

9 GCA CRIMES AND CORRECTIONS
CH. 25 SEXUAL OFFENSE

CHAPTER 25
SEXUAL OFFENSES

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§ 25.10. Definitions.

(a) As used in this Chapter:

(1) Actor means a person accused of criminal sexual conduct;

(2) Force or Coercion includes but is not limited to any of the following circumstances:

(A) when the actor overcomes the victim through the actual application of physical force or physical violence;

(B) 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;

(C) when the actor coerces the victim to submit by threatening to retaliate in the future against the victim or any other person and the victim believes that the actor has the ability to execute this threat.

As used in this Subsection, to retaliate includes threats of physical punishment, kidnapping or extortion;

(D) 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; or

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(E) when the actor, through concealment or by the element of surprise, is able to overcome the victim.

(3) Intimate Parts includes the primary genital area, groin, inner thigh, buttock or breast of a human being;

(4) Mentally Defective means that a person suffers from a mental disease or defect which renders that person temporary or permanently incapable of appraising the nature of his or her conduct;

(5) Mentally Incapacitated means that a person is rendered temporarily incapable of appraising or controlling his or her conduct due to the influence of a narcotic, anesthetic or other substance administered to that person without his or her consent, or due to any other act committed upon that person without his or her consent;

(6) Physically Helpless means that a person is unconscious, asleep or for any other reason is physically unable to communicate unwillingness to an act;

(7) Personal Injury means bodily injury, disfigurement, mental anguish, chronic pain, pregnancy, disease or loss or impairment of a sexual or reproductive organ;

(8) Sexual Contact includes the intentional touching of the victim's or actor's intimate parts or the intentional touching of the clothing covering the immediate area of the victim's or actor's intimate parts, if that intentional touching can reasonably be construed as being for the purpose of sexual arousal or gratification;

(9) Sexual Penetration means sexual intercourse, cunnilingus, fellatio, anal intercourse or any other intrusion, however slight, of any part of a person's body or of any object into the genital or anal openings of another person's body, but emission of semen is not required; and

(10) Victim means the person alleging to have been subjected to criminal sexual conduct.

(b) Whenever in this Chapter the criminality of conduct depends on a child's being below the age of fourteen (14), it is no

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defense that the defendant reasonably believed the child to be fourteen (14) or older. Whenever in this Chapter the criminality of conduct depends on a child's being below a specified age older than fourteen (14), it is an affirmative defense that the defendant reasonably believed the child to be of that age or above.

SOURCE: Repealed and reenacted by P.L. 15-060:1, eff. Aug. 31, 1979.

2013 NOTE: Pursuant to the authority granted by 1 GCA § 1606 and to maintain the general codification scheme of the GCA, the Compiler altered the numbers/letters in subsection (a)(2) to adhere to the Compiler's alphanumeric scheme.

§ 25.15. First Degree Criminal Sexual Conduct.

(a) A person is guilty of criminal sexual conduct in the first degree if he or she engages in sexual penetration with the victim and if any of the following circumstances exists:

(1) the victim is under fourteen (14) years of age;

(2) the victim is at least fourteen (14) but less than sixteen (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;

(3) sexual penetration occurs under circumstances involving the commission of any other felony;

(4) the actor is aided or abetted by one or more other persons and either of the following circumstances exists:

(A) the actor knows or has reason to know that the victim is mentally defective, mentally incapacitated or physically helpless; or

(B) the actor uses force or coercion to accomplish the sexual penetration.

(5) 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;

(6) the actor causes personal injury to the victim and force or coercion is used to accomplish sexual penetration;

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and

(7) 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.

(b) Criminal sexual conduct in the first degree is a felony in the first degree. Any person convicted of criminal sexual conduct under § 25.15(a) shall be sentenced to a minimum of fifteen (15) years imprisonment, and may be sentenced to a maximum of life imprisonment without the possibility of parole. The term imposed shall not be suspended, as indicated in § 80.60 of Article 4, Chapter 80, Title 9 GCA; nor shall work release or educational programs outside the confines of prison be granted; nor shall the provisions under § 80.31 of Article 2, Chapter 80, Title 9 GCA apply. Any such sentence shall include a special parole term of not less than three (3) years in addition to such time of imprisonment.

(c) Any person convicted of criminal sexual conduct under § 25.15(a) subsequent to a first conviction of criminal sexual conduct under Guam law or a conviction of a sex offense from another jurisdiction that has an element that would constitute sexual contact or sexual penetration, as defined in § 25.10 of this Chapter shall be sentenced to a minimum of twenty-five (25) years imprisonment and may be sentenced to life imprisonment without the possibility of parole. Said term shall not be suspended as indicated in § 80.60 of Article 4, Chapter 80, Title 9 GCA; nor shall parole, work release or educational programs outside the confines of prison be granted.

SOURCE: Repealed and reenacted by P.L. 15-060:1, eff. Aug. 31, 1979. Amended by P.L. 32-012:2 (Apr. 11, 2013), effective upon enactment and shall apply prospectively pursuant to P.L. 32-012:3. Subsection (b) amended by P.L. 19-006:6. Subsection (b) repealed and reenacted by P.L. 23-114:1. Subsection (c) amended by P.L. 36-018:1 (Apr. 9, 2021).

§ 25.20. Second Degree Criminal Sexual Conduct.

(a) 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:

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(1) that other person is under fourteen (14) years of age;

(2) that other person is at least fourteen (14) but less than sixteen (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;

(3) sexual contact occurs under circumstances involving the commission of any other felony;

(4) the actor is aided or abetted by one or more other persons and either of the following circumstances exists:

(A) the actor knows or has reason to know that the victim is mentally defective, mentally incapacitated or physically helpless; or

(B) the actor uses force or coercion to accomplish the sexual contact.

(5) 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;

(6) the actor causes personal injury to the victim and force or coercion is used to accomplish the sexual contact; and

(7) 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.

(b) Criminal sexual conduct in the second degree is a felony in the first degree, but a person convicted of criminal sexual conduct in the second degree who receives a sentence of imprisonment shall not be eligible for work release or educational programs outside the confines of prison. The term imposed shall not be suspended, as indicated in § 80.60 of Article 4, Chapter 80, Title 9 GCA; nor probation be imposed in lieu of said minimum term; nor shall parole be granted; nor shall the provisions under §

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80.31 of Article 2, Chapter 80, Title 9 GCA apply. Any such sentence shall include a special parole term of not less than three (3) years, in addition to such time of imprisonment.

(c) Any person convicted of criminal sexual conduct under § 25.20(a) subsequent to a first conviction of criminal sexual conduct under Guam law or a conviction of a sex offense from another jurisdiction that has an element that would constitute sexual contact or sexual penetration as defined in § 25.10 shall be sentenced to a minimum of fifteen (15) years imprisonment and may be sentenced to life imprisonment without the possibility of parole. Said term shall not be suspended; nor probation be imposed in lieu of said term, as indicated in § 80.60 of Article 4, Chapter 80, Title 9 GCA; nor shall parole, work release or educational programs outside the confines of prison be granted.

SOURCE: Repealed and reenacted by P.L. 15-060:1, eff. Aug. 31, 1979. Amended by P.L. 32-012:2 (Apr. 11, 2013), effective upon enactment and shall apply prospectively pursuant to P.L. 32-012:3. Subsection (b) amended by P.L. 19-006:7. Subsection (c) amended by P.L. 36-018:2 (Apr. 9, 2021).

§ 25.25. Third Degree Criminal Sexual Conduct.

(a) 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:

- (1) that other person is at least fourteen (14) years of age and under sixteen (16) years of age;
- (2) force or coercion is used to accomplish the sexual penetration; and
- (3) the actor knows or has reason to know that the victim is mentally defective, mentally incapacitated or physically helpless.

(b) Criminal sexual conduct in the third degree is a felony of the second degree.

(c) Any person previously convicted of criminal sexual conduct under § 25.25(a) subsequent to a first conviction of criminal sexual conduct under Guam law or a conviction of a sex offense from another jurisdiction that has an element that would

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constitute sexual contact or sexual penetration as defined in § 25.10 of this Chapter shall be sentenced to ten (10) years imprisonment without the possibility of parole. Said term shall not be suspended; nor probation be imposed in lieu of said term, as indicated in § 80.60 of Article 4, Chapter 80, Title 9 GCA; nor shall parole, work release or educational programs outside the confines of prison be granted.

SOURCE: Repealed and reenacted by P.L. 15-060:1, eff. Aug. 31, 1979. Subsection (c) added by P.L. 36-018:3 (Apr. 9, 2021).

§ 25.30. Fourth Degree Criminal Sexual Conduct.

(a) 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:

(1) force or coercion is used to accomplish the sexual contact;

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

(b) Criminal sexual conduct in the fourth degree is a felony of the third degree, except for first time offenders it is a misdemeanor.

SOURCE: Repealed and reenacted by P.L. 15-060:1, eff. Aug. 31, 1979. Subsection (b) is amended by P.L. 20-209:1.

§ 25.35. Assault with Intent to Commit Criminal Sexual Conduct.

Assault with intent to commit criminal sexual conduct involving penetration is a felony in a third degree.

SOURCE: Repealed and reenacted by P.L. 15-060:1, eff. Aug. 31, 1979.

§ 25.40. Victim's Testimony Need Not be Corroborated.

The testimony of a victim need not be corroborated in prosecutions under §§ 25.15 through 25.35.

SOURCE: Repealed and reenacted by P.L. 15-060:1, eff. Aug. 31, 1979.

§ 25.45. Resistance Not Required.

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A victim need not resist the actor for a proper prosecution under §§ 25.15 through 25.35.

SOURCE: Repealed and reenacted by P.L. 15-060:1, eff. Aug. 31, 1979.
