

in addition to any other such standards that it may promulgate relevant to the detection, prevention, reduction, and punishment of prison rape, adopt accreditation standards consistent with the national standards adopted pursuant to such final rule.

(Pub. L. 108-79, § 9, Sept. 4, 2003, 117 Stat. 987.)

#### Editorial Notes

##### CODIFICATION

Section was formerly classified to section 15608 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

#### § 30309. Definitions

In this chapter, the following definitions shall apply:

##### (1) Carnal knowledge

The term “carnal knowledge” means contact between the penis and the vulva or the penis and the anus, including penetration of any sort, however slight.

##### (2) Inmate

The term “inmate” means any person incarcerated or detained in any facility who is accused of, convicted of, sentenced for, or adjudicated delinquent for, violations of criminal law or the terms and conditions of parole, probation, pretrial release, or diversionary program.

##### (3) Jail

The term “jail” means a confinement facility of a Federal, State, or local law enforcement agency to hold—

(A) persons pending adjudication of criminal charges; or

(B) persons committed to confinement after adjudication of criminal charges for sentences of 1 year or less.

##### (4) HIV

The term “HIV” means the human immunodeficiency virus.

##### (5) Oral sodomy

The term “oral sodomy” means contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus.

##### (6) Police lockup

The term “police lockup” means a temporary holding facility of a Federal, State, or local law enforcement agency to hold—

(A) inmates pending bail or transport to jail;

(B) inebriates until ready for release; or

(C) juveniles pending parental custody or shelter placement.

##### (7) Prison

The term “prison” means any confinement facility of a Federal, State, or local government, whether administered by such government or by a private organization on behalf of such government, and includes—

(A) any local jail or police lockup; and

(B) any juvenile facility used for the custody or care of juvenile inmates.

##### (8) Prison rape

The term “prison rape” includes the rape of an inmate in the actual or constructive control of prison officials.

##### (9) Rape

The term “rape” means—

(A) the carnal knowledge, oral sodomy, sexual assault with an object, or sexual fondling of a person, forcibly or against that person’s will;

(B) the carnal knowledge, oral sodomy, sexual assault with an object, or sexual fondling of a person not forcibly or against the person’s will, where the victim is incapable of giving consent because of his or her youth or his or her temporary or permanent mental or physical incapacity; or

(C) the carnal knowledge, oral sodomy, sexual assault with an object, or sexual fondling of a person achieved through the exploitation of the fear or threat of physical violence or bodily injury.

##### (10) Sexual assault with an object

The term “sexual assault with an object” means the use of any hand, finger, object, or other instrument to penetrate, however slightly, the genital or anal opening of the body of another person.

##### (11) Sexual fondling

The term “sexual fondling” means the touching of the private body parts of another person (including the genitalia, anus, groin, breast, inner thigh, or buttocks) for the purpose of sexual gratification.

##### (12) Exclusions

The terms and conditions described in paragraphs (9) and (10) shall not apply to—

(A) custodial or medical personnel gathering physical evidence, or engaged in other legitimate medical treatment, in the course of investigating prison rape;

(B) the use of a health care provider’s hands or fingers or the use of medical devices in the course of appropriate medical treatment unrelated to prison rape; or

(C) the use of a health care provider’s hands or fingers and the use of instruments to perform body cavity searches in order to maintain security and safety within the prison or detention facility, provided that the search is conducted in a manner consistent with constitutional requirements.

(Pub. L. 108-79, § 10, Sept. 4, 2003, 117 Stat. 987.)

#### Editorial Notes

##### CODIFICATION

Section was formerly classified to section 15609 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

#### CHAPTER 305—HATE CRIMES

Sec.	
30501.	Findings.
30502.	Definitions.
30503.	Support for criminal investigations and prosecutions by State, local, and tribal law enforcement officials.
30504.	Grant program.
30505.	Severability.
30506.	Rule of construction.
30507.	Jabara-Heyer NO HATE Act.

##### § 30501. Findings

Congress makes the following findings: