

DEFINITION OF SEX OFFENCE UNDER THE NEW YORK STATE PENAL LAW

Sexual Misconduct (Class A Misdemeanor)

Up to 1 Year in Prison:

Sexual Misconduct has occurred when:

- A male engages in sexual intercourse with a female without her consent;
- A person engages in deviate sexual intercourse with another person without the latter's consent; or
- A person engages in sexual conduct with an animal or with a dead human body.

Rape in the Third Degree (Class E Felony)

Up to 4 years in Prison:

Rape in the Third Degree has occurred when:

- A person engages in sexual intercourse with another person to whom the actor is not married who is incapable of consent by reason of some factor other than being less than 17 years old;
- OR
- Being 21 years old or more, he or she engages in sexual intercourse with another person to whom the actor is not married and who is less than 17 years old.

Rape in the Second Degree (Class D Felony)

Up to 7 Years in Prison:

Rape in the Second Degree has occurred when:

- A person being 18 years or more engages in sexual intercourse with another person less than 14 years old to whom the actor is not married.

Rape in the First Degree (Class B Violent Felony)

Up to 25 Years in Prison:

Rape in the First Degree has occurred when a male engages in sexual intercourse with a female:

- By forcible compulsion; or
- Who is incapable of consent by reason of being physically helpless; or
- Who is less than 11 years old.

Consensual Sodomy (Class B Misdemeanor)

Up to 3 Months in Prison:

- A person engages in deviate sexual intercourse with another person.

Sodomy in the Third Degree (Class E Felony)

Up to 4 Years in Prison:

- A person engages in deviate sexual intercourse with a person who is incapable of consent by reason or factor other than being less than 17 years old;
- Being 21 years old or more, engages in deviate sexual intercourse with a person less than 17 years old.

Sodomy in the Second Degree (Class D Felony)

Up to 7 Years in Prison:

- A person, being 18 years old or more, engages in deviate sexual intercourse with another person less than 14 years old.

Sodomy in the First Degree (Class B Violent Crime)

Up to 25 years in Prison:

Sodomy in the First Degree has occurred when a person engages in deviate sexual intercourse with another person:

- By forcible compulsion;
- Who is incapable of consent by reason of being physically helpless; or
- Who is less than 11 years old.

Sexual Abuse in the Third Degree (Class B Misdemeanor)

Up to 3 months in Prison:

Sexual Abuse in the Third Degree has occurred when:

- A person subjects another person to sexual contact without the latter's consent; except that in any prosecution under this section, it is an affirmative defense that:
 1. Such other person's lack of consent was due solely to incapacity to consent by reason of being less than 17 years old, and
 2. Such other person was more than 14 years old, and
 3. The defendant was less than 5 years older than such other person.