

## SEX OFFENSES 2011

### Rape §5-14-103

- Sexual intercourse or deviate sexual activity
    - Forcible compulsion
    - Incapable of consent because physically helpless, mentally defective or incapacitated
    - V < 14 ( But there is a 3 yr. affirmative defense)
    - V < 18 and actor is guardian, uncle/aunt, grandparent (step or adoption), brother/sister (whole, half or by adoption), nephew/niece, or first cousin (But there is a 3 yr. affirmative defense)
  - Y felony (10 - 40 years or life)
  - V < 14 = minimum 25 year sentence.
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### Sexual Assault in the first degree §5-14-124

- Sexual intercourse or deviate sexual activity
  - V < 18 & not spouse
  - D is:
    - employed w/ DOC, DCC, DHS, city/county jail or juvenile detention facility & V in custody at same
    - Is a mandated reporter under §12-18-402(b) & in position of trust or authority & uses position for prohibited conduct
    - employee in V's school or school district, temporary caretaker, or person in a position of trust or authority over the V
  - 3 yr. affirmative defense
  - no defense that V consented
  - A felony (6 - 30 years; up to \$15,000 fine)
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### Sexual Assault in the second degree §5-14-125

- Sexual contact by forcible compulsion
  - Sexual contact - V incapable of consent because physically helpless, mentally defective or incapacitated
  - D 18 or > engages in sexual contact V < 14 (not spouse)
  - Sexual contact - V < 18 and D is:
    - employed w/ DOC, DCC, city/county jail or any juvenile detention facility & V is in custody in custody at same.
    - Is a mandated reporter under §12-18-402(b) & is in a position of trust or authority over the V
    - V's guardian, employee in the V's school or school district, a temporary caretaker or a person in a position of trust or authority over the V
    - consent is no defense
  - D < 18 sexual contact and V < 14 (not spouse) (3 yr. affirmative defense if V < 12; 4 yr. affirmative defense if V 12 or >)
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- D is a teacher in a public school in K-12 & engages in sexual contact with student who is enrolled in the public school & V is < 21. (2011 – added “principal, athletic coach or school counselor”)
  - B felony (5- 20 years; up to \$15,000 fine)
  - D felony (0-6 years; up to 10,000 fine) if D is < than 18 and V is < 14.
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#### Sexual Assault in the third degree §5-14-126

- Sexual intercourse or deviate sexual activity not spouse and D. is:
    - employed w/ DOC, DCC, DHS, city/county jail & victim is in custody at same
    - employed or contracted with or otherwise providing services, supplies, or supervision to an agency maintaining custody of inmates, detainees, or juveniles, & V is custody of same.
    - a mandated reporter under 12-18-402(b) - or member of the clergy & in position of trust or authority and uses position for prohibited conduct
  - D < 18 and V < 14 (not spouse) (3 year affirmative defense)
  - No defense that V consented.
  - C felony (3 - 10 years; up to \$10,000 fine)
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#### Sexual Assault in the fourth degree §5-14-127

- D 20 or > & V < 16 (not spouse) & Engages in sexual intercourse, deviate sexual activity
  - Sexual contact with V < 16 (not spouse) Actor’s age not listed. This needs to be amended.
  - Sexual contact with another person (not spouse), actor is employed with DOC, DCC, DHS or any city or county jail and victim is in same.
  - D felony for sexual intercourse or deviate sexual activity (0 – 6 years; up to \$10,000 fine)
  - A misdemeanor for sexual contact (Up to 1 year in jail; up to \$1,000 fine)
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#### Sexual indecency with a child §5-14-110

- Solicits another to engage in sexual intercourse, deviate sexual activity or sexual contact
  - D 18 or >
  - V < 15 or represented to be < 15
- With purpose to arouse or gratify self or other, person exposes sex organ
  - V < 15 (3 yr. affirmative defense)
- With the purpose to arouse or gratify sexual desire of self or other, exposes sex organs
  - V < 18
  - D Employed with DOC, DCC, city/county jail, juvenile detention facility & V in custody at same or
  - D is a mandated reporter under § 12-18-402(b) & in position of trust or authority over V or

- D is V's guardian, employee in V's school or school district, a temporary caretaker, or a person in a position of trust and authority over the V
  - With purpose to arouse or gratify sexual desire of self or other person, causes or coerces V < 18 to expose sex organs to another person
    - D 18 or > & employed with DOC, DCC, city/county jail, juvenile detention facility & V in custody same OR
    - D 18 or > & is a mandated reporter under § 12-18-402(b) & in position of trust or authority over V OR
    - D is V's guardian, an employee in the V's school or school district, temporary caretaker, or a person in a position of trust or authority over the V.
  - Causes or coerces another person to expose sex organs or breasts of a female with the purpose to arouse or gratify sexual desires of self or another.
    - D 18 or >
    - V < 14
  - D felony (0 – 6 years; up to \$ 10,000 fine)
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#### Public sexual indecency §5-14-111

- Sexual intercourse, deviate sexual activity or sexual contact in a public place or view
  - A misdemeanor (up to 1 year in jail; up to \$ 1,000 fine)
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#### Indecent exposure §5-14-112

- With purpose to arouse or gratify sexual desire of self or other, D exposes sex organs
    - in public place or view or
    - under circumstances D knows will cause affront or alarm
  - A misdemeanor (up to 1 year in jail; up to \$ 1,000 fine)
  - Fourth and fifth conviction w/in past 10 years = D felony
  - Sixth and each successive conviction w/in 10 years = C felony
  - Not a violation to breast feed your child in a public place
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#### Incest §5-26-202

- D 16 or >
- V 16 or >
- Purports to marry, or have sexual intercourse or deviate sexual activity
- Knows that V is an:
  - ancestor or descendant,
  - stepchild or adopted child,
  - brother or sister of whole or half blood,
  - uncle, aunt,
  - nephew, niece,
  - step-grandchild or adopted grandchild.
- C felony (3 - 10 years; up to \$ 10,000 fine)

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**Bestiality § 5-14-122**

D performs or submits to any act of sexual gratification with an animal involving his or her or the animal's sex organs and the mouth, anus, penis or vagina of the other.

A misdemeanor