

CHAPTER 109A—SEXUAL ABUSE

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CODIFICATION

Pub. L. 99-646 and Pub. L. 99-654 added identical chapters 109A.

AMENDMENTS

1994—Pub. L. 103-322, title IV, §§ 40111(c), 40113(a)(2), title VI, § 60010(b), Sept. 13, 1994, 108 Stat. 1903, 1907, 1973, redesignated item 2245 as 2246 and added items 2245, 2247, and 2248.

§ 2241. Aggravated sexual abuse

(a) **BY FORCE OR THREAT.**—Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, or in any prison, institution, or facility in which persons are held in custody by direction of or pursuant to a contract or agreement with the head of any Federal department or agency, knowingly causes another person to engage in a sexual act—

(1) by using force against that other person; or

(2) by threatening or placing that other person in fear that any person will be subjected to death, serious bodily injury, or kidnapping;

or attempts to do so, shall be fined under this title, imprisoned for any term of years or life, or both.

(b) **BY OTHER MEANS.**—Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, or in any prison, institution, or facility in which persons are held in custody by direction of or pursuant to a contract or agreement with the head of any Federal department or agency, knowingly—

(1) renders another person unconscious and thereby engages in a sexual act with that other person; or

(2) administers to another person by force or threat of force, or without the knowledge or permission of that person, a drug, intoxicant, or other similar substance and thereby—

(A) substantially impairs the ability of that other person to appraise or control conduct; and

(B) engages in a sexual act with that other person;

or attempts to do so, shall be fined under this title, imprisoned for any term of years or life, or both.

(c) **WITH CHILDREN.**—Whoever crosses a State line with intent to engage in a sexual act with a person who has not attained the age of 12 years, or in the special maritime and territorial jurisdiction of the United States or in a Federal prison, or in any prison, institution, or facility in which persons are held in custody by direc-

tion of or pursuant to a contract or agreement with the head of any Federal department or agency, knowingly engages in a sexual act with another person who has not attained the age of 12 years, or knowingly engages in a sexual act under the circumstances described in subsections (a) and (b) with another person who has attained the age of 12 years but has not attained the age of 16 years (and is at least 4 years younger than the person so engaging), or attempts to do so, shall be fined under this title and imprisoned for not less than 30 years or for life. If the defendant has previously been convicted of another Federal offense under this subsection, or of a State offense that would have been an offense under either such provision had the offense occurred in a Federal prison, unless the death penalty is imposed, the defendant shall be sentenced to life in prison.

(d) **STATE OF MIND PROOF REQUIREMENT.**—In a prosecution under subsection (c) of this section, the Government need not prove that the defendant knew that the other person engaging in the sexual act had not attained the age of 12 years.

(Added Pub. L. 99-646, § 87(b), Nov. 10, 1986, 100 Stat. 3620, and Pub. L. 99-654, § 2, Nov. 14, 1986, 100 Stat. 3660; amended Pub. L. 103-322, title XXXIII, § 330021(1), Sept. 13, 1994, 108 Stat. 2150; Pub. L. 104-208, div. A, title I, § 101(a) [title I, § 1217(b)], Sept. 30, 1996, 110 Stat. 3009, 3009-26, 3009-31; Pub. L. 105-314, title III, § 301(a), Oct. 30, 1998, 112 Stat. 2978; Pub. L. 109-162, title XI, § 1177(a)(1), (2), Jan. 5, 2006, 119 Stat. 3125; Pub. L. 109-248, title II, §§ 206(a)(1), 207(2), July 27, 2006, 120 Stat. 613, 615; Pub. L. 110-161, div. E, title V, § 554, Dec. 26, 2007, 121 Stat. 2082.)

CODIFICATION

Pub. L. 99-646 and Pub. L. 99-654 added identical sections 2241.

AMENDMENTS

2007—Subsecs. (a) to (c). Pub. L. 110-161 substituted “the head of any Federal department or agency” for “the Attorney General”.

2006—Subsecs. (a), (b). Pub. L. 109-248, § 207(2), inserted comma after “Attorney General” in introductory provisions.

Pub. L. 109-162, § 1177(a)(1), inserted “or in any prison, institution, or facility in which persons are held in custody by direction of or pursuant to a contract or agreement with the Attorney General” after “in a Federal prison,” in introductory provisions.

Subsec. (c). Pub. L. 109-248 inserted comma after “Attorney General” and substituted “and imprisoned for not less than 30 years or for life” for “, imprisoned for any term of years or life, or both” in first sentence.

Pub. L. 109-162, § 1177(a)(2), inserted “or in any prison, institution, or facility in which persons are held in custody by direction of or pursuant to a contract or agreement with the Attorney General” after “in a Federal prison,” in first sentence.

1998—Subsec. (c). Pub. L. 105-314 substituted “younger than the person so engaging” for “younger than that person”.

1996—Subsec. (c). Pub. L. 104-208 reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, knowingly engages in a sexual act with another person who has not attained the age of 12 years, or attempts to do so, shall be fined under this title, imprisoned for any term of years or life, or both.”

¹Section catchline amended by Pub. L. 109-248 without corresponding amendment of chapter analysis.

1994—Subsec. (a)(2). Pub. L. 103-322 substituted “kidnapping” for “kidnaping”.

EFFECTIVE DATE

Pub. L. 99-646, § 87(e), Nov. 10, 1986, 100 Stat. 3624, and Pub. L. 99-654, § 4, Nov. 14, 1986, 100 Stat. 3664, provided, respectively, that: “This section and the amendments made by this section [see Short Title note below] shall take effect 30 days after the date of the enactment of this Act [Nov. 10, 1986].” and “This Act and the amendments made by this Act [see Short Title note below] shall take effect 30 days after the date of the enactment of this Act [Nov. 14, 1986].”

SHORT TITLE OF 1996 AMENDMENT

Pub. L. 104-208, div. A, title I, § 101(a) [title I, § 1217(a)], Sept. 30, 1996, 110 Stat. 3009, 3009-31, provided that: “This section [probably means subsec. 7 of section 121 of Pub. L. 104-208, div. A, title I, § 101(a), which amended sections 2241 and 2243 of this title] may be cited as the ‘Amber Hagerman Child Protection Act of 1996’.”

SHORT TITLE OF 1986 AMENDMENT

Pub. L. 99-646, § 87(a), Nov. 10, 1986, 100 Stat. 3620, and Pub. L. 99-654, § 1, Nov. 14, 1986, 100 Stat. 3660, provided, respectively, that: “This section [enacting this chapter, amending sections 113, 1111, 1153, and 3185 of this title, sections 300w-3, 300w-4, and 9511 of Title 42, The Public Health and Welfare, and section 1472 of former Title 49, Transportation, and repealing chapter 99 of this title] may be cited as the ‘Sexual Abuse Act of 1986’.” and “This Act [enacting this chapter, amending sections 113, 1111, 1153, and 3185 of this title, sections 300w-3, 300w-4, and 9511 of Title 42, and section 1472 of former Title 49, Transportation, and repealing chapter 99 of this title] may be cited as the ‘Sexual Abuse Act of 1986’.”

§ 2242. Sexual abuse

Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, or in any prison, institution, or facility in which persons are held in custody by direction of or pursuant to a contract or agreement with the head of any Federal department or agency, knowingly—

(1) causes another person to engage in a sexual act by threatening or placing that other person in fear (other than by threatening or placing that other person in fear that any person will be subjected to death, serious bodily injury, or kidnapping); or

(2) engages in a sexual act with another person if that other person is—

(A) incapable of appraising the nature of the conduct; or

(B) physically incapable of declining participation in, or communicating unwillingness to engage in, that sexual act;

or attempts to do so, shall be fined under this title and imprisoned for any term of years or for life.

(Added Pub. L. 99-646, § 87(b), Nov. 10, 1986, 100 Stat. 3621, and Pub. L. 99-654, § 2, Nov. 14, 1986, 100 Stat. 3661; amended Pub. L. 103-322, title XXXIII, § 330021(1), Sept. 13, 1994, 108 Stat. 2150; Pub. L. 109-162, title XI, § 1177(a)(3), Jan. 5, 2006, 119 Stat. 3125; Pub. L. 109-248, title II, §§ 205, 207(2), July 27, 2006, 120 Stat. 613, 615; Pub. L. 110-161, div. E, title V, § 554, Dec. 26, 2007, 121 Stat. 2082.)

CODIFICATION

Pub. L. 99-646 and Pub. L. 99-654 added identical sections 2242.

AMENDMENTS

2007—Pub. L. 110-161 substituted “the head of any Federal department or agency” for “the Attorney General” in introductory provisions.

2006—Pub. L. 109-248 inserted comma after “Attorney General” in introductory provisions and substituted “and imprisoned for any term of years or for life” for “, imprisoned not more than 20 years, or both” in concluding provisions.

Pub. L. 109-162 inserted “or in any prison, institution, or facility in which persons are held in custody by direction of or pursuant to a contract or agreement with the Attorney General” after “in a Federal prison,” in introductory provisions.

1994—Par. (1). Pub. L. 103-322 substituted “kidnaping” for “kidnaping”.

§ 2243. Sexual abuse of a minor or ward

(a) OF A MINOR.—Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, or in any prison, institution, or facility in which persons are held in custody by direction of or pursuant to a contract or agreement with the head of any Federal department or agency, knowingly engages in a sexual act with another person who—

(1) has attained the age of 12 years but has not attained the age of 16 years; and

(2) is at least four years younger than the person so engaging;

or attempts to do so, shall be fined under this title, imprisoned not more than 15 years, or both.

(b) OF A WARD.—Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, or in any prison, institution, or facility in which persons are held in custody by direction of or pursuant to a contract or agreement with the head of any Federal department or agency, knowingly engages in a sexual act with another person who is—

(1) in official detention; and

(2) under the custodial, supervisory, or disciplinary authority of the person so engaging;

or attempts to do so, shall be fined under this title, imprisoned not more than 15 years, or both.

(c) DEFENSES.—(1) In a prosecution under subsection (a) of this section, it is a defense, which the defendant must establish by a preponderance of the evidence, that the defendant reasonably believed that the other person had attained the age of 16 years.

(2) In a prosecution under this section, it is a defense, which the defendant must establish by a preponderance of the evidence, that the persons engaging in the sexual act were at that time married to each other.

(d) STATE OF MIND PROOF REQUIREMENT.—In a prosecution under subsection (a) of this section, the Government need not prove that the defendant knew—

(1) the age of the other person engaging in the sexual act; or

(2) that the requisite age difference existed between the persons so engaging.

(Added Pub. L. 99-646, § 87(b), Nov. 10, 1986, 100 Stat. 3621, and Pub. L. 99-654, § 2, Nov. 14, 1986, 100 Stat. 3661; amended Pub. L. 101-647, title III, § 322, Nov. 29, 1990, 104 Stat. 4818; Pub. L. 104-208, div. A, title I, § 101(a) [title I, § 1217(c)], Sept. 30,