

**Sexual Abuse of Minors Statutes**

§ 22-22-1	Rape--Degrees-- Felony--Statute of limitations	<p>Rape is an act of sexual penetration accomplished with any person under any of the following circumstances:</p> <p>(1) If the victim is less than thirteen years of age; or</p> <p>(2) Through the use of force, coercion, or threats of immediate and great bodily harm against the victim or other persons within the victim's presence, accompanied by apparent power of execution; or</p> <p>(3) If the victim is incapable, because of physical or mental incapacity, of giving consent to such act; or</p> <p>(4) If the victim is incapable of giving consent because of any intoxicating, narcotic, or anesthetic agent or hypnosis; or</p> <p>(5) If the victim is thirteen years of age, but less than sixteen years of age, and the perpetrator is at least three years older than the victim.</p> <p>A violation of subdivision (1) of this section is rape in the first degree, which is a Class C felony. A violation of subdivision (2) of this section is rape in the second degree which is a Class 1 felony. A violation of subdivision (3) or (4) of this section is rape in the third degree, which is a Class 2 felony. A violation of subdivision (5) of this section is rape in the fourth degree, which is a Class 3 felony. Notwithstanding the provisions of § 23A-42-2, no statute of limitations applies to any charge brought pursuant to subdivisions (1) or (2) of this section. Otherwise a charge brought pursuant to this section may be commenced at any time prior to the time the victim becomes of age twenty-five or within seven years of the commission of the crime, whichever is longer.</p>
§ 22-22-7	Sexual contact with child under sixteen-- Felony or misdemeanor	<p>Any person, sixteen years of age or older, who knowingly engages in sexual contact with another person, other than that person's spouse if the other person is under the age of sixteen years is guilty of a Class 3 felony. If the victim is at least thirteen years of age and the actor is less than five years older than the victim, the actor is guilty of a Class 1 misdemeanor. Notwithstanding § 23A-42-2, a charge brought pursuant to this section may be commenced at any time before the victim becomes age twenty-five or within seven years of the commission of the crime, whichever is longer.</p>
§ 22-22-24.3	Sexual exploitation of a minor--Felonies-- Assessment	<p>A person is guilty of sexual exploitation of a minor if the person causes or knowingly permits a minor to engage in an activity or the simulation of an activity that:</p> <p>(1) Is harmful to minors;</p> <p>(2) Involves nudity; or</p> <p>(3) Is obscene.</p> <p>Consent to performing these proscribed acts by a minor or a minor's parent, guardian, or custodian, or mistake as to the minor's age is not a defense to a charge of violating this section.</p> <p>A violation of this section is a Class 6 felony. If a person is convicted of a second or subsequent violation of this section within fifteen years of the prior conviction, the violation a Class 5 felony. The court shall order an assessment pursuant to § 22-22-1.3 of any person convicted of violating this section.</p>
22-22A-3.1	Aggravated incest-- Foster child--Felony	<p>Any person eighteen years of age or older, who knowingly engages in an act of sexual penetration with a person who is less than eighteen years of age and who, at the time of the offense, has been placed, and resides, in a licensed foster home is guilty of aggravated incest if the perpetrator is:</p> <p>(1) The licensed foster care provider; or</p> <p>(2) A resident of the licensed foster care provider's home and related to the licensed foster care provider by blood or marriage.</p> <p>Aggravated incest is a Class 3 felony.</p>
§ 22-22A-3	Aggravated incest-- Related child--Felony	<p>Any person who knowingly engages in an act of sexual penetration with a person who is less than eighteen years of age and is either:</p> <p>(1) The child of the perpetrator or the child of a spouse or former spouse of the perpetrator; or</p> <p>(2) Related to the perpetrator within degrees of consanguinity within which marriages are, by the laws of this state, declared void pursuant to § 25-1-6;</p> <p>is guilty of aggravated incest. Aggravated incest is a Class 3 felony.</p>
§ 26-8A-2	Abused or neglected child defined	<p>In this chapter and chapter 26-7A, the term, abused or neglected child, means a child:</p> <p>***</p> <p>(8) Who is subject to sexual abuse, sexual molestation, or sexual exploitation by the child's parent, guardian, custodian, or any other person responsible for the child's care;</p>
§ 26-8A-3	Persons required to report child abuse or	<p>Any physician, dentist, doctor of osteopathy, chiropractor, optometrist, mental health professional or counselor, podiatrist, psychologist, religious healing practitioner, social worker, hospital intern or</p>

neglected child	resident, parole or court services officer, law enforcement officer, teacher, school counselor, school official, nurse, licensed or registered child welfare provider, employee or volunteer of a domestic abuse shelter, employee or volunteer of a child advocacy organization or child welfare service provider, chemical dependency counselor, coroner, or any safety-sensitive position as defined in subdivision 23-3-64(2), who has reasonable cause to suspect that a child under the age of eighteen has been abused or neglected as defined in §26-8A-2 shall report that information in accordance with §§26-8A-6, 26-8A-7, and 26-8A-8. Any person who intentionally fails to make the required report is guilty of a Class 1 misdemeanor. Any person who knows or has reason to suspect that a child has been abused or neglected as defined in §26-8A-2 may report that information as provided in §26-8A-8.
§ 19-12-15 "Rape-Shield" Law <sup>1</sup>	<p>(a) Evidence generally inadmissible. The following evidence is not admissible in any civil or criminal proceeding involving alleged sexual misconduct except as provided in subdivisions (b) and (c):</p> <p>(1) Evidence offered to prove that any alleged victim engaged in other sexual behavior.</p> <p>(2) Evidence offered to prove any alleged victim's sexual predisposition.</p> <p>(b) Exceptions.</p> <p>(1) In a criminal case, the following evidence is admissible, if otherwise admissible under these rules:</p> <p>(A) evidence of specific instances of sexual behavior by the alleged victim offered to prove that a person other than the accused was the source of semen, injury or other physical evidence;</p> <p>(B) evidence of specific instances of sexual behavior by the alleged victim with respect to the person accused of the sexual misconduct offered by the accused to prove consent or by the prosecution; and</p> <p>(C) evidence the exclusion of which would violate the constitutional rights of the defendant.</p> <p>(2) In a civil case, evidence offered to prove the sexual behavior or sexual predisposition of any alleged victim is admissible if it is otherwise admissible under these rules and its probative value substantially outweighs the danger of harm to any victim and of unfair prejudice to any party. Evidence of an alleged victim's reputation is admissible only if it has been placed in controversy by the alleged victim.</p> <p>(c) Procedure to determine admissibility.</p> <p>(1) A party intending to offer evidence under subdivision (b) must:</p> <p>(A) file a written motion at least 14 days before trial specifically describing the evidence and stating the purpose for which it is offered unless the court, for good cause requires a different time for filing or permits filing during trial; and</p> <p>(B) serve the motion on all parties.</p> <p>(2) Before admitting evidence under this rule the court must conduct a hearing in camera and afford the victim and parties a right to attend and be heard. The motion, related papers, and the record of the hearing must be sealed and remain under seal unless the court orders otherwise.</p>
§ 23A-24-6 Minor's testimony as to sexual offense involving child	<p>23A-24-6 Minor's testimony as to sexual offense involving child--Open only to certain persons--Exception for grand jury proceedings</p> <p>Any portion of criminal proceedings, with the exception of grand jury proceedings, at which a minor is required to testify concerning rape of a child, sexual contact with a child, child abuse involving sexual abuse, or any other sexual offense involving a child may be closed to all persons except the parties' attorneys, the victim or witness assistant, the victim's parents or guardian, and officers of the court and authorized representatives of the news media, unless the court, after proper hearing, determines that the minor's testimony should be closed to the news media or the victim's parents or guardian in the best interest of the minor.</p>
§ 19-16-38 Statement by child under age 13 or child with developmental disability regarding sex crime, physical abuse or neglect	<p>A statement made by a child under the age of thirteen, or by a child thirteen years of age or older who is developmentally disabled as defined in §27B-1-18, describing any act of sexual contact or rape performed with or on the child by another, or describing any act of physical abuse or neglect of the child by another, or any act of physical abuse or neglect of another child observed by the child making the statement, not otherwise admissible by statute or court rule, is admissible in evidence in criminal proceedings against the defendant or in any proceeding under chapters 26-7A, 26-8A, 26-8B, and 26-8C in the courts of this state if:</p> <p>(1) The court finds, in a hearing conducted outside the presence of the jury, that the time, content, and circumstances of the statement provide sufficient indicia of reliability; and</p> <p>(2) The child either:</p> <p>(a) Testifies at the proceedings; or</p> <p>(b) Is unavailable as a witness.</p> <p>However, if the child is unavailable as a witness, such statement may be admitted only if there is corroborative evidence of the act.</p> <p>No statement may be admitted under this section unless the proponent of the statement makes known the proponent's intention to offer the statement and the particulars of it, including the name and address of the declarant to the adverse party sufficiently in advance of the trial or hearing to provide the adverse party with a fair opportunity to prepare to meet the statement.</p>

<sup>1</sup> §19-12-15 is a Supreme Court Rule of Evidence based on Federal Rule of Evidence 412.