

CALIFORNIA, FLORIDA AND TEXAS CODE DEFINITIONS

California Code § 285. Adultery and fornication by persons forbidden to marry; incest.

Persons being within the degrees of consanguinity within which marriages are declared by law to be incestuous and void, who intermarry with each other, or who being 14 years of age or older, commit fornication or adultery with each other, are punishable by imprisonment in the state prison.

California Code § 261.5. Carnal knowledge of a minor under 18 years of age.

a) Unlawful sexual intercourse is an act of sexual intercourse accomplished with a person who is not the spouse of the perpetrator, if the person is a minor. For the purposes of this section, a "minor" is a person under the age of 18 years and an "adult" is a person who is at least 18 years of age.

California Code 261. Rape.

(a) Rape is an act of sexual intercourse accomplished with a person not the spouse of the perpetrator, under any of the following circumstances:

- (1) Where a person is incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act. Notwithstanding the existence of a conservatorship pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving consent.
- (2) Where it is accomplished against a person's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the person or another.
- (3) Where a person is prevented from resisting by any intoxicating or anesthetic substance, or any controlled substance, and this condition was known, or reasonably should have been known by the accused.
- (4) Where a person is at the time unconscious of the nature of the act, and this is known to the accused. As used in this paragraph, "unconscious of the nature of the act" means incapable of resisting because the victim meets any one of the following conditions:
 - (A) Was unconscious or asleep.
 - (B) Was not aware, knowing, perceiving, or cognizant that the act occurred.
 - (C) Was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator's fraud in fact.
 - (D) Was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator's fraudulent representation that the sexual penetration served a professional purpose when it served no professional purpose.
- (5) Where a person submits under the belief that the person committing the act is someone known to the victim other than the accused, and this belief is induced by any artifice, pretense, or concealment practiced by the accused, with intent to induce the belief.
- (6) Where the act is accomplished against the victim's will by threatening to retaliate in

the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat. As used in this paragraph, "threatening to retaliate" means a threat to kidnap or falsely imprison, or to inflict extreme pain, serious bodily injury, or death.

(7) Where the act is accomplished against the victim's will by threatening to use the authority of a public official to incarcerate, arrest, or deport the victim or another, and the victim has a reasonable belief that the perpetrator is a public official. As used in this paragraph, "public official" means a person employed by a governmental agency who has the authority, as part of that position, to incarcerate, arrest, or deport another. The perpetrator does not actually have to be a public official.

(b) As used in this section, "duress" means a direct or implied threat of force, violence, danger, or retribution sufficient to coerce a reasonable person of ordinary susceptibilities to perform an act which otherwise would not have been performed, or acquiesce in an act to which one otherwise would not have submitted. The total circumstances, including the age of the victim, and his or her relationship to the defendant, are factors to consider in appraising the existence of duress.

(c) As used in this section, "menace" means any threat, declaration, or act which shows an intention to inflict an injury upon another.

California Code § 243.4. Sexual battery

(a) Any person who touches an intimate part of another person while that person is unlawfully restrained by the accused or an accomplice, and if the touching is against the will of the person touched and is for the purpose of sexual arousal, sexual gratification, or sexual abuse, is guilty of sexual battery.

Family or household member: Means (i) the person's spouse, whether or not he or she resides in the same home with the person, (ii) the person's former spouse, whether or not he or she resides in the same home with the person, (iii) the person's parents, stepparents, children, stepchildren, brothers, sisters, half-brothers, half-sisters, grandparents and grandchildren, regardless of whether such persons reside in the same home with the person, (iv) the person's mother-in-law, father-in-law, sons-in-law, daughters-in-law, brothers-in-law and sisters-in-law who reside in the same home with the person, (v) any individual who has a child in common with the person, whether or not the person and that individual have been married or have resided together at any time, or (vi) any individual who cohabits or who, within the previous 12 months, cohabited with the person, and any children of either of them then residing in the same home with the person.

California covers dating violence under domestic violence statutes.

California Code § 646.9. Stalking

Any person who willfully, maliciously, and repeatedly follows or harasses another person and who makes a credible threat with the intent to place that person in reasonable fear for his or her safety, of his or her immediate family.

The codification of Criminal Sexual Assault is located in Ca. Code §§ 261 through 269 and can be

accessed on the Code of California web site at <http://www.leginfo.ca.gov/cgi-bin/calawquery?codesection=pen>.

The Codification of Criminal Sexual Assault is located in Fl. Code §794 and can be accessed on the Code of Florida website at:
http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&URL=07000799/0794/Sections/0794.011.html

The Codification of Criminal Sexual Assault is located in TX. Code §21 and can be accessed on the Code of Texas website at: <https://statutes.capitol.texas.gov/Docs/ED/htm/ED.21.htm>

See Ca. Code §261.5 for the age of consent under California law:
<http://www.leginfo.ca.gov/cgi-bin/displaycode?section=pen&group=00001-01000&file=261-269>.

See Fl. Code §800.04 and 794.05 for the age of consent under Florida Law:
http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&URL=0800-0899/0800/Sections/0800.04.html

See TX. Code §21.11 for the age of consent under Texas Law:
<http://www.statutes.legis.state.tx.us/SOTWDocs/PE/htm/PE.21.htm>

See Ca. Code §261.5 for the age of consent under California law:
https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN§ionNum=261.5

Florida Code § 794.011. Consent

Consent is defined intelligent, knowing, and voluntary consent and does not include coerced submission. “Consent” shall not be deemed or construed to mean the failure by the alleged victim to offer physical resistance to the offender

Florida Code §794.011. Sexual Assault: Sexual Battery

“Sexual battery” means oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object; however, sexual battery does not include an act done for a bona fide medical purpose.

Florida Code § 826.04. Incest: Adultery and Fornication by Persons Forbidden to Marry

Whoever knowingly marries or has sexual intercourse with a person to whom he or she is related by lineal consanguinity, or a brother, sister, uncle, aunt, nephew, or niece, commits incest, which constitutes a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. “Sexual intercourse” is the penetration of the female sex organ by the male sex organ, however slight; emission of semen is not required.

Florida Code § 775.084. Sexual Intercourse

The penetration of the female sex organ by the male sex organ, however slight; emission of semen is not required.

Florida Code § 800.04 and 794.05. Statutory Rape: Carnal Knowledge of a Minor Under 16 Years of Age

A child under 16 years of age cannot consent to sexual activity, regardless of the age of the defendant. A child who is at least 16 years of age and less than 18 years of age cannot consent to sexual activity if the defendant is 24 years of age or older.

Florida Code § 741.28. Domestic Violence: Assault and Battery Against a Family or Household Member

(1) “Domestic violence” means any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal offense resulting in physical injury or death of one family or household member by another family or household member.

(3) “Family or household member” means spouses, former spouses, persons related by blood or marriage, persons who are presently residing together as if a family or who have resided together in the past as if a family, and persons who are parents of a child in common regardless of whether they have been married. With the exception of persons who have a child in common, the family or household members must be currently residing or have in the past resided together in the same single dwelling unit.

Florida Code § 784.046. Dating Violence

Dating violence means violence between individuals who have or have had a continuing and significant relationship of a romantic or intimate nature. The existence of such a relationship shall be determined based on the consideration of the following factors:

1. A dating relationship must have existed within the past 6 months;
2. The nature of the relationship must have been characterized by the expectation of affection or sexual involvement between the parties; and
3. The frequency and type of interaction between the persons involved in the relationship must have included that the persons have been involved over time and on a continuous basis during the course of the relationship.

Florida Code § 784.048. Stalking

A person who willfully, maliciously, and repeatedly follows, harasses, or cyberstalks another person commits the offense of stalking.

Texas Definition of Consent

Consent means assent in fact, whether express or apparent. Consent is not effective if:

- induced by force, threat, or fraud;
- given by a person the actor knows is not legally authorized

- given by a person who by reason of youth, mental disease or defect, or intoxication is known by the actor to be unable to make reasonable decisions; or
- given solely to detect the commission of an offense.

Texas Code § 22.011. Sexual Assault

- a) A person commits an offense if the person:
- (1) intentionally or knowingly:
 - (A) causes the penetration of the anus or sexual organ of another person by any means, without that person's consent;
 - (B) causes the penetration of the mouth of another person by the sexual organ of the actor, without that person's consent; or
 - (C) causes the sexual organ of another person, without that person's consent, to contact or penetrate the mouth, anus, or sexual organ of another person, including the actor; or
 - (2) intentionally or knowingly:
 - (A) causes the penetration of the anus or sexual organ of a child by any means;
 - (B) causes the penetration of the mouth of a child by the sexual organ of the actor;
 - (C) causes the sexual organ of a child to contact or penetrate the mouth, anus, or sexual organ of another person, including the actor;
 - (D) causes the anus of a child to contact the mouth, anus, or sexual organ of another person, including the actor; or
 - (E) causes the mouth of a child to contact the anus or sexual organ of another person, including the actor
- (F) (b) A sexual assault under Subsection (a)(1) is without the consent of the other person if:
- b) the actor compels the other person to submit or participate by the use of physical force or violence;
 - c) the actor compels the other person to submit or participate by threatening to use force or violence against the other person, and the other person believes that the actor has the present ability to execute the threat;
 - d) the other person has not consented and the actor knows the other person is unconscious or physically unable to resist;
 - e) the actor knows that as a result of mental disease or defect the other person is at the time of the sexual assault incapable either of appraising the nature of the act or of resisting it;
 - f) the other person has not consented and the actor knows the other person is unaware that the sexual assault is occurring;
 - g) the actor has intentionally impaired the other person's power to appraise or control the other person's conduct by administering any substance without the other person's knowledge;
 - h) the actor compels the other person to submit or participate by threatening to use force or violence against any person, and the other person believes that the actor has the ability to execute the threat;
 - i) the actor is a public servant who coerces the other person to submit or participate;
 - j) the actor is a mental health services provider or a health care services provider who causes the other person, who is a patient or former patient of the actor, to submit or participate by exploiting the other person's emotional dependency on the actor;
 - k) the actor is a clergyman who causes the other person to submit or participate by exploiting the other person's emotional dependency on the clergyman in the clergyman's professional

character as spiritual adviser; or

l) the actor is an associate of a facility where the other person is a resident, unless the associate and resident are formally or informally married to each other under Chapter 2, Family Code.

Texas Code has no criminal statute against incest.

Texas Code § 25.02. Prohibited Sexual Misconduct

(a) A person commits an offense if the person engages in sexual intercourse or deviate sexual intercourse with another person the actor knows to be, without regard to legitimacy:

- 1) the actor's ancestor or descendant by blood or adoption;
- 2) the actor's current or former stepchild or stepparent;
- 3) the actor's parent's brother or sister of the whole or half-blood;
- 4) the actor's brother or sister of the whole or half blood or by adoption;
- 5) the children of the actor's brother or sister of the whole or half blood or by adoption; or
- 6) the son or daughter of the actor's aunt or uncle of the whole or half blood or by adoption.

(b) For purposes of this section:

(1) "Deviate sexual intercourse" means any contact between the genitals of one person and the mouth or anus of another person with intent to arouse or gratify the sexual desire of any person.

(2) "Sexual intercourse" means any penetration of the female sex organ by the male sex organ.

(c) An offense under this section is a felony of the third degree, unless the offense is committed under Subsection

(a) (1), in which event the offense is a felony of the second degree.

Texas Code § 21.11. Statutory Rape: Indecency with a Child

(a) A person commits an offense if, with a child younger than 17 years of age, whether the child is of the same or opposite sex, the person:

(1) engages in sexual contact with the child or causes the child to engage in sexual contact; or

(2) with intent to arouse or gratify the sexual desire of any person:

(A) exposes the person's anus or any part of the person's genitals, knowing the child is present; or

(B) causes the child to expose the child's anus or any part of the child's genitals.

(b) It is an affirmative defense to prosecution under this section that the actor: (n) (1) was not more than three years older than the victim and of the opposite sex;

(c) did not use duress, force, or a threat against the victim at the time of the offense; and

(d) at the time of the offense:

(e) was not required under Chapter 62, Code of Criminal Procedure, to register for life as a sex offender; or

(f) was not a person who under Chapter 62 had a reportable conviction or adjudication for an offense under this section.

(g) It is an affirmative defense to prosecution under this section that the actor was the spouse of the child at the time of the offense.

(h) In this section, "sexual contact" means the following acts, if committed with the intent to arouse or gratify the sexual desire of any person:

(i) any touching by a person, including touching through clothing, of the anus, breast, or any

part of the genitals of a child; or

(j) any touching of any part of the body of a child, including touching through clothing, with the anus, breast, or any part of the genitals of a person.

Texas Code § 22.01. Domestic Violence: Assault and Battery Against a Family or Household Member

(a) A person commits an offense if the person:

(b) intentionally, knowingly, or recklessly causes bodily injury to another, including the person's spouse; (2) intentionally or knowingly threatens another with imminent bodily injury, including the person's

(c) spouse; or

(d) intentionally or knowingly causes physical contact with another when the person knows or should reasonably believe that the other will regard the contact as offensive or provocative.

Texas Code § 71.0021. Dating Violence

"Dating violence" means an act, other than a defensive measure to protect oneself, by an actor that: (1) is committed against a victim:

(A) with whom the actor has or has had a dating relationship; or

(B) because of the victim's marriage to or dating relationship with an individual with whom the actor is or has been in a dating relationship or marriage; and

(a) is intended to result in physical harm, bodily injury, assault, or sexual assault or that is a threat that reasonably places the victim in fear of imminent physical harm, bodily injury, assault, or sexual assault.

(b) For purposes of this title, "dating relationship" means a relationship between individuals who have or have had a continuing relationship of a romantic or intimate nature. The existence of such a relationship shall be determined based on consideration of:

a. the length of the relationship;

b. the nature of the relationship; and

c. the frequency and type of interaction between the persons involved in the relationship.

Texas Code § 42.072. Stalking

A person commits an offense if the person, on more than one occasion and pursuant to the same scheme or course of conduct that is directed specifically at another person, knowingly engages in conduct that:

(a) constitutes an offense under Section 42.07, or that the actor knows or reasonably should know the other person will regard as threatening:

(A) bodily injury or death for the other person;

(B) bodily injury or death for a member of the other person's family or household or for an individual with whom the other person has a dating relationship; or

(C) that an offense will be committed against the other person's property;

1. causes the other person, a member of the other person's family or household, or an individual with whom the other person has a dating relationship to be placed in fear of bodily injury or

2. death or in fear that an offense will be committed against the other person's property, or to feel harassed, annoyed, alarmed, abused, tormented, embarrassed, or offended; and

- (D) would cause a reasonable person to:
1. fear bodily injury or death for himself or herself;
 2. fear bodily injury or death for a member of the person's family or household or for an individual with whom the person has a dating relationship;
 3. fear that an offense will be committed against the person's property; or
 4. feel harassed, annoyed, alarmed, abused, tormented, embarrassed, or offended.