 1973 & 1974	§ 22: none for off. § 22A: child < 16; if off. > 18, heavier penalty on 2d off. (prior to 1973 am., off. > 21) age of consent = 16	<i>rape</i> : sexual intercourse, unnatural sexual intercourse, by force or threat

STATUTORY STRUCTURE	EVIDENCE PROVISIONS & CROSS REFERENCES	PENALTIES
<p>rape: male/female all others sex neutral resistance not required any penetration for rape marriage is affirmative defense, but "spouse" excludes those living apart</p>	<p>corrob. not required if victim is voluntary social companion of accused, classifica- tion of off. reduced mistake as to age defense for § 254 § 253(3): victim's voluntary intoxi- cation defense prompt complaint not required Ch. 11: sex offenses</p>	<p>rape, class A: max. 10 yrs. class B: max. 5-10 yrs. class C: max. 3-5 yrs. class D: max. 1-3 yrs.</p>
<p>male/female rape & carnal knowledge not def. codifies c.l. otherwise penetration force resistance required</p>	<p>corrob. not required rep. for chastity admiss. § 461: def. penalty & proof</p>	<p>rape: min. 18 mos., max. life death penalty unconstitutional</p>
<p>sex neutral rape & sodomy in 1 § no stat. spousal exception 2 stat. rape §§. 1 forcible & 1 not</p>	<p>corrob. required rep. for chastity admiss. ch. 265, § 24: assault w/intent ch. 265, § 24A: venue may be changed ch. 265, § 24B: assault of a child w/intent ch. 272, § 3: administering drug to a woman in order to enable a person to have intercourse with her ch. 272, § 5: sexual intercourse with a female idiot other than rape ch. 272, § 11: 1 yr. stat. limitation ch. 278, § 16A: public may be excluded from trials involving minors.</p>	<p>ch. 276, § 87: for § 22A if off. > 18, min. 5 yrs., max. life w/no probation upon 2d conviction § 23: max. life or any term; min. 5 yrs. for 2d off. ch. 279, § 1: no suspended sentence if life</p>

	DERIVATION	STATUTORY AGE REQUIREMENTS	TERMINOLOGY
MICHIGAN MICH. COMP. LAWS ANN. (Supp. 1975) § 750.520a: Definitions (a)-(i) § 750.250b: Criminal sexual conduct in the first degree § 750.520c: Criminal sexual conduct in the second degree § 750.520d: Criminal sexual conduct in the third degree § 750.520e: Criminal sexual conduct in the fourth degree	new 1975, eff. April 1, 1975 MPC variation former L. was c.l. carnal knowledge stat.	§§ 750.520 b(1) a & c(1)a: victim < 13 §§ 750.520 b(1) b, c(1)b & d(1)a: victim > 13, < 16	<i>sexual penetration:</i> sexual intercourse, cunnilingus, fellatio, anal intercourse or any other intrusion of an object <i>sexual contact:</i> intentional touching for the purpose of sexual gratification
MINNESOTA MINN. STAT. ANN. (Supp. 1976) § 609.341: Definitions 1-13 § 609.342: Criminal sexual conduct in the first degree a-e i, ii, f i, ii § 609.343: Criminal sexual conduct in the second degree a-e i, ii, f i, ii § 609.344: Criminal sexual conduct in the third degree a, b, c, d § 609.345: Criminal sexual conduct in the fourth degree a, b, c, d	new 1975, repeals L. 1967, am. 1973 variant of Mich. stat.	§§ 342(a), 343(a), 344(a), 345(a): com- plainant < 13, actor > 36 mos. older §§ 342(b), 343(b), 344(b): com- plainant > 13 & < 16, actor > 24 mos. older § 345 (b): com- plainant > 13 & < 16, actor > 48 mos. older	<i>sexual penetration:</i> sexual intercourse, cunnilingus, fellatio or any intrusion of any object where act committed w/o consent <i>sexual contact:</i> inten- tional touching, coerced touching of another or the clothing, w/o consent <i>consent:</i> voluntary, uncoerced manifes- tation of present agreement

STATUTORY STRUCTURE	EVIDENCE PROVISIONS & CROSS REFERENCES	PENALTIES
<p>sex neutral</p> <p>1st degree: sexual penetration under detailed circumstances, <i>i.e.</i>, act- or aided & abetted, armed or causes personal injury</p> <p>2d degree: sexual contact under detailed circumstances</p> <p>3d degree: sexual penetration under detailed circumstances</p> <p>§ 750.520i: resistance by victim (not required)</p> <p>spousal exception excludes those living apart</p> <p>penetration not required for any offense</p>	<p>§ 750.520g: assault w/intent</p> <p>§ 750.520h: corroboration; lack of necessity for</p> <p>§ 750.520j: admissibility of evidence: all evidence of victim's sexual conduct inadmiss. except w/actor or to show pregnancy, etc. (strongest evidence provision in effect)</p> <p>§ 750.520k: suppression of names of victim or actor upon request pending adjudication</p> <p>§ 750.520b: includes incest</p>	<p>1st: life or any term of years</p> <p>2d & 3d: max. 15 yrs.</p> <p>4th: misdemeanor, max. 2 yrs. &/or fine</p> <p>2d or subsequent off.: mandatory min. 5 yrs.</p> <p>assault w/intent 1st: max. 10 yrs.</p> <p>assault w/intent 2d: max. 5 yrs.</p>
<p>sex neutral</p> <p>1st degree: sexual penetration under detailed circumstances</p> <p>2d degree: sexual contact under detailed circumstances</p> <p>3d degree: sexual penetration for special categories of victims</p> <p>4th degree: sexual contact for special categories of victims</p> <p>resistance not required</p> <p>consent defense prohibited when complainant > 13 or < 16</p>	<p>corrob. requirement & Lord Hale's instruction prohibited</p> <p>evidence of complainant's prior sexual conduct inadmiss. except as to consent or fabrication, source of semen, conduct w/accused or to impeach</p> <p>§ 609.344(b): mistake as to age an affirmative defense</p> <p>§ 609.346: subsequent offenses</p> <p>§ 609.347: evidence</p> <p>§ 609.348: medical purposes; exclusion</p> <p>§ 609.349: voluntary relationships (cohabiting adults excluded)</p> <p>§ 609.35: costs of medical examination to be paid by county</p> <p>§ 299 B.03 (L. 1975): reparations, including victim's attorney's fees</p> <p>§ 241.51: sex attack victims, program to aid</p>	<p>1st: max. 20 yrs.</p> <p>2d: max. 15 yrs.</p> <p>3d: max. 10 yrs.</p> <p>4th: max. 5 yrs.</p> <p>§ 609.346: specifies parole & treatment of subsequent off.</p> <p>§§ 609.116 & 246.43: pre-sentence exam. of sex off.</p>

	DERIVATION	STATUTORY AGE REQUIREMENTS	TERMINOLOGY
MISSISSIPPI Miss. CODE ANN. (1972) (Supp. 1975) § 97-3-65: Rape - carnal knowledge of female under 12 years of age, or being over 12, against her will § 97-3-67: Rape - carnal knowledge of a chaste female over 12 and under 18 years of age § 97-3-69: Rape - chaste character presumed - uncorroborated testimony of victim insufficient § 97-3-71: Rape - assault with intent to ravish	§ 97-3-65: new 1974, source L. 1848, 1917 § 97-3-71: L. 1917, 1930, 1942, 1962	§ 97-3-65: female < 12, off. > 18 § 97-3-67: female > 12 < 18, male off. older age of consent = 12	c.l. rape force, carnal knowledge, forcibly ravish
MISSOURI MO. REV. STAT. (1953) (Supp. 1976) § 559.190: Punishment for assaults § 559.260: Rape punishment § 559.300: Carnal knowledge of female between the ages of 16 and 18 - penalty	§ 559.190: L. 1835 § 559.260: source L. 1829, 1913, 1921 1975 am. removed death penalty	§ 559.260: victim < 16 (raised from < 15 in 1921 & from < 14 in 1913) § 559.300: victim > 16 < 18	none
MONTANA MONT. REV. CODES ANN. (1947) (Pamphlet 1973) (Supp. 1975) § 94-5-501: Definitions § 94-5-502: Sexual assault 1, 2, 3, 4 § 94-5-503: Sexual intercourse without consent 1, 2, 3, 4, 5, 6 § 94-5-506: Provisions generally applicable to sexual crimes	en. 1973 MPC variation replaced Cal. formulation am. 1975 re evidence exclusions, consent, def. & standard	§§ 502(3) & 503(3): victim < 16, off. > 3 yrs. older	<i>sexual assault:</i> person knowingly subjects another to any sexual contact without consent <i>sexual intercourse without consent:</i> person knowingly has sexual intercourse w/o consent, by force or threat of force, or if incapable of consent

STATUTORY STRUCTURE	EVIDENCE PROVISIONS & CROSS REFERENCES	PENALTIES
<p>penetration & force required for rape penetration not required for stat. rape, but previous chastity of victim an essential element & rep. for chastity admiss.</p>	<p>corrob. not required unless evidence contradictory "bad" rep. of prosecutrix admiss.</p>	<p>rape 1st: death, but if off. > 13 & < 18, prison rape 2d: max. life stat. rape: \$500 or 6 mos.</p>
<p>male/female rape by force penetration will sustain indictment for stat. rape no touching required for § 599.190 assault State must prove non-consent</p>	<p>corrob. not required specific acts of unchastity inadmiss., but rep. for chastity admiss. prior acts between parties inadmiss. to show defendant's intent § 559.120: conspiracy to commit § 559.270: rape victim drugged</p>	<p>jury sentences rape: min. 2 yrs. rape victim drugged: min. 5 yrs. assault w/intent: min. 6 mos. in county jail or \$100 fine, max. 5 yrs.</p>
<p>sex neutral (L. 1975) penetration not required for sexual assault w/o consent def. as by force, etc. spousal exception, but not for deviate sexual conduct</p>	<p>evidence provisions relate to sexual intercourse; exclude all evidence of victim's past sexual conduct except w/offender or to show origin of semen, etc. defense to mental incapacity: victim was voluntary social companion mistake as to age defense for victims > 14 < 16 § 94-2-101: definitions § 94-4-504: indecent exposure § 94-4-505: deviate sexual conduct</p>	<p>intercourse (2): max. 20 yrs. intercourse (3): max. 40 yrs. assault (2): max. \$500 or 6 mos. assault (3): max. 20 yrs. deviate sexual conduct (2): max. 10 yrs. deviate sexual conduct (3): max. 20 yrs.</p>

	DERIVATION	STATUTORY AGE REQUIREMENTS	TERMINOLOGY
NEBRASKA NEB. REV. STAT. (Supp. 1975) § 28-408.01: Legislative intent § 28-408.02: Terms, defined § 28-408.03: First degree sexual assault § 28-408.04: Second degree sexual assault § 28-408.05: Relevance of evidence	new 1975 MPC variation eff. Aug., 1975 former L. en. 1887	§ 28-408.03: victim < 16, actor > 18 see also punishment § 28-929	<i>sexual penetration:</i> sexual intercourse, cunnilingus, fellatio, anal intercourse, or any intrusion of any object <i>sexual contact:</i> intentional touching of victim's or actor's intimate parts or clothing for the purpose of sexual arousal or gratification
NEVADA NEV. REV. STAT. (1973) (L. 1975) § 200.363: Forcible rape: definitions; penalties (1) a1, 2, b1, 2, (2)a, b § 200.365: Statutory rape: definitions; penalties § 200.370: Essential of crime: penetration is sufficient § 200.373: Rape of wife by husband § 200.375: Limitations on parole	L. 1967, am. 1968, 1973, 1975	§ 200.365: female < 16, male > 18 § 200.375: victim < 14	<i>rape:</i> carnal knowledge, against her will
NEW HAMPSHIRE N.H. REV. STAT. (L. 1975) § 632-A: 1: Definitions I-V § 632-A: 2: Aggravated felonious sexual assault I-XI § 632-A: 3: Felonious sexual assault § 632-A: 4: Sexual assault	new, eff. Aug. 1975 repealed L. 1971 replaced MPC w/ new sexual assault formulation prior c.l. formulation en. 1859, am. 1887, 1897	§ 632-A: 2(X): victim > 13 < 16, actor in authority § 632-A:2(XI): victim < 13 § 632-A:3: victim > 13 & < 16 § 632-A:7: victim < 18 exempt	<i>sexual penetration:</i> sexual intercourse, cunnilingus, fellatio, anal intercourse or any intrusion of an object <i>sexual contact:</i> intentional touching of victim's sexual parts and clothing for the purpose of sexual gratification

STATUTORY STRUCTURE	EVIDENCE PROVISIONS & CROSS REFERENCES	PENALTIES
<p>sex neutral sexual assault 1st & 2d 1st: sexual penetration by force, or victim incapable of consent or resistance 2d: sexual contact by force, or victim incapable of consent or resistance</p>	<p>relevance of victim's or defendant's prior sexual conduct determined at in camera hearing serious personal injury to victim (including mental anguish) a factor in sentencing explicit legislative intent to protect dignity of victim § 28-401: rape, sexual assault w/murder § 28-409: assault w/intent § 28-929: deprave the morals of a minor (includes molestation, indecent exposure, etc.) § 28-2901: examination of sexual sociopath</p>	<p>sexual assault 1st: min. 1 yr., max. 25 yrs.; serious injury to victim considered sexual assault 2d: max. 1 yr. unless serious injury, then max. 15 yrs.</p>
<p>male/female carnal knowledge stat. def. penalties as to whether substantial bodily harm resulted spousal exception, am. 1975 to exclude separated spouses</p>	<p>L. 1975, ch. 600: victim's prior sexual conduct inadmiss. to impeach credibility except in rebuttal; relevance must be proved away from jury; chaste character terminology forbidden L. 1975, ch. 449: costs of medical exam. paid by state L. 1975, ch. 654: state pays for treatment of victims & spouses, incl. for emotional trauma; prerequisite: filing criminal complaint § 200.151: registration of sex offenders § 200.400: assault w/intent</p>	<p>rape: min. 5 yrs., no earlier parole, max. life; death penalty outlawed stat. rape: for male > 21, min. 1 yr., max. 10 yrs., for male < 21, gross misdemeanor § 200.375: requires certification of lack of dangerousness</p>
<p>sex neutral aggravated felonious sexual assault: sexual penetration in detailed circumstances of force, threat, coercion & non-consent felonious sexual assault: sexual contact under circumstances of force, threat, coercion or non-consent § 632-A:5: spousal exception to sexual assault offenses (excl. those who have filed for separate maintenance or divorce & those living apart)</p>	<p>§ 632-A:6: testimony and evidence: corrob. not required; prior consensual activity between victim & any other person inadmiss. § 632-A:7: limitation of prosecutions: 6 mos.; victim < 18 exempt § 632-A:2(VII): unethical medical treatment or examination § 632-A:2(X): incest serious personal injury incl. mental anguish or trauma § 632-A: sexual assault & related offenses</p>	<p>aggravated felonious sexual assault: cl. A felony, max. 15 yrs. (death penalty repealed) felonious sexual assault: cl. B felony, max. 7 yrs. sexual assault: misdemeanor, max. 1 yr. ch. 651: sentencing</p>

	DERIVATION	STATUTORY AGE REQUIREMENTS	TERMINOLOGY
NEW JERSEY N.J. STAT. ANN. (1969) § 2A:138-1: Rape and carnal abuse; penalty § 2A:138-2: Carnal knowledge of inmates of homes or institutions for feeble-minded or mentally ill	L. 1898, am. 1905, 1952 § 2A: 138-2: en. 1921	victim < 12, off. > 16 or victim > 12 < 16, off. > 16	<i>rape</i> : carnal knowledge of a woman forcibly & against her will <i>carnal abuse</i> : unlawfully and carnally abuses
NEW MEXICO N.M. STAT. ANN. (Supp. 1975) § 40A-9-20: Definitions § 40A-9-21: Criminal sexual penetration A(1), (2), B(1)-(5) § 40A-9-22: Criminal sexual contact A(1)-(3), B § 40A-9-23: Criminal sexual contact of a minor A, B	new 1975, repeals L. 1963	§§ 21A(1) & 23A(1): child < 13 § 22: victim > 18 § 21B(1): child > 13 & < 16 §§ 23A(2) & 23B: child > 13 < 18	<i>criminal sexual penetration</i> : sexual intercourse, cunnilingus, fellatio or anal intercourse or penetration w/ any object <i>criminal sexual contact</i> : intentional touching or applying force w/o consent to unclothed intimate parts of another, or intentionally causing another to touch one's intimate parts
NEW YORK N.Y. PENAL LAW (McKinney 1975) § 130.00: Sex offenses; definitions of terms (1)-(8) § 130.05: Sex offenses; lack of consent (1), (2)a-c, (3)a-d § 130.10: Sex offenses; defense § 130.25: Rape in the third degree § 130.30: Rape in the second degree § 130.35: Rape in the first degree § 130.55: Sexual abuse in the third degree § 130.60: Sexual abuse in the second degree § 130.65: Sexual abuse in the first degree	§ 130.00: new former law 1909, 1881 § 130.05 am. 1965 §§ 130.20, .25, .30 & .35 en. 1965 MPC variation 1975 evidence revision	age of consent = 17 § 130.25: female < 17, off. > 21 § 130.30: female < 14, off. > 18 § 130.35: female < 11	<i>sexual intercourse</i> : has its ordinary meaning & occurs upon any penetration <i>deviate sexual intercourse</i> : contact between penis & anus, mouth & penis or mouth & vulva <i>sexual contact</i> : any touching of the sexual parts for the purpose of gratifying sexual desire of either party

STATUTORY STRUCTURE	EVIDENCE PROVISIONS & CROSS REFERENCES	PENALTIES
<p>male/female for rape, penetration, force, resistance & non-consent required spousal exception</p>	<p>corrob. not required unchaste character of victim admiss. re consent impotence of accused a defense no mistake as to age defense § 2A: 90.2: assault with intent § 2A: 142-1, 2: seduction § 2A: 143-2: corruption of minors § 2A: 164-3: sex offender act</p>	<p>rape: high misdemeanor, max. 30 yrs. or \$5000 fine carnal abuse: misde- meanor, max. 15 yrs.</p>
<p>sex neutral criminal sexual penetra- tion 1st, 2d, 3d criminal sexual contact 4th criminal sexual contact of a minor 3d resistance not required spousal exception excl. those living apart & those who have filed for divorce or separate maintenance</p>	<p>§ 40A-9-25: corrob. not required § 40A-9-26: evidence of victim's past sexual conduct must be proved relevant before judge § 40A-9-21B(1): perpetrator in position of authority over a child; incl. incest § 40A-9-21A(2): felony-rape; use of force which results in great bodily harm or great mental anguish</p>	<p>crim. sex. pen. 1st: life &/or \$15,000 fine crim. sex. pen. 2d: min. 10 yrs., max. 50 yrs. & \$10,000 fine crim. sex. pen. 3d: min. 2 yrs., max. 10 yrs. & \$5000 fine crim. sex. pen. 4th: min. 1 yr., max. 5 yrs. & \$5000 fine crim. sex. contact: misdemeanor, max. 1 yr. & \$1000 fine crim. sex. contact of minor: same as crim. sex. pen. 4th</p>
<p>male/female rape 1st, 2d & 3d rape 1st: sexual inter- course by forcible com- pulsion, or victim in- capable of consent rape 2d: stat. rape rape 3d: sexual inter- course w/female incap- able of consent sexual misconduct: sexual intercourse & deviate sexual intercourse w/o consent § 130.05: lack of consent an element of every off.</p>	<p>§ 130.16: sex offenses, corrobora- tion: required for stat. rape & re capacity to consent (required as to every element prior to L. 1974) L. 1975, § 60.42: evidence of victim's prior sexual conduct inadmiss. except to prove conduct w/accused, conviction of crime, or in rebuttal; then only after hearing away from jury § 130.20: sexual misconduct (1)-(3) § 130.50 <i>et seq.</i>: sodomy mistake as to victim's capacity to consent a defense offenses against the person</p>	<p>all indeterminate rape 1st: min. 1-8 yrs., max. 3-25 yrs. rape 2d: min. 1-3 yrs., max. 3-7 yrs. rape 3d: min. 1 yr., max. 3-4 yrs. sexual misconduct: misdemeanor, max. 1 yr. (determinate)</p>

	DERIVATION	STATUTORY AGE REQUIREMENTS	TERMINOLOGY
<p>NORTH CAROLINA N.C. GEN., STAT. (Supp. 1974)</p> <p>§ 14-21: Rape; Punishment in the first and second degree (a)1, 2(b)</p> <p>§ 14-22: Punishment for assault with intent to commit rape</p> <p>§ 14-23: Emission not necessary to constitute rape and buggery</p> <p>§ 14-26: Obtaining carnal knowledge of virtuous girls between 14 and 16 years old</p>	<p>§ 14-21 from c.l., am. 1973</p> <p>§ 14-22 from L. 1823</p> <p>§ 14-23 from L. 1860</p> <p>§ 14-26 from L. 1895</p>	<p>§ 14-21: age of consent = 12; off. 16</p> <p>§ 14-26: female > 14 & < 16, male < 16</p>	<p>ravishes, carnally knows, by force and against her will, or unlawfully carnally knows & abuses</p>
<p>NORTH DAKOTA N.D. CENT. CODE (Vol. 2, Special 1975 Supp.)</p> <p>§ 12.1-20-01: General provisions (1)-(3)</p> <p>§ 12.1-20-02: Definitions (1)-(3)</p> <p>§ 12.1-20-03: Gross sexual imposition (1)a-e, (2)</p> <p>§ 12.1-20-04: Sexual imposition</p> <p>§ 12.1-20-07: Sexual assault (1)-(7)</p>	<p>new 1975; expanded version of MPC</p> <p>prior law followed Cal. code</p>	<p>§ 12.0-20-01 (a): cl. A felony if victim < 15</p> <p>§ 12.1-20-07 (6) & (7): actor = adult, victim = minor < 18</p> <p>no mistake as to age def. if victim < 15; def. if victim > 15 & < 18</p>	<p><i>sexual act</i>: sexual contact between penis & vulva, penis & anus, penis & mouth or vulva & mouth</p> <p><i>sexual contact</i>: any touching of the sexual or other intimate parts for gratifying sexual desire</p> <p><i>deviate sexual act</i>: any form of sexual contact w/ animal, bird or dead person</p> <p><i>fornication</i>: sexual act in public place</p>

STATUTORY STRUCTURE	EVIDENCE PROVISIONS & CROSS REFERENCES	PENALTIES
<p>male/female rape 1st & 2d rape 1st: resistance overcome or use of deadly weapon or infliction of serious bodily injury rape 2d: lesser included off. proof of penetration required</p>	<p>victim's char. for unchastity admiss. re consent & credibility; "virtuous" female child < 12 or girl 14-16 only can be raped § 15-166: trial judge may exclude bystanders from rape trial</p>	<p>rape 1st: death, if off. > 16 (changed to life if invalid) rape 2d: life assault w/intent: min. 1 yr., max. 15 yrs. stat. rape: misdemeanor, max. 10 yrs.</p>
<p>sex neutral gross sexual imposition: sexual act imposed by force, or w/o knowledge or consent sexual imposition: sexual act imposed by threat sexual assault: offensive sexual contact penetration not required for all forms of gross sexual imposition spousal exception excl. those living apart under judicial decree off. upgraded if serious bodily injury or victim not voluntary social companion</p>	<p>§ 12.1-20-01(3): prompt complaint required - 3 mos. § 12.1-20-14: opinion, rep. & evid. of victim's prior sexual conduct inadmiss. re consent, except conduct w/accused & in rebuttal § 12.1-20-15: prior sexual conduct offered to impeach witness' credibility must be proved relevant away from jury § 12.1-20-05: corruption of minors § 12.1-20-06: sexual abuse of wards § 12.1-20-08: fornication § 12.1-20-09: adultery § 12.1-20-10: unlawful cohabitation § 12.1-20-11: incest § 12.1-20-12: deviate sexual act § 12.1-20-13: bigamy</p>	<p>gross sexual imposition: cl. A felony, max. 20 yrs. + \$10,000; or cl. B felony, max. 10 yrs. + \$10,000 sexual imposition: cl. C felony, max. 5 yrs. &/or \$5000 sexual assault: cl. B misdemeanor</p>

	DERIVATION	STATUTORY AGE REQUIREMENTS	TERMINOLOGY
OHIO OHIO REV. CODE ANN. (Anderson 1975) (Supp. 1975) § 2907.01: Definitions (A)-(L) § 2907.02: Rape (A)(1)-(3), (B)-(F) § 2907.03: Sexual battery (A) (1)-(6), (B) § 2907.05: Gross sexual imposition (A) (1)-(3), (B)-(F) § 2907.06: Sexual imposition (A) (1)-(4), (B), (C) § 2907.12: Felonious sexual penetration (A) (1)-(3), (B)	L. 1972, eff. 1974, am. 1975 similar to Fla. L. 1975 am. added new off.	§ 2907.02: victim < 13 § 2907.04: person > 12 & < 15, off. > 18 or > 4 yrs. older § 2907.05(A) (3): person < 13	<i>sexual conduct</i> : vaginal & anal intercourse, fellatio & cunnilingus <i>sexual contact</i> : any touching of any erogenous zone for sexual arousing <i>sexual activity</i> : sexual conduct or contact or both <i>felonious sexual penetration</i> : insertion of object into anal or vaginal cavity by force or threat
OKLAHOMA OKLA. STAT. ANN. tit. 21 (1958) (Supp. 1975) § 1111: Rape defined, 1st-8th § 1114: Rape in the first degree, second degree § 1115: Punishment for rape in the first degree § 1116: Punishment for rape in the second degree	§ 1111: Stat. 1890, R.L. 1910 formulated degrees § 1115 am. 1965 1975 evid. L. (tit. 22, § 750) 1974 child abuse stat. incl. sexual abuse	rape 1st: female < 16 rape 2d: female > 16 & < 18 rape: male > 18, female < 14 or w/o consent male < 14 presumed incapable	<i>rape</i> : an act of sexual intercourse

STATUTORY STRUCTURE	EVIDENCE PROVISIONS & CROSS REFERENCES	PENALTIES
<p>sex neutral</p> <p>rape: sexual conduct when victim compelled to submit by force or threat of force</p> <p>sexual battery: sexual conduct when off. knowingly coerces other; other circumstances of control or domination</p> <p>gross sexual imposition: sexual contact when off. purposely compels or substantially impairs judgment or control</p> <p>sexual imposition: sexual contact offensive to other or when control impaired</p> <p>resistance not required</p> <p>single stat. prohibits all sex off., incl. prostitution & obscenity</p>	<p>corrob. required for § 2907.06</p> <p>evid. of specific instances of victim's & defendant's prior sexual activity excluded except to prove source of semen or conduct w/off., but admiss. to impeach</p> <p>§ 2907.03(A) (5): incest</p> <p>§ 2907.04: corruption of minor</p> <p>§ 2907.07: importuning</p> <p>§§ 2907.02(F) & 2907.05(F): victim may be represented by counsel in any hearing or proceeding re admissibility</p> <p>§ 2907.11: names & details suppressed upon request pending adjudication</p> <p>§ 2907.27: accused must be examined for venereal disease</p> <p>§ 2907.28: costs of medical exam. paid by city or county</p> <p>§ 2907.29: emergency room service by doctor must be provided 24 hrs. per day</p>	<p>rape & felonious sexual penetration: felony 1st, mandatory life if victim < 13 & force used; mandatory prison for 2d off.</p> <p>sexual battery: felony 3d</p> <p>gross sexual imposition: felony 3d or 4th</p> <p>sexual imposition: misdemeanor 3d</p>
<p>male/female</p> <p>rape: sexual intercourse under detailed circumstances of incapacity, resistance overcome or prevented by force or threats, or victim unconscious or defrauded</p> <p>rape 1st: force, threats, victim incapable of consent or resistance prevented</p> <p>rape 2d: all others</p> <p>spousal exception in § 1111</p> <p>§ 1113: slight penetration is sufficient to complete crime</p>	<p>corrob. not required unless victim < 14</p> <p>tit. 22, § 750: victim's prior sexual conduct inadmiss. to prove consent: admiss. in rebuttal</p> <p>rape 2d: female of previous chaste & virtuous char.</p> <p>§ 1112: males < 14 presumed incapable</p> <p>§ 1123: lewd or indecent proposals or acts as to child under 14</p> <p>tit. 63, § 1-524(b): required exam. of sex off.</p> <p>seduction, compelling to marry & abduction retained as off. under this ch.</p>	<p>rape 1st: min 5 yrs., life or death</p> <p>rape 2d: min. 1 yr., max. 15 yrs.</p> <p>§ 1123: felony, min. 1 yr., max. 20 yrs.</p>

	DERIVATION	STATUTORY AGE REQUIREMENTS	TERMINOLOGY
<p>OREGON ORE. REV. STAT. (1973 Repl.) (L. 1975)</p> <p>§ 163.305: Definitions (1)-(8) § 163.315: Incapacity to consent § 163.355: Rape in the third degree (1)A, (2) § 163.365: Rape in the second degree (1)A(a), (b), (2) § 163.375: Rape in the first degree (1)A(a)-(c), (2)</p>	<p>L. 1971 does not follow MPC or Cal. code 1975 evid. L. (ch. 176)</p>	<p>rape 1st: female < 12 rape 2d: female < 14 rape 3d: female < 16 age of consent = 18 § 163.345: actor > 3 yrs. older than victim</p>	<p><i>sexual intercourse:</i> ordinary meaning; occurs upon any penetration, however slight <i>forcible compulsion:</i> physical force that overcomes resistance, or a threat <i>sexual abuse:</i> sexual contact w/o consent</p>
<p>PENNSYLVANIA PA. STAT. ANN. tit. 18 (1973)</p> <p>§ 3101: Definitions § 3102: Mistake as to age § 3103: Spouse relationships § 3104: Sexually promiscuous complainants § 3105: Prompt complaint (repealed 1976) § 3121: Rape (1)-(4) § 3122: Statutory rape</p>	<p>§§ 3121 & 3122 en. 1972 1973 code replaced L. 1939, 1966 present L. is MPC derivation see text for legislative history</p>	<p>stat. rape: actor > 16, person < 16 § 3125: actor > 18, child < 18</p>	<p><i>sexual intercourse:</i> in addition to its ordinary meaning includes intercourse per os or per anus</p>

STATUTORY STRUCTURE	EVIDENCE PROVISIONS & CROSS REFERENCES	PENALTIES
<p>male/female rape 1st: sexual intercourse if female subjected to forcible compulsion, or is of a certain class of victim rape 2d: sexual intercourse w/female incapable of consent, or < 14 rape 3d: sexual intercourse w/female < 16 § 163.335: spousal exception, incl. couples cohabiting consensually</p>	<p>corrob. not required evid. of sexual char. or rep. for chastity of complainant inadmiss. for all purposes, except re conduct w/defendant (in camera hearing required; court shall state questions) § 163.345: defendant's age as a defense in certain cases § 163.375(c): incest § 163.385-.405: sodomy § 163.417: sexual abuse in the second degree § 163.425: sexual abuse in the first degree § 163.435: contributing to the sexual delinquency of a minor; both men and women liable § 163.445: sexual misconduct § 163.455: accosting for deviate purposes § 163.465: public indecency</p>	<p>§ 161.605: penalties rape 1st: cl. A felony, max. 20 yrs. rape 2d: cl. B felony, max. 10 yrs. rape 3d: cl. C felony, max. 5 yrs.</p>
<p>person/person rape: sexual intercourse by force or by threat of forcible compulsions that would prevent resistance by person of reasonable resolution, or person incapable of consent some penetration required spousal exception</p>	<p>provision mandating Lord Hale's instruction en. 1972, repealed 1976 prompt complaint requirement repealed 1976 § 3123: involuntary deviate sexual intercourse § 3124: voluntary deviate sexual intercourse § 3125: corruption of minors, jurisdiction to family court § 3126: indecent assault § 6102: attempt; felony/rape § 6103: crimes committed w/arms offenses against the person</p>	<p>§ 1103: penalties rape: felony 1st, max. 20 yrs. stat. rape: felony 2d, max. 10 yrs. (penalty reduced 1973)</p>

	DERIVATION	STATUTORY AGE REQUIREMENTS	TERMINOLOGY
PUERTO RICO P.R. LAWS ANN. tit. 33 (1969) § 961: Rape defined § 963: Essential guilt § 964: Penalty for rape	P.C. 1902, 1937 Cal. code derivation	§§ 961 & 966: female < 14 § 962: male < 14 presumed incapable	<i>rape</i> : an act of sexual intercourse (<i>inter alia</i>) where she is incapable, through lunacy or other unsoundness of mind, of giving legal consent
RHODE ISLAND R.I. GEN. LAWS ANN. (1970) (Supp. 1974) § 11-37-1: Common law rape § 11-37-2: Carnal knowledge of girl under age of consent § 11-37-3: Attempted carnal know- ledge of girl under age of consent	G.L. 1896, 1909, 1923, 1938	age of consent = 16	c.l. rape not def. by stat. <i>seduction</i> : unlawful carnal connection
SOUTH CAROLINA S.C. CODE ANN. (1962) (Supp. 1974) § 16-71: Rape § 16-72: Punishment for rape or assault with intent to ravish § 16-73: Testimony by deposition in rape etc. cases § 16-74: How deposition to be taken § 16-75: Deposition to be read to jury § 16-76: Judge may direct depositions in rebuttal § 16-77: Custody of deposition § 16-78: Deposition to be destroyed § 16-79: Sheriff to procure attendance of accused; absence of counsel § 16-80: Carnal knowledge of a woman child	§ 16-71 en. 1869, directly from Eng. L. w/modified penalty § 16-72 am. 1974 procedures for depositions en. 1909	age of consent = 16 (formerly 14) § 16-80: penalty depends on victim's age (see col. 7)	whosoever shall ravish a woman, married, maid or other, when she did not consent, either before or after, or ravisheth a woman w/ force, although she consent after, shall be guilty of rape.

STATUTORY STRUCTURE	EVIDENCE PROVISIONS & CROSS REFERENCES	PENALTIES
<p>male/female rape: sexual intercourse under detailed circum- stances of victim non-consent, resistance overcome or prevented, or unconscious or defrauded resistance required penetration required spousal exception</p>	<p>corrob. required no evidentiary exclusions § 761: assault w/intent § 965: forcible marriage or defilement § 966: enticing females for purposes of prostitution; crimes against children § 968: marriage prior to trial as bar to prosecution</p>	<p>§ 964: min. 1 yr., max. life § 965: min. 2 yrs., max. 14 yrs. § 966: felony, max. 5 yrs.</p>
<p>male/female sexual intercourse, force, non-consent, penetra- tion</p>	<p>corrob. not required for rape; required for seduction § 11-5-1: assault with intent § 11-8-3: entry with intent § 11-37-4: seduction § 11-37-5: joinder of rape count with count for seduction, carnal knowledge or pandering § 11-37-6: indecent assault upon a child § 10-9-2: persons convicted of rape not entitled as of right to demand writ of habeas corpus</p>	<p>rape: min. 10 yrs., max. life stat. rape: max. 15 yrs. attempted stat. rape: max. 10 yrs. additional penalty if armed off.</p>
<p>male/female c.l. rape</p>	<p>complaint to police = sufficient corrob. prior unchastity of stat. rape victim reduces penalty complex procedures for taking victim's deposition; absence of counsel shall not preclude taking § 16-81: misdemeanor to publish name of person raped Art.4: rape, abortion (abortion repealed 1974)</p>	<p>rape: min. 5 yrs., max. 40 yrs., at judge's discretion stat. rape: felony; if child < 10, max. 14 yrs.; if child > 14 & < 16, max. 5 yrs.; if off. < 18 & child > 14 & unchaste, max. 1 yr. § 16-149: additional penalty for carrying arms while committing crime</p>

	DERIVATION	STATUTORY AGE REQUIREMENTS	TERMINOLOGY
<p>SOUTH DAKOTA S.D. COMPILED LAWS ANN. (1967) (Supp. 1975)</p> <p>§ 22-22-1: Rape defined (1)-(3) § 22-22-2: Sexual penetration defined § 22-22-5: Punishment for rape § 22-22-7: Indecent molestation of a child § 22-22-8: Punishment for indecent molestation</p>	<p>P.C. 1877 modeled after Cal. code 1975 major revision, am. re penalties §§ 22-22-7 & -8 from L. 1950</p>	<p>age of consent = 16 (reduced from 18 in 1972) § 22-22-7: child < 15</p>	<p><i>sexual penetration:</i> act, however slight, of sexual intercourse, cunnilingus, fellatio, anal intercourse, or any intrusion, however slight, of a genital or of any object into the genital or anal opening</p>
<p>TENNESSEE TENN. CODE ANN. (1975)</p> <p>§ 39-3701: "Rape" defined § 39-3702: Punishment for rape § 39-3704: Carnal knowledge by administering drug § 39-3705: Carnal knowledge of child under 12 years § 39-3706: Carnal knowledge of female between 12 and 18 not amounting to rape; penalty; proof; exceptions</p>	<p>c. 1858, from Act of 1829 § 39-3701 en. 1932 new evid. L. 1975: § 40-2445 am. re death penalty 1973 & 1974</p>	<p>§ 39-3702: female < 12, death penalty § 39-3704: female > 12 § 39-3705: female < 12 § 39-3706: female 12-18</p>	<p>carnal knowledge</p>

STATUTORY STRUCTURE	EVIDENCE PROVISIONS & CROSS REFERENCES	PENALTIES
<p>sex neutral rape: act of sexual penetration by force or threats or where victim incapable of consenting spousal exception eliminated in 1975</p>	<p>corrob. not required § 23-44-16.1: evid. of specific instances of victim's prior sexual conduct except w/defendant must be proved relevant away from public & jury ch. 26-10: offenses against minor no mistake as to age defense § 22-22-5: convicted off. given initial screening eval. to determine whether counseling would be beneficial § 22-22-19: incest</p>	<p>rape: max. 20 yrs. indecent molestation: max. 20 yrs; if death of child results, punishable as murder</p>
<p>male/female rape: unlawful carnal knowledge of woman forcibly & against her will penetration force</p>	<p>corrob. not required § 40-2445: evid. of prior sexual conduct of victim inadmiss. unless proved material away from jury § 39-3703: pretending to be husband § 39-3706: rep. for "want of chastity" admiss. if victim > 14; no conviction if female > 12 is "lewd" corrob. required impotency a complete defense § 39-3707: aiders and abettors punished as principals § 39-3708: forcible marriage or abduction § 39-605, <i>et seq.</i>: assault w/intent</p>	<p>rape: if female < 12, death; if female > 12, min. 10 yrs., max. life carnal knowledge by drug & stat. rape: same as rape § 39-3706: felony, min. 1 yr., max. 10 yrs. § 40-2714: disqualification from office upon conviction</p>

	DERIVATION	STATUTORY AGE REQUIREMENTS	TERMINOLOGY
TEXAS TEX. PENAL CODE (1974) (Supp. 1975) § 21.01: Definitions (1)-(3) § 21.02: Rape (a), (b) (1)-(7), (c) § 21.03: Aggravated rape (a) (1)-(2), (b) § 21.04: Sexual abuse (a) (1)-(2), (b) (1)-(7), (c) § 21.05: Aggravated sexual abuse (a) (1)-(2), (b) § 21.09: Rape of a child § 21.10: Sexual abuse of a child (a)-(d)	P.C. 1925 MPC variation en. 1973, am. 1975 new evid. L. 1975: § 38.07	§ 21.03: incl. "child" victim § 21.09: female < 17 § 21.10: child < 17 if victim < 14 aff'm defense that actor < 2 yrs. older	<i>sexual intercourse:</i> any penetration of female sex organ by male sex organ that would prevent resistance by woman of ordinary resolution under same or similar circumstances b/c of reasonable fear of harm
UTAH UTAH CODE ANN. (Supp. 1973) § 76-5-401: Unlawful sexual intercourse (1), (2) § 76-5-402: Rape (1), (2) § 76-5-404: Forcible sexual abuse (1), (2) § 76-5-405: Aggravated sexual assault (1) (a)i-ii, (b), (2) § 76-5-406: Sexual intercourse, sodomy, or sexual abuse without consent of victim; circumstances	P.C. 1953 Cal. model stat. repealed present L. en. 1973, MPC variant	§ 76-5-401: female < 16, male must be > 3 yrs. older for felony § 76-5-405 (b): victim < 14 § 76-5-406: age of consent = 14	<i>sexual abuse:</i> touching the anus or genitals <i>w/o consent:</i> force overcomes resistance, or threats prevent resistance by person of ordinary resolution, or victim unconscious
VERMONT VT. STAT. ANN. tit. 13 (1974) § 3201: Rape by person over sixteen § 3202: Rape by person under sixteen	en. 1791, am. 1971	age of consent = 16 § 3201: off. > 16, victim < or > 16 § 3202: off. & victim < 16	<i>rape:</i> ravishes, carnally knows female person forcibly & against her will

STATUTORY STRUCTURE	EVIDENCE PROVISIONS & CROSS REFERENCES	PENALTIES
<p>male/female rape: sexual intercourse w/o consent under detailed circumstances resistance required penetration aggravated rape: causes death or serious bodily injury or threat of death sexual intercourse & sexual contact §§ 21.04, .05 & .10 incl. male victims</p>	<p>Art. 38.07 Code of Crim. Procedure corrob. not required if victim told any person of off. w/in 6 mos. prompt complaint goes only to credibility § 21.13: admiss. of evid. of victim's prior sexual conduct determined relevant at in camera recorded hearing; judge to limit question- ing, except for prior felony convictions to impeach or if victim > 14 in stat. rape case § 21.06: homosexual conduct</p>	<p>rape: felony 2d, min. 2 yrs., max. 20 yrs. aggravated rape: felony 1st, min. 5 yrs., max. 99 yrs. sexual abuse: felony 2d aggravated sexual abuse: felony 1st stat. rape: felony 2d stat. sexual abuse: felony 2d</p>
<p>rape: male/female sodomy, sexual abuse: sex neutral rape: sexual intercourse w/female w/o consent aggravated sexual assault: rape, sodomy or attempts when actor causes serious bodily injury § 76-5-407: married persons, conduct ex- empt; limitations of actions; "penetration" or "touching" suffi- cient to constitute offense (1), (2)</p>	<p>corrob. not required prompt complaint (3 mos.) required unless victim < 18 or incompetent § 76-5-403: sodomy; forcible sodomy (1)-(3) offenses against the person: Part 4. sexual offenses</p>	<p>rape: felony 2d, max. 15 yrs. forcible sexual abuse: felony 3d, max. 5 yrs. aggravated sexual assault: felony 1st, min. 5 yrs., max. life unlawful sexual inter- course: felony 3d, max. 5 yrs., but if off. < 3 yrs. older, cl. B misdemeanor</p>
<p>male/female c.l. def. § 3201: forcible & stat. rape</p>	<p>prompt complaint may be used as corrob. age of off. = affirmative defense § 3202: both victim & off. guilty if both consent & both < 16 Ch. 71: rape</p>	<p>§ 3201: max. 20 yrs. or \$2000 § 3202: if consent, both guilty of misdemeanor; if w/o consent, as per § 3201</p>

	DERIVATION	STATUTORY AGE REQUIREMENTS	TERMINOLOGY
VIRGIN ISLANDS V.I. CODE ANN. tit. 14 (1964) (Supp. 1974) § 1701: Rape in the first degree § 1702: Rape in the second degree § 1703: Rape in the third degree	en. 1921, am. 1964 based on N.Y. stat.	§ 1702: female < 14 § 1703: female > 14 & < 16 § 1705: male < 14 presumed incapable	<i>rape</i> : sexual inter- course when victim incapable of consent, when resis- tance forcibly over- come or prevented by fear or stupor, or she is unconscious
VIRGINIA VA. CODE ANN. (1975) § 18.2-61: Rape of female 13 years of age or older; carnal knowledge of female child under 13 § 18.2-63: Carnal knowledge of female child between 13 and 15 years of age	prior L. en. 1950, am. 1960 & 1972 current L. en. 1975	§ 18.2-61: female < 13 (formerly 16) § 18.2-63: female 13-15, or minor off. > 3 yrs. older	<i>rape</i> : carnally know a female, against her will, by force
WASHINGTON WASH. REV. CODE ANN. (L. 1975) § 1: Definitions (1)a-c, (2)-(6) § 2: Rape (1)-(3)a-d, (4) § 3: Lack of consent, age of victim (1), (2) § 4: Rape punishment (1)a-d, (2) § 5: Rape in the second degree (1)a-b, (2) § 6: Rape in the third degree (1)a-b, (2) § 7: Statutory rape (1), (2) § 8: Statutory rape in the second degree (1), (2) § 9: Statutory rape in the third degree (1), (2)	new 1975 former L. en. 1909, am. 1973	§ 7: person > 13 w/ person < 11 § 8: person > 16 w/person > 11 < 14 § 9: person > 18 w/person > 14 < 16 former L.: victim < 10	<i>sexual intercourse</i> : ordinary meaning; also any penetration by any object & any part of sexual contact involving sex organs of one person & mouth or anus of another <i>consent</i> : actual words or conduct indicating freely given agreement to have sexual intercourse

STATUTORY STRUCTURE	EVIDENCE PROVISIONS & CROSS REFERENCES	PENALTIES
<p>male/female rape 1st, 2d & 3d rape 1st def. by circum- stances of nonconsent § 1704: penetration nec- essary to constitute rape spousal exception</p>	<p>§ 1706: conviction on testimony of female defiled: corrob. required as to every element § 1705: proof of physical ability to penetrate</p>	<p>rape 1st: max. 20 yrs. rape 2d: max. 5 yrs. rape 3d: max. 1 yr. &/or \$200</p>
<p>male/female force adequate to over- come resistance penetration required § 18.2-63: force not required; consent an absolute bar to prose- cution; if consent = fornication</p>	<p>want of chastity relevant re consent no mistakes as to age defense § 18.2-64: carnal knowledge of female patients or pupils of certain institutions § 18.2-65: effect of female child's being of bad moral repute and lewd: defendant not convicted of rape § 18.2-66: subsequent marriage bars prosecution § 18.2-67: deposition of female witnesses in cases of rape and attempted rape § 18.2-70: seduction of female of previous chaste character § 18.2-90: entering a dwelling w/intent to rape § 18.2-26: attempts Ch. 4: crimes against the person</p>	<p>rape: min. 5 yrs.-life stat. rape: cl. 6 felony</p>
<p>sex neutral rape & stat. rape 1st, 2d & 3d rape 1st: by forcible compulsion, w/deadly weapon, kidnapping, serious personal injury or felonious entry into building or vehicle rape 2d: by force or victim incapable of consent rape 3d: by threats & all other circumstances spousal exception excl. those legally married</p>	<p>corrob. not required evidence of victim's prior sexual conduct, incl. divorce history, inadmiss. to attack credibility; admiss. on consent only after motion & closed finding of relevance Tit. 9A, § 64.020: incest</p>	<p>rape & stat. rape 1st: min. 20 yrs.; no deferred or suspended sentence, no work release or furlough program; min. confined sentence of 3 yrs. rape & stat. rape 2d: max. 10 yrs. rape & stat. rape 3d: max. 5 yrs.</p>

	DERIVATION	STATUTORY AGE REQUIREMENTS	TERMINOLOGY
WEST VIRGINIA W. VA. CODE ANN. (1966) (Supp. 1975) § 61-2-15: Rape; age of consent; carnal knowledge of male person; penalties	L 1849, 1860, 1868 1963 am. added clause re male victim 1965 am. deleted death penalty 1969 evidence am.	male > 16, female < 10 male < 16 w/ consenting female > 12 exempt female > 16 w/ male < 16, misdemeanor age of consent = 16	carnally knows a female person against her will w/ force
WISCONSIN WIS. STAT. ANN. (1958) (Supp. 1975) (L. 1975) § 940.225(1): First degree sexual assault (a)-(d) § 940.225(2): Second degree sexual assault (a)-(e) § 940.225(3): Third degree sexual assault § 940.225(3m): Fourth degree sexual assault § 940.225(4): Consent (a)-(c) § 940.225(5): Definitions (a)-(c)	new 1975, published March 1976 former L. en. 1849, am. 1907, 1959	§ 940.225(1) (d): victim < 12 § 940.225(2) (e): victim > 12 & < 18 age of consent = 15; 15-17 presumed incapable of consent	<i>sexual intercourse:</i> incl. cunnilingus, fellatio, anal inter- course or any intrusion by person's body or object <i>sexual contact:</i> intentional touching of intimate parts, clothed or unclothed, by hand, mouth or object <i>consent:</i> words or overt actions by competent person <i>sexual conduct:</i> incl. use of contra- ceptives, living arrangement & life style
WYOMING WYO. STAT. ANN. (1957) (Supp. 1975) § 6-63: Rape; degrees of rape defined A-C § 6-64: Attempt to commit rape	L. 1890, am. 1965, 1971 § 6-64 en. 1911	§ 6-63B: female child < 15 w/ consent = 2d deg. § 6-63C: female child > 15 & < 18 w/ consent = 3d deg. (prior to 1965 am. age of consent = 18)	unlawfully has carnal knowledge of woman or female child forcibly & against her will

STATUTORY STRUCTURE	EVIDENCE PROVISIONS & CROSS REFERENCES	PENALTIES
<p>male/female c.i. def., force, penetra- tion spousal exception</p>	<p>previous chaste char. an element of off. § 61-2-15a: certain evidence excluded in prosecutions for statutory rape: defendant's marital status</p>	<p>rape: life; no parole; if guilty plea or jury recommends mercy, then min. 10 yrs., max. 20 yrs. no parole if victim <10 female/male misde- meanor off.: 2-6 mos. in co. jail</p>
<p>sex neutral sexual assault 1st: sexual contact or intercourse causing pregnancy or great bodily harm, or w/weapon or aided & abetted sexual assault 2d: sexual contact or intercourse by threat, or causing injury sexual assault 3d: sexual intercourse w/o consent sexual assault 4th: sexual contact w/o consent § 940.225(6): no prosecu- tion of spouse unless living apart & 1 has filed for annulment, separation or divorce</p>	<p>§ 901.04: hearings on admiss. of victim's rep. or prior sexual conduct conducted away from jury § 906.08: victim's credibility can be attacked only by opinion or rep. evidence of truthfulness § 972.11: all evidence of victim's prior sexual conduct excl. except w/defendant, to show source of semen, & prior untruthful allegations of sexual assault; must be determined material § 970.03: judge may exclude unnecessary persons from court § 944.12: enticing a child for immoral purposes</p>	<p>sexual assault 1st: max. 15 yrs. &/or \$15,000 sexual assault 2d: max. 10 yrs. &/or \$10,000 sexual assault 3d: max. 5 yrs. &/or \$5000 sexual assault 4th: max. 1 yr. in co. jail &/or \$500</p>
<p>male/female rape 1st: force rape 2d & 3d: depend on victim's age & consent resistance not always required § 7-265: emission not required penetration required</p>	<p>moral char. of prosecutrix may be proved Ch. 4: offenses against the person</p>	<p>rape 1st: min. 1 yr., max. life rape 2d: min. 1 yr., max. 50 yrs. rape 3d: no min., max. 1 yr. in co. jail</p>

V. RECENT CHANGES IN THE RAPE LAWS*

The number and extent of recent changes in the rape laws have been extraordinary. If reformers are not totally satisfied, there at least has been a great deal of legislative activity. Laws which had been sitting on the books for two hundred years were dusted off and re-examined, often with far-reaching results. In 1974, eleven jurisdictions amended their rape laws or the evidence rules regarding sex offenses. In 1975, many more did so, for a total of 35.³ Not all were major amendments, but almost without exception they tended to improve the victim's status in the criminal justice process. Yet, the Vermont statute which was enacted in 1791 remains in effect and has had only one minor amendment since its enactment.⁴

The most prevalent and extensive changes pertain to the admissibility of evidence. Twenty-two states⁵ have recently passed some form of evidence provision, limiting testimony and questioning on the subject of the victim's prior sexual conduct. The restrictions limit admissibility of evidence relating to prior sexual conduct of the victim, whether offered in the form of reputation evidence, opinion evidence or evidence of specific acts. Usually prior sexual history in the form of specific acts or conduct is the first type of evidence to be excluded.⁶ Some states, such as Delaware,

merely exclude specific acts of the victim with persons other than the defendant. The strongest formulations, found in the Michigan, New Mexico and Ohio statutes, exclude all evidence of the victim's previous sexual conduct, either for the purpose of proving conduct of the victim (*i.e.*, consent) or to impeach the victim's credibility on either direct or cross examination.⁷ The Ohio statute, although worded similarly to Michigan's is weaker in that it only excludes evidence on direct, not cross examination. However, Ohio allows the victim to be independently represented in all in camera hearings regarding evidence. The Center for Rape Concern Model Statute, reprinted *supra* § III, explicitly states that such evidence should not be admitted either on direct or cross examination.

Despite the sheer volume of legislative activity, some of the changes are merely superficial. Some states, such as Maryland, have simply reworded their statutes or streamlined the language, while keeping the substance of the law unchanged. Thirty-five jurisdictions⁸ still define a crime called rape, although two⁹ define it in sex neutral terms, which would not be rape at common law. Five¹⁰ define sexual assault, which in some instances is a lesser offense than rape.

*Both West Virginia and Wisconsin have enacted new sex offense statutes, which could not be included in this analysis, but which should be noted.

³The 35 jurisdictions are as follows (full statutory cites are not included throughout because of the Rape Chart, *supra* § IV): Alaska (1974, 1975), Arkansas (1975), California (1974), Colorado (1975), Connecticut (1975), Florida (1974, 1975), Hawaii (1975), Indiana (1974), Iowa (1974), Kentucky (1974), Louisiana (1975), Maine (1975), Maryland (1975), Massachusetts (1974), Michigan (1975), Minnesota (1975), Mississippi (1974), Missouri (1975), Montana (1975), Nebraska (1975), Nevada (1975), New Hampshire (1975), New Mexico (1975), New York (1974, 1975), North Carolina (1974, 1975), North Dakota (1975), Ohio (1975), Oklahoma (1975), Oregon (1975), Rhode Island (1974), Tennessee (1975), Texas (1975), Virginia (1975), Washington (1975), Wisconsin (1975). A digest of the rape laws in the fifty states, up to and including June 1975, was independently prepared by the National Legal Data Center for Battelle Law and Justice Study Center. Copies of the digest and other research reports can be obtained by writing to Battelle Seattle Research Center, 400 N.E. 41 Street, Seattle, Washington 98105. See also, L. BRODYGA, M. GATES, S. SINGER, M. TUCKER & R. WHITE, *RAPE AND ITS VICTIMS: A REPORT FOR CITIZENS, HEALTH FACILITIES, AND CRIMINAL JUSTICE AGENCIES* (November, 1975) available from National Institute of Law Enforcement and Criminal Justice, Washington, D.C.

⁴See Rape Chart, *supra* § IV.

⁵Alaska (1975), California (1974), Colorado (1975), Florida (1974), Hawaii (1975), Indiana (1975), Kentucky (1975), Louisiana (1975), Michigan (1975), Minnesota (1975), Montana (1975), Nebraska (1975), Nevada (1975), New Hampshire (1975), New Mexico (1975), New York (1974), North Dakota (1975), Oklahoma (1975), Oregon (1975), Tennessee (1975), Texas (1975), Washington (1975). Nineteen amendments were enacted in 1975, three in 1974.

⁶See, e.g., Note, *Rape Reform Legislation: Is It the Solution?* 24 CLEV. ST. L. REV. 463, 478-86 (1975). See also, Note, *California Rape Evidence Reform: An Analysis of Senate Bill 1678*, 26 HASTINGS

L.J. 1551 (1975); Note, 8 GA. L. REV. 973 (1974); Comment, *Limitations on the Right to Introduce Evidence Pertaining to the Prior Sexual History of the Complaining Witness in Cases of Forcible Rape: Reflection of Reality or Denial of Due Process?* 3 HOFSTRA L. REV. 403 (1975) (criticizing the Michigan formulation); Comment, *Ohio's New Rape Law: Does it Protect the Complainant at the Expense of the Rights of the Accused?* 9 AKRON L. REV. 337 (1975); Note, *Evidence—Rape Trials—Victim's Prior Sexual History*, 27 BAYLOR L. REV. 362 (1975); Washburn, *Rape Law: The Need for Reform*, 5 N.M.L. REV. 279 (1975); Comment, *Nebraska's Corroboration Rule*, 54 NEB. L. REV. 93 (1975).

⁷This establishes a contradiction in the Michigan law. Prior sexual conduct of the victim might be admissible and relevant to establish mental anguish, which may be part of the gradation or definition of the new offense. However, the new Michigan evidence provision absolutely precludes the admissibility of any evidence with regard to prior sexual experiences of the victim. See, Note, *Recent Statutory Developments in the Definition of Forcible Rape*, 61 VA. L. REV. 1500, 1515-16, 1527-28 (1975).

⁸Alabama, Alaska (sex neutral), Arizona, Arkansas (sex neutral), California, Delaware, District of Columbia, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky (homosexual and heterosexual), Maine, Maryland, Massachusetts, Mississippi, Missouri, Nevada, New Jersey, North Carolina, Ohio, Oklahoma, Oregon, Puerto Rico, Rhode Island, South Dakota, Tennessee, Texas, Utah, Vermont, Virgin Islands and West Virginia.

⁹Alaska and Arkansas. Pennsylvania uses sex neutral designations in its Model Penal Code-type statute; however, it has never been interpreted as sex neutral. Two separate sections (Involuntary Deviate Sexual Intercourse and Voluntary Deviate Sexual Intercourse) would apply to male victims and sodomy.

¹⁰Colorado, Connecticut, Montana, Nebraska and New Hampshire. Florida defines rape as sexual battery. The states which use the sexual assault formulation, but not to define rape, are Delaware, North Dakota and Utah. Ohio defines sexual battery as a minor offense.



Seventeen states¹¹ have sex neutral provisions, although not all offenses in a single statute may be sex neutral. Florida has adopted, and California is considering, the sexual battery formulation. Louisiana, in a unique statute, defines both homosexual and heterosexual rape. New Mexico defines a new offense, criminal sexual penetration, which is penetration with an object. The Ohio statute defines the offenses of sexual battery, gross sexual imposition, importuning (soliciting) and felonious sexual imposition. Its all-encompassing statute addresses itself to the definition of offenses, sentencing, probation, medical services, victim representation, evidence rules and jury instructions, as well as obscenity and prostitution.¹²

The most innovative legislative changes concern treatment of victims. A number of states¹³ have passed laws mandating emergency room treatment, forbidding hospitals from turning away victims of sexual assault. Minnesota empowers the Commissioner of Corrections to develop a community based program to assume all treatment and examination costs of victims. The Nebraska statute states a specific legislative intent to protect the "dignity of the victim." A 1975 Nevada law requires the state to pay for treatment of victims, including treatment for emotional injury. The state is also required to pay for treatment of victims' spouses. However, the prerequisite for reimbursement is filing a criminal complaint. The new Ohio statute also mandates state-paid treatment of victims.

It is difficult to assess the impact of reform legislation. Clearly, legislative changes alone will not accomplish all of the needed changes.¹⁴ Twenty-six jurisdictions¹⁵ still have essentially the common law formulation of the crime: that is, rape is unlawful carnal knowledge, or sexual intercourse, by a male upon a female victim not his spouse, by force or against her will, with proof of penetration required. If reform cannot do everything, however, it is the fundamental prerequisite to instituting other changes. The New York example remains striking:

Prior to the 1972 amendment thereof (regarding corroboration) New York State's rule on corroboration in sexual offense cases, as expressed in former § 130.15 and the judicial opinions interpreting it and its predecessor (old Penal Law § 203.13), was considered the strictest in the country. Corroboration of the victim's testimony was required to "extend to every material fact essential to constitute the crime" (*People v. Radnovic*, 1967, 21 N.Y.2d 186, 287 N.Y.S.2d 33). "[I]n a recent, typical year, only 18 rape convictions were obtained in the courts of New York, versus thousands of complaints..."¹⁶

¹⁴See, e.g., Note, *Rape Reform Legislation: Is It the Solution?* 24 CLEV. ST. L. REV. 463 (1975).

¹⁵Alabama, Arizona, California, Idaho, Illinois, Georgia, Guam, District of Columbia, Indiana, Iowa, Kansas, Maryland, Mississippi, Missouri, New York, New Jersey, North Carolina, Oklahoma, Puerto Rico, Rhode Island, Tennessee, Utah, Vermont, Virgin Islands, Virginia, West Virginia.

¹⁶Hechtman Practise Commentary, N.Y. Penal Law § 130.16 (McKinney 1975).

¹¹Alaska (except for rape), Arkansas, Colorado, Connecticut, Florida, Kentucky (except for homosexual or heterosexual rape), Maine, Michigan, Minnesota, Montana, Nebraska, New Hampshire, New Mexico, North Dakota, Ohio, South Dakota and Washington.

¹²See Chart of Current State Laws, *supra* § IV.

¹³Florida, Minnesota, Nevada and Ohio.