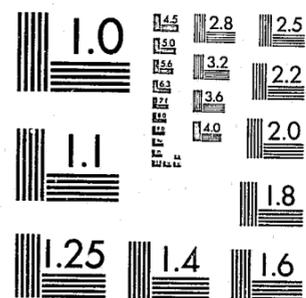


National Criminal Justice Reference Service



This microfiche was produced from documents received for inclusion in the NCJRS data base. Since NCJRS cannot exercise control over the physical condition of the documents submitted, the individual frame quality will vary. The resolution chart on this frame may be used to evaluate the document quality.



MICROCOPY RESOLUTION TEST CHART
NATIONAL BUREAU OF STANDARDS-1963-A

Microfilming procedures used to create this fiche comply with the standards set forth in 41CFR 101-11.504.

Points of view or opinions stated in this document are those of the author(s) and do not represent the official position or policies of the U. S. Department of Justice.

National Institute of Justice
United States Department of Justice
Washington, D. C. 20531

9/14/83

SEXUAL ASSAULT

A REPORT TO THE
HAWAII STATE LEGISLATURE



BY THE
HAWAII CRIME COMMISSION

State Capitol
Honolulu, Hawaii 96813

NOVEMBER 1980

87318

U.S. Department of Justice
National Institute of Justice

This document has been reproduced exactly as received from the person or organization originating it. Points of view or opinions stated in this document are those of the authors and do not necessarily represent the official position or policies of the National Institute of Justice.

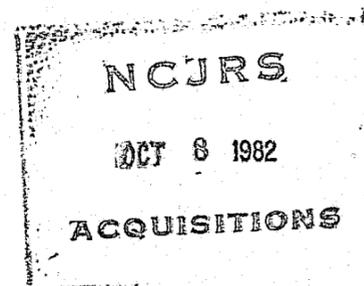
Permission to reproduce this copyrighted material has been granted by

Hawaii Crime Commission

to the National Criminal Justice Reference Service (NCJRS).

Further reproduction outside of the NCJRS system requires permission of the copyright owner.

SEXUAL ASSAULT



HAWAII CRIME COMMISSION
NOVEMBER 1980

HAWAII CRIME COMMISSION

COMMISSIONERS

Thomas T. Oshiro
Chairman

Rafael Acoba

A. Van Horn Diamond

Alwyn Kakuda

Neal Okabayashi

Borick Peroff

Napua Stevens Poire

Frank White, Jr.

COMMISSION STAFF

Edward J. Hitchcock
Director

Richard Kawana
Legal Counsel

Research

John Bassford
Chief of Research

Gerald Reardon
Researcher

Martha Torney
Researcher

Joseph Zarembo
Researcher

Delia Bolosan
Secretary

Legal Researcher

Gerald Miyoshi
Chief of Legal
Research

Rowena Adachi
Legal Researcher

Carrie Miyashita
Legal Researcher

Amy Tatsuno
Secretary

Investigators

Rex Hitchcock
Chief Investigator

David Kekumano
Investigator

Gaylord Lyman
Investigator

Louis Staunton
Investigator

Gwen Kometani
Secretary

Support Staff

Frances Asato
Secretary to the
Director

Arleen Miyashiro
Administrative Services
Assistant

Education

Eugenie Parnar
Education Specialist

Gil Silva
Education Specialist

TABLE OF CONTENTS

	Page
EXECUTIVE SUMMARY	i
I. INTRODUCTION	1
A. Purpose of Study	1
Laws changing throughout the country	1
Changes in Hawaii	2
B. Hawaii's Sexual Offenses Statute	3
II. HAWAII CRIME COMMISSION AND THE SEXUAL OFFENSES TASK FORCE	7
A. Purpose of Initiating a Task Force	7
Goals	7
Selection of Committee Members	8
B. Accomplishments of the Task Force	9
Issues in agreement	9
Issues in disagreement	10
C. Survey	12
Purpose	12
Results	13
III. MAJOR ISSUES IN REFORMING HAWAII'S LAWS	15
A. Focusing on the Conduct of the Offender, not the Victim	15
B. A Comprehensive Bill	18
C. Sexual Conduct is Graded into Degrees.	20
Purpose	20
Degree Based on Aggravating Factors	22

	Page
IV. REVISIONS OF LAWS IN OTHER STATES	23
A. Declassification	24
New Mexico	26
Michigan	29
B. Force and Resistance	33
V. CONCLUSION	40
VI. RECOMMENDATIONS	42
Model Statute	46
FOOTNOTES	55
APPENDIX A	57
APPENDIX B	106
BIBLIOGRAPHY	128

EXECUTIVE SUMMARY

The model sexual assault statute recommended in this report is the culmination of a three year study by the Crime Commission. This study includes work by a task force of experts, a survey of professionals in the field, and independent, in-depth research by the Commission staff. The changes embodied in the model statute would improve the victim's treatment in our criminal justice system and afford equal protection for all citizens against all acts of violence. These provisions have been tried elsewhere and are proven to work. The model statute is a sensible alternative which should be adopted in Hawaii. The time is right for progressive changes in our sexual assault laws which would afford our citizens the fair treatment they deserve.

Purpose of Study

The Commission initiated this study as a response to public concern for the rapid increase in the number of sexual assaults and the failure of our system to prosecute the offenders. There are two aspects to the problem: 1) not enough rapists are being convicted (according to FBI statistics, sexual assault offenses have the lowest conviction rate of all criminal offenses); and 2) the criminal justice system is openly hostile to rape victims, causing many victims either not to report or to later refuse to continue their testimony. These two aspects are interrelated. If victims received better treatment, the rate of reporting would increase. Similarly, the changes

needed to help the victim in court would also facilitate prosecution. The purpose of this study, therefore, is to explore the issues concerning criminal sexual assault in Hawaii today, to acquaint the reader with statutory revisions that have been implemented in other jurisdictions, and to propose amendments to Hawaii's sexual offenses statute which would improve the functioning of the system. The first step in improving our system must be statutory reform.

The Sexual Assault Offenses Task Force

In 1977 the Commission established a task force of knowledgeable community members and professionals in the criminal justice system to discuss the issues, identify problems, and develop recommendations for revising our sex offenses law. The thirteen members met for one year without coming to agreement on the changes necessary in our statute. The issues were clearly identified and lively discussion was held but the main goal of the task force--producing a model statute--was not reached due to fundamental differences of approach.

Survey

After the failure of the task force to resolve its differences, the Commission conducted a survey among a larger group of professionals in the field in an attempt to reach a consensus on statutory reform. Sixty-five attorneys, administrative and correctional personnel, and victim advocates were surveyed on their opinions. The basic finding was that the divisions within the task force did represent more widely based conflicts of opinion within the criminal justice system. This

conclusion reemphasized the need for the Commission to make its own attempt to clarify issues, conduct independent research and publish a set of recommendations appropriate to Hawaii. No easy solution to statutory reform was to be found.

Major Issues in Reforming Hawaii's Law

The issues concerning the revision of our sexual offense statutes fall into three broad categories:

- a) focusing on the conduct of the offender, not the victim;
- b) making the sexual assault law comprehensive; and
- c) grading the offenses into degrees.

The first issue, the focus of the law, is the most volatile concerning legal reform. It includes the concepts of "consent" and "resistance". Hawaii's sexual offense laws include elements of the victim's behavior prior to and during the offense that can create obstacles to the prosecution of an alleged sexual assault. If the focus were changed to the actions of the offender, then sexual assault would be treated more consistently like other assault offenses. This would reaffirm the premise that all citizens are equal under the law and properly place the emphasis on assault, not on sex. It would put the defendant on trial, not the victim.

The second issue, making the sexual assault law comprehensive, concerns consolidating the current rape, sodomy, and sex abuse statutes into the crime of sexual assault containing varying degrees. Such changes would make the law as non-sexist as possible, change the concept of rape and sodomy from crimes motivated by sexual desire

to crimes of aggression, and assign punishment according to the same standards used for assault and other crimes of aggression. Under a comprehensive statute, sexual assault would be divided into two categories--assaults involving "penetration" and those involving only "contact".

The final issue, involving grading the offenses into degrees, involves dividing sexual assault into degrees according to the amount of force used and the extent of injury to the victim. Such gradation would bring sexual assault into alignment with other violent personal offenses. It would better reflect a legislative judgment with regards to 1) the dangerousness of the sexual assault offender relative to individuals who have committed other crimes and 2) the risk of harm to which the victim was exposed as a result of the offender's conduct. The degree system would also reduce sentencing disparity.

Revisions of Laws in Other States

Since the early 1970's, as many as 45 states have revised their sexual offense statutes and more do so each year. Most of these changes have improved the role of the victim in the adjudication process. Admissibility of evidence, especially relating to prior sexual activity of the victim, has been greatly limited. 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. Other common changes include sex neutralization of the statutes and the equation of penetration by any object (animate or inanimate) into a person's vagina or anus with sexual intercourse.

For the purpose of revising Hawaii's law, the two points that need careful attention are 1) the declassification of offenses, and 2) the issue of the force used by the offender and resistance offered by the victim. Thirty-four states have successfully declassified their statutes into one comprehensive law. In doing so, thirty-three broadened the definition of sexual intercourse. At least thirty states also succeeded in removing "resistance" as an element. Thus, two-thirds of the states have already made these progressive changes which are recommended in the Commission's model statute.

Conclusion

All available studies, without exception, recommend revising the sex offense laws. The case for such revision is so strong that Hawaii now should only be concerned with what form the new statute will take. A new law must accomplish two things. First, it must afford equal protection for all citizens against any act of violence. Second, it must move the focus of prosecution from the conduct of the victim to that of the defendant. The model statute proposed by the Commission incorporates specific changes which would accomplish both these goals. It would improve the victim's treatment in the criminal justice system, foster increased reporting, and greatly facilitate the prosecution of sex offenses.

Recommendations

Because of the importance of statutory reform to improving the system, the Commission limited its recommendations solely to proposing a model statute. That statute achieves the goals outlined above by a) modifying certain definitions; b) adding three new definitions; c) consolidating the offenses of rape, sodomy, and sex abuse into the offense of sexual assault; and d) offering four degrees of sexual assault.

I. INTRODUCTION

I. INTRODUCTION

Up until the late 1960s, the consequences for the victim of criminal sexual assault received little public attention. However, with the growing anxiety about all forms of violence in our society, the rising incidence of sexual assault has emerged as a problem of national dimensions. According to FBI statistics, there has been a dramatic increase in the number of sexual assaults committed over the past decade.

Sexual assault is one of the ugliest of crimes. Its very nature is humiliating to the victim, who is most often a woman. Much of the recent attention has been stimulated by citizens concerned with equalizing the status of women. Therefore, the study of sexual assault tends to focus on the effects of the crime on the victim and the treatment of the victim by the criminal justice system. In no other crime is the role of the victim so emphasized.

A. Purpose of study

The purpose of this report is to explore the issues concerning criminal sexual assault in Hawaii today, to acquaint the reader with what statutory revisions have been implemented in other jurisdictions, and to evaluate possible amendments to Hawaii's sexual offense statute.

1. Laws changing throughout the country

The rapidity with which the crime of forcible rape has become the focus of national concern almost certainly has caught the criminal justice system by surprise. The system, like many federal, state, and local politicians, is now struggling to catch up with the momentum for action and change. Many proposed or effected reforms of the substantive criminal law in this area have been matched by

numerous attempts to strengthen the capabilities of criminal justice agencies to deal with forcible rape and related crimes. Across the nation innovative procedures are being developed and implemented to facilitate the apprehension and conviction of rapists and to reduce the incidence of rape.¹

Over 40 states have revised their criminal codes within the past ten years in an effort to confront the problem of sexual assault more effectively. While not all were major amendments, almost without exception the revisions have tended to improve the victim's status in the criminal justice process.² "Central to many of these efforts is the desire to ameliorate the plight of the rape victim and enhance the victim's cooperation with all elements of the criminal justice system."³

The primary focus of these statutory changes concerns evidentiary rules relating to rape which are substantially different from rules applied to other criminal offenses. Corroboration requirements which appear to be unique to rape, especially the issue of consent, have been carefully studied and revised in an attempt to bring them closer to the workings of evidentiary rules as applied to other criminal offenses.⁴ Also, efforts have been made to afford the victim improved medical treatment after the assault and to encourage police departments and prosecutors' offices to examine their procedures in the investigation and prosecution of sexual assault cases.

2. Changes in Hawaii

Hawaii has been one of the more progressive states in its attempts to deal with the victims of sexual assaults. A specialized rape detail was established by the Honolulu Police Department in 1972 and the Sex Abuse Treatment Center was opened in September of 1976.

(The rape detail is not autonomous but still falls under the general detail and sometimes general detail detectives will handle sexual assault cases.) Both these steps were necessary to combat sexual assault victimization in Hawaii in the 1970s, but they were not enough to encompass all the changes needed to slow down the rate of assaults and to improve the very low rate of convictions of alleged offenders. More is needed in the way of legislative reform to assure victims that the reporting of sexual assault will be dealt with seriously and with sensitivity. Problems surrounding current sexual offense statutes can be grouped into two general themes: (1) Not enough rapists are being convicted (according to FBI statistics, sexual assault offenses have the lowest conviction rate of all criminal offenses); and (2) the criminal justice system is openly hostile to rape victims, causing many victims to refuse to continue their testimony.⁵

B. Hawaii's Sexual Offenses Statute

The first major change in Hawaii sexual offense statute was enacted into law in 1979--the rephrasing of the statute into sex-neutral terms, deleting references to "male" and "female". An earlier amendment (1977) to the section concerning evidence of sexual conduct (§ 707-742, HRS) limited who is allowed to be in the court room at the time such evidence is being considered. Previously, the court was to order a hearing out of the presence of the jury but all others in the court room were permitted to remain. Since 1977, those who are allowed to view such proceedings are limited to "court personnel, the parties, their attorneys, and such other persons whose presence is determined by the court to be

necessary for the hearing." This step was a major one in protecting the privacy of the victim.

In the tenth legislature of the State of Hawaii, Senate Bill 2877 was passed and approved by the Governor June 7, 1980. This Bill redefines "sexual intercourse" to broaden its meaning. Now, intrusion or penetration of any part of a person's body, or of an object, into the genital opening of another person constitutes sexual intercourse. (This means that, although the law has been sex-neutralized, the victim of sexual intercourse can still only be a female.)

The definition of "forcible compulsion" was amended to delete adjectives in requirement of earnest resistance, fear of immediate death or serious physical bodily injury or fear of immediately being kidnapped. Absolute urgency and the need to "fight to the death" were deleted. (While the phrase "fight to the death" was never part of the actual definition of resistance, it was often the working or applied definition of the judiciary.)⁶

Section 707-740 relating to prompt complaint was amended to extend the time limit for making a sexual offense complaint from one to three months. This was done "as a matter of fairness and to avoid injustice where a delay of longer than one month occurs."⁷

Important issues addressed by legislative reform in other states have not been dealt with as of yet in Hawaii. These include: (1) altering the focus of the law so the actions of the offender will be paramount to the behavior of the victim during the assault (i.e., resistance); (2) creating a comprehensive, declassified statute of sexual assault that would incorporate the three types of offenses used today (rape, sodomy, and sexual abuse); and (3) grading sexual

assault laws into degrees based upon aggravating factors of the assault.

The current law reads as follows:

"Sec 707-700 Definitions of terms in this chapter. In this chapter, unless a different meaning plainly is required:

- (1) "Person" means a human being who has been born and is alive;
- (2) "Bodily injury" means physical pain, illness, or any impairment of physical condition;
- (3) "Serious bodily injury" means bodily injury which creates serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ;
- (4) "Dangerous instrument" means any firearm, or other weapon, device, instrument, material, or substance, whether animate or inanimate, which in the manner it is used or is intended to be used is known to be capable of producing death or serious bodily injury;
- (5) "Restrain" means to restrict a person's movement in such a manner as to interfere substantially with his liberty:
 - (a) By means of force, threat, or deception; or
 - (b) If the person is under the age of eighteen or incompetent, without the consent of the relative, person, or institution having lawful custody of him;
- (6) "Relative" means parent, ancestor, brother, sister, uncle, aunt, or legal guardian;
- (7) "Sexual intercourse" means sexual intercourse in its ordinary meaning or any intrusion or penetration, however slight, of any part of a person's body, or of any object, into the genital opening of another person, but emission is not required.
- (8) "Deviate sexual intercourse" means any act of sexual gratification:
 - (a) Between persons not married to each other involving the sex organs of one and the mouth or anus of the other; or
 - (b) Between a person and an animal or a corpse, involving the sex organs of one and the mouth, anus, or sex organs of the other.

- (9) "Sexual contact" means any touching of the sexual or other intimate parts of a person not married to the actor, done with the intent of gratifying the sexual desire of either party;
- (10) "Married" includes persons legally married, and a male and female living together as man and wife regardless of their legal status, but does not include spouses living apart under a judicial decree;
- (11) "Forcible compulsion" means physical force that overcomes resistance; or a threat, express or implied, that places a person in fear of death or bodily injury to himself or another person, or in fear that he or another person will be kidnapped;
- (12) "Mentally defective" means a person suffering from a disease, disorder, or defect which renders him incapable of appraising the nature of his conduct;
- (13) "Mentally incapacitated" means a person rendered temporarily incapable of appraising or controlling his conduct owing to the influence of a substance administered to him without his consent;
- (14) "Physically helpless" means a person who is unconscious or for any other reason physically unable to communicate unwillingness to an act."

"Sec. 707-740 Prompt complaint. No prosecution may be instituted or maintained under this part unless the alleged offense was brought to the notice of public authority within three months of its occurrence; provided that where the alleged victim was a minor or otherwise incompetent to make a complaint, the three-month requirement shall not apply."

A D D E N D U M

§707-730 Rape in the first degree. (1) A male commits the offense of rape in the first degree if:

- (a) He intentionally engages in sexual intercourse, by forcible compulsion, with a female and:
 - (i) The female is not, upon the occasion, his voluntary social companion who had within the previous twelve months permitted him sexual intercourse; or
 - (ii) He recklessly inflicts serious bodily injury upon the female; or
- (b) He intentionally engages in sexual intercourse with a female who is less than fourteen years old and he recklessly inflicts serious bodily injury upon the female.

(2) Rape in the first degree is a class A felony. [L 1972, c 9, pt of §1; am L 1974, c 197, §1]

§707-731 Rape in second degree. (1) A male commits the offense of rape in the second degree if:

- (a) He intentionally engages in sexual intercourse by forcible compulsion with a female; or
- (b) He intentionally engages in sexual intercourse with a female who is less than fourteen years old.

(2) Rape in the second degree is a class B felony. [L 1972, c 9, pt of §1]

§707-732 Rape in the third degree. (1) A male commits the offense of rape in the third degree if he intentionally engages in sexual intercourse with a female who is mentally defective, mentally incapacitated, or physically helpless.

(2) Rape in the third degree is a class C felony. [L 1972, c 9, pt of §1]

§707-733 Sodomy in the first degree. (1) A person commits the offense of sodomy in the first degree if:

- (a) He intentionally, by forcible compulsion, engages in deviate sexual intercourse with another person or causes another person to engage in deviate sexual intercourse, and:

(i) The other person was not, upon the occasion, his voluntary social companion who had within the previous twelve months permitted him sexual contact of the kind involved; or

(ii) He recklessly inflicts serious bodily injury upon the other person; or

(b) He intentionally engages in deviate sexual intercourse with another person who is less than fourteen years old, or causes such person to engage in deviate sexual intercourse, and he recklessly inflicts serious bodily injury upon the person.

(2) Sodomy in the first degree is a class A felony. [L 1972, c 9, pt of §1]

§707-734 Sodomy in the second degree. (1) A person commits the offense of sodomy in the second degree if:

(a) He intentionally, by forcible compulsion, engages in deviate sexual intercourse with another person or causes another person to engage in deviate sexual intercourse; or

(b) He intentionally engages in deviate sexual intercourse with another person who is less than fourteen years old.

(2) Sodomy in the second degree is a class B felony. [L 1972, c 9, pt of §1]

§707-735 Sodomy in the third degree. (1) A person commits the offense of sodomy in the third degree if he intentionally engages in deviate sexual intercourse with another person, or causes another person to engage in deviate sexual intercourse, and the other person is mentally defective, mentally incapacitated, or physically helpless.

(2) Sodomy in the third degree is a class C felony. [L 1972, c 9, pt of §1]

§707-736 Sexual abuse in the first degree. (1) A person commits the offense of sexual abuse in the first degree if:

(a) He intentionally, by forcible compulsion, has sexual contact with another or causes another to have sexual contact with him; or

(b) He intentionally has sexual contact with another person who is less than fourteen years old or causes such a person to have sexual contact with him.

(2) Sexual abuse in the first degree is a class C felony. [L 1972, c 9, pt of §1]

§707-737 Sexual abuse in the second degree. (1) A person commits the offense of sexual abuse in the second degree if:

(a) He intentionally has sexual contact with another person who is mentally defective, mentally incapacitated, or physically helpless, or causes such a person to have sexual contact with him; or

(b) He intentionally has sexual contact with another person who is under sixteen years old and at least fourteen years old and at least four years younger than him or causes such a person to have sexual contact with him.

(2) Sexual abuse in the second degree is a misdemeanor.

(3) It is an affirmative defense to a prosecution under subsection (1) (b) that the other person had, prior to the time of the offense charged, engaged promiscuously in sexual relations with others. [L 1972, c 9, pt of §1; am L 1975, c 163, §4]

§707-738 Indecent exposure. (1) A person commits the offense of indecent exposure if, with intent to arouse or gratify sexual desire of himself or of any person, he exposes his genitals to a person to whom he is not married under circumstances in which his conduct is likely to cause affront or alarm.

(2) Indecent exposure is a petty misdemeanor. [L 1972, c 9, pt of §1]

[§707-742] Evidence of sexual conduct; credibility. (a) In any prosecution under sections 707-730, 707-731, and 707-732, or for attempt to commit, or conspiracy to commit any crime defined in any such section, if evidence of sexual conduct of the complaining witness is offered to attack the credibility of the complaining witness, the following procedure shall be followed:

(1) A written motion shall be made by the defendant to the court and prosecutor stating that the defense has an offer of proof of the relevancy of evidence of the sexual conduct of the complaining witness proposed to be presented and its relevancy in attacking the credibility of the complaining witness.

(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 order a hearing out of the presence of the jury, if any, and at such hearing allow the questioning of the complaining witness regarding the offer of proof made by the defendant.

(4) At the conclusion of the hearing, if the court finds that evidence proposed to be offered by the defendant regarding the sexual conduct of the complaining witness is relevant and is not inadmissible for any reason, the court may make an order stating what evidence may be introduced by the defendant, and the nature of the questions to be permitted. The defendant may then offer evidence pursuant to the order of the court.

(b) As used in this section "complaining witness" means the alleged victim of the crime charged, the prosecution of which is subject to this section. [L 1975, c 83, §1]

II. HAWAII CRIME COMMISSION AND THE SEXUAL ASSAULT OFFENSES TASK FORCE

II. HAWAII CRIME COMMISSION AND THE SEXUAL ASSAULT OFFENSES TASK FORCE

A. Purpose of Initiating a Task Force

The Hawaii Crime Commission established, in late 1977, a Sexual Offenses Task Force consisting of members drawn from the community at large and professionals working in the criminal justice system. The Task Force was established in the belief that discussions by this groups would identify problems in the sex offenses laws or in the enforcement or administration of the law, as well as possible solutions for any recognized deficiencies.

1. Goals

In order to establish a purpose for the Sexual Assault Offenses Task Force, seven goals were identified. These goals, which all involved examining existing laws and procedures relating to sexual offenses, were:

1. To conduct comprehensive research and to evaluate penal code offenses dealing with sexual assault;
2. To identify problem areas associated with these crimes;
3. To recommend changes, policies or procedures that will significantly reduce the incidences of these crimes and improve the care and treatment of the victims;
4. Review the current sexual assault offenses statutes and recommend revisions if appropriate;
5. Identify, evaluate, and recommend improvement and expansion in existing programs for victims and offenders;
6. Assist in implementation of public education programs;
7. Improve communication and coordination of efforts between the agencies that deal with victims and offenders.

These goals were established after preliminary inquiries revealed a division of opinion between those who favored extensive revision of the rape laws and those who felt that the existing laws were adequate. Also, some problem areas were tentatively identified in regard to the procedures used when rape complaints were received.

2. Selection of committee members

The individuals on the thirteen member committee were chosen on the basis of their experience and expertise in dealing with the problems of sexual offenses. From the interaction of these people, who represented extremely diverse backgrounds and interests, it was believed that recommendations could be developed that would contribute to the reduction of sexual offenses.

Named as members to the Sexual Assault Offenses Task Force were:

Earl Benson	Detective, Honolulu Police Department
Addison Bowman	Professor of Law, University of Hawaii
David Chandler	Professor of Sociology, University of Hawaii
Roy Chang	Deputy Prosecuting Attorney
Paula Chun	Director, Sex Abuse Treatment Center
Yuriko J. Hiramoto	Tripler Army Medical Hospital
Janice Arnold Jones then Ramona Hussey	People Against Rape
Lila Johnson	Community
Marie Milks	Deputy Public Defender, Honolulu

Patricia Putman	Associate Dean, University of Hawaii Medical School
Geraldine Senner	Child Protective Services
William Woods	Sexual Identity Center

The moderator of this group was Anson Rego, a Crime Commission member, until his resignation of July 10, 1978. Thereafter, the moderator was James Countiss, a staff attorney for the Commission.

B. Accomplishments of the Task Force

During the year following the establishment of the SAOTF, a schism developed within the committee. Complete agreement could not be reached on a draft of revised sexual offense laws and the committee was not reconvened because of irreconcilable differences. However, many of the issues upon which the committee did agree have been subsequently passed by the legislature and enacted into law.

1. Issues in agreement

Some changes in the basic definitions of terms used in the sexual offenses chapter of the Hawaii Penal Code were agreeable to the great majority of the committee members. These included the inclusion of new terms and the revision of old definitions. Examples are:

- a. the addition of terms "compulsion", "serious mental anguish", "primary genital area", and "sexual penetration". (While the terms and definitions were acceptable, the split in the committee came with the use of the terms in the actual statute.);
- b. the definition of "sexual contact" more specifically to detail exactly what parts of the body were included;
- c. sex neutralization of the law; and

d. limiting of evidence that is admissible in respect to prior sexual conduct on the part of the victim.

2. Issues in disagreement

The issues that created the most disagreement among the members were (1) whether the "forcible compulsion" requirement should be retained, redefined, or simply deleted from the proposed sexual offense model statute; (2) whether the degree of the offense should be based on the extent of injury to the victim; and (3) whether sex offenses currently termed rape and related offenses should be renamed and reclassified into sexual assault offenses, thereby reflecting the view that such offenses are more analogous to physical assault and violence rather than to sexual desire, which is apparently implied by the word "rape."

With regard to the first issue, a faction of the Task Force believed that requiring proof of the victim's "earnest resistance" in order to establish "forcible compulsion". They found this to be inconsistent with the proposition that the statute ought to emphasize the conduct of the offender rather than the behavior of the victim.

Regarding the second issue, a large number of Task Force members disagreed with other members that the culpability of the offender should depend upon the extent of injury suffered by the victim. They held that proof of injury suffered by the victim as well as the resistance offered, would have to be established. Those who deal directly with victims believed that this requirement would be too great a burden and would discourage both the reporting and prosecution of sexual assaults, which would act to the detriment of other potential victims.

On the third issue, the Task Force members disagreed on the classification of sexual offenses. A subcommittee of the Task Force proposed a statute that divided the crime of sexual assault into five separate degrees based on specific conduct by the offender and type of injury suffered by the victim. These members believed that describing the prohibited conduct with greater specificity would increase the number of arrests by law enforcement officers. Other members, however, believed that this complex method would create confusion in the enforcement and prosecution process. They believed that the law enforcement personnel and trial juries would have difficulty in quickly comprehending the new categories. In general, these members favored creating fewer degrees of sexual assault and adopting a more comprehensive set of criteria to define culpability.

Finally, the members of the Task Force were divided as to: (1) whether psychological injuries should be included in the definition of "serious bodily injury" and, if so, to what extent; (2) what class or classes of person should be protected from sexual offenses committed by someone in a "position of authority" and (3) the effectiveness of existing administrative procedures such as pre-trial screening practices used by police and prosecutors.

Because the SAOTF became inactive, the Hawaii Crime Commission had to adopt another approach in order to answer the questions in conflict. It was decided that a survey conducted among a wider group of professionals and victim advocates might shed more light on workable solutions.

C. Survey

1. Purpose

In an attempt to resolve some of the dispute, a survey was conducted in 1979. A questionnaire was distributed to a sample drawn from stratified groups of selected knowledgeable sources with experience in the prosecution of sex offenders, the administration of the sexual offense law, or the provision of assistance and support services to the victims of sexual assaults. The breakdown of the responding population was:

Attorneys

Private Defense	5
Private, former prosecutor	4
Private, former public defender	7
Prosecutor	8
Public Defender	<u>6</u>
Total	30

Administrative and
Correctional Personnel

Police	3
Pre-trial Intake	4
Probation Officer	3
Parole Officer	12
Psychologist/Psychiatrist	<u>5</u>
Total	27

Advocate Groups

One representative from each of eight victim advocate groups	<u>8</u>
Grand Total	65

The issues that the survey concentrated on were:

- (1) Whether sexual offense should be redefined with respect to the requirement on "non-consent" and "forcible compulsion";
- (2) Whether sexual offenses should be classified into degrees of "sexual assault" defined by injury to the victim;
- (3) Whether sanctions for sexual offenses should be made less severe;
- (4) Whether the enforcement and administration of the sexual offenses laws were adequate; and
- (5) Whether there was a need for rehabilitation programs for sex offenders.

2. Results

The basic finding of the survey was that the divisions among the Task Force did represent more widely based conflicts of opinion within the criminal justice system. While not a new finding, this conclusion reemphasized the need for the Commission to make its own attempt to clarify issues, conduct independent research, and publish a set of recommendations appropriate to Hawaii. The survey did not provide any easy solution to statutory reform. It showed instead that the professional participants within the system are so polarized in their opinions relating to sexual assault that recommendations on substantive statutory revision could not be made on the basis of the survey responses. It also pointed up the necessity for continued dialogue to help clarify views and assumptions. That communication could serve to forge a common set of values as the basis for a system better able to cope with the problem of sexual offenses from all standpoints.

Fairly clear agreement on several issues did emerge from the survey of opinion. Respondents generally agreed that the use of a dangerous weapon should, by itself, justify the imposition of criminal liability. Beyond that issue, agreement was less clear. Most agreed that there should be a comprehensive statute but disagreed on the specifics to be included in that law. One area of concensus was that the classification of offenses should be based on the injuries suffered by the victim and that psychological injuries should be a factor in determining the degree of the offense. Most also agreed that the prosecutorial requirement of "earnest resistance" generally results in inconsistent court decisions. For a more detailed look at the results of this survey, see the tabulation of responses by question in Appendix B.

III. MAJOR ISSUES IN REFORMING HAWAII'S LAWS

III. MAJOR ISSUES IN REFORMING HAWAII'S LAWS

While there are many specific points in conflict concerning the revision of sexual offense statutes, they can generally be incorporated into three broad categories. These categories are:

- a) focusing on the conduct of the offender, not the victim;
- b) making the sexual assault law comprehensive; and
- c) grading the offenses into degrees.

Possible revisions to Hawaii's law are discussed below according to these subject areas.

A. Focusing on the Conduct of the Offender, not the Victim

The debate around the current focus of the law is probably the most volatile relating to sexual offenses, particularly concerning the issues of consent and resistance. Hawaii's Sexual Offense laws include elements of the victim's behavior prior to and during the offense that can create obstacles to the prosecution of an alleged sexual assault.. (These include prior relationship with the offender and resistance during the assault.) If Hawaii were to shift the emphasis from the actions of the victim to the actions of the offender, no longer would the focus be on whether the sexual assault was against the victim's will, whether the victim consented to the assault, or whether the victim appropriately resisted the assault.

Such a shift is possible and has, in fact, been achieved in many states already. Some of these states have modeled their reformed sexual assault laws after their existing general assault laws. This approach accomplishes two things: It reaffirms that all citizens are equal under the law and it properly places the emphasis on assault, not

on sex.⁸ Many authors have commented on the necessity of this change:

Within general assault law, the dubiousness of the present emphasis becomes obvious. One does not think to ask the victim of assault for proof that he or she is not a masochist, or to provide a life history of all previous assaults, to establish a pattern that might mitigate the assailant's culpability. Although the question of victim precipitation is probably significantly more relevant in assault than in rape, established case law does not ordinarily allow a defense of "she asked for it." Yet, to too many people, these questions seem to make sense in sexual assault.⁹

[And] in the crime of assault, the question of resistance sounds silly. Imagine a trial for a stabbing. "What did you do to convey to the defendant that you did not wish to be stabbed?" the prosecutor asks the victim. "Did you take any steps to parry his knife thrust?"¹⁰

In changing the focus of the law, consent would still be a defense, as in any criminal case, but the burden of the proof that the victim consented to the act would then very much be on the defendant. Of course, the prosecution must have met its own statutory burdens: establishing the use of force, the nature of the act, the identity of the offender, and personal injury and the age of the victim where relevant. A similar situation exists when a defendant charged with theft asserts, "they gave me that TV!"¹¹

Under current law, to prove that the victim did not consent it must be shown that the victim resisted the assault, the amount of resistance required being dependent upon the particular situation of the assault. This circular logic, which asserts that since resistance equals force, the lack of resistance equals lack of force, just adds to trauma of the criminal justice system.¹² Under a revised statute, if force and coercion were extensively defined then resistance probably would not be required for prosecution. The statute could include a list of coercive situations in which the element of force would be presumed to exist. These could include the potentially

fatal instance where the actor is armed with a dangerous weapon, or where the actor threatens the victim with violence or retaliation, and cases where the actor confines, kidnaps, robs, or otherwise assaults the victim. The list could also include situations where no showing of force would be required, such as when the victim is physically helpless, mentally defective (and the actor has reason to believe this), mentally incapacitated as a result of actions by the offender, or taken by concealment or surprise¹³:

Since most sexual attacks are unexpected by the victims, the element of surprise induces immediate shock. The victim is stunned for a moment or two (or longer) and unable to think clearly. [Researchers have] found that many victims were so surprised by the assault that they were not immediately able to react effectively.¹⁴

There are also a number of other serious problems with the resistance requirement. First, it is unrealistic to believe that every victim of sexual assault will be able to overcome the fear of being further injured or killed and will in fact be able to resist. Second, it may well be dangerous for the victim to resist. After all, despite all the myths, it must be remembered that sexual assaults are not crimes of sexual gratification but are crimes of violence. Therefore, the more the victim resists, the more likely it is that he or she will be seriously injured or killed. Finally, unless there is some other witness to the assault or there is evidence of physical injury to the victim, it will be very difficult to prove that the victim in fact exerted the appropriate amount of resistance.¹⁵

A shift in focus would be more than a minor one or merely semantics. Since our present sexual assault laws require that the victim must not have "consented" to the assault and must have appropriately "resisted" the assault, the prosecution must prove both that lack of consent and that resistance beyond a reasonable doubt. Even where the victim claims that she did not resist because of a reasonable belief that she would be seriously injured, the prosecution has the burden of proving that the belief was in fact reasonable. The defense may, of course, attempt to raise doubts about whether there was sufficient resistance and whether the victim in fact consented. Unfortunately, however, this often results in an over emphasis by the jury on the victim's conduct. By changing the focus of the law, such evidence as consent and lack of resistance would only be one aspect--and not the central focus--of the issue of whether force was used by the accused.¹⁶

B. A Comprehensive Bill

Under our current law, sexual offenses are broken down into four different categories: rape, sodomy, sexual abuse, and incest. A declassified comprehensive statute would change the fundamental structure of the Hawaii sexual offense laws by consolidating the current rape, sodomy and sex abuse statutes into the crime of sexual assault containing varying degrees.

The main intention is to change the popular concept of rape and sodomy as crimes in which the offenders are motivated by sexual desire. Studies done over the past fifteen years show that the rapist generally does not act from sexual impulse but rather from aggression. As two criminologists recently wrote:

For rape is an assault. In a society where sex is fairly readily available for free, and always available at a price, to believe that rape is committed primarily for sexual reasons is foolish. Even in situations such as the date partner rape, where sex seems a predominant crime apart. Calling the crime sex based is like called [sic] armed robbery of caviar a hunger-based crime. It is much more clear that domination, revenge, and other similar motives are behind most rapes. In other words, rape is an assault much more than a sexual attack.¹⁷

Based on this premise, punishment for crimes of sexual aggression should be assigned according to the same standards used for assault and other crimes of aggression--according to the gravity of the offender's conduct and the harm suffered by the victim. Unlike other crimes, punishment for rape under current Hawaii law is not graduated only according to the harm inflicted to the victim. It also considers the prior relationship of the offender and victim and the culpability of the offender (such as whether the victim was mentally defective or had been dating the offender).

Under a comprehensive statute, sexual assault would be generally divided into two categories: a) assaults involving "penetration", which are generally considered more serious; and b) assaults involving "contact" without penetration. The means used to commit the offenses would also be divided into two categories--"forcible compulsion" and "without consent"--depending upon the type of coercion employed by the offender. Such a scheme would also have other ramifications. For example, sexual assault of a victim with an inanimate object would be no less serious an offense than rape itself.

Another goal of a declassified, comprehensive statute is to continue to make sexual offense laws as non-sexist as possible. This reflects the reality that men as well as women have been victimized by crimes of sexual aggression involving penetration and that young boys as well as young girls have been victimized by sexual abuse. Thus, what is commonly known as homosexual penetration would be considered the same as heterosexual penetration, provided that the other elements of the offense were also evident.

After such a realignment, the misuse of a victim's mental incapacity or physical helplessness would probably be considered the same as the use of force. Thus, the offender who takes advantage of a retarded or unconscious victim would be treated just as severely as the offender who uses force.

It should be noted that some prosecutors are troubled by retiring the term "rape". They fear that juries would be reluctant to convict individuals of the serious offenses of sexual assault without hearing the term "rape" attached to the offense. However, there is absolutely no evidence to support this proposition.

C. Sexual Conduct is Graded into Degrees

If Hawaii's law were made comprehensive, as the laws in many other states have been, it would be broken down into degrees according to the amount of force used and the extent of injury to the victim.

1. Purpose

Under Hawaii law, criminal homicide is divided into four categories (ranging from murder, a class A felony, to negligent

homicide in the second degree, a misdemeanor) and criminal assault into three. These crimes are classified along the lines of the intent of the offender, the attendant circumstances, and in the case of assault, the extent of injury sustained by the victim. The same approach could be utilized in respect to criminal sexual assault. Degrees would also be determined by the type of sexual offense (i.e., sexual penetration versus sexual contact).

There are at least two general purposes for grading sexual conduct into degrees. First, the degree system would better reflect a legislative judgment with regard to (1) the dangerousness of the sexual assault offender relative to individuals who have committed other crimes; and (2) the risk of harm to which the victim was exposed as a result of the offender's conduct. We do not have one degree of homicide and then leave it to the jury to sentence the defendant anywhere from one year to life. Instead, the offense has been divided into degrees to reflect the dangerousness of the offender. The same reasoning underlies the gradation of sexual assault.¹⁸

Second, the degree system would reduce sentencing disparity. It would give the judge and jury better guidelines than they now have for deciding the degree of guilt according to the offender's conduct. Studies show that, without the existence of aggravating circumstances, jurors are not likely to convict for rape unless they have the option of convicting the offender of a less serious offense.

Sociologist Gerald Robin presents a well stated argument in favor of graded offenses:

Evidence that might be just short of convincing a jury beyond a reasonable doubt that the defendant was guilty of rape as traditionally defined can fairly convict on a lesser, related count, and because of the lower penalties and clearer guidelines on determining when the defendant is guilty of the most serious form of this crime, a jury might be more willing to convict for first-degree felony rape.¹⁹

The grading of offenses also reduces the need for extensive corroborative evidence (e.g., severe physical injury sustained by the victim) by providing lesser degrees of the offense.

2. Degree based on Aggravating Factors

In a declassified sexual offense statute, distinctions would depend upon the presence or absence of certain aggravating factors. Such factors would reflect greater dangerousness on the part of the offender and/or a greater risk of harm to the victim. Examples of such factors are: (1) the victim was less than 14 years of age; (2) it was gang rape situation, where another person in addition to the victim and the offender was present and the victim reasonably believed that the other person was assisting, supporting or encouraging the offender in the sexual penetration; (3) the offender caused personal injury to the victim; (4) the offender used or threatened to use a dangerous weapon; (5) the victim was in the custody of the law or was confined in a penal or a mental institution, including a juvenile correctional facility; and (6) the offender was in a position of authority over the victim.²⁰

IV. REVISIONS OF LAWS IN OTHER STATES

IV. REVISIONS OF LAWS IN OTHER STATES

Since the early 1970s, as many as 45 states have revised their sexual offense statutes and more do so each year.* Most of these changes have improved the role of the victim in the adjudication process. Admissibility of evidence, especially relating to prior sexual activity of the victim, has been greatly limited. 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.²¹ Other common changes include sex neutralization of the statutes and the equation of penetration by any object (animate or inanimate) into a person's vagina or anus with sexual intercourse. For a complete listing of the sexual offense laws in the other states see Appendix A.

For the purpose of revising Hawaii's law, the two points that need careful attention are A) the declassification of offenses, and B) the issue of the force used by the offender and resistance offered by the victim.

*The most recent article to be found that describes what the sexual offense statutes are in all 50 states and the District of Columbia was published in 1977. While an update would be desirable, this article has a very useful chart of state laws broken down into the following categories: Statutory age requirement, terminology, statutory structure, evidence provisions and cross references, and penalties. See Leigh Bienen, "Rape II", Women's Rights Law Reporter, Vol. 3, 1976, pp. 90-137. The chart from this article is updated in Appendix A of this report.

A. Declassification

Under the statutory revisions that were signed into law in June 1980, the definition of sexual intercourse has been expanded to include:

Sexual intercourse in its ordinary meaning or any intrusion or penetration, however slight, of any part of a person's body, or of any object, into the genital opening of another person, but emission is not required.

While this definition does declassify the offenses to some extent (any penetration as opposed to just penile penetration), "intercourse" is still limited to only a female victim because the definition specifies "into the genital opening". Anal and oral copulation still fall under the sodomy provisions and all other types of sexual contact fall under sexual abuse. (An example of sex abuse is if an offender put a foreign object up the anus of an unwilling victim). Instead of specifying the class of attack--rape, sodomy or sexual abuse--Hawaii could adopt a declassified statute as many other states have done. The most important effect of declassification would be to equate sexual assault with any other type of violent personal offense.

The first step that must be taken when declassifying sexual offense statutes is the redefining of terms used in such statutes. As mentioned above, this already has been done to some extent in Hawaii for female victims. However, the definition of sexual intercourse could be broadened further. In 1975, Washington amended their definition of sexual intercourse to include all forms of deviant intercourse:

WASHINGTON (9.79.140 Definitions.)

(1) "Sexual intercourse" (a) has its ordinary meaning and occurs upon any penetration, however slight, and

(b) Also means any penetration of the vagina or anus, however slight, by an object, when committed on one person by another, whether such persons are of the same or opposite sex, except when such penetration is accomplished for medically recognized treatment or diagnostic purposes, and

(c) Also means any act of sexual contact between persons involving the sex organs of one person and the mouth or anus of another whether such persons are of the same or opposite sex.

Arizona's 1978 amended definition is even shorter:

ARIZONA (§ 13-1401 Definitions)

(3) "Sexual intercourse" means penetration into the penis, vulva or anus by any part of the body or by any object or manual masturbatory contact with the penis or vulva.

Other states use the term "sexual penetration" instead of "sexual intercourse" but with basically the same definition.

There is still a dichotomy in all new sexual assault statutes, with sexual penetration (however slight) being distinguished from sexual contact, the former being a more serious offense. Hawaii's current statutory definition of sexual contact is:

HAWAII (§ 707-700 Definitions)

"Sexual contact" means any touching of the sexual or other intimate parts of a person not married to the actor, done with the intent of gratifying the sexual desire of either party.

Also, some states are much more specific in defining intimate parts. For example, New Jersey's 1979 statute utilizes the following definition:

NEW JERSEY (2C:1401 Definitions)

(e) "Intimate parts" means the following body parts: sexual organs, genital area, anal area, inner thigh, groin, buttock or breast of a person.

Such a clear definition should make the enforcement of the law more consistent.

Once these definitions have been expanded and amended, then the terms "rape", "sodomy", and "sexual abuse" are replaced with "criminal sexual assault" of varying degrees. As stated above, many states have already amended their statutes so that they are now declassified and comprehensive. The composition of these laws varies greatly from state to state. Some statutes are very simple; others are complicated. For the purpose of presenting examples of revised statutes, the laws of two states--New Mexico and Michigan--are discussed below.

1. New Mexico

In 1975 New Mexico's Legislature enacted the Criminal Sexual Conduct Bill that is both declassified and comprehensive. Under the new act, the most heavily penalized crime is "criminal sexual penetration," defined as:

NEW MEXICO ()

a person unlawfully and intentionally causing another, other than his spouse to engage against his or her will in sexual intercourse, cunnilingus, fellatio or anal intercourse or causing any penetration, to any extent and with any object, into the genital or anal openings of another.

A New Mexico Law Review article commented on the new law:

When the crime is punished as a first, second or third degree felony depends in large part on the amount of physical or mental harm caused to the victim. Some major differences from the old statute are immediately apparent. The previous statute only proscribed forced sexual intercourse, and not any of the other forced deprivations of sexual choice included in the present statute. It also provided the same punishment for the man who had intercourse with a woman who was mentally incompetent, and thus incapable of legally consenting, and the one who brutally beat his victim into submission. Sodomy was absolutely proscribed, and the

old Sexual Offenses Act did not provide any harsher punishment for the homosexual rapist than for two consenting adults. The new law takes by far the more intelligent and less sexually biased approach to sexual conduct and is a welcome reform.²²

Since 1975 a few other reforms have been made in the New Mexico statute concerning the admissibility of evidence and corroboration requirements. These issues have already been resolved to some extent in Hawaii. All in all, the New Mexico statute is often referred to by victim advocate groups as a model for revisions of sexual offense statutes in other states.

The New Mexico Statute is broken down into two types and five degrees of sexual assault. There are three degrees of criminal sexual penetration and two degrees of criminal sexual contact. As mentioned above, the degree with which the offender is charged will depend greatly upon the amount of physical or mental harm suffered by the victim. The statute reads as follows:

NEW MEXICO (30-9-11. Criminal sexual penetration)

Criminal sexual penetration is the unlawful and intentional causing of a person, other than one's spouse, to engage in sexual intercourse, cunnilingus, fellatio or anal intercourse, of the causing of penetration, to any extent and with any object, of the genital or anal openings of another, whether or not there is any emission.

A. Criminal sexual penetration in the first degree consists of all criminal sexual penetration perpetrated:

- (1) on a child under thirteen years of age; or
- (2) by the use of force or coercion which results in great bodily harm or great mental anguish to the victim.

Whoever commits criminal sexual penetration in the first degree is guilty of a first degree felony.

B. Criminal sexual penetration in the second degree consists of all criminal sexual penetration perpetrated:

(1) on a child thirteen to sixteen years of age when the perpetrator is in a position of authority over the child and uses this authority to coerce the child to submit;

(2) by the use of force or coercion which results in personal injury to the victim;

(3) by the use of force or coercion when the perpetrator is aided or abetted by one or more persons;

(4) in the commission of any other felony; or

(5) when the perpetrator is armed with a deadly weapon.

Whoever commits criminal sexual penetration in the second degree is guilty of a second degree felony.

C. Criminal sexual penetration in the third degree consists of all criminal sexual penetration perpetrated through the use of force or coercion.

Whoever commits criminal sexual penetration in the third degree is guilty of a third degree felony.

NEW MEXICO (30-9-12. Criminal sexual contact)

Criminal sexual contact is intentionally touching or applying force without consent to the unclothed intimate parts of another who has reached his eighteenth birthday and someone other than one's spouse, or intentionally causing another, who has reach his eighteenth birthday and someone other than one's spouse to touch one's intimate parts. For purposes of this section "intimate parts" means the primary genital area, groin or anus.

A. Criminal sexual contact in the fourth degree consists of all criminal sexual contact perpetrated:

(1) by the use of force or coercion which results in personal injury to the victim;

(2) by the use of force or coercion when the perpetrator is aided or abetted by one or more persons; or

(3) when the perpetrator is armed with a deadly weapon.

Whoever commits criminal sexual contact in the fourth degree is guilty of a fourth degree felony.

B. Criminal sexual contact is a misdemeanor when perpetrated through the use of force or coercion.

There has been at least one appeal based on different constitution issues concerning the new statute. The New Mexico court of Appeals upheld the law, finding all points addressed in the appeal to be constitutional:

Phrase "perpetrated by force or coercion" not vague.--Phrase "perpetrated by the use of force or coercion" in this section is not unconstitutionally vague since the crime is defined in terms of a result that defendant causes, and if a defendant causes such a result by the use of force or coercion, force or coercion was the method which caused the result, that is, the crime. State v. Jiminez, 89 N.M. 652, 556 P.2d 60 (Ct. App. 1976).

Distinctions between degrees on basis of harm constitutional.--Determining the degree of a crime by the amount of the harm done to the victim does not make the statute unconstitutionally vague. State v. Jiminez, 89 N.M. 652, 556 P.2d 60 (Ct. App. 1976).

And not void for vagueness.--Criminal sexual penetration could be committed by the use of force or coercion without the victim suffering personal injury as a result thereof and the distinction between second and third degree criminal sexual penetration based on personal injury to the victim is not void for vagueness as a matter of law. State v. Jiminez, 89 N.M. 652, 556 P. 2d 60 (Ct. App. 1976).

2. Michigan

The Michigan criminal sexual assault statute is perhaps the best known. The reason for this is that Michigan was one of the first

states to enact a sweeping reform of laws pertaining to sexual offenses. That law includes most elements that reformists in other jurisdictions claim are needed. As did New Mexico, Michigan also declassified its old statute and made the new statute comprehensive. However, instead of developing two types of sexual offenses (penetration and contact), Michigan lists only one type--criminal sexual conduct--with four degrees. It is within the degrees that sexual penetration and sexual contact are referred to. Again, the severity of the offense charged is based in part on the injuries sustained by the victim and the amount of force or threat used by the offender.

The Michigan statute reads as follows:

MICHIGAN (750,520b First degree criminal sexual conduct)

Sec. 520b. (1) A person is guilty of criminal sexual conduct in the first degree if he or she engages in sexual penetration with another person and if any of the following circumstances exists:

- (a) That other person is under 13 years of age.
- (b) The other person is at least 13 but less than 16 years of age and the actor is a member of the same household as the victim, the actor is related to the victim by blood or affinity to the fourth degree to the victim, or the actor is in a position of authority over the victim and used this authority to coerce the victim to submit.
- (c) Sexual penetration occurs under circumstances involving the commission of any other felony.
- (d) The actor is aided or abetted by 1 or more other persons and either of the following circumstances exists:
 - (i) The actor knows or has reason to know that the victim is mentally defective, mentally incapacitated or physically helpless.
 - (ii) The actor uses force or coercion to accomplish the sexual penetration. Force or coercion includes but is not limited to any of the circumstances listed in subdivision (f)(i) to (v).

(e) The actor is armed with a weapon or any article used or fashioned in a manner to lead the victim to reasonably believe it to be a weapon.

(f) The actor causes personal injury to the victim and force or coercion is used to accomplish sexual penetration. Force or coercion includes but is not limited to any of the following circumstances:

- (i) When the actor overcomes the victim through the actual application of physical force or physical violence.
- (ii) When the actor coerces the victim to submit by threatening to use force or violence on the victim, and the victim believes that the actor has the present ability to execute these threats.
- (iii) When the actor coerces the victim to submit by threatening to retaliate in the future against the victim, or any other persons, and the victim believes that the actor has the ability to execute this threat. As used in this subdivision, "to retaliate" includes threats of physical punishment, kidnapping, or extortion.
- (iv) When the actor engages in the medical treatment or examination of the victim in a manner or for purposes which are medically recognized as unethical or unacceptable.
- (v) When the actor, through concealment or by the element of surprise, is able to overcome the victim.

(g) The actor causes personal injury to the victim, and the actor knows or has reason to know that the victim is mentally defective, mentally incapacitated, or physically helpless.

(2) Criminal sexual conduct in the first degree is a felony punishable by imprisonment in the state prison for life or for any term of years.

MICHIGAN (750,520c Second degree criminal sexual conduct)

Sec. 520c. (1) A person is guilty of criminal sexual conduct in the second degree if the person engages in sexual contact with another person and if any of the following circumstances exists:

- (a) That other person is under 13 years of age.
- (b) That other person is at least 13 but less than 16 years of age and the actor is a member of the same household as the victim, or is related by blood or affinity to the fourth degree to the victim, or is in a position of authority over the victim and the actor used this authority to coerce the victim to submit.

(c) Sexual contact occurs under circumstances involving the commission of any other felony.

(d) The actor is aided or abetted by 1 or more other persons and either of the following circumstances exists:

(i) The actor knows or has reason to know that the victim is mentally defective, mentally incapacitated or physically helpless.

(ii) The actor uses force or coercion to accomplish the sexual contact. Force or coercion includes but is not limited to any of the circumstances listed in sections 520b(1)(f)(i) to (v).

(e) The actor is armed with a weapon, or any article used or fashioned in a manner to lead a person to reasonably believe it to be a weapon.

(f) The actor causes personal injury to the victim and force or coercion is used to accomplish the sexual contact. Force or coercion includes but is not limited to any of the circumstances listed in section 520b(1)(i) to (v).

(g) The actor causes personal injury to the victim and the actor knows or has reason to know that the victim is mentally defective, mentally incapacitated, or physically helpless.

(2) Criminal sexual conduct in the second degree is a felony punishable by imprisonment for not more than 15 years.

MICHIGAN (750.520d Third degree criminal sexual conduct)

Sec. 520d. (1) A person is guilty of criminal sexual conduct in the third degree if the person engages in sexual penetration with another person and if any of the following circumstances exists:

(a) That other person is at least 13 years of age and under 16 years of age.

(b) Force or coercion is used to accomplish the sexual penetration. Force or coercion includes but is not limited to any of the circumstances listed in section 520b(1)(f)(i) to (v).

(c) The actor knows or has reason to know that the victim is mentally defective, mentally incapacitated, or physically helpless.

(2) Criminal sexual conduct in the third degree is a felony punishable by imprisonment for not more than 15 years.

MICHIGAN (750.520e Fourth degree criminal sexual conduct)

Sec.520e. (1) A person is guilty of criminal sexual conduct in the fourth degree if he or she engages in sexual contact with another person and if either of the following circumstances exists:

(a) Force or coercion is used to accomplish the sexual contact. Force or coercion includes but is not limited to any of the circumstances listed in section 520b(1)(f)(i) to (iv).

(b) The actor knows or has reason to know that the victim is mentally defective, mentally incapacitated, or physically helpless.

(2) Criminal sexual conduct in the fourth degree is a misdemeanor punishable by imprisonment for not more than 2 years, or by a fine of not more than \$500.00, or both.

Although Michigan is in the process of completely revamping its criminal law code, the sexual offenses statute will be little affected. After three years of study, the Special Committee of the State Bar of Michigan for the Revision of the Criminal Code has been able to produce a final draft (June 1979) of a revised code that reduces the criminal law from approximately 3500 sections to roughly 350. The sexual offenses chapter will remain substantially the same as it is now. The degrees have been reordered--what is now second degree will become third and vice-versa--and the definition of "force and coercion" has been moved and placed in the definitions section.

B. Force and Resistance

What makes the Michigan law particularly appealing to reformers is not especially the declassification and comprehensiveness of the statute, but the inclusion of three other elements pertaining only to sexual offenses. Two of these have to do with resistance and corroborative evidence. The Michigan statute reads:

1. (Michigan 750.520h. Corroboration of victim's testimony)

The testimony of a victim need not be corroborated in prosecutions under sections 520b to 520g.

2. (Michigan 750.520i. Resistance)

A victim need not resist the actor in prosecution under section 520b to 520g.

As discussed above, in Hawaii there is still a significant amount of controversy concerning the reform of sexual offense statutes that revolves around the issue of the force used by the offender and the amount of resistance the victim is expected to show. Even today the degree of resistance is a measure of whether the victim "consented" to sexual intercourse and, for the most part, a victim is expected to show signs of active resistance if the prosecution of a case is to succeed. The subsection concerning definitions of terms found in Hawaii's violent personal offense Chapter (§ 707-700, HRS) was amended in the 1979 Legislative session:

The definition of "forcible compulsion" is amended to delete the requirement of earnest resistance, fear of immediate death or serious physical bodily injury or fear of immediately being kidnapped. Absolute urgency and the need to "fight to the death" are deleted.

While the term "fight to the death" was never literally used in the definition, it was often thought to be the applied definitions of "earnest resistance".

Some argue that the use of the word "resistance" at all puts a burden on the victim to prove that he or she did not want to engage in sexual activity with the alleged offender. It is apparent that resistance does not have to be an element of a sexual assault, but it must be replaced with a clear guide as to what constitutes "force".

Eliminating the use of resistance by the victim and basing the charge on the element of force used by the actor has been a difficult step to make. Minnesota declassified its sexual crimes in 1975 and included the use of "force or coercion" as an element necessary in the prosecution of sexual offenses. At that time, "force" was defined as:

MINNESOTA

Subd. 3. "Force" means commission or threat by the actor of an assault in section 609.22, or commission or threat of any other crime by the actor against the complainant to reasonably believe that the actor has the present ability to execute the threat, and also causes the complainant to submit.

In 1977, the Minnesota Legislative redefined force to be:

MINNESOTA

Subd. 3. "Force" means the infliction, attempted infliction, or threatened infliction by the actor of bodily harm or commission or threat of any other crime by the actor against the complainant or another, which causes the complainant to reasonably believe that the actor has the present ability to execute the threat, and also causes the complainant to submit.

Also, there was a definition for consent added at that time:

MINNESOTA

Subd. 4. "Consent" means a voluntary uncoerced manifestation of a present agreement to perform a particular sexual act.

In 1979, "coercion" was defined for the first time:

MINNESOTA

Subd. 14. "Coercion" means a threat to unlawfully inflict bodily harm upon, or hold in confinement, the person threatened or another.

Through all these changes, Minnesota was able to keep out any reference to resistance by the victim.

When New Mexico revised its sexual assault laws in 1975, it also eliminated the element of resistance and expanded the definition of force and coercion. Its law reads:

NEW MEXICO (40A-9-20 Definitions)

A. "force or coercion" means:

(1) The use of threats to use physical violence or physical force against the victim or another when the victim believes that there is a present ability to execute such threats;

(3) the use of threats, including threats of physical punishment, kidnapping, extortion or retaliation directed against the victim or another when the victim believes that there is an ability to execute such threats; or

(4) perpetrating criminal sexual penetration or criminal sexual contact when the perpetrator knows or has reason to know that the victim is unconscious, asleep or otherwise physically helpless, or suffers from a mental disease which renders the victim incapable of understanding the nature of consequences of the act. Physical or verbal resistance of the victim is not an element of "force or coercion".

Despite the specific reference that resistance is not an element of force or coercion, some people still fear that the courts might read the resistance requirement back into the statute as an evidentiary requirement. This is a danger that some cite in Hawaii as well. While there is some basis for this fear, over the past several decades the courts have slowly been altering their view on the need for resistance in rape cases, realizing it is irrelevant to the question of whether force was used. Revising the law accordingly would only serve to accelerate this trend.

Neither Michigan nor New Mexico require that the victim have resisted, or that the victim's testimony be corroborated. However, such corroboration is probably still a practical necessity. One writer noted that:

.."[E]ven in Michigan, where corroboration never has been officially required, few defendants have been convicted without some corroborative evidence. An unofficial corroboration rule may exist in practice where overloaded police departments and prosecutor's offices refuse to press a case without some independent evidentiary support for the victim's testimony".²³

The same situation exists in Hawaii. Despite the absence of a corroboration rule, the defense most certainly relies on the lack of corroborative evidence in a sexual assault case and a jury takes such into consideration when assessing the credibility of the victim.

One author commented on this situation:

..Hawaii does not have a "corroboration rule" requiring corroborative evidence. In reality, however, because the determination of criminal culpability is based on the presence or absence of "reasonable doubt," corroborative evidence is very useful, if not essential in some cases, to prove an offense.

From the legal standpoint, the main functions of physical evidence in rape cases are (1) to determine the probability or certainty that sexual penetration has occurred, (2) to approximate the time of intercourse, (3) to note any possible physical manifestation of force having been used against the person, and (4) to aid in the identification of the male allegedly involved in the sexual intercourse with the patient.²⁴

Even though these elements are often not present in sexual assault cases, because of the reasons discussed above the practical need for corroborative evidence can probably never be dispensed with. However, by grading offenses into degrees, the need for such evidence can be reduced by providing lesser crimes on which to convict. Also, it would still be useful to specifically provide that corroboration is not required as Michigan has done.

The third element of Michigan's reformed sexual assault law that has been well lauded was the provision for the admissibility of evidence regarding the victim's past sexual conduct:

750.520j. Admissibility of evidence

Sec. 520j. (1) Evidence of specific instance of the victim's sexual conduct, opinion evidence of the victim's sexual conduct, and reputation evidence of the victim's sexual conduct shall not be admitted under sections 520b to 520g unless and only to the extent that the judge finds that the following proposed evidence is material to a fact at issue in the case and that its inflammatory or prejudicial nature does not outweigh its probative value:

(a) Evidence of the victim's past sexual conduct with the actor.

(b) Evidence of specific instances of sexual activity showing the source or origin of semen, pregnancy, or disease.

(2) If the defendant proposes to offer evidence described in subsection (1)(a) or (b), the defendant within 10 days after the arraignment on the information shall file a written motion and offer of proof. The court may order an in camera hearing to determine whether the proposed evidence is admissible under subsection (1). If new information is discovered during the course of the trial that may make the evidence described in subsection (1)(a) or (b) admissible, the judge may order an in camera hearing to determine whether the proposed evidence is admissible under subsection (1).

In Hawaii, a very similar procedure for the presentation of evidence concerning the sexual history of the complaining witness was established by the Legislature in 1975. Hawaii then went one step further to protect the privacy of the victim by amending this section in 1977 to exclude all but necessary personnel from the hearing:

HAWAII ("offer of proof" § 707-742, HRS)

If the court finds that the offer of proof is sufficient, the court shall order a hearing out of the presence of the jury, if any, and all other persons, except for court personnel, the parties, their attorneys, and such other persons whose presence is determined by the court to be necessary for the hearing, and at such hearing allow the questioning of the complaining witness regarding the offer of proof made by the defendant.

This section was a welcome change in Hawaii's law and has helped to make the criminal justice experience less harrowing for the victim.

V. CONCLUSION

V. CONCLUSION

All available studies, without exception, recommend revising the sexual offense laws. The case for such revision is well stated: current law is outdated, outmoded, and unfair; the victims are treated poorly; the level of reporting is low; and prosecution is difficult. The myths about sexual assault, which form the core of our laws, have no basis in fact. One study indicated that "American law has developed obstacles to the prosecution of an alleged rape that are unmatched in other types of crime."²⁵ The arguments for revising the law are so strong that Hawaii now should only be concerned with what form the new statute will take.

A new statute must accomplish two things. First, it must afford equal protection for all citizens against acts of violence, whether robbery, assault, or sexual assault. The National Commission on the Observance of International Women's Year highlighted this need when it called for "[the normalization of] the crime of rape by treating it as other crimes of violence."²⁶ A new law would accomplish this end by declassifying sexual offenses into one sexual assault statute, thereby focusing on the assault and not the sexual aspect involved. Second, a new statute must move the focus of prosecution from the conduct of the victim to that of the defendant, as with any other violent crime. Such a change would improve the victim's treatment in the system, foster increased reporting, and greatly facilitate the prosecution.

Such reforms have been achieved in many other states without successful constitutional challenges. The changes outlined in this study and incorporated into the model statute have been tried elsewhere and are proven to work. The issues are clear; the remedies for our current problems with sexual assault prosecutions are readily available. The model statute is a workable, sensible alternative which should be adopted in Hawaii. Our citizens deserve the fair treatment it would afford.

VI. RECOMMENDATIONS

VI. RECOMMENDATIONS

The model statute presented herein modifies Chapter 707 of the Hawaii Revised Statutes relating to "Offenses Against the Person", by modifying certain definitions used therein, by adding three new definitions, and by consolidating the present three degrees of rape, three degrees of sodomy, and two degrees of sexual abuse into four degrees of sexual assault, with several modifications and additions. These changes are described below:

1. The definition of "bodily injury" is modified by the inclusion of the term "disease".

This was done in order that the situation where a disease is transmitted during or by reason of a sexual offense and the victim becomes seriously ill therefrom would be considered in determining the seriousness of the offense.

2. The definition of "sexual intercourse" is modified to include what is presently considered deviate sexual intercourse.

This was done in order to consolidate the sodomy, sexual abuse, and rape provisions into sexual assault provisions.

3. The definition of "deviate sexual intercourse" is modified to limit it to bestiality and necrophilia.

This has to be done concomitantly with the aforementioned redefining of sexual intercourse.

4. The definition of "sexual contact" is modified by eliminating the requirement that the contact be made with the intent of gratifying sexual desire and by making it possible for sexual contact to occur between spouses.

The intent to gratify requirement was eliminated to reflect the overwhelming evidence that sexual crimes are not committed by virtue of uncontrollable sexual desires, but for other reasons. Making it possible for sexual contact to occur between spouses corrects the incongruous situation that exists with present law whereby a husband could rape or sodomize his wife but could not sexually abuse her because the sexual abuse sections prohibit sexual contact which is presently defined as contact between persons not married to each other.

5. The definition of "forcible compulsion" is modified by eliminating any requirement that resistance on the part of the victim be a part thereof, and by providing that the use of or attempt to use physical force, a dangerous instrument, threat, or surprise, or the presence of one or more persons constitutes forcible compulsion.

The elimination of the requirement that the victim resist in order to find forcible compulsion reflects the shift in emphasis or focus in sex laws away from the actions, or lack thereof, of the victim, to those of the offender. As modified, the definition of forcible compulsion focuses upon what the offender did--whether he used force, a weapon, or surprise to overcome his victim--not what the victim did or did not do.

6. The three new definitions added are:

a. "Intimate parts"

This definition was added in order to clarify what constitutes sexual contact which is defined in terms of touching "intimate parts".

b. "Position of authority"

This definition was added to clarify who is in a position of authority with respect to a person who uses such authority to commit sexual offenses. A sexual offense committed under these circumstances is not in present law but is included in the model statute.

c. "Consent"

This definition was added in order to clarify what is consent with respect to the crime of engaging in sexual intercourse without consent, not presently in the Hawaii statutes, but being proposed in the model statute.

Sexual Assault 1⁰: The present provisions of Rape 1⁰ and Sodomy 1⁰ are incorporated.

Sexual Assault 2⁰: The present provisions of Rape 2⁰ and Sodomy 2⁰ are incorporated with:

a. a modification of the prohibition against intercourse with one under the age of 14 by providing that such a person must also be 4 years younger than the other.

This was done in order to eliminate from the scope of the offense, voluntary sexual behavior between persons who are contemporaries. It is believed that the situation where an adult takes advantage of the youth of the victim is the only appropriate one for which to apply the sanction of a class B felony, and not the situation where, for example, two 13 years olds engage in sex.

b. an addition of a new provision prohibiting one in a position of authority over a person at least 14 but less than 18 years of age from using his authority to coerce such a person to engage in sexual intercourse.

This provision was added in order to provide for the situation where a youngster is coerced into having sexual intercourse with a relative, teacher, employer, or someone otherwise in a position of authority. Under present law intercourse under such circumstances is not a crime because there is no forcible compulsion and the victim is 14 years of age or older.

Sexual Assault 3⁰: The present provisions of Rape 3⁰ and Sodomy 3⁰ are incorporated. The present provisions of Sexual Abuse 1⁰ are incorporated, except that the prohibition against sexual contact with one under 14 years of age is modified by providing that such a person must also be 4 years younger than the other.

This was done in order to eliminate from the scope of the offense, voluntary sexual behavior between persons who are contemporaries.

In addition, a new provision is added prohibiting one in a position of authority over a person at least 14 but less than 18 years of age from using his authority to coerce such a person to engage in sexual contact.

This provision parallels the prohibition in Sexual Assault 2⁰, except that it applies to sexual contact, not intercourse.

Sexual Assault 4⁰: The present provisions of Sexual Abuse 2⁰ are incorporated. A new provision is added prohibiting the engaging in deviate sexual intercourse.

This was done in order to remedy an apparent gap in present law which leave neither bestiality nor necrophilia prohibited. Present law defines deviate sexual intercourse, in part, as sexual acts between a person and a corpse of a person and an animal, but the sodomy sections are couched in terms of engaging in deviate sexual intercourse with another person. Since "person" is defined as a human being "who has been born and is alive", logically these sections do not apply to necrophilia or bestiality.

Dangerous Instrument Section: This provision raises any degree of Sexual Assault to a class A felony if a dangerous instrument is used.

This provision was added to deter and punish those who would use or attempt to use a dangerous instrument (firearm, weapon, or any device capable of producing death or serious bodily injury) in the commission of a sexual offense. It is felt that one who would subject another to possible death or serious bodily injury by the use of a dangerous instrument, should be subjected himself to the more serious consequences of a class A felony.

Definitions for both options
(To be made one and twelve copies)

THE SENATE

..... LEGISLATURE, 19

STATE OF HAWAII

S.B. NO.

A BILL FOR AN ACT

RELATING TO SEXUAL OFFENSES

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 707, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "Sec. 707-700 Definitions of terms in this chapter.

4 In this chapter, unless a different meaning plainly is
5 required:

6 (1) "Person" means a human being who has been born and
7 is alive;

8 (2) "Bodily injury" means physical pain, illness, disease,
9 or any impairment of physical condition;

10 (3) "Serious bodily injury" means bodily injury which
11 creates a substantial risk of death or which causes
12 serious, permanent disfigurement, or protracted loss
13 or impairment of the function of any bodily member
14 or organ;

15 (4) "Dangerous instrument" means any firearm, or other
16 weapon, device, instrument, material, or substance,
17 whether animate or inanimate, which in the manner
18

1 it is used or is intended to be used is known to
2 be capable of producing death or serious bodily
3 injury;

4 (5) "Restrain" means to restrict a person's movement
5 in such a manner as to interfere substantially
6 with his liberty:

7 (a) By means of force, threat, or deception; or

8 (b) If the person is under the age of eighteen or
9 incompetent, without the consent of the
10 relative, person or institution having
11 lawful custody of him;

12 (6) "Relative" means parent, ancestor, brother, sister,
13 uncle, aunt or legal guardian;

14 (7) "Sexual intercourse" means [sexual intercourse in
15 its ordinary meaning] vaginal intercourse, anal inter-
16 course, fellatio, cunnilingus, analingus, or any
17 intrusion or penetration, however slight, of any
18 part of a person's body, or of any object, into the
19 genital or anal opening of another person, but emission
20 is not required.

21 (8) "Deviate sexual intercourse" means any act of sexual
22 gratification[:

23 (a) Between persons not married to each other
24
25

1 involving the sex organs of one and the mouth
2 or anus of the other; or

3 (b) Between] between a person and an animal or a
4 corpse, involving the sex organs of one and
5 the mouth, anus or sex organs of the other;

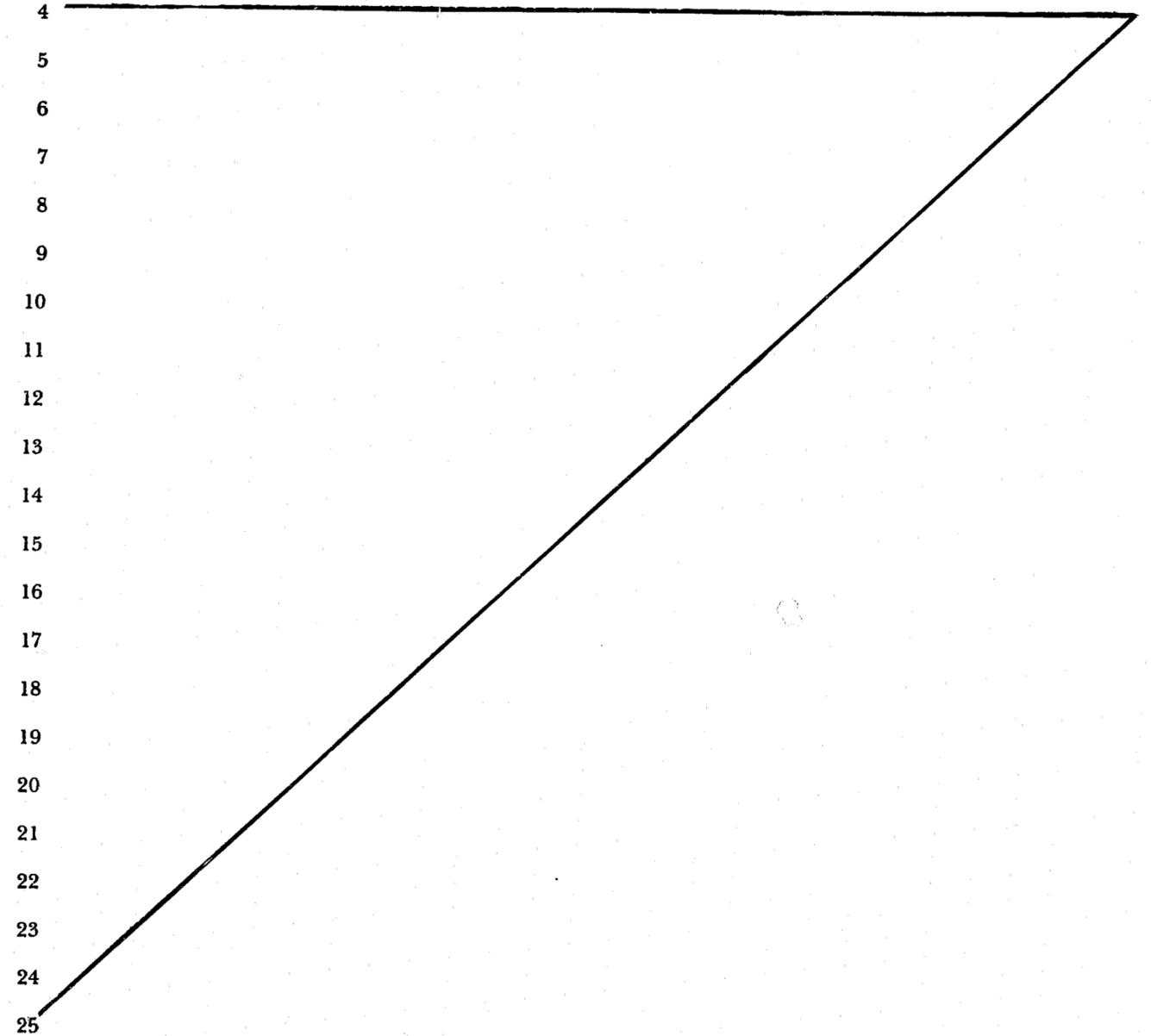
6 (9) "Sexual contact" means any [touching of the sexual
7 or other intimate parts of a person not married to
8 the actor, done with the intent of gratifying the
9 sexual desire of either party;] intentional touching,
10 including by object, of the intimate parts, clothed
11 or unclothed, of a person;

12 (10) "Married" includes persons legally married, and
13 a male and female living as man and wife
14 regardless of their legal status, but does not
15 include spouses living apart under a judicial
16 decree;

17 (11) "Forcible compulsion" means [physical force that
18 overcomes resistance; or a threat, express or
19 implied, that places a person in fear of death
20 or bodily injury to himself or another person,
21 or in fear that he or another person will be kid-
22 napped;] the use of or attempt to use one or more
23 of the following to overcome a person:
24
25

- 1 (a) Physical force; or
- 2 (b) A dangerous instrument; or
- 3 (c) A threat, expressed or implied, that places
- 4 a person in fear of death or bodily injury
- 5 to himself or another person, or in fear that
- 6 he or another person will be kidnapped; or
- 7 (d) Concealment or the element of surprise; or
- 8 (e) The presence of one or more other persons.
- 9 (12) "Mentally defective" means a person suffering from
- 10 a disease, disorder, or defect which renders him
- 11 incapable of appraising the nature of his conduct;
- 12 (13) "Mentally incapacitated" means a person rendered
- 13 temporarily incapable of appraising or controlling
- 14 his conduct owing to the influence of a substance
- 15 administered to him without his consent;
- 16 (14) "Physically helpless" means a person who is un-
- 17 conscious or for any other reason physically un-
- 18 able to communicate unwillingness to an act[.];
- 19 (15) "Intimate parts" means the breast, buttock, anus,
- 20 penis, testicle or scrotum, vagina, pubic mound,
- 21 vulva, groin, or inner thigh of a human being;
- 22 (16) "Position of authority" means that position occu-
- 23 pied by a parent, relative, household member, teacher,
- 24
- 25

1 employer, or other person who, by reason of such
 2 position, is able to exercise influence over
 3 another person;



1 SECTION 2. Section 707-730, Hawaii Revised Statutes,
 2 is amended to read as follows:
 3 "Sec. 707-730 [Rape] Sexual assault in the first degree.
 4 (1) A person commits the offense of [rape] sexual assault
 5 in the first degree if:
 6 (a) He intentionally engages in sexual intercourse,
 7 by forcible compulsion, with another person and:
 8 (i) The other person is not, upon the occasion,
 9 his voluntary social companion who had with-
 10 in the previous twelve months permitted him
 11 sexual intercourse; or
 12 (ii) He recklessly inflicts serious bodily
 13 injury upon the other person; or
 14 (b) He intentionally engages in sexual intercourse
 15 with another person who is less than fourteen
 16 years old and he recklessly inflicts serious
 17 bodily injury upon the other person.
 18 (2) [Rape] Sexual assault in the first degree is a class
 19 A felony."

21 SECTION 3. Section 707-731, Hawaii Revised Statutes, is
 22 amended to read as follows:
 23 "Sec. 707-731 [Rape] Sexual assault in the second degree.
 24
 25

1 (1) A person commits the offense of [rape] sexual assault
 2 in the second degree if:
 3 (a) He intentionally engages in sexual intercourse
 4 by forcible compulsion with another person; or
 5 (b) He intentionally engages in sexual intercourse
 6 with another person who is less than fourteen
 7 years old [.] and at least four years younger
 8 than him; or
 9 (b) He intentionally engages in sexual intercourse
 10 with another person who is at least fourteen
 11 but less than eighteen years old over whom he
 12 is in a position of authority and he uses this
 13 authority to coerce the other person to engage
 14 in sexual intercourse.
 15 (2) [Rape] Sexual assault in the second degree is a class
 16 B felony."

17 SECTION 4. Section 707-732, Hawaii Revised Statutes,
 18 is amended to read as follows:
 19 "Sec. 707-732 [Rape] Sexual assault in the third degree.
 20 (1) A person commits the offense of [rape] sexual
 21 assault in the third degree if:
 22 (a) [he] He intentionally engages in sexual inter-
 23 course with another person who is mentally
 24
 25

1 defective, mentally incapacitated, or
 2 physically helpless; or
 3 (b) He intentionally, by forcible compulsion,
 4 has sexual contact with another or causes
 5 another to have sexual contact with him; or
 6 (c) He intentionally has sexual contact with
 7 another person who is less than fourteen
 8 years old and at least four years younger
 9 than him or causes such a person to have
 10 sexual contact with him; or
 11 (d) He intentionally has sexual contact with
 12 another person who is at least fourteen
 13 but less than eighteen years old over
 14 whom he is in a position of authority
 15 and he uses this authority to coerce the
 16 other person to have sexual contact with
 17 him.

18 (2) [Rape] Sexual assault in the third degree is a class
 19 C felony.

20 SECTION 5. Chapter 702, Hawaii Revised Statutes is amended
 21 by adding a new section to be appropriately designated and to
 22 read as follows:

23 "Sec. 707- Sexual Assault in the fourth degree.
 24
 25

1 (1) A person commits the offense of sexual assault in
 2 the fourth degree if:
 3 (a) He intentionally has sexual contact with
 4 another person who is mentally defective,
 5 mentally incapacitated, or physically
 6 helpless, or causes such a person to have
 7 sexual contact with him; or
 8 (b) He intentionally has sexual contact with
 9 another person who is under sixteen years
 10 old and at least fourteen years old and
 11 at least four years younger than him or
 12 causes such a person to have sexual contact
 13 with him[.]; or
 14 (c) He engages in deviate sexual intercourse.
 15 (2) Sexual assault in the fourth degree is a misdemeanor.
 16 SECTION 6. Chapter 702, Hawaii Revised Statutes is amended
 17 by adding a new section to be appropriately designated and to
 18 read as follows:
 19 "Sec. 707- Use of a Dangerous Instrument
 20 (1) Sexual Assault in any degree is a class A felony
 21 when a dangerous instrument is used.
 22
 23
 24
 25

FOOTNOTES

¹Marcia J. Walker and Stanley L. Brodsky, (eds.), Sexual Assault: The Victim and the Rapist, D.C. Heath and Co., Lexington, MA, 1976, p. 10.

²Leigh Bienen, "Rape II," Women's Rights Law Reporter, Vol. 3 (1976), March 1977, p. 136.

³Walker and Brodsky, p. 10.

⁴Legislative Reference Bureau, "Letter to Jean King re: Hawaii Statutes Relating to Rape", State of Hawaii, Document no. 0897-A, April 3, 1978, p. 3.

⁵Martin D. Schwartz and Todd R. Clear, "Toward a New Rape Law," Crime and Delinquency, Vol. 26, #2, p. 130.

⁶Conference Commission Report #39-80, 10th Legislative, State of Hawaii.

⁷Ibid.

⁸Schwartz and Clear, p. 136.

⁹Schwartz and Clear, p. 137.

¹⁰Schwartz and Clear, pp. 145-146.

¹¹Walker and Brodsky, p. 156.

¹²Walker and Brodsky, pp. 154-155.

¹³Walker and Brodsky, p. 156.

¹⁴Sedelle Katz and Mary Ann Mazur, MD, Understanding the Rape Victim: A Synthesis of Research Findings, John Wiley and Sons, N.Y., 1979, p. 176.

¹⁵Virginia State Crime Commission Task Force on Criminal Sexual Assault: Analysis of Proposed Sexual Assault Bill, Virginia State Crime Commission, January 15, 1980, p. 5.

¹⁶Ibid.

¹⁷Schwartz and Clear, p. 145.

¹⁸Virginia State Crime Commission Task Force on Criminal Sexual Assault: Analysis of Proposed Sexual Assault Bill, Virginia State Crime Commission, January 15, 1980, p. 8.

¹⁹Schwartz and Clear, p. 145.

²⁰Virginia State Crime Commission Task Force on Criminal Sexual Assault: Analysis of Proposed Sexual Assault Bill, Virginia State Crime Commission, January 15, 1980, p. 10.

²¹Bienen, p. 90.

²²R. Bruce Washburn, "Rape Law: The Need for Reform," New Mexico Law Review, Vol. 5, May 1975, pp. 279-280.

²³Duncan Chappel et al. (eds.), Forcible Rape: The Crime, The Victim, and the Offender, Columbia University Press, N.Y., 1977, p. 181.

²⁴JoAnn Sakato, "Rape and the Criminal Justice System," Master's thesis, University of Hawaii Law School, Honolulu, HI, 1977, p. 33.

²⁵Schwartz and Clear, p. 131.

²⁶Schwartz and Clear, p. 144.

APPENDIX A

STATE	STATUTORY AGE REQUIREMENTS	TERMINOLOGY	STATUTORY STRUCTURE	EVIDENCE PROVISIONS AND CROSS REFERENCES
ALABAMA ALA CODE tit. 13A (1977) (Evid-12-21-203 only if involved the A, in camera) 1977 § 61:Rape I (Class A) § 62:Rape II (Class C) § 63:Sodomy I (Class A) § 64:Sodomy II (Class C) § 66:Sexual Assault (Class C) § 67:Sexual Assault (Class A misdemeanor)	§ 61:woman or phy. helpless/ment. incapacitated or girl <12 or offender >16 § 62:girl >12 and <16, offender >16 or woman mentally. def. § 63:Same element § 64:Same element § 66:woman or phy. helpless/ment. incapacitated or girl <12, offender >16 § 67:man >19, woman >12, <16	sex. inter.=ordinary meaning, however slight, no emission deviate sex. inter.=sex organs of one and the mouth or anus of another sex. contact=touching sexual or other intimate parts	spousal exception physical force that overcomes earnest resistance male/female	§ 13A-6-70:consent

STATE	STATUTORY AGE REQUIREMENTS	TERMINOLOGY	STATUTORY STRUCTURE	EVIDENCE PROVISIONS AND CROSS REFERENCES
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(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	rape:carnal knowledge forcibly and against the will of the other person (c.l. def. made sex neutral) stat. rape: carnally knows and abuses 11.15.120:(b)provision for accomplices (c)terms "carnal knowledge" and "sexual act" incl. sexually oral and anal intercourse, with some pene. however slight (amen. 1976)	§ 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	§ 12.45.045:new (1975) evidence provisions limits 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:offense against the person

STATE	STATUTORY AGE REQUIREMENTS	TERMINOLOGY	STATUTORY STRUCTURE	EVIDENCE PROVISIONS AND CROSS REFERENCES
ARIZONA (1978) § 13-1401:Definitions § 13-1404:Sexual Abuse; classification § 13-1405:Sexual conduct w/ minors; classifications § 13-1406:Sexual assault; classification	§ 1404:victim <15 § 14-5:victim <18 (victim <15 carries heavier sanctions)	sexual intercourse: penetration into penis, vulva, or anus, by any part of the body or by any object or manual masturbatory contact w/ the penis or vulva sexual contact: direct or indirect fondling of genitals, anus, or female breast w/o consent:use or threat of force; victim incapable of consent; victim deceived	§ 1404:sexual contact w/o consent, or victim <15 § 1405:sexual intercourse or oral sexual contact w/ a minor § 1406:sexual intercourse or oral sexual intercourse w/o consent spousal exception person/person	§ 13-1407:Defenses

STATE	STATUTORY AGE REQUIREMENTS	TERMINOLOGY	STATUTORY STRUCTURE	EVIDENCE PROVISIONS AND CROSS REFERENCES
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)	§ 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	rape:sexual intercourse or deviate sexual activity by forcible compulsion; or person incapable of consent deviate sexual act: 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 forcible compulsion: physical force, or threat, express or implied, of death or physical injury or kidnapping	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	§§ 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 incapacitated, 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) § 41-1810.1:Evid. of victim's prior conduct-no, except act upon which the prosecution is based, w/ A or other in camera

STATE	STATUTORY AGE REQUIREMENTS	TERMINOLOGY	STATUTORY STRUCTURE	EVIDENCE PROVISIONS AND CROSS REFERENCES
<p>CALIFORNIA CAL. PENAL CODE (West 1970) (West Supp. 1975)</p> <p>§ 261:Rape defined § 261.5:Unlawful sexual intercourse with female under age 18 § 262:Rape of spouse (1979) § 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</p>	<p>§ 261.5:age of consent=18</p>	<p>rape:sexual intercourse when she is incapable of consent; where resistance overcome or prevented; where she is unconscious where she submits by artifice rape of spouse: overcome by resistance, threats 30d to report</p>	<p>person (1979) 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 et. seq.:procedures to restrict & regulate admss. 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 et sex.): made sex neutral in 1975)</p>

CONTINUED

1 OF 3

STATE	STATUTORY AGE REQUIREMENTS	TERMINOLOGY	STATUTORY STRUCTURE	EVIDENCE PROVISIONS AND CROSS REFERENCES
COLORADO COLO. REV. STAT. ANN. (1973) (L. 1975) § 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)	§ 403(1):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	sexual assault 1st: sexual penetration- sexual intercourse cunnilingus, fellatio, anilingus, or anal intercourse sexual intrusion: any intrusion by an object or any part of the body except mouth, tongue or penis into the genital or anal opening sexual contact: intentional touching for the purposes of sexual arousal, gratification or abuse	actor/victim § 402:sexual assault 1st: sexual penetration by force or threats § 403:sexual assault 2d: actor causes victim to submit to sexual penetration or intrusion § 404:sexual assault 3rd: sexual contact w/o consent classification raised if actor armed, aided & abetted, or if victim suffers serious personal injury resistance not required spousal exception, including c.l. marriages separate penalty §	§ 18-3-406:mistake as to age defense permitted only if child >15 § 18-3-407:victim's prior or subsequent sexual conduct presumed irrelevant except w/ actor or to show pregnancy. Relevance proved in camera prior to or during trial. § 13-3-408:Lord Hale's cautionary jury instruction outlawed § 18-3-410:exempts acts performed for bona fide medical purposes prompt complaint requirement not re-enacted ch.171:unlawful sexual behavior

STATE	STATUTORY AGE REQUIREMENTS	TERMINOLOGY	STATUTORY STRUCTURE	EVIDENCE PROVISIONS AND CROSS REFERENCES
<p>CONNECTICUT CONN. GEN. STAT. REV. (1975) (L. 1975)</p> <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>	<p>§ 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.</p>	<p>sexual intercourse: vaginal intercourse, anal intercourse, fellatio, cunnilingus between persons regardless of sex. Penetration may be by any object. sexual contact: any contact for the purpose of actor's sexual gratification use of force: use of dangerous instrument, actual physical force or violence, or superior physical strength</p>	<p>actor/person § 70:sexual assault 1st: sexual intercourse by force or threat for force § 71:sexual assault 2d: sexual intercourse when victim <15; mentally defective & actor guardian; victim in custody sexual assault 3d & 4th: sexual contact resistance not required former formulation:rape 1st & 2d, sexual misconduct & deviate sexual intercourse separate penalty § spousal exception</p>	<p>former §§ 66-69 repealed: consent defense, mistake as to age defense, corrob. requirement & prompt complaint requirement consensual cohabitation is an affirmative defense P.A. 75-380:defines new offense for armed attacks; no suspended sentence for at least 1 yr.</p>

STATE	STATUTORY AGE REQUIREMENTS	TERMINOLOGY	STATUTORY STRUCTURE	EVIDENCE PROVISIONS AND CROSS REFERENCES
DELAWARE DEL. CODE ANN. tit. II (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 "w/o consent" § 772:Provisions generally applicable to sexual offenses § 773:Definitions generally applicable to sexual offenses	§ 761:off. knows victim < 16 & off. 4 yrs. older § 762:female < 16 & off. 4 yrs. older § 767:age of consent = 12	rape:sexual intercourse w/ female w/o her consent rape 1st: (1) serious physical, mental or emotional injury; (2) victim not voluntary social companion rape 2d:all other sexual intercourse: any act of coitus, including w/ mouth or anus	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	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

STATE	STATUTORY AGE REQUIREMENTS	TERMINOLOGY	STATUTORY STRUCTURE	EVIDENCE PROVISIONS AND CROSS REFERENCES
DISTRICT OF COLUMBIA D.C. CODE ANN. (1973) § 22-2801:Definition and penalty § 22-501:Assault with intent to rape	stat. rape: female < 16 age of consent = 16	carnal knowledge forcibly & against her will carnally knows & abuses	c.l. definition codified	corrob. required, but not for every element corrob. required for every element for child victims impotence of accused is defense tit. 22 criminal offenses

STATE	STATUTORY AGE REQUIREMENTS	TERMINOLOGY	STATUTORY STRUCTURE	EVIDENCE PROVISIONS AND CROSS REFERENCES
FLORIDA FLA STAT. ANN. (Supp. 1975) (L. 1975) § 704.011:sexual battery (1) a-h (2) (3) (4) a-f (5) § 704.02:Common law presumption as to age abolished § 794.021:ignorance or belief as to victim's age no defense	§ 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	sexual battery: oral, anal or vaginal penetration by, or union w/, sexual organ of another; or by any other object w/o consent consent:intelligent knowing & voluntary consent, & shall not be construed to include coerced submission	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, retaliation, drugs, off. in position of authority § 794.011(5):physical force not likely to cause serious physical injury separate penalty §	§ 794.022Rules of evidence: corrob. not required specifics 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 Cox Broadcasting § 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

STATE	STATUTORY AGE REQUIREMENTS	TERMINOLOGY	STATUTORY STRUCTURE	EVIDENCE PROVISIONS AND CROSS REFERENCES
GEORGIA GA. CODE ANN. (1972) § 26-2001:Rape § 26-2018:Statutory rape	§ 26-2018: female < 14 § 26-2019:child < 14	rape:carnal knowledge of a female forcibly & against her will any penetration stat. rape: sexual inter- course w/female < 14	person/female c.l. def. spousal exception for both rape & stat rape; explicit in later	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 (constitutionality dubious in light of Cox Broadcasting) ch. 26-20:sexual offenses 1978 deleted provision that no conviction shall be had on the insupported testimony of the female

STATE	STATUTORY AGE REQUIREMENTS	TERMINOLOGY	STATUTORY STRUCTURE	EVIDENCE PROVISIONS AND CROSS REFERENCES
IDAHO IDAHO CODE (1972) § 18-6101: Rape defined (1)-(6) § 18-6102: Proof of physical ability § 18-6103: Penetration § 18-6104: Punishment for rape § 18-6106: (1977) Restitution	§ 18-6101(1): female < 18 § 18-6102: off. < 14 (prior to 1955 am., off. < 16)	rape: sexual intercourse when female underage, incapable of consent, resistance overcome or prevented, unconscious, or deceived	male/female rape def. by female's behavior or situation penetration required state must prove force or violence spousal exception altered in 1977 (1) legally separated (2) voluntarily living apart 180d. or more	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

STATE	STATUTORY AGE REQUIREMENTS	TERMINOLOGY	STATUTORY STRUCTURE	EVIDENCE PROVISIONS AND CROSS REFERENCES
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 li- berties with a child ch. 38, § 11-5:Contributing to the sexual delinquency of a child	male >14 female <16 age of consent = 16 force need for wo- man 16	rape:sexual inter- course by force & against her will where female un- conscious, or so mentally deranged or deficient that she cannot consent	male/female any penetration resistance required rape & stat. rape in 1 § impotency a defense spousal exception	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

STATE	STATUTORY AGE REQUIREMENTS	TERMINOLOGY	STATUTORY STRUCTURE	EVIDENCE PROVISIONS AND CROSS REFERENCES
INDIANA IND. (1977) § 35-42-4-1:rape § 35-42-4-2:criminal deviate conduct § 35-42-4-3:Child molestation	§ 35-42-4-3: child < 12 or child > 12, < 16 offender > 16	rape:intercourse w/ opp. sex by force or threat, other person is un aware of what's hapenning; victim mentally disabled or deficient deviate conduct: person/person(a) deviate (b)penetration by object or any other means into anus or sex organ of victim	pros. must carry burden of proof that act was against victim's will person/mem. of opp. sex spousal exception must be legally separated resistance required unless pros. can prove was prevented by fear	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

STATE	STATUTORY AGE REQUIREMENTS	TERMINOLOGY	STATUTORY STRUCTURE	EVIDENCE PROVISIONS AND CROSS REFERENCES
IOWA IOWA (1976) § 709-1:Sex abuse defined § 709.2:Sexual assault 1 deg. § 709.3:Sexual assault 2 deg. § 709.4:Sexual assault 3 deg. § 709.5:Resistance to sex. assault § 702.17:sex act defined	child = 14	any sex act between persons when forced or against will; mental defect. or incapacity, victim is a child sex act:contact by penetration, orally, anally, any object	consent gained thru threat of violence as seen as act againsts victim's will person/person Sexual assault 1:serious injury Sexual assault 2:deadly weapon used or threatens force victim <12; off. aided or abetted by 1 or more others Sexual assault 3:force or against will, mental defect. incapacitated, victim is child, victim is 14 or 15 and off. is relative or in position of authority, off. is 6 yrs. older than victim who is 14 or 15	§ 709.5:resistance not required

STATE	STATUTORY AGE REQUIREMENTS	TERMINOLOGY	STATUTORY STRUCTURE	EVIDENCE PROVISIONS AND CROSS REFERENCES
KANSAS KAN. STAT. ANN. (1974) § 21-3501:Definitions § 21-3502:Rape (1)a,b,c,d (2) § 21-3503:Indecent liberties with a ward	§ 21-3503: victim < 16	rape:sexual intercourse w/o consent, when resistance overcome, woman incapable of consent of resistance prevented	male/female spousal exception any penetration sodomy is sex neutral separate penalty §	corrob. not required impotence of accused is a defense prior rapes of accused admiss. § 21-3505:sodomy § 21-3506:aggravated sodomy

STATE	STATUTORY AGE REQUIREMENTS	TERMINOLOGY	STATUTORY STRUCTURE	EVIDENCE PROVISIONS AND CROSS REFERENCES
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)	none, except § 254:off. > 18, victim > 14 & <16; difference between ages > 15 yrs. prior L.:age of consent=14	rape:sexual intercourse by force or threat sexual misconduct: sexual act or any act involving direct physical contact, by force or threat sexual abuse: sexual intercourse or sexual act sexual contact: unconsented touching	rape:male/female all others sex neutral resistance not required any penetration for rape marriage is affirmative defense, but "spouse" excludes those living apart	corrob. not required if victim is voluntary social companion of accused, classification of off. reduced mistake as to age defense for § 254 § 253(3):victim's voluntary intoxication defense prompt complaint not required Ch. 11:sex offenses

STATE	STATUTORY AGE REQUIREMENTS	TERMINOLOGY	STATUTORY STRUCTURE	EVIDENCE PROVISIONS AND CROSS REFERENCES
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)	rape 1st: victim < 12 rape 2d: victim < 14 off. > 18 rape 3d: victim < 16 off. > 21 age of consent = 16	rape 1st:sexual intercourse by force or when per- son incapable of consent sexual abuse: sexual contact w/o consent forcible compulsion: physical force or threat that over- comes resistance by placing person in fear of immediate death or injury or kidnapping	person/person, but sexual intercourse has ordi- nary meaning lack of consent an element of every offense resistance required rape 1st, 2d & d:latter 2 define statutory ages & when victim men- tally incapacitated any penetration spousal exception applies to all offenses	corrob. not required prior chastity admiss. re consent impotence may prove ignorance or mistake of fact of in- capacity to consent §§ 510.070 et seq.:sodomy 1st, 2d & 3d §§ 510.110 et seq.:sexual abuse §§ 510.140 et seq.: sexual misconduct ch. 500-534:sex offenses

STATE	STATUTORY AGE REQUIREMENTS	TERMINOLOGY	STATUTORY STRUCTURE	EVIDENCE PROVISIONS AND CROSS REFERENCES
LOUISIANA LA. REV. STAT. (L. 1975, Acts 333, 612 & 732) § 14:41:Rape § 14:42:Aggravated rape (1)(2)(3) § 14:43:Simple rape (1)(2)(3) § 14:43.1:Sexual battery (1978)	§ 14:42(3): victim <12 presumption re incapacity of males <14 abolished	rape:act of and or vaginal inter- course w/o con- sent aggravated rape: act or vaginal intercourse that overcomes resis- tance, threats made or victim < 12 simple rape:act or anal or vaginal intercourse w/o consent, victim unable to consent or deceived sexual battery:in- tentional engaging in sexual act w/ another where off. compels victim by placing victim in fear of bodily harm (vaginal and inter- course, fellatio or cunnilingus)	aggravated & simple rape both homosexual & heterosexual offenses spousal exception for heterosexual rape, ex- cluding judicial separa- tion (1978) any penetration	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 (unnatural carnal copulation or w/ an animal)

STATE	STATUTORY AGE REQUIREMENTS	TERMINOLOGY	STATUTORY STRUCTURE	EVIDENCE PROVISIONS AND CROSS REFERENCES
<p>MARYLAND MD. (1976,1977,1978) Art. 27</p> <p>§ 462:1 degree rape § 463:2 degree rape § 464:1 degree sexual offense § 464A:2 degree sexual offense § 464B:3 degree sexual offense § 464C:4 degree sexual offense</p>	<p>§§§ 463,464A,464B: victim <14, off. 4 yrs. older</p> <p>§ 464C(2)(3): victim 14 or 15 off. at least 4 yrs. older</p>	<p>sex act:oral or and intercourse, any object into vagi- na or anus for sexual arousal or gratification</p> <p>sex. contact: touching the anal or genital area or any other inti- mate parts. Also, part of a person's body other than penis, mouth or tongue into the genital or anal opening of another</p> <p>vaginal intercourse: ordinary meaning</p>	<p>§ 461A:Admiss. of evid. of victim's sexual conduct inadmiss. except w/actor ro to show victim or off. pregnancy etc.</p> <p>spousal exception except when legally separated person/person</p> <p>Rape 1 degree:vaginal, weapon or serious injury or threat, or off. aided or abetted by one or more other persons</p> <p>Rape 2 degree:vagina, force "against the will & w/o the consent or mentally incap, defect, physical- ly helpless or victim < 14</p>	<p>Sexual offense 1 degree: sexual acts, same elements as Rape 1 degree</p> <p>Sexual offense 2 degree: sexual acts, same elements as Rape 2 degree</p> <p>Sexual offense 3 degree: Sexual contact, same elements as Rape 1 degree & Rape 2 Deg. force</p> <p>Sexual offense 4 degree: sexual contact w/o consent, or sex act or vaginal inter- course, victim 14 or 15 and off. at least 4 years older</p>

STATE	STATUTORY AGE REQUIREMENTS	TERMINOLOGY	STATUTORY STRUCTURE	EVIDENCE PROVISIONS AND CROSS REFERENCES
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	§ 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	rape: sexual intercourse, unnatural sexual intercourse by force or threat	sex neutral rape & sodomy in 1 § no stat. spusal exception 2 stat. rape §§, 1 forcible a 1 not	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

STATE	STATUTORY AGE REQUIREMENTS	TERMINOLOGY	STATUTORY STRUCTURE	EVIDENCE PROVISIONS AND CROSS REFERENCES
MICHIGAN MICH. COMPL ALWS ANN. (Supp. 1975) § 750.520a:Definitions (a)-(i) § 750.250b:Criminal sexual conduct in the first degree § 750.250c:Criminal sexual conduct in the second degree § 750.250d:Criminal sexual conduct in the third degree § 750.520e:Criminal sexual conduct in the fourth degree	§§ 750.520b(1) a & c(1)a: victim <13 §§ 750.520 b(1) b,c(1)b & d(1)a: victim >13, < 16	sexual penetration: sexual intercourse cunnilingus, fel- latio, anal inter- course or any other intrusion sexual contact: intentional touch- ing for the pur- pose of sexual gratification	sex neutral 1st degree:sexual pene- tration under detailed circumstances, i.e., act- or aided & abetted, armed or causes personal injury 2d degree:sexual contact under detailed circum- stances 3d degree:sexual penetra- tion under detailed circumstances § 750.520i:resistance by victim (not required) spousal exception ex- cludes those living apart penetration not required for any offense	§ 750.520g:assault w/intent § 750.520h:corrob.; lack of necessity for § 750.520j:admiss. of evi- dence: all evidence of vic- tim's sexual conduct inadmiss except w/actor or to show preg etc. (strongest evid. prov. in effect) § 750.520k:suppression of names of victim or actor upon request pending adjudication § 750.520b:includes incest

STATE	STATUTORY AGE REQUIREMENTS	TERMINOLOGY	STATUTORY STRUCTURE	EVIDENCE PROVISIONS AND CROSS REFERENCES
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	§§ 342(a), 343(a), 344(a), 345(a):complainant <13, actor >36 mos. older §§ 342(b), 343(b), 344(b):complainant >13 & <16, actor >24 mos. older § 345(b):complainant >13 & <16, actor >48 mos. older	sexual penetration: sexual intercourse: cunnilingus, fellatio, or any intrusion of any object where act committed w/o consent sexual contact: intentional touching, coerced touching of another or the clothing, w/o consent consent:voluntary uncoerced manifestation of present agreement	sex neutral 1st degree:sexual penetration under detailed circumstances 2d degree:sexual contact under detailed circumstances 3d degree:sexual penetration for special categories of victims 4th degree:sexual contact for special categories of victims resistance not required consent defense prohibited when complainant >13 or <16	corrob. requirement & Lord Hale's instruction prohibited evidence of complainant's prior sexual conduct inadmiss. except as to consent or fabrication, source of semen, conduct w/accused or to impeach § 609.344(b):mistake as to age an affirmative defense § 609.346:subsequent offenses § 609.347:evidence § 609.348:medical purposes excl. § 609.349:voluntary relationships (cohabiting adults excluded) § 609.35:costs of medical examination to be paid by county § 299 B.03 (L. 1975):reparations including victim's attorney's fees § 241.51:sex attack victims, program to aid

STATE	STATUTORY AGE REQUIREMENTS	TERMINOLOGY	STATUTORY STRUCTURE	EVIDENCE PROVISIONS AND CROSS REFERENCES
MISSISSIPPI MISS. CODE ANN. (1972) (Supp. 1975) § 97-3-65: Rape - carnal knowledge of female under 12 yrs. of age, or being over 12, against her will § 97-3-67: Rape - carnal knowledge of a chaste female over 12 and under 18 yrs. 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: 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	penetration & force required for rape penetration not required for stat. rape, but previous chastity of victim an essential element & rep. for chastity admiss.	§ 97-3-68: admiss. of evid., victim sex. conduct written motion, in camera offer of proof, judicial discretion (1977) § 97-3-70: reputation evid., victim may not enter to prove consent (except w/ off.) (1977)

STATE	STATUTORY AGE REQUIREMENTS	TERMINOLOGY	STATUTORY STRUCTURE	EVIDENCE PROVISIONS AND CROSS REFERENCES
MISSOURI MO. (1977) 566.030:Rape	victim < 14	rape:"w/o that person's consent by the use of forcible compulsion" or victim < 14 c.l. rape	person/person spousal exception	§ 491.015:Admiss. of sexual history of victim-not except w/ off. or to show pres. of sperm, preg. or disease, or circumst. of crime or "whereby statute, provisions chaste character is required to be proved by prosecution" §563.031:use of force in defense of persons (for right of self defense)

STATE	STATUTORY AGE REQUIREMENTS	TERMINOLOGY	STATUTORY STRUCTURE	EVIDENCE PROVISIONS AND CROSS REFERENCES
<p>MONTANA MONT.</p> <p>§ 45-5-502:sexual assault § 45-5-503:sexual intercourse w/o consent § 45-5-505:deviate sexual intercourse</p> <p>§ 45-2-101:"sexual contact" defined § 45-2-101:"sexual intercourse" defined § 45-5-501:"w/o consent" defined § 45-5-506:voluntary social companion</p>	<p>victim < 16</p>	<p>deviate sex.: between two members of the same sex, or an animal sexual contact: touching sexual or intimate parts sexual intercourse: c.l., anal, oral, foreign object w/o consent: def. as force, etc., mental or < 16 voluntary social: w/o consent due to victim intoxication- when victim voluntarily ingested substance</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 §94-5-502 person knowingly subjects another to any sexual contact without consent §94-5-503 person knowingly has sexual intercourse w/o consent, by force or threat of force, or if incapable of consent</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 failure to report promptly does not raise any presumption as to the credibility of the victim</p>

STATE	STATUTORY AGE REQUIREMENTS	TERMINOLOGY	STATUTORY STRUCTURE	EVIDENCE PROVISIONS AND CROSS REFERENCES
NEBRASKA NEB. (1978) § 28-317:sexual assault; legislative intent § 28-318:Terms defined § 28-319:Sexual Assault 1 deg. § 28-320:Sexual assault in the 2 degree or 3 degree	§ 28-319:victim 16 actor > 19	sexual penetration: sexual intercourse, cunnilingus, fellatio, anal intercourse, or any intrusion of any object sexual contact: intentional touching of victim's or actor's intimate parts or clothing for the purpose of sexual arousal or gratification	§28-320(2):Sexual assault 2 degree if the actor caused serious personal injury §28-320(3):Sexual assault 3 degree if no injury called (then class I misdemeanor)	§ 28-321:Sexual assault; in camera hearing § 28-322:Sexual assault; past sexual conduct § 28-323:Sexual assault;evid.; where admissable § 28-319(3):if found guilty 2 times of sexual assault 1 degree, offender sentence to ≥ 25, no parole

STATE	STATUTORY AGE REQUIREMENTS	TERMINOLOGY	STATUTORY STRUCTURE	EVIDENCE PROVISIONS AND CROSS REFERENCES
NEVADA NEV. (1977) § 200.364:Definitions § 200.366:Sexual assault:Definition; penalties § 200.368:statutory sexual seduction	§ 200.368:offender > 18, victim < 16	sexual penetration: vaginal, anal, or or w/ object spousal exception, except for all deviate intercourse or separated spouses	sexual assault:force, (2)bodily harm = 10 yr. min. (3)no substantial harm= 5 yr. min. statutory sex. sed.:off. > 18, victim < 16 (consent not an issue) person/person	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

STATE	STATUTORY AGE REQUIREMENTS	TERMINOLOGY	STATUTORY STRUCTURE	EVIDENCE PROVISIONS AND CROSS REFERENCES
NEW JERSEY N.J. (1978) § 2C:14-1:Definitions § 2C:14-2:Sexual Assault § 2C:14-3:Criminal Sexual Contact	§ 2C:14-2a (1)victim < 13 (2)13 > victim < 16 b. (1)victim < 13 off. at least 4 yrs. older c. (4) 16 > victim < 18 (5)13 > victim < 16, off. at least 4 yrs. older	sexual penetration: vaginal, oral, anal intercourse, or penetration w/ any object sexual contact: intentional touching of victim or actor's intimate parts for the purpose of degrading or humiliating the victim or sexually arousing or sexually gratifying the actor."	actor/victim § 2C:14-2a:age factor; position of authority; other felonies involved; more than 1 off. and force used; force or coercion w/ severe personal injury sustained b. age; c. force w/o injury; victim physically helpless, mentally incapacitated; off. in supervisory position over victim, age factor; member of victim's household §2C:14-3(a) sex contact w/ same circumstances as § 2C:14-2a (2)-(6) (b) ditt, but 2C:14-2c (1)-(6)	corrob. not required § 2C:14-5 prosecutor not required to offer proof of resistance § 2C:14-6:sentencing

STATE	STATUTORY AGE REQUIREMENTS	TERMINOLOGY	STATUTORY STRUCTURE	EVIDENCE PROVISIONS AND CROSS REFERENCES
<p>NEW HAMPSHIRE N.H. REV. STAT. (L. 1975)</p> <p>§ 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</p>	<p>§ 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</p>	<p>sexual penetration: sexual intercourse cunnilingus, fellatio, anal intercourse or any intrusion of an object sexual contact: intentional touching of victim's or actor's sexual parts and clothing for the purpose of sexual gratification</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 evid: 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-A2:(X):incest serious personal injury incl. mental anguish or trauma § 632-A:sexual assault & related offenses</p>

STATE	STATUTORY AGE REQUIREMENTS	TERMINOLOGY	STATUTORY STRUCTURE	EVIDENCE PROVISIONS AND CROSS REFERENCES
<p>NEW MEXICO N.M STAT. ANN. (Suoo, 1975)</p> <p>§ 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</p>	<p>§§ 21A(1) & 23A(1):child < 13 § 22:victim > 18 § 21B(1): child > 13 & < 16 §§ 23A(2) & 23B:child > 13 < 18</p>	<p>criminal sexual penetration: sexual intercourse, cunnilingus, fellatio or anal intercourse or penetration w/ any object criminal sexual contact: intentional touching or applying force w/o consent to unclothed intimate parts of another, or intentionally causing another to touch one's intimate parts</p>	<p>sex neutral criminal sexual penetration 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>

STATE	STATUTORY AGE REQUIREMENTS	TERMINOLOGY	STATUTORY STRUCTURE	EVIDENCE PROVISIONS AND CROSS REFERENCES
NORTH CAROLINA N.C. (1979) Art. 7A § 14-27.1:Definitions § 14-27.2:1 degree rape § 14-27.3:2 degree rape § 14-27.4:1 degree sexual offense § 14-27.5:2 degree sexual offense	§§ 14-27.4 & 14-27.5: 2:victim < 12, off. at least 4 yrs. older	sexual acts:oral, anal sex, any object into genital or anal opening NOT vaginal intercourse Rape:vaginal intercourse Sexual offense: sex. act	person/person 1 degree rape, 1 degree sex. offense; force w/ weapon or serious injury or aided, abetted by one or more others; age factor 2 degree rape, 2 degree sex. offense:force victim unable to consent spousal exception, except for those legally separated proof of penetration	§ 14-27.7:offenses w/ certain victims, consent no defense § 14-27.9:no presumption as to incapacity

STATE	STATUTORY AGE REQUIREMENTS	TERMINOLOGY	STATUTORY STRUCTURE	EVIDENCE PROVISIONS AND CROSS REFERENCES
<p>NORTH DAKOTA N.D. CENT. CODE (Vol. 2, Special 1975 Supp.)</p> <p>§ 12.1-20-01:General provisions (1)-(3) § 12.1-20-02:Definitions (1)-(3) § 12.1-20-03:Gross sexual im- position (1)a-e, (2)a,b,(3) § 12.1-20-04:Sexual imposition § 12.1-20-07:Sexual assault (1)a-f, (2)</p>	<p>§ 12.0-20-01 (a):c1.A felony if victim < 15 § 12.1-20-07:(1)e,f actor = adult, victim = minor < 18, > 15 no mistake as to age def. if victim < 15; def. if victim > 15 & < 18</p>	<p>sexual act:sexual contact between penis & vulva, penis & anus, penis, & mouth or vulva & mouth sexual contact:any touching of the sexual or other intimate parts fo gratifying sexual desire deviate sexual act:any form of sexual contact w/ animal, bird or dead person fornication:sexual act in public place</p>	<p>sex neutral gross sexual imposition: sexual act imposed by force, or w/o know- ledge or consent, sex contact w/ age factor or force 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 months § 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 con- duct offered to impeach wit- ness' 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 cohabita- tion § 12.1-20-11:incest § 12.1-20-12:deviate sexual act § 12.1-20-13:bigamy</p>

STATE	STATUTORY AGE REQUIREMENTS	TERMINOLOGY	STATUTORY STRUCTURE	EVIDENCE PROVISIONS AND CROSS REFERENCES
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)	§ 2907.02: victim < 13 § 2907.04: person >12 & < 15, off. > 18 or > 4 yrs. older § 2907.05(A)(3): person < 13	sexual conduct: vaginal & anal intercourse, fellatio & cunnilingus sexual contact: any touching of any erogenous zone for sexual arousing sexual activity: sexual conduct or contact or both felonious sexual penetration: insertion of object into anal or vaginal cavity by force or threat	sex neutral rape:sexual conduct when victim compelled to submit by force or threat of force sexual battery:sexual conduct when off. knowingly coerces other; other circumstances of control or domination gross sexual imposition: sexual contact when off. purposely compels of substantially impairs judgment or control sexual imposition:sexual contact offensive to other or when control impaired resistance not required single stat. prohibits all sex off., incl. prostitution & obscenity	corrob. required for § 2907.06 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 § 2907.03(A)(5):incest § 2907.04:corruption of minor § 2907.07:importuning §§ 2907.02(F) & 2907.05(F):victim may be represented by counsel in any hearing or proceeding re admissibility § 2907.11:names & details suppressed upon request pending adjudication § 2907.27:accused must be examined for venereal disease § 2907.28:costs of medical exam. paid by city or county § 2907.29:emergency room service by doctor must be provided 24 hrs. per day

STATE	STATUTORY AGE REQUIREMENTS	TERMINOLOGY	STATUTORY STRUCTURE	EVIDENCE PROVISIONS AND CROSS REFERENCES
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	rape 1st:female < 16 rape 2d:female > 16 & < 18 rape:male > 18, female < 14 or w/o consent male < 14 presumed incapable	rape:an act of sexual intercourse	male/female rape:sexual intercourse under detailed circumstances of incapacity, resistance overcome or prevented by force or threats, or victim unconscious or defrauded rape 1st:force, threats, victim incapable of consent or resistance prevented rape 2d:all others spousal exception in § 1111 § 1113:slight penetration is sufficient to complete crime	corrob. not required unless victim < 14 tit. 22, § 750:victim's prior sexual conduct inadmiss. to prove consent:admiss. in rebuttal rape 2d:female of previous chaste & virtuous char. § 1112:males < 14 presumed incapable § 1123:lewd or indecent proposals or act as to child under 14 tit. 63, § 1-525(b):required exam. of sex off. seduction, compelling to marry & abduction retained as off. under this ch.

STATE	STATUTORY AGE REQUIREMENTS	TERMINOLOGY	STATUTORY STRUCTURE	EVIDENCE PROVISIONS AND CROSS REFERENCES
<p>OREGON ORE.REV. STAT. (1973 Repl.) (L. 1975)</p> <p>§ 163.305:Definitions (1)-(8)</p> <p>§ 163.315:Incapacity to consent</p> <p>§ 163.355:Rape in the third degree (1)A,(2)</p> <p>§ 163.365:Rape in the second degree (1)A(a),(b),(2)</p> <p>§ 163.375:Rape in the first degree (1)A(a)-(3),(2)</p>	<p>rape 1st: female < 12</p> <p>rape 2d: female < 14</p> <p>rape 3d: female < 16</p> <p>age of consent = 18</p> <p>§ 163.345:actor > 3 yrs. older than victim</p>	<p>sexual intercourse: ordinary meaning; occurs upon any penetration, however slight</p> <p>forcible compulsion: physical force that overcomes resistance, or a threat</p> <p>sexual abuse: sexual contact w/o consent</p> <p>sexual contact: touching of intimate parts</p>	<p>male/female</p> <p>rape 1st:sexual intercourse if female subjected to forcible compulsion, or is of a certain class of victim</p> <p>rape 2d:sexual intercourse w/female incapable of consent, or < 14</p> <p>rape 3d:sexual intercourse w/female < 16</p> <p>§ 163.335:spousal exception, incl. couples cohabiting consensually</p>	<p>corrob. not required</p> <p>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)</p> <p>§ 163.345:defendant's age as a defense in certain cases</p> <p>§ 163.375(c):incest</p> <p>§ 163.385-.405:sodomy</p> <p>§ 163.417:sexual abuse in the second degree</p> <p>§ 163.425:sexual abuse in the first degree</p> <p>§ 163.435:contributing to the sexual delinquency of a minor both men and women liable</p> <p>§ 163.445:sexual misconduct</p> <p>§ 163.455:accosting for deviate purposes</p> <p>§ 163.465:public indecency</p>

STATE	STATUTORY AGE REQUIREMENTS	TERMINOLOGY	STATUTORY STRUCTURE	EVIDENCE PROVISIONS AND CROSS REFERENCES
PENNSYLVANIA PA. STAT. ANN. tit. 18 (1973) § 3101:Definitions § 3102:Mistake as to age § 3103:Spouse relationships § 3104:Evidence of victim's sex. conduct § 3105:Prompt complaint (repealed 1976) § 3121:Rape (1)-(4) § 3122:Statutory rape	stat. rape: actor > 16, person < 16 § 3125:actor > 18, child < 18	sexual intercourse: in addition to its ordinary meaning includes intercourse per os or per anus	person/person rape:sexual intercourse by force or by threat of forcible compulsions that would prevent resistance by person of reasonable solution, or person incapable of consent some penetration required spousal exception	provision mandating Lord Hale's instruction en. 1972, repealed 1976 prompt complaint requirement repealed 1975 § 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 §§ 3106-3107:Resistance not required (1976)

STATE	STATUTORY AGE REQUIREMENTS	TERMINOLOGY	STATUTORY STRUCTURE	EVIDENCE PROVISIONS AND CROSS REFERENCES
RHODE ISLAND R.I. (1979) § 11-37-1:Definitions § 11-37-2:1 degree sexual ass. § 11-37-3:penalty for 1 degree sexual assault § 11-37-4:2 degree sexual ass. § 11-37-5:penalty of 2 degree sexual assault § 11-37-6:3 degree sexual ass. § 11-37-7:penalty for 3 degree sexual assault	§ 11-37-2,4: victim < 13 § 11-37-4:victim < 16, > 13, actor > 18	sexual contact: intentional touching of intimate parts sexual penetration: vaginal, oral, anal intercourse, or any object into anus or vagina force:weapon, phy. force coercion person/person spousal exception	§ 11-37-2:penetration w/ age factor; victim unable to consent; force or coercion; element of surprise § 1137-4:contact w/same elements as above; also bogus medical treatment § 11-37-6:penetration w/ age factor person/person spousal exception for 1 degree sexual assault only	§ 11-37-11:victim testimony need not be corrob. § 11-37-13:Admiss. of evid. § 11-37-12:Resistance not necessary

STATE	STATUTORY AGE REQUIREMENTS	TERMINOLOGY	STATUTORY STRUCTURE	EVIDENCE PROVISIONS AND CROSS REFERENCES
SOUTH CAROLINA S.A. (1977) § 16-3-651:Definitions ■ 16-3-652:Criminal sexual conduct in the 1 degree § 16-3-653:Criminal sexual conduct in the 2 degree § 16-3-654:Criminal sexual conduct in 3 degree ■ 16-3-655:Criminal sexual conduct w/minors	§ 16-3-655: (1)victim < 11, off. at least 3 yrs. older.(CSC 1° (2)victim < 14, > 11 and off. at least 3 yrs. older (CSC 2° § victim < 16, > 11, off. in position of authority over victim	sexual battery: vaginal, oral, anal intercourse of any object into anal or genital opening actor/victim agg. coercion:threat of force or violence agg. force:force or violence of a "high and aggr. nature" spousal exception	§ 16-3-652:Sex. battery w/ aggr. force; in commission of other offenses § 16-3-653:Sexual battery aggravated coercion § 16-3-654:Sex. battery: w/ force or coercion; victim unable to consent § 16-3655:Sex. battery w/ age factor § 16-3-658:spousal exception	§ 16-3-657:victim testimony need not be corroborated § 16-3-659:admiss. of evid.

STATE	STATUTORY AGE REQUIREMENTS	TERMINOLOGY	STATUTORY STRUCTURE	EVIDENCE PROVISIONS AND CROSS REFERENCES
SOUTH DAKOTA S.D. COMPILED LAWS ANN. (1967) (Supp. 1975) § 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	age of consent = 16 (reduced from 18 in 1972) § 22-22-7: child < 15	sexual penetration: act, however slight of sexual intercourse, cunnilingus, fellatio, anal intercourse, or any intrusion, however slight, of any part of the body or of any object into the genital or anal opening. Medical exemption for practitioners of the healing arts lawfully practicing sexual contact: any touching, not amounting to rape, of the breasts of a female or the genitalia of any person w/intent to arouse or gratify the sexual desire of either party	§ 22-22-7: sexual contact with child under 15- felony or misdemeanor if actor < 3 years older than victim, misdemeanor	§ 23-44-16.1: repealed by SL 1978 ch. 178 § 577 replaced by 23A-22-15, evidence of victim's prior sexual conduct in rape prosecutions-preliminary hearing to det. relevancy

STATE	STATUTORY AGE REQUIREMENTS	TERMINOLOGY	STATUTORY STRUCTURE	EVIDENCE PROVISIONS AND CROSS REFERENCES
TENNESSEE TENN. (1979) § 39-3702:Definitions § 39-3703:Aggravated Rape § 39-3704:Aggravated sex. battery § 39-3705:Rape § 39-3706:Sex battery § 39-3711:Stat. rape	§§ 37-3703,4: victim < 13 § 39-3711:(a) victim < 18, > 13 and off. at least 2 yrs.older	sexual contact: intentional touch- ing of intimate parts sexual penetration: vagina, oral, anal intercourse, or any object into genital or anal opening spousal exception	§ 37-3703:sex. penetration w/force & weapon; personal injury to vic- tim; off. aided by othe (s) and force or victim unable to consent; age factor § 37-3704:sex. contact w/ same elements as above § 37-3705:sex. penetratio w/force or coercion; victim unable to consen fraud § 37-3706:Sexual contact w/same elements as above defendant/victim	§ 39-3711:victim > 14 who is "bawd, lewd or kept" cannot be a victim just because of age §40-2445:Admissibility of evid.

STATE	STATUTORY AGE REQUIREMENTS	TERMINOLOGY	STATUTORY STRUCTURE	EVIDENCE PROVISIONS AND CROSS REFERENCES
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)	§ 21.09:female < 17; defense if female > 14 yrs. & has sexual intercourse or if actor not more than 2 yrs. older § 21.10:same for § 21.09	sexual intercourse: 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 also b/c woman is unable to consent	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	Art. 38.07 Code of Crim. Proc. 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 questioning, except for prior felony convictions to impeach or if victim > 14 in stat. rape case § 21.06:homosexual conduct

STATE	STATUTORY AGE REQUIREMENTS	TERMINOLOGY	STATUTORY STRUCTURE	EVIDENCE PROVISIONS AND CROSS REFERENCES
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 w/o consent of victim; circumstances	§76-5-401:person < 18, actor must be > 3 yrs. older for felony §76-5-402:if victim < 14, first deg. §76-5-403:if victim < 14, forcible sodomy is first deg. 1977 amen. deleted (b) § 76-5-406:age of consent = 14	sexual abuse: touching the anus or genitals w/o consent:force overcomes resistance, or threats prevent resistance by person of ordinary resolution, or victim unconscious; victim, by reason of mental disease to consent, or thru mistake or by use of substance	sex neutral rape:sexual intercourse 2/o consent sodomy:sex abuse forcible sexual abuse: sexual contact aggravated sexual ass. : rape, sodomy or attempts and actor causes submission through use of threats § 76-5-407:married persons, conduct exempt; limitations of actions; "penetration" or "touching" sufficient to constitute offense (1),(2)	corrob. not required prompt complaint (3most.) required unless victim < 18 or incompetent § 76-5-403:sodomy;forcible sodomy (1)-(3) offenses against the person: Part 4. sexual offenses

STATE	STATUTORY AGE REQUIREMENTS	TERMINOLOGY	STATUTORY STRUCTURE	EVIDENCE PROVISIONS AND CROSS REFERENCES
VERMONT VT. § 3251:Definitions § 3252:Sexual Assault § 3253:Aggravated Sexual Assa. § 3254:Trial procedure § 3255:Evidence	§ 3252: person < 16 § 3253: person < 16	Sexual act:contact behv. penis & vulva, penis & anus, mouth and penis, mouth & vulva or any intrusion sexual conduct:any conduct/behavior relating to sexual activities such as prior sexual experience, use of contraceptives mode of living consent:words or actions by a person indicating volun- tary agreement to engage in sexual act	sexual assault:sexual act w/o consent, by threat or fear or thru use of substance aggravated sexual assault: same as above but incl. serious bodily injury	Lack of consent may be shown w/o proof of resis- tance Lack of consent includes serious physically or mentally incapacitated, or persons unaware of sexual act is being committed opinion, reputation evid. not admiss. corrob. evid. set forth by case law no longer required court may admit evid. of vic- tim's prior sexual conduct with defendant

STATE	STATUTORY AGE REQUIREMENTS	TERMINOLOGY	STATUTORY STRUCTURE	EVIDENCE PROVISIONS AND CROSS REFERENCES
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 & 15 years of age	§ 18.2-63:if female 13-15 but 3 yrs. younger than actor is guilty of fornication	rape:carnally known a female, against her will, by force	§ 18.2-68:seduction of female of previous chaste character (not 18.2-70)	want of chastity relevant re consent no mistakes as to age defense § 18.2-64:carnal knowledge of female patients or pupils of certian 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 & 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

STATE	STATUTORY AGE REQUIREMENTS	TERMINOLOGY	STATUTORY STRUCTURE	EVIDENCE PROVISIONS AND CROSS REFERENCES
<p>WASHINGTON WASH. REV. CODE ANN. (L. 1975) tit. 9A</p> <p>§ 9.79.140:Definitions (1)a-c, (2)-(6)</p> <p>§ 9.79.170:Rape (1)-(3)a-d, (4)</p> <p>§ 9.79.160:Lack of consent, age of victim (1), (2)</p> <p>§ 9.79.180:Rape in the second degree (1)a-b, (2)</p> <p>§ 9.79.190:Rape in the third degree (1)a-b, (2)</p> <p>§ 9.79.200:Statutory rape (1), (2)</p> <p>§ 9.79.210:Statutory rape in the second degree (1),(2)</p> <p>§ 9.79.220:Statutory rape in the third degree (1),(2)</p>	<p>§ 7:person > 13 w/ person < 11</p> <p>§ 8:person > 16 w/person >11 < 14</p> <p>§ 9:person > 18 w/person > 14 < 16 former L.: victim < 10</p>	<p>sexual intercourse: ordinary meaning; also any pene- tration by any ob- ject & any part of sexual contact involving sex or- gans of one per- son & mouth or anus of another consent:ctual words or conduct indi- cating freely given agreement to have sexual inter- course</p>	<p>sex neutral rape & stat. rape 1st, 2d & 3d</p> <p>rape 1st:by forcible compulsion, w/deadly weapon, kidnapping, serious personal injury or felonious entry into building or vehicle</p> <p>rape 2d:by force or victim incapable of consent</p> <p>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; admis- on consent only after motion & closed finding of rele- vance</p> <p>Tit. 9A. § 64.020:incest</p>

STATE	STATUTORY AGE REQUIREMENTS	TERMINOLOGY	STATUTORY STRUCTURE	EVIDENCE PROVISIONS AND CROSS REFERENCES
WEST VIRGINIA W.V. § 61-8B-1:Definition § 61-8B-2:Lack of consent § 61-8B-3:Sexual assault 1 ^o § 61-8B-4:Sexual assault 2 ^o § 61-8B-5:Sexual assault 3 ^o § 61-8B-6:Sexual abuse 1 ^o § 61-8B-7:Sexual abuse 2 ^o § 61-8B-8:Sexual abuse 3 ^o § 61-8B-9:Sexual misconduct	§ 61-8B-2:Lack of consent < 16 deemed unable to consent § 61-8B-3 & 6: off. ≥ 14 victim 11 § 61-8B-5:victim < 16, at least 4 yrs. younger than off.	force overcomes resistance; resistance incl. phys. resistance or any clear communication of lack of consent sex. contact: touching of intimate parts sex. intercourse: vaginal, plus contact between sex organs of one & the mouth or anus, of another	person/person § 61-8B-3:sex inter.; force serious bodily injury weapon; unable to consent § 61-8B-4:sex. inter. by force; penetration by any object § 61-8B-5:sex inter. victim unable to consent § 61-8B-6:contact by force age factor; unable to consent § 61-8B-7:contact, unable to consent § 61-8B-8:contact w/o consent, age factor	§ 61-8B-2:element of lack of consent § 61-8B-12:evidence § 61-8B-13:consent as defense

STATE	STATUTORY AGE REQUIREMENTS	TERMINOLOGY	STATUTORY STRUCTURE	EVIDENCE PROVISIONS AND CROSS REFERENCES
<p>WISCONSIN WIS. STAT. ANN. (1958) (Supp. 1975) (L. 1975)</p> <p>§ 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) § 940.225(6):No prosecution of spouse</p>	<p>§ 940.225(1) (d):victim < 12 § 940.225(2) (e):victim > 12 & < 18 age of consent = 15; 15-17 presumed incapable of consent</p>	<p>sexual intercourse: incl. cunnilingus, fellatio, anal intercourse or any intrusion by person's body or object sexual contact: intentional touching of intimate parts, clothed or unclothed, by hand, mouth or object consent: words or overt actions by competent person sexual conduct: defined under § 972.11</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 prosecution of spouse unless living apart & 1 has filed for annulment, separation or divorce sexual assault 2d:causes mental anguish requiring psychiatric care, or person who is incapable of giving consent</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 on;y by opinion or rep. evid. of truthfulness § 972.11:all evid. of victim's prior sexual conduct excl. except w/defendant, to show source of sement, & prior untruthful allegations of sexual assault; must be determined material § 970.03:judge may exclude unnecessary person from court § 944.12:enticing a child for immoral purposes</p>

STATE	STATUTORY AGE REQUIREMENTS	TERMINOLOGY	STATUTORY STRUCTURE	EVIDENCE PROVISIONS AND CROSS REFERENCES
<p>WYOMING WYO. STAT. ANN. (1977) (1980 Cum. Supp)</p> <p>§ 6-4-301:Definitions § 6-4-302:Sexual Assault 1^o § 6-4-303:Sexual assault 2^o § 6-4-304:Sexual Assault 3^o § 6-4-305:Sexual assault 4^o § 6-4-306:Penalties § 6-4-307:Mental exception § 6-4-308:Criminality of conduct § 6-4-309:Medical exam of victim § 6-4-310:Names not be released § 6-4-311:Corrob. unnecessary § 6-4-312:Evid. in sex. offenses § 6-4-313:Public indecency § 6-4-314:Attempted sex. assault</p>	<p>§ 6-4-303: victim < 12, actor 4 yrs. older & sexual pene. or intrusion, 2^o § 6-4-304: victim < 12, actor 4 yrs. older & sexual contact, 3^o § 6-4-305:victim < 16, actor 4 yrs. older, sexual pene. or intrusion; 4^o</p>	<p>sex. pene.:sexual intercourse, cun- nilingus, fella- tio, analingus, or anal interc. w/ or w/o emis. sex. assault:act made crim. pur- suant to §§ 6-4- 302 to 305 sex. contact:touch- ing purposes of sex. arousal, gra- tification, or a- buse of vic. int. parts by the actor or the actor's inti. pts by vic. or the clothing covering the vict. or act. intim. parts sex. intrus.:any intrus., however, slight, any obj. or any part of a person's body, ex- cept mouth, tongue or penis, into the genital or anal opening of another person's body for purposes sex. arou- gratif. or abuse</p>	<p>sex neutral sex assault 1^o penet. & intrusion and w/ phys. force; confinement threat, or victim unable to consent sex. assault 2^o penet. or intrusion; actor threatens to retaliate administers substance, actor in pos. of authority medical treatment or exam, victim < 12, actor 4 yrs. older or sexual cont. injury in detailed circumstances sex. assault 3^o sex. cont. in detailed circumstances sex. assault 4^o sexual penetration or intrusion to victim < 16, actor 4 yrs. older sexual assault 2^o false spouse</p>	<p>marital exception affirmative defense if actor believed victim ≥ 16 yrs. old no defense if actor believe victim ≥ 12 yrs. old corroboration unnecessary evidence of prior sexual con- duct, reputaton or opinion may be admissible through hearing</p>

APPENDIX B

2. How many sex offense cases have you ever participated or been involved?

	(0)	(1-5)	(6-10)	(Over 10)
<u>ATTORNEYS</u>				
Private Defense Attorneys	1	1	2	1
Private Attorney (former Prosecutor)	0	2	1	1
Private Attorney (former Pub. Def.)	0	1	1	5
Prosecutor	0	3	3	2
Public Defender	0	1	1	4
Subtotal:	1	8	8	13
<u>ADMINISTRATIVE AND CORRECTIONAL PERSONNEL</u>				
Police	0	0	0	3
Pre-Trial Intake Personnel	1	2	0	1
Probation Officers	0	0	0	3
Parole Officers	0	6	0	6
Court-connected Pshychologists, Psychiatrists	0	0	0	5
Subtotal:	1	8	0	18
<u>VICTIM ADVOCATE GROUPS</u>	2	1	0	5

3. **PROPOSITION:** The present sexual offense provisions (Hawaii Revised Statutes Chapter 707 Sections 720-742) are effective in controlling the conduct sought to be proscribed.

	<u>Agree</u>	<u>No Opinion</u>	<u>Disagree</u>
<u>ATTORNEYS</u>			
Private Defense Attorneys.	3	2	0
Private Attorney (former Prosecutor)	1	0	3
Private Attorney (former Pub. Def.)	1	2	4
Prosecutor	6	1	1
Public Defender.	2	1	3
Subtotal:	13 (43%)	6 (20%)	11 (37%)

	<u>Agree</u>	<u>No Opinion</u>	<u>Disagree</u>
<u>ADMINISTRATIVE AND CORRECTIONAL PERSONNEL</u>			
Police	3	0	0
Pre-Trial Intake Personnel	3	0	1
Probation Officers	0	1	2
Parole Officers.	2	5	5
Court-connected Psychologists, Psychiatrists	1	0	4
Subtotal:	9 (42%)	6 (15%)	12 (43%)

<u>VICTIM ADVOCATE GROUPS</u>	1 (13%)	1 (13%)	6 (74%)
---	---------	---------	---------

4. Hawaii's present sexual offense provisions treat the crimes of rape, sodomy, sexual abuse, indecent exposure and incest as separate crimes. An alternative system of classifying sexual offenses has been implemented in Michigan whereby nine types of sex offenses (common-law rape, assault with intent to commit rape, sodomy or gross indecency, attempted rape, indecent liberties, carnal knowledge of a female ward by guardian, incest, debauchery of youth and ravishment of a female patient in an institution for the insane) are incorporated into a single, comprehensive statute. For example, rape 1st degree and sodomy 1st degree would be labeled as sexual assaults in the 1st degree, and rape 2nd degree and sodomy 2nd degree would be labeled as sexual assaults in the 2nd degree. According to the legislative history of the Michigan statute, the main purposes of changing the statute were:

- (1) to educate the public that sexual offenses are crimes of assault motivated by aggression rather than crimes motivated by sexual passion.
- (2) to eliminate the stigma of being the victim or perpetrator of specific types of sexual offenses.

PROPOSITION: There should be a new statute which defines rape, sodomy and sexual abuse as "sexual assaults" in different degrees.

	<u>Agree</u>	<u>No Opinion</u>	<u>Disagree</u>
<u>ATTORNEYS</u>			
Private Defense Attorneys.	2	1	2
Private Attorney (former Prosecutor)	1	2	1
Private Attorney (former Pub. Def.)	5	0	2
Prosecutor	3	2	3
Public Defender.	6	0	0
Subtotal:	17 (55%)	5 (19%)	8 (26%)

	<u>Agree</u>	<u>No Opinion</u>	<u>Disagree</u>
<u>ADMINISTRATIVE AND CORRECTIONAL PERSONNEL</u>			
Police	0	1	2
Pre-Trial Intake Personnel	1	1	2
Probation Officers	1	1	1
Parole Officers.	8	2	2
Court-connected Psychologists, Psychiatrists	5	0	0
Subtotal:	15 (45%)	5 (22%)	7 (33%)

<u>VICTIM ADVOCATE GROUPS</u>	7 (87%)	0 (0%)	1 (13%)
---	---------	--------	---------

5. Under the present rape statute, sexual intercourse by forcible compulsion may be elements defining rape 1st degree and rape 2nd degree. One of the statutory definitions of forcible compulsion is physical force that overcomes earnest resistance. There is no statutory definition of earnest resistance.

A. PROPOSITION: The requirement that resistance be "earnest" results in inconsistent decisions in rape cases.

	<u>Agree</u>	<u>No Opinion</u>	<u>Disagree</u>
<u>ATTORNEYS</u>			
Private Defense Attorneys.	1	2	2
Private Attorney (former Prosecutor)	3	0	1
Private Attorney (former Pub. Def.)	2	2	3
Prosecutor	7	0	1
Public Defender.	2	1	3
Subtotal:	15 (50%)	5 (17%)	10 (33%)
<u>ADMINISTRATIVE AND CORRECTIONAL PERSONNEL</u>			
Police	1	0	2
Pre-Trial Intake Personnel	3	1	0
Probation Officers	2	1	0
Parole Officers.	9	1	2
Court-connected Psychologists, Psychiatrists	5	0	0
Subtotal:	20 (70%)	3 (13%)	4 (17%)
<u>VICTIM ADVOCATE GROUPS</u>	7 (87%)	1 (13%)	0 (0%)

5B. PROPOSITION: The requirement that resistance be "earnest" results in too burdensome a standard for conviction.

	<u>Agree</u>	<u>No Opinion</u>	<u>Disagree</u>
<u>ATTORNEYS</u>			
Private Defense Attorneys.	1	0	4
Private Attorney (former Prosecutor)	2	0	2
Private Attorney (former Pub. Def.)	2	0	5
Prosecutor	6	1	1
Public Defender.	0	1	5
Subtotal:	11 (37%)	2 (6%)	17 (57%)
<u>ADMINISTRATIVE AND CORRECTIONAL PERSONNEL</u>			
Police	1	0	2
Pre-Trial Intake Personnel	1	1	2
Probation Officers	3	0	0
Parole Officers.	10	0	2
Court-connected Psychologists, Psychiatrists	5	0	0
Subtotal:	20 (68%)	1 (5%)	6 (27%)
<u>VICTIM ADVOCATE GROUPS</u>	7 (87%)	1 (13%)	0 (0%)

6. The present statute requires, in the absence of a threat, express or implied death or serious physical injury, the introduction of evidence as to the "resistance" by the victim. It has been suggested that resistance by the victim may result in unnecessary danger to the victim and therefore proof of resistance should not be required.

A. PROPOSITION: The rape statute should focus exclusively on the actor and his or her actions rather than on resistance by the victim.

	<u>Agree</u>	<u>No Opinion</u>	<u>Disagree</u>
<u>ATTORNEYS</u>			
Private Defense Attorneys.	0	0	5
Private Attorney (former Prosecutor)	3	0	1
Private Attorney (former Pub. Def.)	2	1	4
Prosecutor	6	1	1
Public Defender.	1	0	5
Subtotal:	12 (39%)	2 (5%)	16 (56%)
<u>ADMINISTRATIVE AND CORRECTIONAL PERSONNEL</u>			
Police	1	0	2
Pre-Trial Intake Personnel	4	0	0
Probation Officers	3	0	0
Parole Officers.	12	0	0
Court-connected Psychologists, Psychiatrists	4	1	0
Subtotal:	24 (83%)	1 (4%)	2 (13%)
VICTIM ADVOCATE GROUPS	7 (87%)	0 (0%)	1 (13%)

6B. PROPOSITION: Resistance by the victim may result in unnecessary danger to the victim and therefore proof of resistance should not be required.

	<u>Agree</u>	<u>No Opinion</u>	<u>Disagree</u>
<u>ATTORNEYS</u>			
Private Defense Attorneys.	0	0	5
Private Attorney (former Prosecutor)	2	0	2
Private Attorney (former Pub. Def.)	2	0	5
Prosecutor	6	0	2
Public Defender.	0	0	6
Subtotal:	10 (31%)	0 (0%)	20 (69%)
<u>ADMINISTRATIVE AND CORRECTIONAL PERSONNEL</u>			
Police	0	0	3
Pre-Trial Intake Personnel	1	0	3
Probation Officers	3	0	0
Parole Officers.	10	1	1
Court-connected Psychologists, Psychiatrists	5	0	0
Subtotal:	19 (70%)	1 (4%)	7 (26%)
VICTIM ADVOCATE GROUPS	8 (100%)	0 (0%)	0 (0%)

CONTINUED

2 OF 3

7. Some reform groups have suggested that there are certain circumstances where the action of the actor, without proof of resistance by the victim, justifies the imposition of criminal liability. For example, the use of a dangerous instrument, or physical force, or a threat placing a person in fear of bodily injury may justify criminal sanctions without proof of resistance by the victim.

A. PROPOSITION: The use of a dangerous instrument by the actor, without proof of resistance by the victim, justifies the imposition of criminal liability in sex offense cases.

	<u>Agree</u>	<u>No Opinion</u>	<u>Disagree</u>
<u>ATTORNEYS</u>			
Private Defense Attorneys.	3	0	2
Private Attorney (former Prosecutor) .	4	0	0
Private Attorney (former Pub. Def.) . .	6	0	1
Prosecutor	7	1	0
Public Defender.	5	0	1
Subtotal:	25 (83%)	1 (3%)	4 (14%)

ADMINISTRATIVE AND CORRECTIONAL PERSONNEL

Police	3	0	0
Pre-Trial Intake Personnel	3	0	1
Probation Officers	3	0	0
Parole Officers.	12	0	0
Court-connected Psychologists, Psychiatrists	5	0	0
Subtotal:	26 (95%)	0 (0%)	1 (5%)

<u>VICTIM ADVOCATE GROUPS</u>	8 (100%)	0 (0%)	0 (0%)
---	----------	--------	--------

7B. PROPOSITION: The use of physical force by the actor, without proof of resistance by the victim, justifies the imposition of criminal liability in sex offense cases.

	<u>Agree</u>	<u>No Opinion</u>	<u>Disagree</u>
<u>ATTORNEYS</u>			
Private Defense Attorneys.	1	1	3
Private Attorney (former Prosecutor) .	3	1	0
Private Attorney (former Pub. Def.) . .	5	0	2
Prosecutor	7	0	1
Public Defender.	0	2	4
Subtotal:	16 (53%)	4 (14%)	10 (33%)

ADMINISTRATIVE AND CORRECTIONAL PERSONNEL

Police	3	0	0
Pre-Trial Intake Personnel	3	0	1
Probation Officers	3	0	0
Parole Officers.	10	2	0
Court-connected Psychologists, Psychiatrists	5	0	0 (5%)
Subtotal:	24 (92%)	2 (3%)	

<u>VICTIM ADVOCATE GROUPS</u>	8 (100%)	0 (0%)	0 (0%)
---	----------	--------	--------

7C. PROPOSITION: The fact that the actor is in a position of authority in relation to the victim, without proof of resistance by the victim, justifies the imposition of criminal liability in sex offense cases.

	<u>Agree</u>	<u>No Opinion</u>	<u>Disagree</u>
<u>ATTORNEYS</u>			
Private Defense Attorneys.	1	0	4
Private Attorney (former Prosecutor)	1	2	1
Private Attorney (former Pub. Def.)	1	1	5
Prosecutor	3	2	3
Public Defender.	0	1	5
Subtotal:	6 (20%)	6 (20%)	18 (60%)
<u>ADMINISTRATIVE AND CORRECTIONAL PERSONNEL</u>			
Police	2	0	1
Pre-Trial Intake Personnel	1	0	3
Probation Officers	3	0	0
Parole Officers.	5	4	3
Court-connected Psychologists, Psychiatrists	3	2	0
Subtotal:	14 (52%)	6 (22%)	7 (26%)
<u>VICTIM ADVOCATE GROUPS</u>	7 (87%)	0 (0%)	1 (13%)

7D. PROPOSITION: A threat, express or implied, placing a person in fear of bodily injury to himself or another person, without proof of resistance by the victim, justifies the imposition of criminal liability in sex offense cases.

	<u>Agree</u>	<u>No Opinion</u>	<u>Disagree</u>
<u>ATTORNEYS</u>			
Private Defense Attorneys.	1	0	4
Private Attorney (former Prosecutor)	2	0	2
Private Attorney (former Pub. Def.)	5	0	2
Prosecutor	8	0	0
Public Defender.	1	1	4
Subtotal:	17 (52%)	1 (3%)	12 (45%)
<u>ADMINISTRATIVE AND CORRECTIONAL PERSONNEL</u>			
Police	2	0	1
Pre-Trial Intake Personnel	2	0	2
Probation Officers	3	0	0
Parole Officers.	8	1	3
Court-connected Psychologists, Psychiatrists	5	0	0
Subtotal:	20 (74%)	1 (4%)	6 (22%)
<u>VICTIM ADVOCATE GROUPS</u>	8 (100%)	0 (0%)	0 (0%)

8. It has been suggested that the standard of "lack of consent" should replace forcible compulsion in assessing criminal liability for rape 2nd degree.

PROPOSITION: A standard of lack of consent should replace the standard of forcible compulsion in the definition of rape 2nd degree.

	<u>Agree</u>	<u>No Opinion</u>	<u>Disagree</u>
<u>ATTORNEYS</u>			
Private Defense Attorneys.	0	1	4
Private Attorney (former Prosecutor)	1	1	2
Private Attorney (former Pub. Def.)	2	3	2
Prosecutor	4	3	1
Public Defender.	1	2	3
Subtotal:	8 (24%)	10 (32%)	12 (44%)

	<u>Agree</u>	<u>No Opinion</u>	<u>Disagree</u>
<u>ADMINISTRATIVE AND CORRECTIONAL PERSONNEL</u>			
Police	0	0	3
Pre-Trial Intake Personnel	4	0	0
Probation Officers	3	0	0
Parole Officers.	4	5	3
Court-connected Psychologists, Psychiatrists	5	0	0
Subtotal:	16 (67%)	5 (8%)	6 (25%)

<u>VICTIM ADVOCATE GROUPS</u>	7 (74%)	1 (13%)	1 (13%)
---	---------	---------	---------

9. One definition of rape 1st degree, under the present rape statute, requires the proof of "reckless infliction of serious bodily injury" upon the victim. Rape 1st degree is a Class A felony. Rape 2nd degree, a Class B felony, does not require proof of injury to the victim.

PROPOSITION: The classification of sexual offenses according to degrees should continue to be based on injury to the victim.

	<u>Agree</u>	<u>No Opinion</u>	<u>Disagree</u>
<u>ATTORNEYS</u>			
Private Defense Attorneys.	3	2	0
Private Attorney (former Prosecutor)	1	0	3
Private Attorney (former Pub. Def.)	5	0	2
Prosecutor	5	2	1
Public Defender.	5	1	0
Subtotal:	19 (63%)	5 (17%)	6 (20%)

	<u>Agree</u>	<u>No Opinion</u>	<u>Disagree</u>
<u>ADMINISTRATIVE AND CORRECTIONAL PERSONNEL</u>			
Police	2	0	1
Pre-Trial Intake Personnel	4	0	0
Probation Officers	2	0	1
Parole Officers.	4	1	7
Court-connected Psychologists, Psychiatrists	2	2	1
Subtotal:	14 (61%)	3 (10%)	10 (29%)

<u>VICTIM ADVOCATE GROUPS</u>	3 (37%)	1 (13%)	4 (50%)
---	---------	---------	---------

10. Rape 1st degree, under the present rape statute, is a Class A felony punishable by a maximum of 20 years imprisonment. It has been argued that when sanctions for sexual offenses are excessively severe, the fact of such severity discourages the investigation, prosecution and conviction of sex offenders.

A. PROPOSITION: The sanctions under the present sexual offense provisions discourage the investigation of sex offenders.

	<u>Agree</u>	<u>No Opinion</u>	<u>Disagree</u>
<u>ATTORNEYS</u>			
Private Defense Attorneys.	0	1	4
Private Attorney (former Prosecutor)	1	0	3
Private Attorney (former Pub. Def.)	2	1	4
Prosecutor	1	2	5
Public Defender.	0	2	4
Subtotal:	4 (13%)	6 (19%)	20 (68%)
<u>ADMINISTRATIVE AND CORRECTIONAL PERSONNEL</u>			
Police	0	0	3
Pre-Trial Intake Personnel	1	0	3
Probation Officers	1	0	2
Parole Officers.	2	4	6
Court-connected Psychologists, Psychiatrists	1	3	1
Subtotal:	5 (19%)	7 (19%)	15 (62%)
<u>VICTIM ADVOCATE GROUPS</u>	4 (50%)	2 (25%)	2 (25%)

10B. PROPOSITION: The sanctions under the present sexual offense provisions discourage the prosecution of sex offenders.

	<u>Agree</u>	<u>No Opinion</u>	<u>Disagree</u>
<u>ATTORNEYS</u>			
Private Defense Attorneys.	0	1	4
Private Attorney (former Prosecutor)	0	0	4
Private Attorney (former Pub. Def.)	2	1	4
Prosecutor	1	0	7
Public Defender.	0	2	4
Subtotal:	3 (8%)	4 (14%)	23 (78%)
<u>ADMINISTRATIVE AND CORRECTIONAL PERSONNEL</u>			
Police	0	0	3
Pre-Trial Intake Personnel	0	1	3
Probation Officers	1	0	2
Parole Officers.	3	4	5
Court-connected Psychologists, Psychiatrists	2	1	2
Subtotal:	6 (22%)	6 (22%)	15 (56%)
<u>VICTIM ADVOCATE GROUPS</u>	5 (62%)	1 (13%)	2 (25%)

10C. PROPOSITION: The sanctions under the present sexual offense provisions discourage the conviction of sex offenders.

	<u>Agree</u>	<u>No Opinion</u>	<u>Disagree</u>
<u>ATTORNEYS</u>			
Private Defense Attorneys.	2	1	2
Private Attorney (former Prosecutor)	1	0	3
Private Attorney (former Pub. Def.)	3	0	4
Prosecutor	1	0	7
Public Defender.	0	1	5
Subtotal:	7 (23%)	2 (7%)	21 (70%)
<u>ADMINISTRATIVE AND CORRECTIONAL PERSONNEL</u>			
Police	1	0	2
Pre-Trial Intake Personnel	1	0	3
Probation Officers	1	0	2
Parole Officers.	2	6	4
Court-connected Psychologists, Psychiatrists	2	1	2
Subtotal:	7 (26%)	7 (26%)	13 (48%)
<u>VICTIM ADVOCATE GROUPS</u>	6 (74%)	1 (13%)	1 (13%)

11. Under the present rape statute, one definition of rape 1st degree, a Class A felony, includes the element of "reckless infliction of serious bodily injury." "Serious bodily injury" is defined to mean "bodily injury which creates a substantial risk of death or which causes serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ." This definition has been interpreted to mean serious physical injury and does not include serious psychological injury in determining criminal liability.

PROPOSITION: Serious psychological injury should be included as a factor in determining the degree of the offense charged.

	<u>Agree</u>	<u>No Opinion</u>	<u>Disagree</u>
<u>ATTORNEYS</u>			
Private Defense Attorneys.	2	0	3
Private Attorney (former Prosecutor)	3	0	1
Private Attorney (former Pub. Def.)	2	1	4
Prosecutor	4	0	4
Public Defender.	0	2	4
Subtotal:	11 (37%)	3 (10%)	15 (53%)
<u>ADMINISTRATIVE AND CORRECTIONAL PERSONNEL</u>			
Police	1	0	2
Pre-Trial Intake Personnel	3	0	1
Probation Officers	2	0	1
Parole Officers.	11	0	1
Court-connected Psychologists, Psychiatrists	3	1	1
Subtotal:	20 (74%)	1 (4%)	6 (22%)
<u>VICTIM ADVOCATE GROUPS</u>	4 (50%)	1 (13%)	3 (37%)

12. Those who oppose including serious psychological injury in the definition of rape have argued that proof of "serious psychological injury" would result in the introduction of evidence as to the prior sexual experience of the victim.

	<u>Agree</u>	<u>No Opinion</u>	<u>Disagree</u>
<u>ATTORNEYS</u>			
Private Defense Attorneys	3	1	1
Private Attorney (former Prosecutor)	1	2	1
Private Attorney (former Pub. Def.)	5	0	2
Prosecutor	3	1	4
Public Defender	3	3	0
Subtotal:	15 (50%)	7 (23%)	8 (27%)
<u>ADMINISTRATIVE AND CORRECTIONAL PERSONNEL</u>			
Police	1	1	1
Pre-Trial Intake Personnel	0	1	3
Probation Officers	1	1	1
Parole Officers	1	3	8
Court-connected Psychologists, Psychiatrists	1	0	4
Subtotal:	4 (15%)	6 (22%)	17 (63%)
<u>VICTIM ADVOCATE GROUPS</u>	3 (38%)	3 (38%)	2 (24%)

13. Under the present rape statute, a person commits a Class A felony if he or she ". . . intentionally engages in sexual intercourse, by forcible compulsion, with another person and: The other person is not, upon the occasion his (or her) voluntary social companion who had within the previous 12 months permitted him (or her) sexual intercourse . . ." The fact that the rape victim was a "voluntary social companion" reduces the degree of the offense charged.

A. PROPOSITION: The "voluntary social companion" requirement should not be the basis for distinguishing between degrees of rape.

	<u>Agree</u>	<u>No Opinion</u>	<u>Disagree</u>
<u>ATTORNEYS</u>			
Private Defense Attorneys	1	2	2
Private Attorney (former Prosecutor)	3	0	1
Private Attorney (former Pub. Def.)	4	0	3
Prosecutor	3	3	2
Public Defender	1	2	3
Subtotal:	12 (40%)	7 (23%)	11 (37%)
<u>ADMINISTRATIVE AND CORRECTIONAL PERSONNEL</u>			
Police	1	0	2
Pre-Trial Intake Personnel	1	0	3
Probation Officers	0	0	3
Parole Officers	10	0	2
Court-connected Psychologists, Psychiatrists	1	2	2
Subtotal:	13 (32%)	2 (8%)	12 (60%)
<u>VICTIM ADVOCATE GROUPS</u>	8 (100%)	0 (0%)	0 (0%)

13B. PROPOSITION: The "voluntary social companion" requirement should be retained but the 12 month period should be reduced.

	<u>Agree</u>	<u>No Opinion</u>	<u>Disagree</u>
<u>ATTORNEYS</u>			
Private Defense Attorneys.	1	2	2
Private Attorney (former Prosecutor) .	0	1	3
Private Attorney (former Pub. Def.) .	1	2	4
Prosecutor	3	2	3
Public Defender.	1	3	2
Subtotal:	6 (18%)	10 (34%)	14 (48%)
<u>ADMINISTRATIVE AND CORRECTIONAL PERSONNEL</u>			
Police	1	0	2
Pre-Trial Intake Personnel	1	0	3
Probation Officers	3	0	0
Parole Officers.	3	3	6
Court-connected Psychologists, Psychiatrists	1	3	1
Subtotal:	9 (41%)	6 (17%)	12 (42%)
<u>VICTIM ADVOCATE GROUPS</u>	1 (13%)	0 (0%)	7 (87%)

14. It has been argued by some reform groups that many rape cases never get to court because the victims are unwilling to submit to pre-trial screening procedures. Please comment.

	<u>Agree</u>	<u>No Opinion</u>	<u>Disagree</u>
<u>ATTORNEYS</u>			
Private Defense Attorneys.	1	1	3
Private Attorney (former Prosecutor) .	2	1	1
Private Attorney (former Pub. Def.) .	5	0	2
Prosecutor	3	2	3
Public Defender.	1	2	3
Subtotal:	12 (39%)	6 (21%)	12 (40%)
<u>ADMINISTRATIVE AND CORRECTIONAL PERSONNEL</u>			
Police	1	2	0
Pre-Trial Intake Personnel	1	2	1
Probation Officers	1	2	0
Parole Officers.	9	0	3
Court-connected Psychologists, Psychiatrists	5	0	0
Subtotal:	17 (53%)	6 (37%)	4 (10%)
<u>VICTIM ADVOCATE GROUPS</u>	5 (62%)	2 (25%)	1 (13%)

15. Would you favor the establishment of rehabilitation programs specifically designed for sex offenders as part of the sentencing procedures? Please comment.

	<u>Agree</u>	<u>No Opinion</u>	<u>Disagree</u>
<u>ATTORNEYS</u>			
Private Defense Attorneys.	3	1	1
Private Attorney (former Prosecutor) .	1	2	1
Private Attorney (former Pub. Def.) . .	3	1	3
Prosecutor	4	3	1
Public Defender.	4	0	2
Subtotal:	15 (49%)	7 (24%)	8 (27%)
<u>ADMINISTRATIVE AND CORRECTIONAL PERSONNEL</u>			
Police	1	1	1
Pre-Trial Intake Personnel	3	1	0
Probation Officers	3	0	0
Parole Officers.	6	5	1
Court-connected Psychologists, Psychiatrists	4	1	2
Subtotal:	17 (68%)	8 (24%)	2 (8%)
<u>VICTIM ADVOCATE GROUPS</u>	7 (87%)	0 (0%)	1 (13%)

BIBLIOGRAPHY

- Bienen, Leigh. "Rape I." Women's Rights Law Reporter, Vol. 3 (1976), December 1976, pp. 45-57.
- . "Rape II." Women's Rights Law Reporter, Vol. 3 (1976), March 1977, pp. 30-137.
- Brecher, Edward M. Treatment Programs for Sex Offenders. United States Department of Justice: National Institute for Law Enforcement and Criminal Justice (NILECJ) and Law Enforcement Assistance Administration (LEAA): January 1978.
- Bryant, Gerald and Cirel, Paul. A Community Response to Rape (An Exemplary Project). Office of Technology Transfer, U.S. Dept. of Justice: NILECJ and LEAA: March 1977.
- Center for Women Policy Studies. Rape and Its Victims: A Report for Citizens, Health Facilities, and Criminal Justice Agencies. U.S. Dept. of Justice: NILECJ and LEAA: 1974.
- Chappell, Duncan, et al. Forcible Rape: The Crime, The Victim, and The Offender. Columbia University Press, 1977.
- Forcible Rape: A National Survey of the Response by Prosecutors (Prosecutors' Volume I). U.S. Dept. of Justice: NILECJ and LEAA: March 1977.
- Forst, Brian, et al. What Happens After Arrest? A Court Perspective of Police Operations in the District of Columbia. Washington D.C.: Institute for Law and Social Research, PROMIS Research Project, Publication no. 4, 1977.
- Holmstrom, Lynda Lytle and Burgess, Ann Wolbert. The Victim of Rape: Institutional Reactions. New York: John Wiley and Sons, 1978.
- Horos, Carol V. Rape. New Canaan, Ct.: Tobey Publishing Co., Inc., 1974.
- House Reference Office. Hawaii's Rape Law. State of Hawaii, 1978.
- Hirsch, Carolyn J. The Trouble With Rape. Chicago: Nelson-Hall, 1977.
- Katz, Sedelle and Mazur, Mary Ann. Understanding the Rape Victim: A Synthesis of Research Findings. New York: John Wiley and Sons, 1979.
- La Free, Gary D. "Variables Affecting Guilty Pleas and Convictions in Rapes Cases: Toward a Social Theory of Rape Processing." Social Forces, Vol. 58:3, March 1980, pp. 833-850.

Legislative Reference Bureau. "Letter to Jean King re: Hawaii Statutes Relating to Rape." State of Hawaii, Document no. 0897-A, 3 April 1978.

McDermott, Joan M. Rape Victimization in 26 American Cities. U.S. Dept. of Justice: NILECJ and LEAA, Applications of the National Crime Survey Victimization and Attitude Data, Analytic Report no. 6, 1979.

Queen's Bench Foundation. Rape Prevention and Resistance. San Francisco: Queen's Bench Foundation, 1976.

Sakato, Jo Ann. Rape and the Criminal Justice System. University of Hawaii Law School; Unpublished thesis, 1977.

Schultz, Leroy G., ed. Rape Victimology. Springfield, Ill.: Charles C. Thomas, 1975.

Schwartz, Martin D. and Clear, Todd R. "Toward a New Rape Law." Crime and Delinquency, Vol. 26:2, April 1980, pp. 129-151.

Vera Institute of Justice Monograph. Felony Arrests: Their Prosecution and Disposition in New York City's Courts. New York: Vera Institute of Justice, 1977.

Virginia State Crime Commission. An Interim Report of the Advisory Task Force to Study Criminal Sexual Assault for the Virginia State Crime Commission, 24 February 1978.

Virginia State Crime Commission Task Force on Criminal Sexual Assault: Analysis of Proposed Sexual Assault Bill. Virginia State Crime Commission, 15 January 1980.

Walker, Marcia J. and Brodsky, Stanley L., ed. Sexual Assault: The Victim and the Rapist. Lexington, MA: D.C. Heath and Co., 1976.

Washburn, Bruce R. "Rape Law: The Need for Reform." New Mexico Law Review, Vol. 5, May 1975.

Williams, Kristen M. The Prosecution of Sexual Assaults. Washington, D.C.: Institute for Law and Social Research, PROMIS Research Project, Publication no. 7, 1978.

END