

Wyoming

ARTICLE 3 SEXUAL ASSAULT

6-2-301. Definitions.

(a) As used in this article:

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

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

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

(iv) "Position of authority" means that position occupied by a parent, guardian, relative, household member, teacher, employer, custodian or any other person who, by reason of his position, is able to exercise significant influence over a person;

(v) "Sexual assault" means any act made criminal pursuant to W.S. 6-2-302 through 6-2-304;

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

(vii) "Sexual intrusion" means:

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

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

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

(ix) "This article" means W.S. 6-2-301 through 6-2-313.

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

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

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

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

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

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

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

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

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

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

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

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

(v) At the time of the commission of the act the victim is less than twelve (12) years of age and the actor is at least four (4) years older than the victim;

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

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

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

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

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

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

(i) The actor is at least four (4) years older than the victim and inflicts sexual intrusion on a victim under the age of sixteen (16) years; or

(ii) The actor is an adult and subjects a victim under the age of fourteen (14) years to sexual contact without inflicting sexual intrusion on the victim and without causing serious bodily injury to the victim;

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

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

6-2-306. Penalties for sexual assault.

(a) An actor convicted of sexual assault who does not qualify under the criteria of subsection (b) or (d) of this section shall be punished as follows:

(i) Sexual assault in the first degree is a felony punishable by imprisonment for not less than five (5) years nor more than fifty (50) years;

(ii) Sexual assault in the second degree is a felony punishable by imprisonment for not more than twenty (20) years;

(iii) Sexual assault in the third degree is a felony punishable by imprisonment for not more than fifteen (15) years;

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

(b) An actor who is convicted of sexual assault and who does not qualify under the criteria of subsection (d) of this section shall be punished by the extended terms of subsection (c) of this section if:

(i) He is being sentenced for two (2) or more separate acts of sexual assault in the first or second degree;

(ii) He previously has been convicted of any crime containing the same or similar elements as the crimes defined in W.S. 6-2-302 or 6-2-303.

(c) An actor convicted of sexual assault who qualifies under the criteria of subsection (b) of this section shall be punished as follows:

(i) Sexual assault in the first or second degree is a felony punishable by imprisonment for not less than five (5) years or for life;

(ii) Sexual assault in the third degree is a felony punishable by imprisonment for not more than twenty (20) years;

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

(d) An actor who is convicted of sexual assault shall be punished by life imprisonment without parole if the actor has two (2) or more previous convictions for any of the following designated offenses, which convictions resulted from charges separately brought and which arose out of separate occurrences in this state or elsewhere:

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

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

(iii) A conviction under W.S. 14-3-105(a), or a criminal statute containing the same or similar elements as the crime defined by W.S. 14-3-105(a), if the circumstances of the crime involved a victim who was under the age of sixteen (16) at the time of the offense and an actor who was at least four (4) years older than the victim.

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

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

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

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

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

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

(a) Promptly after receiving a report of any alleged sexual assault of the first, second or third degree, the peace officer to whom the incident is reported shall take the victim to a licensed physician for examination, unless the victim refuses the examination. If a licensed physician is unavailable, the medical examination may be made by a person qualified to conduct the examination. One (1) witness of the same sex as the victim shall be present during the examination. The examiner shall deliver a written report disclosing the results of his examination to the peace officer or his designee.

(b) In lieu of the medical examination required by subsection (a) of this section, the victim of an alleged sexual assault may receive examination by a doctor of his own choosing if this examination can be obtained without delay. The doctor shall deliver a written report disclosing the results of his examination to the peace officer handling the investigation. The victim in prosecuting an act of alleged sexual assault waives any privilege due to the doctor-patient relationship with the doctor conducting the examination as to evidence bearing on the alleged sexual assault.

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

(d) The medical report required by this section is not necessary to obtain a conviction of sexual assault. Any written report disclosing the results of an examination made pursuant to this section shall be made available to the actor or his counsel upon demand.

(e) If a report of an alleged sexual assault is received from a minor, and the parents of the minor cannot be located promptly with diligent effort, then the medical examination required by subsection (a) of this section may be conducted with the minor's consent.

(f) If a report of the alleged sexual assault is received more than ten (10) days after the alleged incident, the medical examination shall not be mandatory.

(g) Except as provided by subsection (j) of this section, any victim of an alleged sexual assault that is reported to law enforcement shall be reimbursed for medical examination costs directly resulting from the sexual assault. The investigating law enforcement agency shall be liable for any medical examination costs relating to the investigation or prosecution of the sexual assault. These investigation costs shall include the following:

(i) The cost of gathering evidence as outlined in the Wyoming sexual assault evidence kit; and

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

(h) Except as provided by subsection (j) of this section, any medical examination costs directly incurred by a sexual assault victim that are not covered by subsection (g) of this section, or other collateral source, shall be submitted to the victim services division within the office of the attorney general for determination of eligibility for payment from the crime victims compensation account established by W.S. 1-40-114. All requests for compensation from the account shall be subject to the eligibility guidelines set forth in the Crime Victims Compensation Act, W.S. 1-40-101 through 1-40-119.

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

(k) Each reported victim of a sexual assault shall be informed of the rights enumerated in this section. The victim shall also be informed of available medical, legal and advocacy services.

6-2-310. Names not to be released; restrictions on disclosure or publication of information; violations; penalties; effect of disclosure; "minor victim".

(a) Prior to the filing of an information or indictment, neither the names of the alleged actor or victim of a sexual assault nor any other information reasonably likely to disclose the identity of the victim shall be released or negligently allowed to be released to the public by any public employee except as authorized by the judge with jurisdiction over the criminal charges. The actor's name may be released to the public to aid or facilitate an arrest.

(b) After the filing of an information or indictment and upon the request of a minor victim or another acting on behalf of a minor victim, the trial court may, to the extent necessary to protect the welfare of the minor victim, restrict the disclosure or publication of information reasonably likely to identify the minor victim.

(c) Any person who willfully violates this section or who willfully neglects or refuses to obey any court order made pursuant to this section is guilty of contempt and upon conviction shall be fined not more than seven hundred fifty dollars (\$750.00) or be imprisoned in the county jail not more than ninety (90) days, or both.

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

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

6-2-311. Corroboration unnecessary.

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

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

(a) In any prosecution under W.S. 6-2-302 through 6-2-304 or for any lesser included offense, if evidence of the prior sexual conduct of the victim, reputation evidence or opinion evidence as to the character of the victim is to be offered the following procedure shall be used:

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

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

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

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

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

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

6-2-313. Sexual battery.

(a) Except under circumstances constituting a violation of W.S. 6-2-302 through 6-2-304, 6-2-502 or 14-3-105, an actor who unlawfully subjects another person to any sexual contact is guilty of sexual battery.

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

6-4-403. Abandoning or endangering children; penalties; "child"; disclosure or publication of identifying information; "minor victim".

(a) No parent, guardian or custodian of a child shall:

(i) Abandon the child without just cause; or

(ii) Knowingly or with criminal negligence cause, permit or contribute to the endangering of the child's life or health by violating a duty of care, protection or support.

(b) No person shall knowingly:

(i) Cause, encourage, aid or contribute to a child's violation of any law of this state;

(ii) Cause, encourage, aid or permit a child to enter, remain or be employed in any place or premises used for prostitution or for professional gambling;

(iii) Commit any indecent or obscene act in the presence of a child;

(iv) Sell, give or otherwise furnish a child any drug prohibited by law without a physician's prescription; or

(v) Cause, encourage, aid or contribute to the endangering of a child's health, welfare or morals, by using, employing or permitting a child:

(A) In any business enterprise which is injurious or dangerous to the health, morals, life or physical safety of the child;

(B) In any place for purposes of begging;

(C) To be exhibited for the purpose of displaying any deformity of a child, except to physicians, nurses or other health professionals; or

(D) In a place used for prostitution.

(E) Repealed By Laws 1999, ch. 180, § 3.

(vi) Conceal or refuse to reveal to the parent, guardian, lawful custodian or to a peace officer the location of a child knowing that the child has run away from a parent, guardian or lawful custodian, except when

the action of the defendant is necessary to protect the child from an immediate danger to the child's welfare.

(c) A person violating this section is guilty of a misdemeanor punishable by imprisonment for not more than one (1) year, a fine of not more than one thousand dollars (\$1,000.00), or both. A person convicted of a second violation of this section is guilty of a felony punishable by imprisonment for not more than five (5) years, a fine of not more than five thousand dollars (\$5,000.00), or both.

(d) As used in this section, "child" means a person under the age of sixteen (16) years.

(e) Subsection (b)(ii) of this section does not apply to crimes chargeable under W.S. 6-4-103(a)(i). Subsection (b)(iv) of this section does not apply to crimes chargeable under W.S. 35-7-1036.

(f) Prior to the filing of an information or indictment charging a violation of W.S. 6-4-403(b)(ii), (iii) or (v)(D) or (E), neither the name of the person accused or the victim nor any other information reasonably likely to disclose the identity of the victim shall be released or negligently allowed to be released to the public by any public employee, except as authorized by the judge with jurisdiction over the criminal charges. The name of the person accused may be released to the public to aid or facilitate an arrest.

(g) After the filing of an information or indictment and upon the request of a minor victim or another acting on behalf of a minor victim, the trial court may, to the extent necessary to protect the welfare of the minor victim, restrict the disclosure or publication of information reasonably likely to identify the minor victim.

(h) Any person who willfully violates subsection (f) or (g) of this section or who willfully neglects or refuses to obey any court order made pursuant thereto is guilty of contempt and, upon conviction, shall be fined not more than seven hundred fifty dollars (\$750.00) or be imprisoned in the county jail not more than ninety (90) days, or both.

(j) A release of a name or other information to the public in violation of the proscriptions of subsection (f) or (g) of this section shall not stand as a bar to the prosecution of a defendant or be grounds for dismissal of any charges against a defendant.

(k) As used in subsection (g) of this section, "minor victim" means a person under the age of sixteen (16) years.

6-4-404. Violation of order of protection; penalty.

(a) Any person who willfully violates a protection order or valid foreign protection order as defined in W.S. 35-21-109(a), is guilty of a misdemeanor punishable by imprisonment for not more than six (6) months, a fine of not more than seven hundred fifty dollars (\$750.00), or both.

(b) For purposes of subsection (a) of this section, "protection order" means an order of protection issued pursuant to W.S. 35-21-104 or 35-21-105 or any injunction or other order issued for the purpose of preventing violent or threatening acts or harassment against, or contact or communication with or physical proximity to, another person, including temporary and final orders issued by civil and criminal courts, other than support or child custody orders, whether obtained by filing an independent action or as a pendente lite order in another proceeding so long as any civil order was issued in response to a complaint, petition or motion filed by or on behalf of a person seeking protection.

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