

CHAPTER 709
SEXUAL ABUSE

Referred to in §9E.2, 135B.34, 135C.33, 135L.3, 152.5A, 229A.2, 232.68, 232.82, 232.83, 235B.2, 235E.1, 235F1, 236A.2, 236A.18, 272.2, 331.307, 364.22, 633.535, 701.1, 701.11, 901A.1, 901A.2, 903B.1, 903B.2, 907.3, 911.2B, 915.35, 915.36, 915.37, 915.84

Table listing sections 709.1 through 709.23 with their respective titles and descriptions, such as 'Sexual abuse defined', 'Incapacitation', 'Sexual exploitation by a counselor...', etc.

709.1 Sexual abuse defined.

Any sex act between persons is sexual abuse by either of the persons when the act is performed with the other person in any of the following circumstances:

- 1. The act is done by force or against the will of the other.
2. Such other person is suffering from a mental defect or incapacity which precludes giving consent...
3. Such other person is a child.

[C51, §2581, 2583; R60, §4204, 4206; C73, §3861, 3863; C97, §4756, 4758; C24, 27, 31, 35, 39, §12966, 12967; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §698.1, 698.3; C79, 81, §709.1]

84 Acts, ch 1188, §1; 99 Acts, ch 159, §1

Referred to in §232.116, 600A.8, 611.23, 614.1, 668.15, 692A.101, 692A.102, 713.3, 915.40
Definition of sex act, §702.17

709.1A Incapacitation.

As used in this chapter, "incapacitated" means a person is disabled or deprived of ability, as follows:

- 1. "Mentally incapacitated" means that a person is temporarily incapable of apprising or controlling the person's own conduct...
2. "Physically helpless" means that a person is unable to communicate an unwillingness to act...
3. "Physically incapacitated" means that a person has a bodily impairment or handicap...

99 Acts, ch 159, §2

709.2 Sexual abuse in the first degree.

1. A person commits sexual abuse in the first degree when in the course of committing sexual abuse the person causes another serious injury.

2. Sexual abuse in the first degree is a class “A” felony.

[C51, §2581; R60, §4204; C73, §3861; C97, §4756; C24, 27, 31, 35, 39, §12966; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §698.1; C79, 81, §709.2]

[2018 Acts, ch 1041, §127](#)

Referred to in [§321.375](#), [664A.2](#), [692A.101](#), [692A.102](#), [709.19](#), [903B.10](#)

Definition of forcible felony, [§702.11](#)

Sentencing restrictions for forcible felonies and mandatory reporters of child abuse, see [§907.3](#)

**709.3 Sexual abuse in the second degree.**

1. A person commits sexual abuse in the second degree when the person commits sexual abuse under any of the following circumstances:

a. During the commission of sexual abuse the person displays in a threatening manner a dangerous weapon, or uses or threatens to use force creating a substantial risk of death or serious injury to any person.

b. The other person is a child.

c. The person is aided or abetted by one or more persons and the sex act is committed by force or against the will of the other person against whom the sex act is committed.

2. Sexual abuse in the second degree is a class “B” felony.

[C51, §2581; R60, §4204; C73, §3861; C97, §4756; C24, 27, 31, 35, 39, §12966; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §698.1; C79, 81, §709.3]

[84 Acts, ch 1188, §2](#); [99 Acts, ch 159, §3](#); [2013 Acts, ch 90, §228](#); [2021 Acts, ch 37, §3](#)

Referred to in [§321.375](#), [664A.2](#), [692A.101](#), [692A.102](#), [709.19](#), [709.23](#), [901A.2](#), [902.12](#), [902.14](#), [903B.10](#), [906.15](#)

Definition of child, [§702.5](#)

Definition of forcible felony, [§702.11](#)

Definition of sex act, [§702.17](#)

Sentencing restrictions for forcible felonies and mandatory reporters of child abuse, see [§907.3](#)

Subsection 1, paragraph b amended

**709.4 Sexual abuse in the third degree.**

1. A person commits sexual abuse in the third degree when the person performs a sex act under any of the following circumstances:

a. The act is done by force or against the will of the other person, whether or not the other person is the person’s spouse or is cohabiting with the person.

b. The act is between persons who are not at the time cohabiting as husband and wife and if any of the following are true:

(1) The other person is suffering from a mental defect or incapacity which precludes giving consent.

(2) The other person is fourteen or fifteen years of age and any of the following are true:

(a) The person is a member of the same household as the other person.

(b) The person is related to the other person by blood or affinity to the fourth degree.

(c) The person is in a position of authority over the other person and uses that authority to coerce the other person to submit.

(d) The person is four or more years older than the other person.

c. The act is performed while the other person is under the influence of a controlled substance, which may include but is not limited to flunitrazepam, and all of the following are true:

(1) The controlled substance, which may include but is not limited to flunitrazepam, prevents the other person from consenting to the act.

(2) The person performing the act knows or reasonably should have known that the other person was under the influence of the controlled substance, which may include but is not limited to flunitrazepam.

d. The act is performed while the other person is mentally incapacitated, physically incapacitated, or physically helpless.

2. Sexual abuse in the third degree is a class “C” felony.

[C51, §2581, 2583; R60, §4204, 4206; C73, §3861, 3863; C97, §4756, 4758; C24, 27, 31, 35, 39, §12966, 12967; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §698.1, 698.3; C79, 81, §709.4]

89 Acts, ch 138, §3; 94 Acts, ch 1128, §1; 97 Acts, ch 78, §1; 99 Acts, ch 159, §4; 2013 Acts, ch 30, §201; 2021 Acts, ch 37, §4

Referred to in §272C.15, 321.375, 664A.2, 692A.101, 692A.102, 692A.121, 702.11, 709.19, 709.23, 902.14, 903B.10, 906.15

Definition of forcible felony, see §702.11

Definition of sex act, see §702.17

Sentencing restrictions for forcible felonies and mandatory reporters of child abuse, see §907.3

Subsection 1, paragraph b, subparagraph (2) stricken and former subparagraph (3) renumbered as (2)

#### 709.5 Resistance to sexual abuse.

Under the provisions of [this chapter](#) it shall not be necessary to establish physical resistance by a person in order to establish that an act of sexual abuse was committed by force or against the will of the person. However, the circumstances surrounding the commission of the act may be considered in determining whether or not the act was done by force or against the will of the other.

[C79, 81, §709.5]

99 Acts, ch 159, §5

#### 709.6 Jury instructions for offenses of sexual abuse.

No instruction shall be given in a trial for sexual abuse cautioning the jury to use a different standard relating to a victim’s testimony than that of any other witness to that offense or any other offense.

[C79, 81, §709.6]

#### 709.7 Detention in brothel. Repealed by 2010 Acts, ch 1043, §3.

#### 709.8 Lascivious acts with a child.

1. It is unlawful for any person sixteen years of age or older to perform any of the following acts with a child with or without the child’s consent unless married to each other, for the purpose of arousing or satisfying the sexual desires of either of them:

- a. Fondle or touch the pubes or genitals of a child.
- b. Permit or cause a child to fondle or touch the person’s genitals or pubes.
- c. Cause the touching of the person’s genitals to any part of the body of a child.
- d. Solicit a child to engage in a sex act or solicit a person to arrange a sex act with a child.
- e. Inflict pain or discomfort upon a child or permit a child to inflict pain or discomfort on the person.

2. a. Any person who violates a provision of [this section](#) involving an act included in [subsection 1](#), paragraph “a” through “c”, shall, upon conviction, be guilty of a class “C” felony.

b. Any person who violates a provision of [this section](#) involving an act included in [subsection 1](#), paragraph “d” or “e”, shall, upon conviction, be guilty of a class “D” felony.

[S13, §4938-a; C24, 27, 31, 35, 39, §13184; C46, 50, 54, 58, 62, 66, 71, 73, §725.2; C75, 77, §725.10; C79, 81, §709.8]

85 Acts, ch 181, §1; 96 Acts, ch 1062, §1; 2000 Acts, ch 1165, §1; 2005 Acts, ch 158, §35; 2013 Acts, ch 30, §202; 2013 Acts, ch 43, §2, 3

Referred to in §321.375, 692A.101, 692A.102, 692A.121, 709.12, 709.19, 802.2B, 902.14, 903B.10, 906.15, 907.3

Definition of sex act, §702.17

Sentencing restrictions for forcible felonies and mandatory reporters of child abuse, see §907.3

#### 709.9 Indecent exposure — masturbation.

1. A person who exposes the person’s genitals or pubic area to another not the person’s spouse, or who commits a sex act in the presence of or view of a third person, commits a serious misdemeanor if all of the following apply:

- a. The person does so to arouse or satisfy the sexual desires of either party.
- b. The person knows or reasonably should know that the act is offensive to the viewer.

2. a. A person who masturbates in public in the presence of another, not a child, commits a serious misdemeanor.

b. A person who masturbates in public in the presence of a child commits an aggravated misdemeanor.

c. For the purpose of [this subsection](#), “*masturbate*” means physical stimulation of a person’s own genitals or pubic area for the purpose of sexual gratification or arousal of the person, regardless of whether the genitals or pubic area is exposed or covered.

[C79, 81, §709.9]

[2020 Acts, ch 1039, §1](#)

Referred to in [§659A.2](#), [692A.102](#), [709.19](#)

Definition of sex act, [§702.17](#)

Sentencing restrictions for forcible felonies and mandatory reporters of child abuse, see [§907.3](#)

#### **709.10 Sexual abuse — evidence.**

1. As used in [this section](#):

a. “*Forensic medical examination*” means a sexual abuse examination by a health care provider for the purpose of gathering and preserving evidence of sexual abuse.

b. “*Kit*” means a sexual abuse evidence collection kit that includes a human biological specimen collected by a health care provider during a forensic medical examination.

c. “*Kit tracking system*” means the automated sexual abuse evidence collection kit tracking system established pursuant to [section 915.53](#).

d. “*Laboratory*” means the state criminalistics laboratory or similar qualified laboratory.

e. “*Law enforcement agency*” means any governmental agency that investigates persons suspected of or charged with a sex abuse crime. “*Law enforcement agency*” also includes any governmental agency that collects, stores, processes, transmits, or disseminates analysis of evidence collected in connection with a sexual abuse related crime.

2. The manufacturer or distributor of a kit shall enter information relating to new, unused kits into the kit tracking system within five business days upon receipt of a kit. The manufacturer or distributor of a kit shall provide a health care provider with a new, unused kit upon request and shall document dissemination of each kit to a health care provider in the kit tracking system within forty-eight hours of dissemination to the health care provider.

3. A health care provider shall enter information relating to each new kit into the kit tracking system within forty-eight hours of receipt of the kit.

4. When a reported victim of sexual abuse consents to undergo a forensic medical examination and to having the evidence from the examination preserved, the health care provider conducting the forensic medical examination shall utilize a kit. The health care provider conducting the forensic medical examination shall contact the law enforcement agency under whose jurisdiction the sexual abuse offense occurred within forty-eight hours after the evidence was collected from a victim to notify the law enforcement agency to collect and store the kit. The health care provider shall document which law enforcement agency the kit is transferred to in the kit tracking system within forty-eight hours of collection of the evidence.

5. The law enforcement agency collecting the evidence shall obtain the kit from a health care provider and properly store the kit to ensure the chain of custody is complete and sufficient. The law enforcement agency shall document receipt of the kit from the health care provider in the kit tracking system within seventy-two hours of obtaining the kit.

6. The law enforcement agency shall store the kit in a clean, dry location for a minimum of fifteen years, or in the case of a minor victim for a minimum of fifteen years after the minor reaches the age of majority, even if the reported victim of sexual abuse has not filed a criminal complaint.

7. Prior to the disposal of a kit by a law enforcement agency, the law enforcement agency shall notify the reported victim of the intended date of disposal of the kit, the reason for disposal of the kit, and the options that remain available for retention and analysis of the kit, if any. The law enforcement agency shall obtain written approval from the appropriate county attorney and retain that approval in the victim’s case file prior to disposal. Any kit disposed of shall be documented by a law enforcement agency in the kit tracking system within forty-eight hours of disposal.

8. The law enforcement agency transferring a kit to a laboratory for analysis shall

document the transfer of the kit in the kit tracking system within seventy-two hours of transferring the kit.

9. The laboratory shall document receipt of the kit in the kit tracking system within seventy-two hours of logging the kit into its evidence management system.

10. When an analysis of the evidence collected from a victim's forensic medical examination is complete, the laboratory shall enter the results of the analysis into the kit tracking system and return the kit to the appropriate law enforcement agency. The law enforcement agency shall document receipt of the kit within seventy-two hours of receipt and shall store the kit in accordance with [this section](#).

11. *a.* A health care provider shall provide a victim of sexual abuse with a consent form created by the department of justice prior to a forensic medical examination. The consent form shall include information allowing the victim to document the victim's consent or refusal to the collection and storage of the evidence collected from the victim's forensic medical examination, to release such evidence to a laboratory for analysis, and to make a report to law enforcement. The consent form shall also include information that the victim is not required to participate in the criminal justice system; to participate in an interview with law enforcement; to undergo a forensic medical examination; or to allow an analysis of the evidence collected; that the victim may withdraw consent for the collection of the victim's evidence or an analysis of the evidence at any time; and that if the victim does not initially consent to make a report to a law enforcement agency or to allow an analysis of the evidence collected, the victim may choose to provide a report to a law enforcement agency or may consent to an analysis of the evidence at any time within the required kit retention period specified in [subsection 6](#).

*b.* The consent form shall provide notice to the victim of the victim's statutory rights pursuant to [section 709.22](#).

*c.* A copy of the victim's consent form shall be maintained by the health care provider in the victim's records and in the kit with the evidence collected.

*d.* A copy of the consent form shall be provided to the victim.

*e.* A copy of the consent form shall accompany the health care provider's billing statement for the health care provider's exam fee submitted to the crime victim assistance division of the department of justice. The health care provider shall submit a copy of the consent form to the crime victim assistance division of the department of justice even if there are no charges associated with the health care provider's examination.

12. The rights of a victim pursuant to [chapter 915](#) attach when the victim consents to participate in an interview with law enforcement, to a forensic medical examination, and to allow an analysis of the evidence collected.

13. If a reported victim does not want the victim's name recorded on the kit, the kit shall be deemed an anonymous kit and a case number or the number assigned to the kit by the kit tracking system shall be used in place of the name of the reported victim and entered into the kit tracking system by the health care provider within forty-eight hours of receipt of the kit. An anonymous kit shall not be submitted for analysis until a victim has provided law enforcement with a criminal report and has consented to an analysis of the evidence collected from the victim's forensic medical examination. A law enforcement agency in possession of an anonymous kit may dispose of the kit thirty days after the fifteen-year retention period required under [subsection 6](#).

14. A victim who initially chooses not to participate in an interview with a law enforcement agency may, at any point during the time period provided in [subsection 6](#), contact the law enforcement agency to agree to an interview with the law enforcement agency and to consent to an analysis of the evidence collected from the victim's forensic medical examination.

15. A victim who decides to participate in the investigation of a reported sexual abuse or in a forensic medical examination may choose to cease participation at any time and shall not be compelled to continue participating in the investigation or a forensic medical examination. If the analysis of the evidence collected from a victim's forensic medical examination indicates

a connection with another reported sexual abuse offense, the victim shall not be compelled to participate in the criminal or civil proceedings of the related case.

[2004 Acts, ch 1055, §1](#); [2021 Acts, ch 107, §2](#)

Referred to in [§915.11](#), [915.41](#), [915.53](#)

Section stricken and rewritten

#### **709.11 Assault with intent to commit sexual abuse.**

Any person who commits an assault, as defined in [section 708.1](#), with the intent to commit sexual abuse:

1. Is guilty of a class “C” felony if the person thereby causes serious injury to any person.
2. Is guilty of a class “D” felony if the person thereby causes any person a bodily injury other than a serious injury.
3. Is guilty of an aggravated misdemeanor if no injury results.

[\[81 Acts, ch 204, §6\]](#)

[2013 Acts, ch 90, §229](#)

Referred to in [§232.22](#), [692A.101](#), [692A.102](#), [709.19](#), [802.2B](#), [903B.10](#)

Sentencing restrictions for forcible felonies and mandatory reporters of child abuse, see [§907.3](#)

Serious injury, [§702.18](#)

#### **709.12 Indecent contact with a child.**

1. A person eighteen years of age or older is upon conviction guilty of an aggravated misdemeanor if the person commits any of the following acts with a child, not the person’s spouse, with or without the child’s consent, for the purpose of arousing or satisfying the sexual desires of either of them:

- a. Fondle or touch the inner thigh, groin, buttock, anus, or breast of the child.
- b. Touch the clothing covering the immediate area of the inner thigh, groin, buttock, anus, or breast of the child.
- c. Solicit or permit a child to fondle or touch the inner thigh, groin, buttock, anus, or breast of the person.
- d. Solicit a child to engage in any act prohibited under [section 709.8, subsection 1](#), paragraph “a”, “b”, or “e”.

2. The provisions of [this section](#) shall also apply to a person sixteen or seventeen years of age who commits any of the enumerated acts with a child who is at least five years the person’s junior, in which case the juvenile court shall have jurisdiction under [chapter 232](#).

[\[81 Acts, ch 204, §7\]](#)

[85 Acts, ch 181, §2](#); [88 Acts, ch 1252, §4](#); [2013 Acts, ch 30, §203](#)

Referred to in [§692A.102](#), [709.19](#), [802.2B](#), [903B.10](#)

Sentencing restrictions for forcible felonies and mandatory reporters of child abuse, see [§907.3](#)

#### **709.13 Child in need of assistance complaints.**

During or following an investigation into allegations of violations of [this chapter](#) or of [chapter 726](#) or [728](#) involving an alleged victim under the age of eighteen and an alleged offender who is not a person responsible for the care of the alleged victim, anyone with knowledge of the alleged offense may file a complaint pursuant to [section 232.83](#) alleging the alleged victim to be a child in need of assistance as defined under [section 232.2](#). In all cases, the complaint shall be filed by any peace officer with knowledge of the investigation when the peace officer has reason to believe that the alleged victim may require treatment as a result of the alleged offense and that the alleged victim’s parent, guardian, or custodian will be unwilling or unable to provide the treatment.

[88 Acts, ch 1252, §5](#); [2021 Acts, ch 80, §374](#)

Section amended

#### **709.14 Lascivious conduct with a minor.**

1. a. It is unlawful for a person eighteen years of age or older who is in a position of authority over a minor to force, persuade, or coerce that minor, with or without consent, to disrobe or partially disrobe for the purpose of arousing or satisfying the sexual desires of either of them.

b. A violation of [this subsection](#) is a serious misdemeanor.



2. For purposes of [subsections 3 and 4](#), “minor” means a person fourteen or fifteen years of age.

3. *a.* It is unlawful for a person eighteen years of age or older who is in a position of authority over a minor to perform any of the following acts with that minor, with or without consent, for the purpose of arousing or satisfying the sexual desires of either of them:

(1) Fondle or touch the inner thigh, groin, buttock, anus, or breast of the minor.

(2) Touch the clothing covering the immediate area of the inner thigh, groin, buttock, anus, or breast of the minor.

(3) Solicit or permit the minor to fondle or touch the inner thigh, groin, buttock, anus, or breast of the person.

(4) Solicit the minor to engage in any act prohibited under [subsection 4](#), paragraph “a”, subparagraph (1), (2), or (3).

*b.* A violation of [this subsection](#) is a serious misdemeanor.

4. *a.* It is unlawful for a person eighteen years of age or older who is in a position of authority over a minor to perform any of the following acts with that minor, with or without consent, for the purpose of arousing or satisfying the sexual desires of either of them:

(1) Fondle or touch the pubes or genitals of the minor.

(2) Permit or cause the minor to fondle or touch the person’s genitals or pubes.

(3) Cause the touching of the person’s genitals to any part of the body of the minor.

(4) Solicit the minor to engage in a sex act or solicit a person to arrange a sex act with the minor.

(5) Inflict pain or discomfort upon the minor or permit the minor to inflict pain or discomfort on the person.

*b.* A violation of [this subsection](#) is an aggravated misdemeanor.

[89 Acts, ch 105, §2; 2018 Acts, ch 1041, §127; 2019 Acts, ch 114, §1](#)

Referred to in [§692A.102, 709.19, 802.2B, 903B.10](#)

Sentencing restrictions for forcible felonies and mandatory reporters of child abuse, see [§907.3](#)

### **709.15 Sexual exploitation by a counselor, therapist, or school employee.**

1. As used in [this section](#):

*a.* “*Adult providing training or instruction*” means an adult who is not a school employee who provides paid training or instruction to a minor outside of a school setting. For purposes of this paragraph, “*adult*” is a person age eighteen years or older who is four or more years older than the minor receiving training or instruction.

*b.* “*Counselor or therapist*” means a physician, psychologist, nurse, professional counselor, social worker, marriage or family therapist, alcohol or drug counselor, member of the clergy, or any other person, whether or not licensed or registered by the state, who provides or purports to provide mental health services.

*c.* “*Emotionally dependent*” means that the nature of the patient’s or client’s or former patient’s or client’s emotional condition or the nature of the treatment provided by the counselor or therapist is such that the counselor or therapist knows or has reason to know that the patient or client or former patient or client is significantly impaired in the ability to withhold consent to sexual conduct, as described in [subsection 2](#), by the counselor or therapist. For the purposes of [subsection 2](#), a former patient or client is presumed to be emotionally dependent for one year following the termination of the provision of mental health services.

*d.* “*Former patient or client*” means a person who received mental health services from the counselor or therapist.

*e.* “*Mental health service*” means the treatment, assessment, or counseling of another person for a cognitive, behavioral, emotional, mental, or social dysfunction, including an intrapersonal or interpersonal dysfunction.

*f.* “*Patient or client*” means a person who receives mental health services from the counselor or therapist.

*g.* (1) “*School employee*” means any of the following, except as provided in subparagraph (2):

(a) A person who holds a license, certificate, or statement of professional recognition issued under [chapter 272](#).

(b) A person who holds an authorization issued under [chapter 272](#).

(c) A person employed by a school district full-time, part-time, or as a substitute.

(d) A person who performs services as a volunteer for a school district and who has direct supervisory authority over the student with whom the person engages in conduct prohibited under [subsection 3](#), paragraph “a”.

(e) A person who provides services under a contract for such services to a school district and who has direct supervisory authority over the student with whom the person engages in conduct prohibited under [subsection 3](#), paragraph “a”.

(f) A person employed by a community college full-time, part-time, or as a substitute who provides instruction to high school students under a sharing or concurrent enrollment program offered in accordance with [section 257.11](#) or [261E.8](#).

(2) “School employee” does not include a student enrolled in the school district.

*h.* “Student” means a person who is currently enrolled in or attending a public or nonpublic elementary or secondary school, or who was a student enrolled in or who attended a public or nonpublic elementary or secondary school within thirty days of any violation of [subsection 3](#).

2. *a.* Sexual exploitation by a counselor or therapist occurs when any of the following are found:

(1) A pattern or practice or scheme of conduct to engage in any of the conduct described in subparagraph (2) or (3).

(2) Any sexual conduct with an emotionally dependent patient or client or emotionally dependent former patient or client for the purpose of arousing or satisfying the sexual desires of the counselor or therapist or the emotionally dependent patient or client or emotionally dependent former patient or client. Sexual conduct includes but is not limited to the following:

(a) Kissing.

(b) Touching of the clothed or unclothed inner thigh, breast, groin, buttock, anus, pubes, or genitals.

(c) A sex act as defined in [section 702.17](#).

(3) Any sexual conduct with a patient or client or former patient or client within one year of the termination of the provision of mental health services by the counselor or therapist for the purpose of arousing or satisfying the sexual desires of the counselor or therapist or the patient or client or former patient or client. Sexual conduct includes but is not limited to the following:

(a) Kissing.

(b) Touching of the clothed or unclothed inner thigh, breast, groin, buttock, anus, pubes, or genitals.

(c) A sex act as defined in [section 702.17](#).

*b.* Sexual exploitation by a counselor or therapist does not include touching which is part of a necessary examination or treatment provided a patient or client by a counselor or therapist acting within the scope of the practice or employment in which the counselor or therapist is engaged.

3. *a.* Sexual exploitation by a school employee occurs when any of the following are found:

(1) A pattern or practice or scheme of conduct to engage in any of the conduct described in subparagraph (2).

(2) Any sexual conduct with a student for the purpose of arousing or satisfying the sexual desires of the school employee or the student. Sexual conduct includes but is not limited to the following:

(a) Kissing.

(b) Touching of the clothed or unclothed inner thigh, breast, groin, buttock, anus, pubes, or genitals.

(c) A sex act as defined in [section 702.17](#).



b. Sexual exploitation by a school employee does not include touching that is necessary in the performance of the school employee's duties while acting within the scope of employment.

c. The provisions of [this subsection](#) do not apply to a person who is employed by a school district attendance center if the student with whom the person engages in conduct prohibited under [subsection 3](#), paragraph "a", is not enrolled in the same school district attendance center that employs the person, the person does not have direct supervisory authority over the student, and the person does not meet the requirements of [subsection 1](#), paragraph "g", subparagraph (1), subparagraph division (a).

4. a. Sexual exploitation by an adult providing training or instruction occurs when any of the following are found:

(1) A pattern or practice or scheme of conduct to engage in any of the conduct described in subparagraph (2).

(2) Any sexual conduct with a minor for the purpose of arousing or satisfying the sexual desires of the adult providing training or instruction or of the minor. Sexual conduct includes but is not limited to the following:

(a) Kissing.

(b) Touching of the clothed or unclothed inner thigh, breast, groin, buttock, anus, pubes, or genitals.

(c) A sex act as defined in [section 702.17](#).

b. Sexual exploitation by an adult providing training or instruction does not include touching that is necessary in the performance of the adult's duties while providing training or instruction.

c. [This subsection](#) only applies to an offense under subparagraph (1) which occurs within the period of time the adult providing training or instruction is receiving payment for the training or instruction and to an offense under subparagraph (2) which occurs within the period of time the adult providing training or instruction is receiving payment for the training or instruction or within thirty days after any such period of training or instruction.

5. a. A counselor or therapist who commits sexual exploitation in violation of [subsection 2](#), paragraph "a", subparagraph (1), commits a class "D" felony.

b. A counselor or therapist who commits sexual exploitation in violation of [subsection 2](#), paragraph "a", subparagraph (2), commits an aggravated misdemeanor.

c. A counselor or therapist who commits sexual exploitation in violation of [subsection 2](#), paragraph "a", subparagraph (3), commits a serious misdemeanor. In lieu of the sentence provided for under [section 903.1](#), [subsection 1](#), paragraph "b", the offender may be required to attend a sexual abuser treatment program.

6. a. A school employee who commits sexual exploitation in violation of [subsection 3](#), paragraph "a", subparagraph (1), commits a class "D" felony.

b. A school employee who commits sexual exploitation in violation of [subsection 3](#), paragraph "a", subparagraph (2), commits an aggravated misdemeanor.

7. a. An adult providing training or instruction who commits sexual exploitation in violation of [subsection 4](#), paragraph "a", subparagraph (1), commits a class "D" felony.

b. An adult providing training or instruction who commits sexual exploitation in violation of [subsection 4](#), paragraph "a", subparagraph (2), commits an aggravated misdemeanor.

91 Acts, ch 130, §2; 92 Acts, ch 1163, §119; 92 Acts, ch 1199, §2 - 6; 2003 Acts, ch 180, §65; 2004 Acts, ch 1086, §102; 2013 Acts, ch 90, §230; 2014 Acts, ch 1114, §1, 2; 2016 Acts, ch 1066, §6; 2017 Acts, ch 127, §1, 2; 2019 Acts, ch 59, §225, 226; 2019 Acts, ch 164, §9; 2020 Acts, ch 1063, §374; 2021 Acts, ch 102, §5 - 7

Referred to in §272.2, 614.1, 692A.102, 702.11, 709.19, 802.2A, 903B.10

Sentencing restrictions for forcible felonies and mandatory reporters of child abuse, see §907.3

Subsection 1, NEW paragraph a and former paragraphs a - g redesignated as b - h

NEW subsection 4 and former subsections 4 - 5 renumbered as 5 - 6

NEW subsection 7

### **709.16 Sexual misconduct with offenders and juveniles.**

1. Any peace officer, or an officer, employee, contractor, vendor, volunteer, or agent of the department of corrections, or an officer, employee, or agent of a judicial district department of correctional services, who engages in a sex act with an individual committed to the custody

of the department of corrections or a judicial district department of correctional services commits an aggravated misdemeanor.

2. a. Any peace officer, or an officer, employee, contractor, vendor, volunteer, or agent of a juvenile placement facility who engages in a sex act with a juvenile placed at such facility commits an aggravated misdemeanor.

b. For purposes of [this subsection](#), a “juvenile placement facility” means any of the following:

- (1) A child foster care facility licensed under [section 237.4](#).
- (2) Institutions controlled by the department of human services listed in [section 218.1](#).
- (3) Juvenile detention and juvenile shelter care homes approved under [section 232.142](#).
- (4) Psychiatric medical institutions for children licensed under [chapter 135H](#).
- (5) Facilities for the treatment of persons with substance-related disorders as defined in [section 125.2](#).

3. Any peace officer, or an officer, employee, contractor, vendor, volunteer, or agent of a county who engages in a sex act with a prisoner incarcerated in a county jail commits an aggravated misdemeanor.

[91 Acts, ch 219, §21; 98 Acts, ch 1094, §1; 2013 Acts, ch 30, §204; 2013 Acts, ch 90, §185; 2015 Acts, ch 46, §1](#)

Referred to in [§692A.101, 692A.102, 709.19, 802.2B](#)

Sentencing restrictions for forcible felonies and mandatory reporters of child abuse, see [§907.3](#)

**709.17 Polygraph examinations of victims or witnesses — limitations.** Repealed by 98 Acts, ch 1090, §80, 84. See [§915.44](#).

#### **709.18 Sexual abuse of a corpse.**

1. A person commits sexual abuse of a human corpse if the person knowingly and intentionally engages in a sex act, as defined in [section 702.17](#), with a human corpse.

2. A person who violates [this section](#) commits a class “D” felony.

[96 Acts, ch 1006, §1; 2007 Acts, ch 91, §2; 2010 Acts, ch 1074, §4](#)

Referred to in [§692A.102](#)

Sentencing restrictions for forcible felonies and mandatory reporters of child abuse, see [§907.3](#)

#### **709.19 No-contact order upon defendant’s release from jail or prison.**

1. Upon the filing of an affidavit by a victim, or a parent or guardian on behalf of a minor who is a victim, of a crime that is a sexual offense in violation of [section 709.2, 709.3, 709.4, 709.8, 709.9, 709.11, 709.12, 709.14, 709.15, or 709.16](#), that states that the presence of or contact with the defendant whose release from jail or prison is imminent or who has been released from jail or prison continues to pose a threat to the safety of the victim, persons residing with the victim, or members of the victim’s immediate family, the court shall enter a temporary no-contact order which shall require the defendant to have no contact with the victim, persons residing with the victim, or members of the victim’s immediate family.

2. A temporary restraining order issued under [this section](#) shall expire at such time as the court directs, not to exceed ten days from the date of issuance. The court, for good cause shown before expiration of the order, may extend the expiration date of the order for up to ten days, or for a longer period agreed to by the adverse party.

3. Upon motion of the party, the court shall issue a no-contact order which shall require the defendant to have no contact with the victim, persons residing with the victim, or members of the victim’s immediate family if the court, after a hearing, finds by a preponderance of the evidence, that the defendant poses a threat to the safety of the victim, persons residing with the victim, or members of the victim’s immediate family.

4. A no-contact order shall set forth the reasons for the issuance of the order, be specific in terms, and describe in reasonable detail the purpose of the order.

5. The court shall set the duration of the no-contact order for the period it determines is necessary to protect the safety of the victim, persons residing with the victim, or members of the victim’s immediate family, but the duration shall not be set for a period in excess of one year from the date of the issuance of the order. The victim, at any time within ninety days before the expiration of the order, may apply for a new no-contact order under [this section](#).

6. Violation of a no-contact order issued under [this section](#) constitutes contempt of court and may be punished by contempt proceedings.

[2002 Acts, ch 1085, §1](#); [2003 Acts, ch 108, §113](#)

No-contact orders, see [chapter 664A](#)

**709.20 Sexual abuse — no-contact order.** Repealed by [2006 Acts, ch 1101, §21](#). See [§664A.3](#).

**709.21 Invasion of privacy — nudity.**

1. A person who knowingly views, photographs, or films another person, for the purpose of arousing or gratifying the sexual desire of any person, commits invasion of privacy if all of the following apply:

a. The other person does not consent or is unable to consent to being viewed, photographed, or filmed.

b. The other person is in a state of full or partial nudity.

c. The other person has a reasonable expectation of privacy while in a state of full or partial nudity.

2. As used in [this section](#):

a. “*Full or partial nudity*” means the showing of any part of the human genitals or pubic area or buttocks, or any part of the nipple of the breast of a female, with less than fully opaque covering.

b. “*Photographs or films*” means the making of any photograph, motion picture film, videotape, or any other recording or transmission of the image of a person.

3. A person who violates [this section](#) commits an aggravated misdemeanor.

[2004 Acts, ch 1099, §1](#); [2016 Acts, ch 1082, §2](#); [2016 Acts, ch 1138, §30](#); [2017 Acts, ch 117, §3](#)

Referred to in [§692A.102](#)

Sentencing restrictions for forcible felonies and mandatory reporters of child abuse, see [§907.3](#)

**709.22 Prevention of further sexual assault — notification of rights.**

1. If a peace officer has reason to believe that a sexual assault as defined in [section 915.40](#) has occurred, the officer shall use all reasonable means to prevent further violence including but not limited to the following:

a. If requested, remaining on the scene of the alleged sexual assault as long as there is a danger to the victim’s physical safety without the presence of a peace officer, including but not limited to staying in the dwelling unit or residence when it is the scene of the alleged sexual assault, or if unable to remain on the scene, assisting the victim in leaving the scene.

b. Assisting a victim in obtaining medical treatment necessitated by the sexual assault, including providing assistance to the victim in obtaining transportation to the emergency room of the nearest hospital.

c. Providing a victim with immediate and adequate notice of the victim’s rights. The notice shall consist of handing the victim a document that includes the telephone numbers of shelters, support groups, and crisis lines operating in the area and contains the following statement of rights written in English and Spanish; asking the victim to read the document; and asking whether the victim understands the rights:

[1] You have the right to ask the court for help with any of the following on a temporary basis:

[a] Keeping your attacker away from you, your home, and your place of work.

[b] The right to stay at your home without interference from your attacker.

[c] The right to seek a no-contact order under [section 664A.3](#) or [915.22](#), if your attacker is arrested for sexual assault.

[2] You have the right to register as a victim with the county attorney under [section 915.12](#).

[3] You have the right to file a complaint for threats, assaults, or other related crimes.

[4] You have the right to seek restitution against your attacker for harm to you or your property.

[5] You have the right to apply for victim compensation.

[6] You have the right to contact the county attorney or local law enforcement to determine the status of your case.

[7] If you are in need of medical treatment, you have the right to request that the officer present assist you in obtaining transportation to the nearest hospital or otherwise assist you.

[8] You have the right to a sexual assault examination performed at state expense.

[9] You have the right to request the presence of a victim counselor, as defined in [section 915.20A](#), at any proceeding related to an assault including a medical examination.

[10] If you believe that police protection is needed for your physical safety, you have the right to request that the officer present remain at the scene until you and other affected parties can leave or until safety is otherwise ensured.

2. A peace officer is not civilly or criminally liable for actions taken in good faith pursuant to [this section](#).

2005 Acts, ch 158, §45; 2006 Acts, ch 1101, §15; 2008 Acts, ch 1068, §1; 2009 Acts, ch 133, §176, 177; 2018 Acts, ch 1026, §172

Referred to in §709.10

Similar provisions, §235B.3A, 235E.3, 236.12, 236A.13

### **709.23 Continuous sexual abuse of a child.**

1. A person eighteen years of age or older commits continuous sexual abuse of a child when the person engages in any combination of three or more acts of sexual abuse in violation of [section 709.3](#) or [709.4](#), with the same child, and at least thirty days have elapsed between the first and last acts of sexual abuse.

2. A person who commits continuous sexual abuse of a child is, upon conviction, guilty of a class “B” felony. Notwithstanding [section 902.9, subsection 1](#), paragraph “b”, a person convicted of a violation of [this section](#) involving any combination of three or more acts of sexual abuse that includes a violation of [section 709.3](#) or [709.4](#) shall be confined for no more than fifty years.

3. If a jury is the trier of fact, members of the jury must unanimously agree that three or more acts of sexual abuse in violation of [section 709.3](#) or [709.4](#) were committed with the same child and at least thirty days have elapsed between the first and last acts of sexual abuse. The jury does not need to unanimously agree which specific acts were committed or the exact date when those acts were committed.

4. Any other sexual abuse offense involving the same child shall not be charged in the same proceeding as a charge under [this section](#) unless the other sexual abuse offense occurred outside of the time period charged under [this section](#) or the other sexual abuse offense is charged in the alternative.

5. A person shall be charged with only one count under [this section](#) unless more than one child is involved in the offense. If more than one child is involved, a separate count may be charged for each child.

6. Each act of sexual abuse committed under [section 709.3](#) or [709.4](#) shall be considered a lesser included offense to the crime of continuous sexual abuse of a child under [this section](#).

2020 Acts, ch 1115, §4; 2020 Acts, ch 1121, §67, 70

Referred to in §692A.101, 692A.102, 902.14, 903B.10