



an end to silence

prisoners' handbook

on identifying and addressing
sexual misconduct

Second Edition

Brenda V. Smith American University, Washington College of Law



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Second Edition, January 2002

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Acknowledgments

An End to Silence: Prisoners' Handbook on Identifying and Addressing Sexual Misconduct is the end product of many years of work by many organizations and individuals concerned about preventing and addressing staff sexual misconduct against inmates.

The first acknowledgments of course go to countless inmates — male and female — who were willing to share information about the role of staff sexual misconduct in their prison experience. Their honest and insightful comments gave this publication its voice. I would also like to acknowledge the contributions of the National Women's Law Center and its staff for their support during the publication of the first edition of the *Handbook*. The Center co-presidents, Marcia D. Greenberger and Nancy Duff Campbell and staff contributed many hours of time and expertise in the conceptualization and production of the first publication.

Additionally, I would like to thank the many reviewers who have tweaked, questioned and suggested content for the Handbook: Mary Beth Lyon, Villanova University School of Law for her help on the international law section; Andie Moss, National Institute of Corrections, for the corrections perspective on this issue; Giovanna Shay, D.C. Public Defender Service; Binny Miller, Professor of Law, Washington College of Law, American University, for her help in conceptualizing the issues for lesbian, gay, bisexual and transgender prisoners; and the many research assistants who worked on this project (Sheila Bedi, Amy Bowles, Margaret Byrne, Stephanie Joseph, Loren Ponds, Erika Rivera, Christine Rose and Sue Tatten). Finally, I would like to thank Victoria Phillips, Elizabeth Bruch, Vivian Hamilton and Peter Jaszi, my colleagues at the Washington College of Law for their editing assistance and advice on copyright issues.

Finally, I would like to express my deepest thanks to the foundations* which provided generous funding for this project:

The Morris and Gwendolyn Cafritz Foundation
 The Center on Communities, Crime and Culture of the Open Society
 The D.C. Bar Foundation
 The Educational Foundation of America
 The Ford Foundation
 Eugene and Agnes Meyer Foundation
 The Public Welfare Foundation
 Women's Law and Public Policy Fellowship Program

An End to Silence addresses rapidly developing areas of law and practice in the United States. The information in this publication is current as of November 30, 2001. Both law and policies may change. We will remain abreast of the changes and encourage you to contact us with new information as it becomes available.

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*The information and opinions contained in this *Handbook* do not necessarily represent the views or positions of the sponsoring organizations or foundations.

Foreword

There has been increasing national and international attention to the issue of staff sexual misconduct with inmates since the first edition of *End to Silence* was published by the National Women's Law Center in April, 1998. In 1998, when the Handbook was first published, 13 states did not have laws which specifically prohibited staff sexual misconduct with inmates. Today, only three states — Oregon, Alabama and Vermont have no laws criminalizing sexual contact between staff and inmates.

In the meantime, many states have strengthened existing laws to mandate tougher penalties for sexual abuse of prisoners; require sex offender registration for those convicted; provide coverage in settings other than prison and of staff other than correctional officers; and to provide for separate penalties for staff who fail to report the conduct, interfere in investigations of staff sexual misconduct with inmates and provide false information relating to a claim of sexual misconduct with inmates.

There have been numerous reports on staff sexual misconduct with inmates including, two by the National Institute of Corrections, one by the General Accounting Office, three by Human Rights Watch, three by Amnesty International, USA, and one by the Special Rapporteur on Violence Against Women of the United Nations Commission on Human Rights. There has also been tremendous coverage of the issue by both print and television organizations.

The fundamental question, however, is whether the conditions that permit staff sexual misconduct with inmates have changed. The answer is complicated. While, there has been a great deal of progress made by state departments of corrections and the federal government in addressing these issues, there is still much work to be done. While many tools have been developed — state law, policies, training materials and publications — a climate still exists where sexual abuse of inmates is an accepted part of the culture of penal institutions. Prosecutions for these offenses are few and far between and the penalties meted out to those found guilty are weak.

Important work remains to address same gender staff sexual misconduct and to address the notion that inmates can “consent” to sexual contact with staff. As I said in the first edition, addressing sexual misconduct is at the core of assuring prisoners' safety. Only a coordinated strategy that involves law and policy development, aggressive and consistent enforcement of policy and law, prosecution of wrongdoers, training of prisoners and corrections workers, and public education will reduce the occurrence of staff sexual misconduct with inmates.

This publication makes a first step by addressing staff sexual misconduct against all inmates — both male and female. Hopefully, it will begin a dialogue and open a channel for communication by male and female inmates, prison staff and systems responsible for their care about ways to prevent and address staff sexual misconduct.

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Recognizing Misconduct

A range of inappropriate behavior can constitute sexual misconduct.

Which of the following do you think is sexual misconduct?

- ⦿ A prison guard walks in on you while you are changing your clothes and tells you that you are “what he likes.”
- ⦿ The food service contract employee tells you he can get you cigarettes if you “flash” him.
- ⦿ You fall in love with a staff member and agree to get married as soon as you are released. You begin a sexual relationship with her while in prison.
- ⦿ The chaplain comforts you when you receive bad news from home. She keeps asking you to come by and see her even when nothing is wrong. She begins to write you letters telling you how much she loves you.
- ⦿ You were an exotic dancer before being incarcerated. Three officers on the midnight shift pay you to dance for them.
- ⦿ A correctional officer locks you in a storage room and rapes you.

Answer:

All of the Above are Examples of Sexual Misconduct

Increasing numbers of states define sexual misconduct as:

- ⦿ Requests for sexual favors by staff members, agents or volunteers of the corrections department;
- ⦿ Any sexual advance by staff members, agents or volunteers of the corrections department; and/or
- ⦿ Verbal or physical conduct of a sexual nature in prison toward a prisoner by staff members, agents or volunteers of a corrections department.

Sexual misconduct by corrections staff against a prisoner is prohibited in all states by departmental policy and/or law.

Depending on the severity of the misconduct and the law in your jurisdiction, the sexual misconduct may violate:

1. Department of Corrections policy
2. state civil and/or criminal law
3. federal civil and/or criminal law
4. state or federal constitutional law
5. international human rights law

Sexual harassment of prisoners is a form of sexual misconduct.¹

Sexual misconduct happens any time a staff member, agent or volunteer of a corrections department makes a sexual advance or engages in sexual contact with a prisoner, ***even if the prisoner consents.***

Sexual misconduct does not have to be sex. It can include:

- touching
- kissing
- correctional staff walking in on you unannounced while you are dressing
- inappropriate body or cavity searches not justified by a legitimate institutional security need
- inappropriate comments about your personal appearance
- language of a sexual nature
- staff member showing you his or her body or requiring you to show your body to him or her

¹In this publication, we use the terms sexual misconduct, sexual harassment, and sexual abuse. All of these terms refer to improper conduct of a sexual nature directed at prisoners. This conduct can range from acts that violate departmental regulations to those that violate a particular state or federal law. Sexual harassment, as it relates to prisoners, is any sexual advance, welcome or not, by a staff member, agent or volunteer of a corrections agency that creates a hostile environment, or is either tied to promises or special benefits (cigarettes, candy, better work assignments; etc.) or punishments (administrative segregation, poor job assignments, revoking telephone privileges, etc). In this publication we only address staff-inmate sexual misconduct. However staff-staff sexual harassment is often part of the culture of the prison environment and it reinforces staff-inmate sexual misconduct.

Physical, Emotional and Institutional Consequences of Sexual Misconduct

The physical, emotional and institutional consequences of sexual misconduct can be devastating.

- You may contract the HIV virus or other sexually-transmitted diseases.
- You may become pregnant.
- You may feel trapped in the situation and feel powerless to change it.
- You may suffer emotional trauma.
- You may receive disciplinary or other negative institutional consequences such as loss of privileges, work assignments, transfers and loss of institutional good time.

These are repercussions that can affect you long after you leave prison and can affect when you leave prison.

Contracting HIV or Other Sexually-Transmitted Diseases

You cannot assume correctional employees are practicing safer sex. Correctional employees who are having sex with prisoners may not use a condom and may have sex with several partners both inside and outside of the prison. This creates a fertile breeding ground for HIV and other sexually-transmitted diseases.

Becoming Pregnant

If you are a woman, having sex puts you at risk of becoming pregnant. Becoming pregnant while in prison is stressful for several reasons:

You may be afraid to tell anyone about the pregnancy and afraid to seek medical attention.

Prenatal care in many prisons is inadequate and it may be difficult to receive the medical care and nutrition necessary to have a healthy baby.

There are few prisons that will allow you to keep your child with you.⁴ More often, women prisoners must place their newborns for adoption, foster care or with family members soon after the child is born.

²Laura M. Maruschak, *HIV in Prisons and Jails*, Bureau of Justice Statistics Bulletin (1999) available at: www.ojp.usdoj.gov/bjs.

³Id.

⁴Nebraska, California, New York, Ohio and Federal prisons are the only jurisdictions that allow women inmates to remain with their newborns for some period of time.

Some Facts About HIV and STDs

- “At the end of 1997, the rate of confirmed AIDS in State and Federal prisons was 5½ times higher than in the total U.S. population”.²
- Unlike in the general population, the rate of HIV infection among women in prison is higher than that of men. A 1997 study of prisons found that in most states, the AIDS infection rate for women inmates was 3.5%, while for men inmates the AIDS infection rate was 2.2%.
- Prisoners are at greater risk of contracting AIDS than most of the population because of the high rate of past intravenous drug use and other high risk behaviors.
- In prisons and jails, 36% of inmates receiving medications for HIV and AIDS are not given the recommended antiretroviral regimens.
- Among inmates who are HIV positive, 43% are African-American, 38% are White, and 13% are Hispanic.
- The incidence of other sexually-transmitted diseases (gonorrhea, syphilis and chlamydia) is also higher among prisoners than the general population and higher among female prisoners than male prisoners.
- The death rate due to AIDS related illnesses was 3 times higher in prisons than in the total U.S. population age 15–54. For example, “about 19% of prisoner deaths were attributable to AIDS-related causes; compared to 6% of deaths in the general population”.³ Women and people of color are the fastest growing population of people living with HIV and AIDS.

- If you decide to terminate the pregnancy it can be very difficult to obtain an abortion while in prison. Many states do not allow government funds to be used to pay for abortions except in the case of rape, incest or where the mother's health is threatened. More often than not, women prisoners must arrange to terminate a pregnancy with a private agency and pay for the procedure with their own money.

Emotional Trauma

Prisoners who are involved with a correctional staff person can experience a range of feelings about the relationship. If they believe the relationship meets their emotional or financial needs, they may feel a sense of power. Prisoners, who feel coerced and pressured by staff to have these relationships, may feel they are helpless and have lost control of their lives. In both cases, prisoners may feel fear about being caught and shame at being involved with a staff member.

They may also:

- become depressed
- begin using or increase the use of alcohol and other drugs
- have suicidal and/or homicidal feelings
- have panic attacks
- be unable to sleep
- have fits of rage and anger

MEN AND WOMEN WHO EXPERIENCE THESE FEELINGS RELATED TO SEXUAL MISCONDUCT SHOULD GET COUNSELING WHETHER OR NOT THEY DECIDE TO REPORT THE CONDUCT!

Institutional Consequences

In most states and institutions, you will not receive a separate criminal charge for becoming involved with a staff member, especially if the sexual conduct was not wanted. However, you may suffer other institutional consequences that affect how you do your time. For example you:

- may receive a disciplinary report
- may be denied parole
- may be moved from your current institution
- may lose a work training or educational opportunity
- may lose institutional good time
- may be charged with a separate criminal offense⁵

⁵In Arizona, Delaware and Nevada, prisoners who voluntarily engage in sexual contact with corrections employees can be charged with a separate criminal offense.

Third Party Victims of Sexual Misconduct

Sexual misconduct hurts **all prisoners and all staff**. When sexual misconduct goes unaddressed both prisoners and staff become more vulnerable to unwelcome sexual advances. Misconduct also hurts the correctional environment by blurring the boundaries between conduct that is acceptable and conduct that is unacceptable.

How?

Some correctional employees may believe that all women, both women prisoners and employees, are available for sex, and treat them as such.

Sexual misconduct can erode the boundaries that are necessary for prison security and other functions such as rehabilitation and program participation.

Prisoners who do not participate in sexual talk or sexual relationships may be penalized by being denied the opportunities or privileges that prisoners who participate in that conduct receive.

IF YOU FEEL YOU HAVE BEEN HARMED BY SEXUAL MISCONDUCT, EVEN IF YOU HAVE NOT EXPERIENCED IT DIRECTLY, YOU MAY BE A THIRD PARTY VICTIM. AS A THIRD PARTY VICTIM, YOU CAN ALSO REPORT THE MISCONDUCT AND EXPECT A REMEDY.

WHAT PRISONERS THINK

- "Sex, just like drugs, is a part of being in prison. There has to be a certain amount of that going on. What's important is what the prison does when they discover someone having sex."
- "Cops should act like cops. They should stay in their place so that we can stay in ours."
- "A lot of female staff come here looking for love. They don't get a lot of support at home or at work. First, they become friends with inmates and the next thing you know they are in love."
- "A lot of these women have low self-esteem. They don't think a lot of themselves so they'll settle for a soda, candy or some cigarettes."
- "The officers here are worse than the inmates. They drug and trick just like inmates. There is really no difference."
- "If we had more jobs in here, we wouldn't have to have sex just to get a candy bar, some street food or a perm."
- "When the judge sentenced me to this time, he didn't sentence me to not have sex. A person's need for that contact doesn't stop just because he is locked up."
- "A lot of girls that the officers bother are slow (have mental health problems). They can prey on these women because they don't know any better."

Department of Corrections (DOC): Policies Regarding Sexual Misconduct⁶

- All DOC's address sexual misconduct of correctional staff in their administrative policies.
- Thirty DOC's and the Federal Bureau of Prisons, Guam and Puerto Rico have developed separate policies with explicit language that specifically address sexual misconduct between staff and inmates.
- Many agencies discipline inmates found to be voluntarily involved in sexual misconduct.
- Many agencies dismiss staff involved in serious, substantiated sexual misconduct incidents. Other actions include prosecution, suspension, oral reprimands, staff transfer and staff resignation.
- Agencies generally take no action toward staff or inmates when allegations of misconduct are found to be unsubstantiated — the agency is unable to either prove or disprove misconduct occurred. However, most agencies will discipline staff and inmates who make false allegations of sexual misconduct.
- Agencies generally will protect inmates from retaliation by staff or others even if they do not find or cannot prove that sexual misconduct occurred.

What You Can Do if It Happens to You

You Can Take Steps to Prevent or Stop Sexual Misconduct!

Sexual misconduct by corrections staff against a prisoner is prohibited in all states by departmental policy and/or law. However, this type of inappropriate or illegal behavior will continue unless *you act*.

You must decide whether it is worth it to you to speak out against sexual misconduct. In making the decision to speak out, you should consider your individual circumstances and personal priorities. Only you can decide what action feels safe to you and how much you are willing to put up with to end the sexual misconduct.

There are several actions you can take. They are listed below:

Take Informal Action

- **Tell the staff person that his/her advances are offensive and are not welcome if you are comfortable doing so.**
- **Try to separate yourself from the staff person.** This can be difficult. You should first request that the staff person be moved or reassigned so that you do not have any contact with him or her. If your request is denied, you may want to consider being placed in protective custody. You may also have the option of requesting a move to another institution, but you must consider the risk of losing your programming placement, and the possibility of moving farther away from your family.
- **Tell a corrections staff member you trust about the incident.** In many states, Department of Corrections personnel are required to file written reports regarding any sexual misconduct that they witness or that is brought to their attention. In Missouri and Florida, correctional staff, who fail to report, face separate criminal charges. These reports can lead to an investigation of the sexual misconduct and disciplinary proceedings against the perpetrator. In many states, Department of Corrections personnel who report the misconduct are required to keep it confidential. However, information about sexual misconduct is often leaked. Therefore, choose the staff member you confide in wisely.

REMEMBER, TAKING INFORMAL ACTION IS OPTIONAL. IF YOU FEEL YOU ARE IN PHYSICAL DANGER OR IF THE STAFF PERSON HARASSING YOU WILL NOT STOP HIS/HER CONDUCT AFTER YOU HAVE ASKED HIM/HER TO STOP, YOU SHOULD TAKE A MORE FORMAL APPROACH.

⁶National Institute of Corrections, *Sexual Misconduct in Prisons: Law, Remedies, and Incidence*, Special Issue in Corrections (May 2000).

Pursue Formal Administrative Action

- **File a formal complaint with the institution.** Your institution should have an inmate grievance process, which allows inmates to file a formal complaint about prison-related matters. Use this process to report the sexual misconduct.

Try to keep copies of any forms that you send or receive in a safe place. Having detailed and accurate records of the conduct, and your attempts to stop it, will help during an investigation of the matter. Remember though that there is little privacy in prison. Corrections staff or other inmates may have access to your belongings. Therefore, use your best judgment when deciding whether, where, and how to keep your records. If you feel that you will not be able to keep your records confidential in the prison you may want to consider mailing copies of these records to a trusted friend or relative outside the prison for safe-keeping, or to an advocate or attorney whom you know and trust.

- **Write directly to the warden of your institution or the Director of your Department of Corrections.** You may also write directly to the Inspector General or Office of Internal Affairs for the Department of Corrections. You may also report sexual misconduct by writing directly to the warden of your facility or the Director of your Department of Corrections. You can send your letter either through the institutional or regular mail. Be sure to write "Legal Mail" and "Emergency-Confidential" across the top of your letter and on the envelope to ensure its confidentiality. In some jurisdictions, you can write directly to the Inspector General or Office of Internal Affairs with complaints about staff misconduct, sexual or otherwise. Once the misconduct is reported, the Department of Corrections should conduct an investigation. ***It should be confidential but this may not always be the case.*** The purpose of the investigation is to determine the nature and extent of the misconduct. You may be asked to testify at a hearing or give a statement. Ask whether you are allowed to have an attorney present. If you are allowed to have legal representation, make every effort to locate an attorney who will appear on your behalf. Once the investigation is completed, you should follow up to find out the result. If the investigation finds sexual misconduct occurred, the employee could face punishment including a reprimand, suspension or termination and in some states, criminal prosecution. Follow the procedures that the institution has set forth with regard to reporting and resolving misconduct. Not only is this the most effective way of dealing with the problem, ***but you may be prohibited from bringing an action in court later if you have not used these procedures to try and resolve the problem.***

Remember that sexual misconduct investigations are supposed to be confidential. But the reality is that many are not. Corrections staff, the inmate involved and others may possibly leak information. Many corrections departments punish breaches of confidentiality as a separate violation of their sexual misconduct policy. Use your best judgment about how to report the misconduct. Use the method most likely to protect your privacy when informing the Department of Corrections of your complaint and YOU should remember to keep the information confidential, so that YOU are not responsible for breaches of confidentiality.

State Laws

- Forty-seven states, the District of Columbia, and the federal government have laws imposing criminal sanctions on corrections staff members who have sexual relations with inmates. Nineteen of state statutes specifically provide that the consent of the inmate is not a defense to staff sexual conduct.
- Eleven state statutes, the District of Columbia, and the federal government specifically provide that marriage is a defense to a charge of sexual misconduct.
- Three state statutes — Arizona, Delaware and Nevada — specifically provide that the prisoner, as well as the staff member, will be punished for having consensual sexual relations.
- Even if a state does not have a statute that specifically covers sexual activity in prisons, state rape laws apply to sexual assaults which occur in prison. So, a corrections staff person can be convicted of rape if he has sexual relations with an inmate against his or her will.

Take Legal Action

- **If you have a lawyer, contact him/her.**
- **You can pursue a remedy under state or federal criminal laws.**⁷ Depending on the severity of the conduct, the government may be able to prosecute the staff person under state or federal criminal laws. Such laws usually criminalize conduct that includes sexual touching.

Also, remember that the prosecutor makes the decision about whether to prosecute the corrections staff person. The government may prosecute a correctional staff person for sexual misconduct even if you do not complain and do not cooperate in the investigation.
- **You can pursue a remedy under state civil laws.** You may have a cause of action under state civil laws for intentional infliction of emotional distress, assault and/or battery, or negligence. The claims will depend on the facts of your situation and state law. Be aware that various state statutes of limitations require that you file claims within a certain period of time. The time period for filing claims depends on state law.
- **You can pursue a remedy under federal law.** Sexual misconduct in prison is prohibited under federal law. A prisoner who has been subjected to sexual misconduct in prison may have a claim or cause of action pursuant to: (1) the Eighth Amendment of the United States Constitution, which prohibits cruel and unusual punishment; (2) the Fourteenth Amendment of the United States Constitution, which mandates equal protection under the law; or (3) Title IX of the Education Amendments of 1972, which prohibits sexual harassment in educational programs or activities that receive federal funds.

Seek Legal Advice

Whether you decide to take legal action in state or federal court, seek advice and legal assistance from organizations who might prosecute these cases or who assist prisoners in your area. If you decide to file a lawsuit, few large national organizations other than the NAACP or the ACLU provide legal assistance to prisoners on this issue. However, most states have local organizations that can provide legal assistance to prisoners who have been subjected to sexual abuse. Contact organizations such as your state's bar association, prisoners' rights organizations, local women's advocacy groups or area law schools. Also, Amnesty International has local chapters which may be able to assist you. In their recent publication, *Abuse of Women in Custody*, Amnesty International has listed organizations and resources in each state. See page 12 for the address and web site where you can obtain this publication.

⁷See Appendix for Fifty-State Survey of Criminal Laws Prohibiting Sexual Misconduct Against Prisoners.

International Standards and Treaties for the Treatment of Prisoners

Sexual misconduct occurs not only in prisons within the United States but also internationally. In response to these serious human rights violations, many countries from around the world have come together and created international treaties and standards prohibiting sexual abuse of prisoners.

What Is a Treaty?

A treaty is a formal agreement between nations. These agreements were created by governments and officials acting on behalf of the government to provide protection to particularly vulnerable groups and to act against human rights violations. Countries have to report on their efforts to comply with treaties and are monitored by international tribunals. Some treaties allow individuals to file complaints about their own situation with an international tribunal or court.

Which Treaties Are Important to American Prisoners Challenging Staff Sexual Misconduct?

When an international treaty or law is ratified, it becomes binding on that particular country. Regarding sexual misconduct, there are two relevant treaties to which the United States is a party: the International Covenant on Civil and Political Rights, ratified in 1992, and the Convention Against Torture, ratified in 1994. The American Declaration on the Rights and Duties of Man is also an important international legal instrument. It allows American prisoners to file an individual petition to the Organization of American States. Also, important are the Standard Minimum Rules for the Treatment of Prisoners.

What Treaties Might Apply to Sexual Misconduct in Prisons?

International Covenant on Civil and Political Rights (ICCPR)

The International Covenant on Civil and Political Rights (ICCPR) sets out the fundamental civil and political rights that belong to all people, prisoners included. Some of these rights include:

- “the right not to be subjected to torture or cruel, inhuman or degrading treatment or punishment” (Article 7);
- “the right of any detained person to be treated with humanity and with respect for the inherent dignity of the human person” (Article 10); and
- “the right to privacy without arbitrary interference” (Article 17).

The Human Rights Committee monitors countries' efforts to implement the goals of this treaty. **In relation to Article 17, the Human Rights Committee states that body searches should be conducted only by someone of the same sex as the prisoner.**

140 nations have agreed to be legally bound by the ICCPR, including the United States.

How can this help you? U.S. prisoners are not entitled to sue under the International Covenant on Civil and Political Rights because the United States claims that its domestic laws provide prisoners with remedies for violations. However, in a lawsuit the courts may look to the treaty's goals in a particular case for further guidance on how to apply the relevant U.S. laws.⁸ Also, every 5 years the United Nations Human Rights Committee holds a hearing at which the United States has to answer questions about its performance under the Covenant. You can tell the Committee about your situation to influence what happens at that hearing and what the Committee says in its final written comments.

United Nations Convention Against Torture (CAT)

The United States became a party to the Convention Against Torture in 1994. It is an international treaty that is monitored by the Committee Against Torture. The Committee is responsible for helping countries to implement practices that guard against torture and providing recommendations for improving current policies and practices. The Convention Against Torture is also considered to be customary law, which means that it represents a standard of practice against torture that is agreed to and followed by all countries within the international community.

Importantly, the Committee Against Torture considers the rape of a woman in custody by a correctional officer to be a form of torture.

How can this help you? Like the ICCPR the United States designated certain provisions in the CAT "non-self-executing," meaning that U.S. law provides its own remedies for private parties wishing to sue for violations. For example, the Eighth Amendment's prohibition of "cruel and unusual punishment" covers any violations of prisoners' rights that may include torture. However, courts might look to the goals of the treaty for guidance in certain cases.

The Inter-American Commission on Human Rights (IACHR)

The Inter-American Commission on Human Rights (IACHR) is a committee of 7 human rights experts that promotes and protects human rights. It is a part of the Organization of American States. In 1965, IACHR was authorized to examine complaints regarding specific cases of human rights violations. The U.S. has not ratified the American Convention on Human Rights, but U.S. cases may still be processed under the American Declaration of the Rights and Duties of Man.

How can this help you? This is the only setting where an individual or group can complain about human rights violations in the United States and get a formal decision from an international body.

Another important aspect of the Inter-American Commission is that the American Declaration also protects economic and social rights, like the right to medical care, adequate food and protection of family life.

⁸See *Sterling v. Cupp*, 625 P.2d 123 (Or. 1981).

But before you can bring a claim, the petition must show that the victim has exhausted all domestic (U.S.) means of remedying the situation. This means you must try to bring your complaint in the U.S. courts and use all the appeals available to you.

"If domestic remedies have not been exhausted, it must be shown that the victim tried to exhaust domestic remedies but failed because: 1) those remedies do not provide for adequate due process; 2) effective access to those remedies was denied or, 3) there has been undue delay in the decision on those remedies."

If domestic remedies were exhausted, a petition must be presented within six months after the final decision in the domestic proceedings. If domestic remedies have not been exhausted, the petition must be presented within a reasonable time after the occurrence of the misconduct complained of.

Anyone can file the petition; it doesn't have to be the person suffering. This means someone, like a family member or legal organization could bring a complaint on your behalf.

The Standard Minimum Rules⁹

Lastly a branch of the United Nations, called the United Nations Economic and Social Council (ECOSOC), approved the Standard Minimum Rules for the Treatment of Prisoners. This document directly addresses cross-gender supervision of prisoners. **In particular, the Standard Minimum Rules provide that women and men prisoners be segregated and that prisoners be guarded only by officers of the same sex. The rules also provide that female corrections officers should monitor male corrections officers whenever they come into contact with women prisoners.**

The Standard Minimum Rules are not binding international law. They are guidelines that countries should follow to ensure the protection of prisoners' human rights. The United States, however, does not completely follow the Standard Minimum Rules. United States law, for example, allows male corrections officers to work in women's prisons and female corrections officers to work in men's prisons.

How can this help you? Know that your situation is not an isolated problem and that countries around the world have considered the problem and are working together to create institutional policies that will be flexible enough to work within various countries to help them eliminate sexual misconduct in prisons. In addition, becoming informed and knowing your rights is crucial to your own self-determination and rights as a human being. The Minimum Standards should be mentioned when making complaints in court because, even though they are not binding, they are considered important guidelines.

⁹See *Standard Minimum Rules for the Treatment of Prisoners*, U.N. High Commissioner for Human Rights, Geneva Convention (1955), approved by res. 663C (1957) and 2076 (1977).

Who to Contact

● **Inter-American Commission on Human Rights**

The Inter-American Commission on Human Rights, part of the Organization of American States, is a committee of seven human rights experts that promote and protect human rights.

Inter-American Commission on Human Rights
1889 F Street, NW
Washington, DC USA 20006
E-mail: cidhoea@oas.org
Telephone: (202) 458-6002
Fax: (202) 458-3992
www.cidh.oas.org

● **Amnesty International**

Amnesty International, a grassroots activist organization with over one million members worldwide, is dedicated to abolishing the death penalty, assisting political prisoners to get a fair trial, freeing prisoners of conscience, promoting peace, ending torture and killings due to political beliefs, and promoting justice.

Amnesty International
322 Eighth Avenue
New York, NY 10001
Telephone: (212) 807-8400
www.amnesty-usa.org

● **Human Rights Watch**

Human Rights Watch is an independent non-governmental organization whose mission is to protect human rights throughout the world. Human Rights Watch works to prevent discrimination, protect people from torturous war crimes and to prosecute such criminals. Additionally, Human Rights Watch researches and investigates human rights violations and then reports and holds abusers accountable.

Human Rights Watch
350 Fifth Avenue, 34th Floor
New York, NY 10118-3299
E-mail: hrwnyc@hrw.org
Telephone: (212) 290-4700

● **International Human Rights Law Clinic American University, Washington College of Law**

For people who cannot afford a lawyer, the Human Rights Clinic of American University offers free representation to people who want to complain about their situation to the United Nations or the Inter-American Commission on Human Rights. Contact the clinic at the address listed or by calling the 800-number. The Clinic will also accept collect calls.

International Human Rights Law Clinic
American University, Washington College of Law
4801 Massachusetts Avenue, NW
Washington, DC 20016
Telephone: (202) 274-4147

Other Things to Consider

It can be difficult for prisoners to speak out against sexual misconduct. How difficult it is depends on the circumstances in your facility and jurisdiction. For example, it may depend on how many prisoners have complained before you, your state's commitment to ending sexual misconduct in prison and the presence of advocacy organizations that care about this issue. The following are a few things that prisoners may face by reporting sexual misconduct:

Retaliation by Corrections Staff

Corrections staff may try to intimidate you to prevent you from filing a complaint or from participating in an investigation of sexual misconduct. Most corrections departments have policies that prohibit any individual from interfering with an investigation, including intimidation or retaliation against witnesses. Some states have laws that make it a separate criminal offense for staff to retaliate against a person who has made a complaint. If you believe that you are being denied privileges or are being unfairly transferred or punished in some way because you filed a complaint or assisted in the investigation of a complaint, you should report this to the warden, to an investigative agency or to the prosecuting attorney.

Hardship During Internal Investigations

In some systems, prisoners are placed in administrative segregation or protective custody for weeks or months during sexual misconduct investigations. Being in administrative segregation or protective custody affects your freedom of movement, access to programming, privacy, visitation and contact with family. In deciding whether to report sexual misconduct, you should consider whether it is worth it to you if you are placed in administrative segregation or protective custody.

Barriers to Prosecution

You may already know that prosecutors possess a great deal of discretion in determining whom they will prosecute and the crimes that they will charge. Even if you have been the victim of severe misconduct, the prosecutor may decide not to prosecute the staff member. Sometimes prosecutors feel there is insufficient evidence, that prisoners lack credibility as witnesses, or that politically, it is not a good idea to prosecute corrections staff members. Other prosecutors may simply feel that sexual misconduct is not a high priority crime to prosecute.

Obstacles to Bringing a Successful Civil Lawsuit

It can be tough to bring a successful civil lawsuit. Depending on your jurisdiction, it may be difficult to find a lawyer who is willing to represent prisoners in civil litigation. A federal law called the Prison Litigation Reform Act (PLRA) has created some additional barriers to litigation by prisoners on conditions of confinement. Among other things, the PLRA requires that a prisoner use every step of the grievance procedure that is available before bringing a lawsuit in court. Also, the PLRA contains a physical injury requirement, stating that a prisoner cannot recover damages for mental or emotional injury alone. There is a case, however, that determined that sexual

misconduct is not a “condition of confinement” and therefore not covered by the PLRA's limitations.¹⁰

Gathering a Support System

The process of dealing with sexual misconduct, whether or not you decide to formally report it, is difficult at best. It is important that you get support during this time.

Here are some suggestions:

- *Tell your lawyer from your criminal case.*
Consider telling your lawyer from your criminal case. Some prisoners who have spoken out successfully against sexual misconduct first reported the abuse to their criminal defense attorneys. A criminal defense attorney may be a good ally for a number of reasons. You may already have a good relationship with your criminal defense attorney. Because your criminal defense attorney knows the local legal community, he or she may be able to refer you to a civil attorney who will help you if you want to sue. Also, your criminal defense attorney may be familiar with your prison or jail and may help you to report the misconduct safely.
- *Tell a trusted friend inside the prison community.*
Find other prisoners whom you trust and with whom you can talk about your experiences. This support will help you and other prisoners in similar situations. Keep in mind that other prisoners could use this information to better their own situation. Therefore, it is extremely important that you only confide in those people you know you can trust.
- *Tell a trusted friend outside the prison community.*
A friend or family member outside the prison community can help you decide what to do, including notifying the prison about the misconduct and requesting that the prison respond appropriately. The individual can also be used to corroborate your account of the misconduct should the claim be investigated.

¹⁰See *Peddle v. Sawyer*, 64 F. Supp. 2d 12 (D. Conn. 1999).

Contact community and other agencies for help, or have your family and friends go to these organizations on your behalf. For example, both C.U.R.E. (Citizens United for the Rehabilitation of Errants) and F.A.M.M. (Families Against Mandatory Minimums) are national groups with local chapters. Both assist the families of prisoners to address problems their incarcerated family member may be facing. You can also obtain a copy of the ACLU (American Civil Liberties Union) National Prison Project Resource Guide which may provide some valuable help. Recently, human rights organizations like Amnesty International and Human Rights Watch, have become interested in this issue. For example, Amnesty International completed a 50-state report on abuse of women in custody which lists state organizations that may be able to provide assistance. It is a great resource. You may call or write these organizations as follows:

● **ACLU National Prison Project**

1875 Connecticut Avenue, NW, Suite 410
Washington, DC 20009
(202) 234-4830

● **C.U.R.E.**

P.O. Box 3210
National Capital Station
Washington, DC 20001
(202) 789-2126

● **F.A.M.M.**

1612 K Street, NW, Suite 1400
Washington, DC 20006
(202) 822-6700

● **Amnesty International, USA**

322 Eighth Avenue
New York, NY 10001
(212) 807-8400

● **Human Rights Watch**

350 Fifth Avenue, 34th Floor
New York, NY 10118-3299
(212) 290-4700

Seeking Medical Help

You **must** seek medical help if:

- you may be pregnant
- you have been raped or sexually assaulted
- you may have been exposed to HIV or other sexually-transmitted diseases

Pregnancy

If you become pregnant while in prison, whether or not it is the result of sexual assault, it is very important that you receive medical care. Remember, only you can decide what is in your best interest — carrying the pregnancy to term, adoption, foster care or termination. Do not be pressured by anyone — family members, friends, other prisoners, the biological father or prison officials — to do what is not in your best interest.

First, if you decide to continue the pregnancy, proper prenatal care is essential for your health and that of the fetus. This is especially true for women who are in high risk groups, such as those who have a history of drug or alcohol abuse, have HIV or other sexually-transmitted diseases, or suffer from poor nutrition.

Second, if you do not wish to keep the child, you can receive counseling on other options such as adoption, foster care placement or terminating your pregnancy. In most communities, organizations exist to provide you with information about your options. You can contact these organizations directly or through the case manager or medical staff at your institution. For example, you can contact your local Planned Parenthood or the National Abortion Federation about terminating an unwanted pregnancy. For information about adoption or foster care placement you can contact your local department of human services or local private social service agencies, such as Family and Child Services, Catholic Charities or Jewish Social Services.

Rape and Sexual Assault

If you have been raped or sexually assaulted, you must get medical attention immediately. You should request to be taken to a hospital where a “rape-kit” can be performed. During a rape kit examination, the doctor performs an examination and takes samples of hair, semen and other fluids which the perpetrator may have left on your body during the assault. These samples often provide crucial evidence in proving a sexual assault occurred and in identifying the perpetrator. That is why it is especially important that you have a rape kit in a hospital, where the medical staff is accustomed to performing it.

Although it may be difficult, it is important that you do not shower after the assault. Showering may wash off the hair, semen and other evidence. Also, bring the clothes and underwear that you had on at the time of the assault to the hospital with you along with any other items that may have come into contact with the perpetrator's bodily fluids — blood, semen or saliva. This includes any towels the perpetrator may have used to wipe himself, herself or you, and condoms

if they were worn during the assault. The doctors may be able to take hair and semen samples from all of these items. Technology is such that even small traces of blood, semen, vaginal fluids or saliva can yield information that can identify the source of these fluids.

If you have been raped or sexually assaulted, you should always be tested for pregnancy, HIV and other sexually-transmitted diseases. Even if you test negative for HIV, you should request that you be re-tested six months later, since it may take that long for a test to detect the HIV antibodies in your blood.

Sexually-Transmitted Diseases

A sexually-transmitted disease, if left untreated, can have very serious consequences. It can cause sterility or otherwise negatively affect your health. HIV infection, for which there is no cure, decreases the body's ability to fight infection and makes a person susceptible to a large number of illnesses. While there is no cure for HIV, there are new medical treatments that can greatly increase both the quality and length of the lives of those infected with the virus. Proper medical care can, in some cases, cure a sexually-transmitted disease. If no cure is available, it can often reduce the effects of the disease. Therefore, it is very important to get medical care as soon as possible.

Counseling

If you have been subject to sexual misconduct, you may want to seek professional counseling or mental health advice whether or not you decide to seek medical help for injuries resulting from the conduct. Many prisons offer mental health services for victims of sexual abuse, and some offer counseling sessions. There are also community-based counseling services such as local rape crisis centers. If you cannot obtain mental health services, talk about your experiences with a trusted friend, relative or spiritual advisor. Talking with someone helps you explore your feelings about the incident and is an important step in gaining control over your life.

Questions and Answers

- Q. *Why is all sexual conduct between correctional staff and inmates considered misconduct?***
- A.** Because sexual contact between staff and inmates is an abuse of power. Correctional staff have the ultimate power in corrections settings, and they often control the way a prisoner serves his or her time. One way in which correctional staff may abuse their power is to coerce, threaten or seduce inmates into giving them sexual favors. Inmates may feel they have to comply with these demands in order to survive in prison or protect their safety.
- Q. *Are some prisoners more vulnerable to sexual misconduct than others?***
- A. Yes.** Prisoners who are especially vulnerable to sexual misconduct are likely to fall into one or more of the following categories:

Inmates with Addictions

Inmates often enter prison with untreated substance abuse problems. Given this, it is not surprising that some prisoners and staff are often willing to trade sexual favors in exchange for both legal and illegal drugs. For example, more than 80% of male and female prisoners suffer from an addiction to alcohol, drugs or nicotine and sometimes all three. Because these items are difficult to get in prison, they are highly valued. Correctional employees sometimes use the prisoner's addiction to their advantage by offering to exchange alcohol, tobacco or other drugs for sex or sexual favors.

Survivors of Sexual Abuse

It is estimated that 80% of women and 40% of men in prison and jails have been victims of sexual and physical abuse. Individuals, who have been sexually abused in the past, are far more likely to be abused while in prison. They may feel that sex with a male or female staff member is a small price to pay for the possible increased benefits of money, drugs, food or better work assignments and may believe they are powerless to stop abuse in prison. They may accept the sexual abuse as an unwelcome, but normal, part of life. They may even believe they deserve the abuse or that the abuser will grow to care for them if they allow it to continue.

Inmates with Mental Health Issues

Mentally ill inmates are often less equipped than other prisoners to handle the stresses and challenges of incarceration. Because of this some are at risk for exploitation by other inmates and staff. Inmates suffering from mental illness may not fully realize what is happening when they are being sexually abused. When they do realize it, they may also have a more difficult time reporting the abuse or being believed by staff or investigators.

Inmates with Little Experience in the Criminal Justice System

Inmates entering the prison system for the first time may feel intimidated by other prisoners and the corrections staff. They may feel isolated, and when subjected to sexual harassment

or other inappropriate sexual behavior, they may not know where to turn. They may also feel that this is the way to survive in prison. For men, they may believe it will protect them from rape by other prisoners. In addition, these inmates may be fearful or may not understand how to report incidents of sexual misconduct.

Gay, Lesbian, Bisexual and Transgender Inmates

There are gay, lesbian, bisexual and transgender individuals in correctional environments, both as inmates and employees. Also men and women, who are in heterosexual relationships when they are in the community, may engage in same sex relationships while incarcerated due to limited access to sex with opposite gender individuals. Because sexual activity is prohibited in all correctional environments, it becomes highly valued. Often lesbian, gay and heterosexual staff target inmates who are gay, lesbian, bisexual or transgender because they are seen as vulnerable and available. In male institutions, gay and transgender inmates are targeted as being sexually available by both inmates and staff.

Q. What if I am in control of the relationship or am receiving some benefit from it? Doesn't that make it OK?

A. No. Remember, even if you feel you can control the relationship and end it when you want to, it is the correctional employee, not you, who is in charge. Often, prisoners find that once a sexual relationship starts they can't end it even if they want to. The authority that correctional employees have in prison carries over into the sexual relationship. So if a prisoner tries to end the relationship or threatens to report a correctional employee, the correctional employee can make things particularly difficult for the prisoner. The employee can:

- change your work assignments
- threaten you with a transfer or disciplinary action
- give you a negative parole recommendation
- interfere with your visits
- threaten or commit physical violence against you
- allow or encourage others to harm you
- harass and intimidate you

Q. What if I have sex with a correctional employee willingly? Is this sexual misconduct?

A. Yes. Not only is consensual sex with a correctional employee sexual misconduct, but it is also against most departmental policies and state and federal law. If prison officials discover that you are having sex with a correctional employee, you could face disciplinary charges and if you live in Arizona, Delaware or Nevada, you could also be charged with a separate criminal offense.

Q. Do some prisoners invite sexual abuse?

A. No. Sometimes people blame prisoners for sexual misconduct because they behave or dress in what others believe is a seductive or inviting way. It is wrong for a corrections staff member to have sex or engage in inappropriate sexual behavior with a prisoner regardless of how an inmate acts, dresses or what the inmate offers, even if the inmate actively suggests sex with the staff member. Correctional staff are responsible for their own actions and for setting and enforcing appropriate boundaries between staff and inmates.

Q. What if a female staff member is making sexual advances? Is that also sexual misconduct?

A. Yes. Sexual misconduct is about power and a female staff member can abuse that power in the same way as her male counterparts. A female staff member who coerces or forces you into granting sexual favors, touches you inappropriately, or makes inappropriate comments is also committing sexual misconduct. Even if the female staff member is making advances or having a sexual relationship with a male inmate that is sexual misconduct. You should use the same procedure to report sexual misconduct by a female staff member as you would that of a male staff member.

Q. Is it okay for me to have a sexual relationship with a corrections employee after I leave the institution?

A. It depends. Several state laws make it a crime for a corrections employee to have sex with individuals under their custody. This includes probationers or parolees. The same issues of power and control are present in those situations. In many states there is an argument that when you are on probation and/or parole you are no longer under the custody of the employee. Even so, many states prohibit corrections employees from maintaining their employment if they are married to or involved with a person under criminal justice supervision.

Resources

This section provides additional resources that may be helpful in obtaining more information about state laws or in reporting sexual misconduct in prison.

The Criminal Laws in Your State

In addition to the civil remedies discussed earlier, you may also decide that you want to pursue criminal prosecution of the corrections staff person. In the Appendix section of this guide is a Fifty-State Survey of Criminal Laws which prohibit sexual contact between prisoners and corrections staff. Even if your state does not have a law which specifically covers sexual misconduct in prison, you can still use your state's general sexual assault laws. In many states, even if you do not want to pursue the action, the institution can independently decide to seek criminal prosecution of a staff member. The following is some basic information about state criminal laws prohibiting the sexual abuse of prisoners:

- 47 states, and the District of Columbia, and the federal government have laws specifically criminalizing sexual abuse in prisons.¹¹
- 36 states, and the District of Columbia define sexual misconduct in prisons as a felony.¹²
- 6 states define sexual misconduct in prisons as a misdemeanors.¹³
- 5 states and the federal government define sexual misconduct in prisons as either a felony or a misdemeanor depending on the nature and severity of the assault.¹⁴
- 3 states criminalize the conduct of both the prisoner and the corrections employees in "consensual" cases of sexual misconduct.¹⁵
- 19 states and the District of Columbia specifically provide that even if a prisoner "consents" to or voluntarily engages in sex with a corrections staff person, the staff member is criminally liable.¹⁶

¹¹Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, Washington, West Virginia, Wisconsin, and Wyoming.

¹²Alaska, Arizona, Arkansas, Delaware, District of Columbia, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Kansas, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Texas, Virginia, West Virginia, Wisconsin, and Wyoming.

¹³California, Iowa, Kentucky, Maryland, Montana, and Tennessee.

¹⁴Colorado, Connecticut, New York, Utah, and Washington.

¹⁵Arizona, Delaware and Nevada.

¹⁶Arkansas, California, Delaware, District of Columbia, Florida, Georgia, Illinois, Indiana, Kansas, Massachusetts, Minnesota, Mississippi, Montana, Nevada, New Hampshire, New York, North Carolina, South Carolina, Utah and Washington.

- 11 states, the District of Columbia and federal government provide that marriage is a defense to a charge of sexual misconduct.¹⁷
- 3 states have no laws criminalizing sexual misconduct in prisons.¹⁸

States that have enacted laws criminalizing the sexual abuse of prisoners have done so for several reasons. First, these states view prisoners as a vulnerable population — similar to the elderly, mentally ill or mentally retarded — and view prison staff as owing them a particular duty of care. Second, because prisoners often trade sex for food, drugs or money, the sexual incident could appear to be consensual and therefore outside the scope of traditional sexual abuse statutes. Third, states have enacted these laws to send a message to the community that they take sexual misconduct in prison seriously and that they will seek prosecution of those who abuse prisoners.

The Attorney General in Your State

If you have been subject to sexual misconduct in a state that has a specific statute prohibiting sexual misconduct in prison and are having difficulty pursuing your claim or obtaining information about the law, you should write to the Attorney General of your state. If you are in a federal correctional facility you should contact the Office of Inspector General, which has oversight of the Federal Bureau of Prisons. Included in the Appendix section of this guide are the addresses for the Attorneys General in each state. Because Attorneys General are elected officials, you should contact their office and ask them for the name of the current Attorney General. A letter to the Attorney General in your state or the Office of Inspector General will be most effective if it includes a detailed account of the misconduct, as well as the steps you have taken to pursue your claim. Remember to keep a copy of the letter for your records.

¹⁷Alaska, Arizona, District of Columbia, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Maine, New York and Oklahoma.

¹⁸Alabama, Oregon, and Vermont.

Publications

Since the first edition of the *Handbook* was published in 1998, there has been significant publishing activity in the area of staff sexual misconduct with inmates. Listed below are a number of the publications and reports on the subject and web sites where you can obtain additional information on this subject. We have listed both the address and web site where possible for these organizations and whether there is a charge for the publications. Even where there is a charge, a letter indicating that you are a prisoner and do not have the money to pay for the publication may be enough for you to receive a free copy. Your ability to receive the publications will depend on the specific regulations of your penal institution.

1. *Abuse of Women in Custody: Sexual Misconduct and Shackling of Pregnant Women — A State-by-State Survey of Policies and Practices in the USA*, Amnesty International USA (March 2001).

Amnesty International USA
Attn: Publications
322 Eighth Avenue
New York, NY 10001
(212) 807-8400
www.amnesty-usa.org/women/custody/abuseincustody.html

2. Smith, Brenda V., *Sexual Abuse Against Women in Prison*, American Bar Association Criminal Justice Magazine, Vol.16, Issue No. 1 (Spring, 2001).

American Bar Association Service Center
541 N. Fairbanks Court
Chicago, IL 60611
(312) 988-5522
www.abanet.org/crimjust/smith.html

3. Layman, Elizabeth, McCampbell, Susan, and Moss, Andie, *Sexual Misconduct in Corrections*, American Jails Magazine (November/December 2000).

American Jails Magazine
2053 Day Road, Suite 100
Hagerstown, MD 21740
www.secure.corrections.com/cc/aja/mags/zorders.html

4. Mullendore, Kristine and Beaver, Laurie, *Sexually Abused Female Inmates in State and Local Correctional Institutions*, Women Girls & Criminal Justice, Vol.1. No.6 pps. 81-96 (October/November 2000).

Women Girls & Criminal Justice, Civic Research Institute, Inc.
4478 Route 27, P.O. Box 585
Kingston, NJ 08528
www.civicrosearchinstitute.com/co9.html

5. *Women in Prison: Issues and Challenges Confronting U.S. Correctional Systems*, U.S. General Accounting Office, GAO/GOD-00-22 (December 1999).
U.S. General Accounting Office
P.O. Box 37050
Washington, DC 20013
(202) 512-6000
E-mail: info@www.gao.gov
www.gao.gov
6. *Women in Prison: Sexual Misconduct by Correctional Staff*, U.S. General Accounting Office, GAO/ GOD-99-104 (June 1999).
U.S. General Accounting Office
P.O. Box 37050
Washington, DC 20013
(202) 512-6000
E-mail: info@www.gao.gov
www.gao.gov
7. *Not Part of My Sentence, Violations of Human Rights of Women in Custody*, Amnesty International, AM 51/01/99 (March 1999).
Amnesty International USA
Attn: Publications
322 Eighth Avenue
New York, NY 10001
(212) 807-8400
www.amnestyusa.org/rightsforall/women/
8. *All Too Familiar: Sexual Abuse of Women in U.S. State Prisons*, Human Rights Watch, Women's Rights Division (December 1996).
Human Rights Watch
485 Fifth Avenue
New York, NY 10017-6104
(212) 972-8400
E-mail: hrwnyc@hrw.org
www.hrw.org /summaries/s.us96d.html
9. *No Escape: Male Rape in U.S. Prisons*, Human Rights Watch (2001).
Human Rights Watch
485 Fifth Avenue
New York, NY 10017-6104
(212) 972-8400
E-mail: hrwnyc@hrw.org
www.hrw.org /summaries/s.us0ld.html

10. United States of America, Justice for Women Prisoners, *The Human Rights of Women Prisoners*, Amnesty International, ACT 77/01/99, April 2000.

Amnesty International USA

Attn: Publications

322 Eighth Avenue

New York, NY 10001

(212) 807-8400

Appendix

Attorneys General in Your State

State	Address	Phone Number
Alabama	State House, 11 S. Union St. Montgomery, AL 36130	(334) 242-7300
Alaska	P.O.Box 110300 Diamond Courthouse Juneau, AK 99811-0300	(907) 465-2133
American Samoa	P.O.Box 7 Pago Pago, AS 96799	(684) 633-4163
Arizona	1275 W. Washington St. Phoenix, AZ 85007	(602) 542-4206
Arkansas	200 Tower Building, 323 Center St. Little Rock, AR 72201-2610	(501) 682-2007
California	1300 I St., Suite 1740 Sacramento, CA 95814	(916) 445-9555
Colorado	Department of Law 1525 Sherman St. Denver, CO 80203	(303) 866-3052
Connecticut	55 Elm St. Hartford, CT 06141-0120	(860) 808-5318
Delaware	Carvel State Office Building 820 N. French St. Wilmington, DE 19801	(302) 577-8400
District of Columbia	Office of the Corporation Counsel 441 4th St., NW Washington, DC 20001	(202) 727-6248
Florida	The Capitol, PL 01 Tallahassee, FL 32399-1050	(850) 487-1963
Georgia	40 Capitol Square, SW Atlanta, GA 30334-1300	(404) 656-4585
Guam	Judicial Center Building Suite 2-200E 120 W. O'Brien Dr. Hagatna, Guam 96910	(671) 475-3324

Attorneys General in Your State (Continued)

State	Address	Phone Number
Hawaii	425 Queen St. Honolulu, HI 96813	(808) 586-1282
Idaho	Statehouse Boise, ID 83720-1000	(208) 334-2400
Illinois	James R. Thompson Ctr. 100 W. Randolph St. Chicago, IL 60601	(312) 814-2503
Indiana	Indiana Govt. Ctr. S.402 W. Washington St., 5th Floor Indianapolis, IN 46204	(317) 232-6201
Iowa	Hoover State Office Bldg. 1305 E. Walnut Des Moines, IA 50319	(515) 281-3053
Kansas	120 S.W. 10th Ave., 2nd Fl. Topeka, KS 66612-1597	(785) 296-2215
Kentucky	State Capitol, Rm. 116 Frankfort, KY 40601	(502) 696-5300
Louisiana	Dept. of Justice P.O. Box 94095 Baton Rouge, LA 70804-4095	(225) 342-7013
Maine	State House Station 6 Augusta, ME 04333	(207) 626-8800
Maryland	200 St. Paul Place Baltimore, MD 21202-2202	(410) 576-6300
Massachusetts	1 Ashburton Place Boston, MA 02108-1698	(617) 727-2200
Michigan	P.O.Box 30212 525 W. Ottawa St. Lansing, MI 48909-0212	(517) 373-1110
Minnesota	State Capitol, Suite 102 St. Paul, MN 55155	(651) 296-6196

Attorneys General in Your State (Continued)

State	Address	Phone Number
Mississippi	Dept. of Justice P.O. Box 220 Jackson, MS 39205-0220	(601) 359-3692
Missouri	Supreme Ct. Bldg. 207 W. High St. Jefferson City, MO 65101	(573) 751-3321
Montana	Justice Bldg. 215 N. Sanders Helena, MT 59620-1401	(406) 444-2026
Nebraska	State Capitol P.O. Box 98920 Lincoln, NE 68509-8920	(402) 471-2682
Nevada	Old Supreme Ct. Bldg. 100 N. Carson St. Carson City, NV 89701	(775) 684-1100
New Hampshire	State House Annex 25 Capitol Street Concord, NH 03301-6397	(603) 271-3658
New Jersey	Richard J. Hughes Justice Complex 25 Market St., CN 080 Trenton, NJ 08625	(609) 292-4925
New Mexico	P.O. Drawer 1508 Sante Fe, NM 87504-1508	(505) 827-6000
New York	Department of Law The Capitol, 2nd Floor Albany, NY 12224	(518) 474-7330
North Carolina	Department of Justice P.O. Box 629 Raleigh, NC 27602-0629	(919) 716-6400
North Dakota	State Capitol 600 E. Boulevard Ave. Bismarck, ND 58505-0040	(701) 328-2210

Attorneys General in Your State (Continued)

State	Address	Phone Number
North Mariana Islands	Administrative Building, 2nd Floor Capitol Hill Caller Box 10007 Saipan, MP 96950	(670) 664-2341
Ohio	State Office Tower 30 E. Broad St. Columbus, OH 43266-0410	(614) 466-3376
Oklahoma	State Capitol, Room 112 2300 N. Lincoln Blvd. Oklahoma City, OK 73105	(405) 521-3921
Oregon	Justice Building 1162 Court St., NE Salem, OR 97310	(503) 378-4732
Pennsylvania	Strawberry Square Harrisburg, PA 17120	(717) 787-3391
Puerto Rico	P.O. Box 192 San Juan, PR 00902-0192	(787) 721-7700
Rhode Island	150 S. Main St. Providence, RI 02903	(401) 274-4400
South Carolina	Rembert C. Dennis Office Building P.O. Box 11549 Columbia, SC 29211-1549	(803) 734-3970
South Dakota	500 E. Capitol Pierre, SD 57501-5070	(605) 773-3215
Tennessee	500 Charlotte Ave. Nashville, TN 37243	(615) 741-5860
Texas	Capitol Station P.O. Box 12548 Austin, TX 78711-2548	(512) 463-2191
Utah	State Capitol, Rm. 236 Salt Lake City, UT 84114-0810	(801) 538-1326

Attorneys General in Your State (Continued)

State	Address	Phone Number
Vermont	109 State St. Montpelier, VT 05609-1001	(802) 828-3171
Virginia	900 E. Main St. Richmond, VA 23219	(804) 786-2071
Virgin Islands	Dept. of Justice, G.E.R.S. Complex 48B-50C Kronprinsdens Gade St. Thomas, VI 00802	(340) 774-5666
Washington	P.O. Box 40100 1125 Washington St., SE Olympia, WA 98504-0100	(360) 753-6200
West Virginia	State Capitol 1900 Kanawha Blvd., East Charleston, WV 25305	(304) 558-2021
Wisconsin	State Capitol, Suite 114E P.O. Box 7857 Madison, WI 53707-7857	(608) 266-1221
Wyoming	State Capitol Building Cheyenne, WY 82002	(307) 777-7841

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United States Office of Inspector General	U.S. Department of Justice Office of Inspector General 950 Pennsylvania Avenue, NW Suite 4706 Washington, DC 20530-0001	1-800-869-4499
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Fifty-State Survey of Criminal Laws Prohibiting Sexual Abuse of Prisoners

State	Statute	Title	Coverage	Definitions/Notes	Penalties	Defenses
Alabama	No legislation ^a					
Alaska	Alaska Stat. §11.41.410 (West 1998 and 2000 Supp.)	§11.41.410 Sexual assault in the first degree	§11.41.410(a): An offender commits the crime of sexual assault in the first degree if, (3) the offender engages in sexual penetration with another person (B) who is in the offender's care (i) by authority of law; or (ii) in a facility or program that is required by law to be licensed by the state.		§11.41.410(b): Sexual assault in the first degree is an unclassified felony.	§11.41.432: Defenses: (a) It is a defense to a crime charged under AS 11.41.410(a)(3) or AS 11.41.420(a)(2) that the offender is: (1) mentally incapable; or (2) married to the person and neither party has filed with the court for a separation, divorce, or dissolution of the marriage.
	Alaska Stat. §11.41.420 (West 1998 and 2000 Supp.)	§11.41.425 Sexual assault in the third degree	§11.41.420(a): An offender commits the crime of sexual assault in the second degree if, (2) the offender engages in sexual contact with a person (B) who is in the offender's care (i) by authority of law; or (ii) in a facility or program that is required by law to be licensed by the state.		§12.55.125(j): The penalty for an unclassified felony shall be imprisonment for a term of 8 years for first time, unarmed offense.	
		§11.41.427 Sexual assault in the fourth degree	§11.41.425 (a): An offender commits the crime of sexual assault in the third degree if the offender (2) while employed in a state correctional facility or other placement designated by the commissioner of corrections for the custody and care of prisoners, engages in sexual penetration with a person who the offender knows is committed to the custody of the Department of Corrections to serve a term of imprisonment or period of temporary commitment		§11.41.420(b): Sexual assault in the second degree is a class B felony.	
		§12.55.125 Sentences of imprisonment for felonies			§12.55.125(d): The penalty for a class B felony shall be imprisonment for a term not to exceed 10 years.	
		§11.41.432 Defenses			§11.41.425(b): Sexual assault in the third degree is a class C felony.	
				§11.41.427 (a): An offender commits the crime of sexual assault in the fourth degree if (1) while employed in a state correctional facility or other placement designated by the commissioner of		§12.55.125(e): A defendant convicted of a class C felony may be sentenced to a definite term of not more than 5 years.

Fifty-State Survey of Criminal Laws Prohibiting Sexual Abuse of Prisoners (Continued)

State	Statute	Title	Coverage	Definitions/Notes	Penalties	Defenses
Alaska (Continued)			corrections for the custody and care of prisoners, the offender engages in sexual contact with a person who the offender knows is committed to the custody of the Department of Corrections to serve a term of imprisonment or period of temporary commitment.		<p>§11.41.427(b): Sexual assault in the fourth degree is a class A misdemeanor.</p> <p>§13-1419.D: Unlawful sexual conduct is a class 5 felony.</p>	
Arizona	Ariz. Rev. Stat. Ann. §13-1419 (West 1989 and Supp. 1999)	§13-1419 Unlawful sexual conduct; correctional employees; prisoners; classification	<p>§13-1419(A): A person who is employed by the state department of corrections, the department of juvenile corrections, a private prison facility or a city or county jail, or who contracts to provide services with the state department of corrections, the department of juvenile corrections, a private prison facility or a city or county jail commits unlawful sexual conduct by engaging in oral sexual contact, sexual contact, or sexual intercourse with a person who is in the custody of the department or with an offender who is under the supervision of the department or a city or county.</p> <p>(B): A prisoner who is in the custody of the state department of corrections or an offender who is on release status and who is under the supervision of the state department of corrections commits unlawful sexual conduct by engaging in oral sexual contact, sexual contact, or sexual intercourse with a person who is employed by the state department of corrections or a private prison facility or who contracts to</p>	NOTE: The statute makes it illegal for the prisoner to engage in any sexual contact with a custodian.	<p>§13-701(C)(4): The penalty for a class 5 felony shall be imprisonment for two years and/or</p> <p>§13-802(A): a fine not to exceed \$150,000.</p>	<p>§13-1419.C.1: Marriage is a defense for employee or contractor if the marriage occurred before the prisoner was sentenced to the state department of corrections.</p> <p>§13-1419.C.2: Marriage is a defense for an offender who is on release status if the marriage occurred before the prisoner was sentenced to the state department of corrections.</p>

Fifty-State Survey of Criminal Laws Prohibiting Sexual Abuse of Prisoners (Continued)

State	Statute	Title	Coverage	Definitions/Notes	Penalties	Defenses
Arizona (Continued)			provide services with the state department of corrections or a private prison facility.			
Arkansas	Ark. Code Ann. §5-14-108 (West 2001) §5-4-401 (Michie 1987 and Supp. 1999) §5-4-201 (Michie 1987)	§5-14-108 Sexual abuse in the first degree	§5-14-108: Sexual abuse in the first degree: (a) A person commits sexual abuse in the first degree if: (6) being employed directly or through contract with the Department of Corrections, Department of Community Punishment, or with any city or county jail, engages in sexual contact for the purpose of sexual gratification with any person in the custody of the Department of Corrections or the Department of Community Punishment or within any city or county jail, the consent of the person in custody notwithstanding.		5-14-109(b): Sexual abuse in the first degree is a Class C felony. 5-4-401(a)(4): The penalty for a Class C felony shall be no less than 3 years nor more than 10 years imprisonment; and/or 5-4-201(a)(2): a fine not to exceed \$10,000.	§5-14-109: Consent is not a defense.
California	Cal. Penal Code §289.6 (West 1999 and Supp. 2001)	§289.6 Public entity employees, officers, or agents; sexual activity with confined consenting adult; defense; application; violation; penalty	§289.6(a)(2): An employee or officer of a public entity detention facility, or an employee, officer, or agent of a private person or entity that provides a detention facility or staff for a detention facility, or person or agent of a public or private entity under contract with a detention facility, or a volunteer of a private or public entity detention facility, who engages in sexual activity with a consenting adult who is confined in a detention facility, is guilty of a public offense. (3) An employee with a dept., board or authority under the Youth & Adult Correctional Agency or a facility under contract with a dept., board or authority under the Youth & Adult Correctional Agency, who during the course of employment directly provides treatment, care, control, or supervision		§289.6(g): Any violation of this section is a misdemeanor. §19: The penalty for a misdemeanor where not otherwise prescribed shall be imprisonment in the county jail for a term not to exceed 6 months; and/or a fine not to exceed \$1,000. §289.6(i): Any person previously convicted of a violation of this section shall,	§289.6 (e) Consent by a confined person or parolee to sexual activity proscribed by this section is not a defense to a criminal prosecution for violation of this section. §289.6 (f) This section does not apply to sexual activity between consenting adults that occurs during an overnight conjugal visit that takes place pursuant to a court order or with the written approval of an authorized representative of the public entity that operates or contracts for the operation of the detention facility where the conjugal visit takes place.

Fifty-State Survey of Criminal Laws Prohibiting Sexual Abuse of Prisoners (Continued)

State	Statute	Title	Coverage	Definitions/Notes	Penalties	Defenses
California (Continued)			of inmates, wards or parolees, and who engages in sexual activity with a consenting adult who is an inmate, ward or parolee, is guilty of a public offense.		upon a subsequent violation, be guilty of a felony.	
			§289.6(i): Any person previously convicted of a violation of this section shall, upon a subsequent violation be guilty of a felony.		§18: The penalty for a felony where not otherwise prescribed shall be imprisonment for a term of 16 months, 2 years, or 3 years.	
			§289.6(h): Any violation of this section shall be punished by imprisonment not exceeding one year and/or by fine not exceeding \$10,000.			
Colorado	Colo. Rev. Stat. §18-3-404 (West 2000) §18-7-701	§18-3-404 Unlawful Sexual Contact	§18-3-404: Unlawful Sexual Contact. (1) Any actor who knowingly subjects a victim to any sexual contact commits unlawful sexual contact if: (f) the victim is in custody of law or detained in a hospital or other institution and the actor has supervisory or disciplinary authority over the victim and uses this position of authority, unless incident to a lawful search, to coerce the victim to submit. §18-7-701: Sexual conduct in penal institutions. (1) An employee of a correctional facility or jail who engages in sexual conduct with a person who is in lawful custody and confinement in a correctional facility operated by or under contract with the department of corrections or in a county or municipal jail commits: (a) A class 6 felony if the sexual conduct consists solely of sexual		§18-3-404(2): Unlawful Sexual Contact is a class 1 misdemeanor, but it is a class 4 felony if the actor compels the victim to submit by use of such force, intimidation or threat. §18-1-105(V)(A): The penalty for a class 4 felony shall be imprisonment for a term ranging from 2–6 years with a 3 year mandatory period of parole and/or §18-1-105(III)(A): a fine ranging from \$2,000 to \$500,000.	

Fifty-State Survey of Criminal Laws Prohibiting Sexual Abuse of Prisoners (Continued)

State	Statute	Title	Coverage	Definitions/Notes	Penalties	Defenses
Colorado (Continued)			contact; (b) A class 5 felony if the sexual conduct includes sexual intrusion or sexual penetration. (2) For purposes of this section, "sexual conduct" means sexual contact as defined in section 18-3-401(4), sexual intrusion as defined in section 18-3-401 (5), or sexual penetration as defined in section 18-3-401(6). "Sexual conduct" does not include acts of an employee of a correctional facility or jail or a person who has custody of another person that are performed to carry out the necessary duties of the employee or the person with custody.			
Connecticut	Conn. Gen. Stat. Ann. §53a-71 (West 1994 and Supp. 2001) (Repealed and Replaced by 2000 Conn. Legis. Serv. P.A. 00-61, H.B. 5882, West)	§53a-71 Sexual assault in the second degree: Class C felony: Nine months not suspendable	§53a-71: Sexual assault in the second degree: (a) A person is guilty of sexual assault in the second degree when such person engages in sexual intercourse with another person and (5) such other person is in custody of law or detained in a hospital or other institution and the actor has supervisory or disciplinary authority over such other person.		§53a-71(b): Sexual assault in the second degree is a class C felony for which 9 months of the sentence imposed may not be suspended or reduced by the court.	
	Conn. Gen. Stat. Ann. §53a-73a (West 1994 and Supp. 2001)	§53a-73a Sexual assault in the fourth degree: Class A misdemeanor	§53a-73a: Sexual assault in the fourth degree: (a) A person is guilty of sexual assault in the fourth degree when: (1) Such person intentionally subjects another person to sexual contact who is (E) in custody of law or detained in a hospital or other institution and the actor has supervisory or disciplinary authority over such other person.		§53a-35a(6): The penalty for a class C felony shall be imprisonment for a term not less than 1 year nor more than 10 years.	
					§53a-73a(b): Sexual assault in the fourth degree is a class A misdemeanor.	
					§53a-36: The penalty for a class	

Fifty-State Survey of Criminal Laws Prohibiting Sexual Abuse of Prisoners (Continued)

State	Statute	Title	Coverage	Definitions/Notes	Penalties	Defenses
Connecticut (Continued)					A misdemeanor shall be imprisonment for a term not to exceed 1 year.	
Delaware	De. Code Ann. tit. 11, §1259 (Michie 1995 and Supp. 2000) §4205 (Michie 1995 and Supp. 2000)	§1259 Sexual relations in detention facility; Class G felony	§1259: Sexual Relations in detention facility; Class G felony: A person is guilty of sexual relations in a detention facility when, being a person in custody at a detention facility or being an employee working at a detention facility, the person engages in sexual intercourse or deviate sexual intercourse on the premises of a detention facility.	NOTE: The statute also makes it illegal for a prisoner to engage in sexual relations with an employee at the detention facility.	§1259: Violation of this section shall be a class G felony. 4205(b)(7): The penalty for a class G felony shall be imprisonment at Level V for a term not to exceed 2 years, and 4205(k): The penalty may include fines and penalties as the court deems appropriate.	§1259: It shall be no defense that such conduct was consensual.
District of Columbia	D.C. Code Ann. §22-4101 (1981 and Supp. 1999) D.C. Code Ann. §22-4113 (1981 and Supp. 1999) D.C. Code Ann. §22-4114 (1981) D.C. Code Ann. §22-4117 (Supp. 1999)	§22-4101 Definitions §22-4113 First degree sexual abuse of a ward §22-4114 Second degree sexual abuse of a ward §22-4117 Defenses to sexual abuse of a ward, patient, or client	§22-4113: Whoever engages in a sexual act with another person or causes another person to engage in or submit to a sexual act when that other person: (1) Is in official custody, or is a ward or resident, on a permanent or temporary basis, of a hospital, treatment facility, or other institution: and (2) Is under the supervisory or disciplinary authority of the actor. §22-4114: Whoever engages in sexual contact with another person or causes another person to engage in or submit to sexual contact when that other person: (1) Is in official custody, or is a	§22-4101: Definitions: For the purposes of this chapter: (6) "Official custody" means: (A) Detention following arrest for an offense; following surrender in lieu of an arrest for an offense; following a charge or conviction of an offense, or an allegation or finding of juvenile delinquency; following commitment as a	§22-4113: The penalty for first degree sexual abuse of a ward (2): shall be imprisonment for a term not to exceed 10 years, and may include a fine not to exceed \$100,000. §22-4114: The penalty for second degree sexual abuse of a ward (2): shall be imprisonment for a term not to exceed 5 years	§22-4117(a): Consent is not a defense, to either first or second degree sexual abuse of a ward; (b) Marriage between the defendant and the victim at the time of the offense is a defense to both first and second degree sexual abuse of a ward, which the defendant must prove by a preponderance of the evidence.

Fifty-State Survey of Criminal Laws Prohibiting Sexual Abuse of Prisoners (Continued)

State	Statute	Title	Coverage	Definitions/Notes	Penalties	Defenses
District of Columbia (Continued)			resident, on a permanent or temporary ward or basis, of a hospital, treatment facility, or other institution; and (2) Is under the supervisory or disciplinary authority of the actor.	material witness; following or pending civil commitment proceedings, or pending extradition, deportation, or exclusion.	and may include a fine not to exceed \$50,000.	
Florida	Fla. Stat. Ann. §944.35 (Harrison's 1998)	Authorized use of Force; malicious battery & sexual misconduct	§944.35(3)(b)(2): Any employee of the department who engages in sexual misconduct with an inmate or an offender supervised by the department in the community, without committing the crime of sexual battery, commits a felony of the third degree.	§944.35(3)(b)(1): Sexual Misconduct means the 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. Does not include an act done for a bona fide medical exam or an internal search lawfully conducted.	§775.082(3)(d): Sexual misconduct is a felony in the third degree. The penalty for a felony in the third degree shall be: imprisonment for a term not to exceed 5 years and/or payment of a fine; dismissal from employment; and prohibition from employment in any capacity in connection with the correctional system.	§944.35(3)(b)(3): Consent is not a defense.
	§775.082 (Harrison's 1991 and Supp. 2000)	prohibited; reporting required; penalties §944.35(3)(b)(2)				§944.35(3)(b)(4): Ignorance that inmate is an inmate or under the supervision by the Department of Corrections is a defense.
	§775.083 (Harrison's 1991 and Supp. 2000)		§944.35(4)(a): Any employee required to report pursuant to this section who knowingly or willfully fails to do so, or who knowingly or willfully prevents another person from doing so, commits a misdemeanor of the first degree.			§944.35(3)(b)(4): Marriage is a defense.
	§944.35(3)(b)(1) (Harrison's 1991 and Supp. 2000)		§944.35(4)(b): Any person who knowingly or willfully submits inaccurate, incomplete, or untruthful information with regard to reports required in their section commits a misdemeanor of the first degree.		§944.35(4)(c): Any person who knowingly or willfully coerces or threatens any other person with the intent to alter either testimony or a written report regarding the incident of sexual misconduct commits a felony in the third degree. As part of the correctional-officer training program, the Criminal Justice Standards and	§775.082(4)(a): Failure to report is a misdemeanor of the first degree. The penalty for a misdemeanor of the first degree shall be imprisonment for a term not to exceed 1 year and/or payment of a fine.
				§944.35(4)(c): Any person who knowingly or willfully coerces or threatens any other person with the intent to alter either testimony or a written report regarding the incident of sexual misconduct commits a felony in the third degree. As part of the correctional-officer training program, the Criminal Justice Standards and	§775.082(7): The penalty may also include dismissal from	

Fifty-State Survey of Criminal Laws Prohibiting Sexual Abuse of Prisoners (Continued)

State	Statute	Title	Coverage	Definitions/Notes	Penalties	Defenses
Florida (Continued)			Training Commission shall develop course materials for inclusion in the appropriate required course specifically designed to explain the parameters of this subsection and to teach sexual assault identification and prevention methods and techniques.	cause for dismissal of the violator from employment, and such person may not again be employed in any capacity in connection with the correctional system.	employment or any other civil penalty. §775.083(1)(c): The fine for a felony in the third degree is \$5,000. §775.083(1)(d): The fine for a misdemeanor in the first degree is \$1,000.	
Georgia	Ga. Code Ann. §16-6-5.1 (Lexis 1999)	§16-6-5.1 Sexual assault against persons in custody; sexual assault against person detained or patient in hospital or other institution; sexual assault by practitioner of psychotherapy against patient	§16-6-5.1(b): A probation or parole officer or other custodian or supervisor of another person referred to in this Code section commits sexual assault when he engages in sexual contact with another person who is a probationer or parolee under the supervision of said probation or parole officer or who is in the custody of law or who is enrolled in a school or who is detained in or is a patient in a hospital or other institution and such actor has supervisory or disciplinary authority over such other person. (c) A person commits sexual assault when such person has supervisory or disciplinary authority over another person and such person engages in sexual contact with that other person who is: (A) In the custody of law; or (B) Detained in or is a patient in a hospital or other institution.	§16-6-5.1(a): As used in this Code section, the term: (4) "Sexual Contact" means any contact for the purpose of sexual gratification of the actor with the intimate parts of a person not married to the actor.	§16-6-5.1(b): The penalty for sexual assault shall be imprisonment for a term not less than 1 year nor more than 3 years.	§16-6-5.1(c)(3): Consent of the victim is not a defense. The definition of "sexual contact" in §16-6-5.1(a)(4) excludes contact between married persons.

Fifty-State Survey of Criminal Laws Prohibiting Sexual Abuse of Prisoners (Continued)

State	Statute	Title	Coverage	Definitions/Notes	Penalties	Defenses
Hawaii	Haw. Rev. Stat. Ann. §707-731 (Michie 1999)	§707-731 Sexual assault in the second degree	§707-731: Sexual assault in the second degree: (1) A person commits the offense of sexual assault in the second degree if: (c) the person, while employed in a state correctional facility,		§707-731(2): Sexual assault in the second degree is a class B felony.	
	Haw. Rev. Stat. Ann. §707-732 (Michie 1999)	§707-732 Sexual assault in the third degree	or while employed as a law enforcement officer, knowingly subjects to sexual penetration an imprisoned person, a person confined to a detention facility, or a person in custody. §707-732: Sexual assault in the third degree: (1) A person commits the offense of sexual assault in the third degree if: (d) the person, while employed in a state correctional facility, knowingly subjects to sexual contact an imprisoned person or causes such person to have sexual contact with the actor.		§707-732(2): Sexual assault in the third degree is a class C felony. §706-660: (1) The penalty for a class B felony shall be imprisonment for a term of 10 years. The penalty for a class C felony shall be imprisonment for a term of 5 years. (2) The minimum length of imprisonment shall be determined by the paroling authority.	
Idaho	Idaho Code §18-6110 (Michie 1997 & 2000 Supp.)	§18-6110 Sexual contact with a prisoner	§18-6110: Sexual contact with a prisoner. It is a felony for any officer, employee or agent of a state, local or private correctional facility to have sexual contact with a prisoner, whether an in-state or out-of-state prisoner, housed in such facility.	§18-6110: For the purposes of this section "sexual contact" means sexual intercourse, genital-genital, oral-genital, anal-genital or oral-anal, between persons of the same or opposite sex.	§18-6110: The penalty for sexual contact with an inmate shall be imprisonment in the state prison for a term not to exceed life.	
Illinois	720 I.L.C.S. 5/11-9.2 (West 1993 and 2000 Supp.)	§11-9.2 Custodial Sexual Misconduct	§11-9.2 (a) A person commits the offense of custodial sexual misconduct when he or she is an employee of a penal system and engages in sexual	§11-9.2(g)(1): "Custody" means: (i) pretrial incarceration or detention; (ii)	§11-9.2(c): Custodial sexual misconduct is a Class 3 felony.	§11-9.2(e): Consent is not a defense to a criminal charge under this section.

Fifty-State Survey of Criminal Laws Prohibiting Sexual Abuse of Prisoners (Continued)

State	Statute	Title	Coverage	Definitions/Notes	Penalties	Defenses
Illinois (Continued)			conduct or sexual penetration with a person who is in the custody of that penal system.	incarceration or detention under a sentence or commitment to a State or local penal institution; (3) “Employee” means: (i) an employee of any governmental agency of this State or any county or municipal corporation that has by statute, ordinance, or court order the responsibility for the care, control, or supervision of pretrial or sentenced persons in a penal system; (4) “Sexual conduct” or “sexual penetration” means any act of sexual conduct or sexual penetration as defined in Section 12-12 of this Code.	A Class 3 felony carries a penalty of 2–5 years.	§11-9.2(f)(1): Marriage is a defense if the marriage occurred prior to the date of custody. §11-9.2(f)(2): Lack of knowledge that the individual with whom the employee was engaged in custodial sexual misconduct was a prisoner is a defense.
Indiana	Ind. Stat. Ann. §35-44-1-5 (Lexis 1998 and Supp. 2000)	§35-44-1-5 Sexual misconduct by a service provider with detainee	§35-44-1-5: Sec. 5(b) A service provider who knowingly or intentionally engages in sexual intercourse or deviate sexual conduct with a person who is subject to lawful detention commits sexual misconduct, a Class D felony.	§35-44-1-5: Sec. 5(a): As used in this section, “service provider” means a public servant or other person employed by a governmental entity or another person who provides goods or services to a person who is subject to lawful detention.	§35-44-1-5(b): Sexual misconduct is a class D felony. §35-50-2-7(a): The penalty for a Class D felony is imprisonment for 1½ years and may also include a fine not to exceed \$10,000.	§35-44-1-5(c): It is not a defense that an act described in subsection (b) was consensual. (d) Marriage is a defense.

Fifty-State Survey of Criminal Laws Prohibiting Sexual Abuse of Prisoners (Continued)

State	Statute	Title	Coverage	Definitions/Notes	Penalties	Defenses
Iowa	I.C.A. §709.16 (West 1993 and 2001 Supp.)	§709.16 Sexual misconduct with offenders and juveniles	§709.16: Sexual misconduct with offenders and juveniles: (1) An officer, employee, contractor, vendor, volunteer or agent of the department of corrections 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.	§709.16(2) For purposes of this subsection, a "juvenile placement facility" means (c) juvenile detention and juvenile shelter care homes.	§709.16 Sexual misconduct with offenders is an aggravated misdemeanor.	
	I.C.A. §903.1 (West 1993 and 2001 Supp.)					
Kansas	K.S.A. §21-3520 (West 2001)	§21-3520 Unlawful sexual relations	§21-3520: Unlawful sexual relations: (a) Unlawful sexual relations is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy with a person who is not married to the offender if: (1) The offender is an employee of the department of corrections or the employee of a contractor providing services in a correctional institution and the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who is an inmate; or (2) the offender is a parole officer and the inmate has been released on parole or conditional release or post-release supervision under direct supervision and control of		§21-3520(c) Unlawful sexual relations is a severity level 10 felony. §21-4704(a) The penalty for a severity level 10 person felony shall be imprisonment for a term between 8 and 13 months depending on offender's criminal history.	§21-3520(a): Marriage is a defense. §21-3520(a): Consent is not a defense.

Fifty-State Survey of Criminal Laws Prohibiting Sexual Abuse of Prisoners (Continued)

State	Statute	Title	Coverage	Definitions/Notes	Penalties	Defenses
Kansas (Continued)			the offender; or (3) the offender is a law enforcement officer, jail employee, or employee of a contractor and the person is 16 or older under lawful confinement; or (4) the offender is a law enforcement officer, employee of a juvenile detention facility, or employee of a contractor; or (5) the offender is an employee of the juvenile justice authority or the employee of a contractor; or (6) the offender is an employee of the juvenile justice authority or employee of a contractor, and the person is 16 or older and (A) on conditional release from a juvenile correctional facility under direct supervision and control of the offender or (B) placed in custody of juvenile justice authority under direct supervision and control of the offender.			
Kentucky	K.R.S. §510.120 (Lexis 2000) §532.090	§510.120 Sexual abuse in the second degree	§510.120: Sexual abuse in the second degree: (1) A person is guilty of sexual abuse in the second degree when: (c) Being an employee, contractor, vendor, or volunteer of the Department of Corrections, or a detention facility as defined in KRS 520.010, or of an entity under contract with either the department or a detention facility for the custody, supervision, evaluation, or treatment of offenders, he subjects an offender who is incarcerated, supervised, evaluated, or treated by the Department of Corrections, the detention facility, or the contracting entity, to sexual contact. In any prosecution under this paragraph, the defendant may prove in exculpation		§510.120(2): Sexual abuse in the second degree is a Class A misdemeanor. §532.090: Sentence of Imprisonment for misdemeanor: (1) For a Class A misdemeanor, the term shall not exceed 12 months.	§510.120: Marriage is a defense.

Fifty-State Survey of Criminal Laws Prohibiting Sexual Abuse of Prisoners (Continued)

State	Statute	Title	Coverage	Definitions/Notes	Penalties	Defenses
Kentucky (Continued)			that, at the time he engaged in the conduct constituting the offense, he and the offender were married to each other. (2) Sexual abuse in the second degree is a Class A misdemeanor.			
Louisiana	La. Rev. Stat. Ann. §134.1 (West 1986 and Supp. 2000)	§134.1 Malfeasance in office; sexual conduct prohibited with persons confined in correctional institutions.	§134.1: Malfeasance in office; sexual conduct prohibited with persons confined in correctional institutions. (A) It shall be unlawful and constitute malfeasance in office for any person who is a law enforcement officer, officer of the Department of Corrections, or employee of a prison, jail, or correctional institution, to engage in sexual intercourse or any other sexual conduct with a person confined in a prison, jail or correctional institution.		§134.1.B: Penalty for a violation of a provision of this section shall be imprisonment for a term not to exceed 10 years and/or a fine not to exceed \$10,000.	
Maine	Me. Rev. Stat. Ann. tit. 17-A, §253 (West 1983 and Supp. 1999)	§253 Gross sexual assault	§253(2): A person is guilty of gross sexual assault if that person engages in a sexual act with another person and: (E) The other person, not the actor's spouse, is in official custody as a probationer or a parolee, or is detained in a hospital, prison or other institution, and the actor has supervisory or disciplinary authority over the other person; (F) The other person, not the actor's spouse, is not yet 18 and is a student enrolled in a private or public elementary, secondary or special education school, facility or institution and the actor is a teacher, employee or other official having instructional, supervisory or disciplinary authority over the student; (G) The other person, not the actor's spouse, is not yet 18 and is a resident in or attending a children's	"Mental health therapy" means psychotherapy or other treatment intended to change behavior, emotions or attitudes, which therapy is based upon an intimate relationship involving trust and dependency with a substantial potential for vulnerability and abuse.	§253(5): Violation of subsection 2, paragraph E or H is a Class B crime. §253(5): Violation of subsection 2, paragraphs F, G, I or J is a Class C crime. §1252(2)(B): The penalty for a Class B crime shall be imprisonment for a term not to exceed 10 years. (C) The penalty for a Class C crime shall be imprisonment for a term not to exceed 5 years.	§253(2)(E): Marriage is a defense.

Fifty-State Survey of Criminal Laws Prohibiting Sexual Abuse of Prisoners (Continued)

State	Statute	Title	Coverage	Definitions/Notes	Penalties	Defenses
Maine (Continued)			home, day care facility, residential child care facility, drug treatment center, camp or similar school, facility or institution regularly providing care or services for children, and the actor is a teacher, employee or other person having instructional, supervisory or disciplinary authority over the person; (H) The other person is not yet 18 and the actor is a parent, stepparent, foster parent, guardian or other similar person responsible for the long-term care and welfare of that other person; (I) The actor is a psychiatrist, psychologist or licensed social worker or purports to be to the other person and the other person, not the actor's spouse, is a patient or client for mental health therapy of the actor; or (J) The actor owns, operates or is an employee of an organization, program or residence that is operated, administered, licensed or funded by the Dept. of Mental Health, Mental Retardation and Substance Abuse Services or the Dept. of Human Services and the other person, not the actor's spouse, receives services from the organization, program or residence and the organization, program or residence recognizes that person as a person with mental retardation.			
Maryland	Md. Code Ast. 27 §464G (Michie 1996 and Supp. 2000)	§464G Sexual acts with inmates prohibited	§464G: Sexual acts with inmates prohibited. (b) Prohibition of sexual acts by correctional employee or employee of Department of Juvenile Justice (1) A correctional employee may not engage in vaginal intercourse or a	§464G(a)(2)(i): A correctional employee is defined as a correctional officer, (ii) a head or deputy head of a	§464G(c): A person who violates this section is guilty of a misdemeanor and is subject to a fine of not	

Fifty-State Survey of Criminal Laws Prohibiting Sexual Abuse of Prisoners (Continued)

State	Statute	Title	Coverage	Definitions/Notes	Penalties	Defenses
Maryland (Continued)			sexual act with an inmate. (2) An employee of the Dept. of Juvenile Justice or of a licensee may not engage in vaginal intercourse or a sexual act with an individual confined in a child care institution licensed by the Dept. of Juvenile Justice, a detention center for juveniles, or a facility for juveniles listed in Article 83C, §2-117(a)(2) of the Code.	correctional facility or any person having an equivalent title who is appointed or employed to supervise a correctional facility. (3) an inmate is a person incarcerated in a state or local correctional facility or a community adult rehabilitation center.	more than \$3,000 and/or imprisonment for not more than 3 years.	
Massachusetts	M.G.L.A. 268 §21A (West 2000)	§21A Officer or other employee of penal or correctional institution; sexual relations with inmate; punishment	§21A: An officer or other person who is employed by or contracts with any penal or correctional institution in the commonwealth, and who, in the course of such employment or contract or as a result thereof, engages in sexual relations with an inmate confined therein, within or outside such institution, or an inmate who is otherwise under the direct custodial supervision and control of such officer or other person.	"Sexual relations" includes intentional, inappropriate contact of a sexual nature, including, but not limited to conduct prohibited by section 22 or 24 of chapter 265 or section 2, 3, 35 or 53A of chapter 272.	§21A: A person who violates this section shall be punished by imprisonment for not more than five years in a state prison or by a fine of \$10,000 or both.	Consent is not a defense.
Michigan	Michigan Statutes Ann. §750.520(c) (West 2001) 2000 Mi. ALS 227	§750.520(c) Second degree criminal sexual conduct	§750.520(c)(1) : A person is guilty of criminal sexual conduct in the second degree if he or she engages in sexual contact with another person and if any of the following circumstances exist: (g) The actor knows or has reason to know that the person is mentally incapable, mentally incapacitated, or physically helpless. (i) That the other person is under jurisdiction of the dept of corrections and the actor is an employee or a contractual employee of,		§750.520(c)(2): Criminal sexual conduct in the second degree is felony punishable by imprisonment for not more than 15 years.	

Fifty-State Survey of Criminal Laws Prohibiting Sexual Abuse of Prisoners (Continued)

State	Statute	Title	Coverage	Definitions/Notes	Penalties	Defenses
Michigan (Continued)			or volunteer with, the dept. of corrections who knows that the other person is under the jurisdiction of the dept. of corrections. (j) that other person is under the jurisdiction of the dept. of corrections and the actors is an employee or a contractual employee of, or a volunteer with, a private vendor that operates a youth correctional facility, who knows that the other person is under the jurisdiction of the department of corrections. (k) That other person is a prisoner or probationer under the jurisdiction of a county for purposes of imprisonment or a work program or other probationary program and the actor is an employee or a contractual employee of or a volunteer with the county who knows that the other person is under the county's jurisdiction.			
Minnesota	MN ST §609.345 MN LEGIS 210 §22 (2001) (West)	§609.344: Sex Crimes	§609.344 (1): A person who engages in sexual penetration with another person is guilty of criminal sexual conduct in the third degree if any of the following circumstances exist: (m) the actor is an employee, independent contractor, or volunteer of a state, county, city, or privately operated adult or juvenile correctional system, including but not limited to, jails, prisons, detention centers, or work release facilities, and the complainant is a resident of a facility or under supervision of the correctional system.		§609.344 (2): Penalty: A person convicted under subdivision 1 may be sentenced to imprisonment for not more than ten years or to a payment of a fine not more than \$20,000 or both.	§609.344 (1)(m): Consent by the complainant is not a defense.

Fifty-State Survey of Criminal Laws Prohibiting Sexual Abuse of Prisoners (Continued)

State	Statute	Title	Coverage	Definitions/Notes	Penalties	Defenses
Mississippi	Miss. Code Ann. §97-3-104 (Lexis Supp. August, 1999)	§97-3-104 Sex between law enforcement official and jailed inmate	§97-3-104: It shall be unlawful for any jailer, guard, employee of the Department of Corrections, sheriff, constable, marshal or other officer to engage in any sexual penetration as defined in Section 97-3-97, Mississippi code of 1972, with any offender, with or without the offender's consent, who is incarcerated at any jail or any state, county or private correctional facility.	§97-3-97: Sexual battery, definitions: (a) Sexual penetration includes cunnilingus, fellatio, buggery, or pederasty, any penetration of the genital or anal openings of another person's body by any part of a person's body, and insertion of any object into the genital or anal openings of another person's body.	§97-3-104 Section 1: Any person who violates this section shall be guilty of a felony and upon conviction shall be fined not more than \$5,000 and/or imprisoned for a term not to exceed 5 years.	§97-3-104: Consent is not a defense.
Missouri	Mo. Ann. Stat. §217.405 (West 1996 & Supp. 2000) Mo. Ann. Stat. §217.410 (West 1996 & Supp. 2000)	§217.405 Offender abuse; penalty; employees not to use physical force, exceptions §217.410 Abuse of offender, duty to report; confidentiality of report, immunity from liability, harassment prohibited	§217.405: Offender abuse, penalty employees not to use physical force, exceptions: (1) Except as provided in subsection 3 of this section, a person commits the crime of "offender abuse" if he knowingly injures the physical well-being of any offender under the jurisdiction of the department by beating, striking, wounding or by sexual contact with such person. (3) No employee of the department shall use any physical force on an offender except the employee shall have the right to use such physical force as is necessary to defend himself, suppress an individual or group revolt or insurrection, enforce discipline or to secure the offender. §217.410: Abuse of offender, duty to report, penalty — confidentiality of report, immunity from liability. (1) When	§217.410: Employees of the department are required to report reasonable belief of abuse.	§217.405.2: Offender abuse is a class C felony. §217.410.3: Any person required by subsection 1 of this section to report or cause a report to be made, but who fails to do so within a reasonable time after the act of abuse or neglect is guilty of a class A misdemeanor. §558.011.1(3): The penalty for a class C felony shall be imprisonment for a term not to exceed 7 years.	

Fifty-State Survey of Criminal Laws Prohibiting Sexual Abuse of Prisoners (Continued)

State	Statute	Title	Coverage	Definitions/Notes	Penalties	Defenses
Missouri (Continued)			any employee of the department has reasonable cause to believe that an offender in a correctional center operated or funded by the department has been abused, he shall immediately report it in writing to the director. . . . (5) The department shall begin its investigation within 24 hours of receiving a report. (10) No offender or employee shall be retaliated against for reporting or providing information.		§558.011.1(5): The penalty for a class A misdemeanor shall be imprisonment for a term not to exceed 1 year.	
Montana	Mont. Co. Ann. §45-5-502 (West 1999)	§45-5-502 Sexual assault	§45-5-502(5)(a): Any employee or volunteer at a correctional facility with supervisory or disciplinary authority over inmates who has sexual contact with an adult or juvenile inmate commits the offense of sexual assault.		§45-5-502(2): A person convicted of sexual assault shall be fined up to \$500 and/or imprisoned for up to 6 months.	Consent is not a defense. The act is part of a lawful search.
Nebraska	R.R.S. Neb. §28-322.02 (West 1995 & Supp. 1999)	§28-322.02 Sexual abuse of an inmate or parolee in the first degree	§28-322.02: Any person who subjects an inmate or parolee to sexual penetration is guilty of sexual abuse of an inmate or parolee in the first degree. Sexual abuse of an inmate or parolee in the first degree is a Class III felony.		§28-322.02: Sexual abuse of an inmate or parolee in the first degree is a Class III felony. §28-105: The sentence for a Class III felony is a term of 1 to 20 years imprisonment and/or a \$25,000 fine.	
Nevada	Nev. Rev. Stat. §212.187 (NRS 1997) (Effective until July, 2001)	§212.187 Voluntary sexual conduct between prisoner and another person	§212.187(1): A prisoner who is in lawful custody or confinement, other than in the custody of the division of parole and probation of the department of motor vehicles and public safety or residential confinement, and who voluntarily engages in sexual conduct	§212.187(2): As used in this section, sexual conduct includes acts of masturbation, homosexuality, sexual intercourse or physical	Violation of §212.187(2) is a category D felony. §193.130(2)(d): A category D felony is a felony for which a	§212.187(1): NOTE: Unlike many laws in other states, this law addresses sexual conduct between prisoners and gives a "duty defense" to correctional officers: A person who voluntarily engages

Fifty-State Survey of Criminal Laws Prohibiting Sexual Abuse of Prisoners (Continued)

State	Statute	Title	Coverage	Definitions/Notes	Penalties	Defenses
Nevada (Continued)			with another person is guilty of a category D felony. (2) A person who voluntarily engages in sexual conduct with a prisoner who is in lawful custody or confinement, other than residential confinement, is guilty of a category D felony.	contact with another person's clothed or unclothed genitals or pubic area to arouse, appeal to or gratify the sexual desires of a person.	court shall sentence a convicted person to imprisonment in the state prison for a minimum term not less than 1 year and a maximum term of not more than 4 years. In addition to any other penalty, the court may impose a fine of not more than \$5,000 unless a greater fine is authorized or required by statute.	in sexual conduct with a prisoner ... is guilty of a Class D felony. §212.187(3)(b): This law excludes acts performed to carry out the necessary duties of such a person.
New Hampshire	N.H. Rev. Stat. Ann. §§632-A:(2),(3) (Michie 1996 and Lexis Supp. 1999)	§632-A:2 Aggravated Felonious Sexual Assault §632-A:3 Felonious Sexual Assault	§632-A:2 A person is guilty of the felony of aggravated felonious sexual assault if he engages in sexual penetration with another person under any of the following circumstances: (n) When the actor is in a position of authority over the victim and uses this authority to coerce the victim to submit under any of the following circumstances: (1) When the actor has supervisory authority over the victim by virtue of the victim being incarcerated in a correctional institution or juvenile detention facility; (2) When a probation or parole officer has supervisory authority over the victim while the victim is on parole or probation or under juvenile probation. Consent of the victim ... (n) shall not be considered a defense.		§632-A:(3):: Violation of §632-A:2 is a class B felony. §625:9:: The penalty for a class B felony is imprisonment of 1–7 years and fines.	Consent is not a defense.

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State	Statute	Title	Coverage	Definitions/Notes	Penalties	Defenses
New Jersey	N.J. Stat. Ann. §2C: 14-2 (West 1995 and Supp. 2000)	§2C:14-2 Sexual assault	§2C:14-2.a: An actor is guilty of aggravated sexual assault if he commits an act of sexual penetration with another person under any one of the following circumstances: 2 — the person is at least 13 but less than 16 and (b) the actor has supervisory or disciplinary power over the person by virtue of the actor's legal, professional or occupational status. 14-2.c: An actor is guilty of sexual assault if he commits an act of sexual penetration with another person under any one of the following circumstances: (2) The victim is on probation or parole, or is detained in a hospital, prison or other institution and the actor has supervisory or disciplinary power over the victim by virtue of the actor's legal, professional or occupational status.		<p>§2C:14-2b: Aggravated sexual assault is a crime of the first degree.</p> <p>§2C:14-2c: Sexual assault is a crime of the second degree.</p> <p>§2C:43-6a(1): The penalty for a crime of the first degree shall be imprisonment for a term of between 10 and 20 years.</p> <p>§2C:43-6a(2): The penalty for a crime of the second degree shall be imprisonment for a term of between 5 and 10 years.</p>	
New Mexico	N.M. Stat. Ann. §30-9-11 (Michie 1978 and Supp. 1999)	§30-9-11 Criminal sexual penetration.	§30-9-11: Criminal sexual penetration. D. Criminal sexual penetration in the second degree consists of all criminal sexual penetration perpetrated: (1) on a child thirteen to eighteen years of age when the perpetrator is in a position of authority over the child and uses this authority to coerce the child to submit; (2) on an inmate confined in a correctional facility or jail when the perpetrator is in a position of authority over the inmate.		<p>§30-9-11.D: Criminal sexual penetration in the second degree is a second degree felony.</p> <p>§31-18-15.A.(3): The penalty for a second degree felony shall be imprisonment for a term of 9 years and E.(3): may include a fine of up to \$10,000.</p>	

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State	Statute	Title	Coverage	Definitions/Notes	Penalties	Defenses
New York	N.Y. Penal Law §130.05 (West 1998 and Supp. 2000)	§130.05 Sex offenses	§130.05: Whether or not specifically stated, it is an element of every offense defined in this article . . . that the sexual act was committed without consent of the victim: (3) A person is deemed incapable of consent when he or she is: (e) committed to the care and custody of the state department of correctional services or a hospital; or (f) committed to the care and custody of a local correctional facility.	§130.05(3)(e)(i): Covers employees of the state department of correctional services who perform professional duties in a state correctional facility consisting of providing custody, medical or mental health services, counseling services, educational programs or vocational training for inmates.	Violation of this section is either a class E felony or a class A misdemeanor, depending on the nature and severity of the assault.	§130.05(3)(e): Consent is not a defense. Marriage is a defense.
				§130.05(3)(ii),(iii): Also covers employees of the division of parole and office of mental health who perform professional duties and provide professional services in a state correctional facility.	§70.02(3)(d): For a class E felony, the term shall be fixed by the court, and shall range from 1½ to 4 years.	§70.15(1): A sentence of imprisonment for a class A misdemeanor shall . . . be fixed by the court, and shall not exceed one year.
				2001 NY S.B. 5313: pending legislation adding a new section 130.54 re: gang sexual assault.		
North Carolina	N.C. Gen. Stat. §14-27.7 (Lexis 1999)	§14-27.7 Intercourse and sexual offenses with certain victims; consent no defense.	§14-27.7(a): Intercourse and sexual offenses with certain victims; consent no defense: . . . in a person having custody of a victim of any age or a person who is an agent or employee of	CASE NOTE: Custodial sexual offense does not require act by force against the will of	§14-27.7: A violation of this section is a class E felony.	§14-27.7: Consent is not a defense to a charge under this section.

Fifty-State Survey of Criminal Laws Prohibiting Sexual Abuse of Prisoners (Continued)

State	Statute	Title	Coverage	Definitions/Notes	Penalties	Defenses
North Carolina (Continued)			any person, or institution, whether such institution is private, charitable, or governmental; having custody of a victim of any age engages in vaginal intercourse or a sexual act with such victim, the defendant is guilty of a Class E felony.	another person. It requires that the perpetrator's principal or employer, have custody of the victim. <i>State v. Raines</i> , 319 N.C. 358, 354 S.E. 2d 486 (1987)	§15A-1340.17: The penalty for a class E felony shall be a fine at the discretion of the court and imprisonment for a term between 20 and 59 years depending on the amount and kind of prior offenses.	
North Dakota	N.D. Cent. Code §12.1-20-06 (Michie 1997)	§12.1-20-06 Sexual abuse of wards	§12.1-20-06: A person who engages in a sexual act with another person or any person who causes another to engage in a sexual act is guilty of a class C felony if the other person is in official custody or detained in a hospital, prison, or other institution and the actor has supervisory or disciplinary authority over the other person.		§12.1-20-06: Sexual abuse of wards is a class C felony.	
	N.D. Cent. Code §12.1-20-07 (Michie 1997 and Supp. 1999)	§12.1-20-07 Sexual assault	§12.1-20-07(1): A person who knowingly has sexual contact with another, or who causes another person to have sexual contact with that person is guilty of an offense if: (d) The other person is in official custody or detained in a hospital, prison, or other institution and the actor has supervisory or disciplinary authority over that other person.		§12.1-20-07(2): Sexual assault is a class C felony. §12.1-32-01(5): The penalty for a class C felony shall be imprisonment for a maximum of 5 years and/or a fine of \$5,000.	
Ohio	Ohio Rev. Code Ann. §2907.03 (Page's 1998 and Supp. 1999)	§2907.03 Sexual battery	§2907.03: Sexual battery: (A) No person shall engage in sexual conduct with another, not the spouse of the offender, when any of the following apply: (6) The other person is in custody of law or a patient in a hospital or other institution, and the offender has		§2907.03(B): Sexual battery is a felony of the third degree. §2929.14(A)(3): The penalty for a felony	§2907.03(A): Marriage is not a defense.

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State	Statute	Title	Coverage	Definitions/Notes	Penalties	Defenses
Ohio (Continued)			supervisory or disciplinary authority over the other person.		of the third degree shall be imprisonment for a term of between 1 and 5 years.	
Oklahoma	Okla. Stat. Ann. tit. 21, §1111 (West 1983 and Supp. 2000)	§1111 Rape Defined §1111 Rape in the first degree — second degree	§1111: Rape defined: A. Rape is an act of sexual intercourse involving vaginal or anal penetration accomplished with a male or female who is not the spouse of the perpetrator and who may be of the same or the opposite sex as the perpetrator under any of the following circumstances: 7. Where the victim is under the legal custody of a state agency and engages in sexual intercourse with a state employee or employee of a contractor of the state that exercises authority over the victim.		§1114.B: Violation of this section is rape in the second degree. §1116 Rape in the second degree is a felony. And punishable with imprisonment for a term of 1–15 years.	§1111(A): Marriage is a defense.
Oregon	No Legislation ^a					
Pennsylvania	PA Title 18 §3124.2 (Supp. 2000)	§3124.2 Institutional sexual assault	§3124.2: (A) Except as provided in Sections 3121 (Relating to Rape), 3122.1 (Relating to Statutory Sexual Assault), 3123 (Relating to Involuntary Deviate Sexual Intercourse), 3124.1 (relating to Sexual Assault) and 3125 (Relating to Aggravated Indecent Assault), A person who is an employee or agent of the Department of Corrections or a county corrections authority, state or a county correctional authority, youth development center, youth forestry camp, State or county juvenile detention facility, other licensed residential facility serving children and youth, or mental health or mental	§3124.2:(b) As used in this section, the term "agent" means a person who is assigned to work in a State or county correctional or juvenile detention facility, a youth development center, youth forestry camp, other licensed residential facility serving children and youth or mental health or mental retardation	§106(B)(4): The penalty for a felony of the third degree shall be imprisonment for a term up to 7 years.	

Fifty-State Survey of Criminal Laws Prohibiting Sexual Abuse of Prisoners (Continued)

State	Statute	Title	Coverage	Definitions/Notes	Penalties	Defenses
Pennsylvania (Continued)			retardation facility or institution commits a felony of the third degree when that person engages in sexual intercourse, deviate sexual intercourse, or indecent contact with an inmate, detainee, patient or resident.	facility or institution who is employed by any state or county agency or any person employed by an entity providing contract services to the agency.		
Rhode Island	R.I. Gen. Laws §11-25-24 (Lexis and Supp. 1999) §11-37-1 (Lexis 1994)	§11-25-24 Correctional employees — sexual relations with inmates — felony	§11-25-24: Correctional employees — sexual relations with inmates — felony. Every employee of the department of corrections or the employee of a contractor who is under contract to provide services in a correctional institution who engages in sexual penetration as defined in §11-37-1 in chapter 37 of this title entitled "Sexual Assault" with an inmate confined therein or who is otherwise under the direct custodial supervision and control of said employee shall be guilty of a felony.	§11-37-1(8): "Sexual penetration" includes: sexual intercourse, cunnilingus, fellatio, and anal intercourse, or any other intrusion, however slight, by any part of a person's body or by any object into the genitals or anal openings of another person's body or the victim's own body upon the accused's instruction, but emission of semen is not required.	§11-25-24: Violation of this section is a felony, the penalty for which shall be imprisonment for not more than 5 years and/or a fine of not more than \$10,000.	
South Carolina	S.C. Code Ann. §44-23-1150 (1985 and Supp. 1999)	§44-23-1150 Illegal sexual intercourse: Sexual intercourse with a patient or trainee	§44-23-1150: (B) An actor is guilty of sexual misconduct when the actor, knowing that the victim is an inmate, offender, or patient voluntarily engages with the victim in an act of sexual intercourse, whether vaginal, oral or anal, or other sexual contact for the purpose of sexual gratification. §44-23-1150: (D): A person who knowingly or willfully submits inaccurate	§44-23-1150:(A)(1): 'Actor' means an employee, volunteer, agent, or contractor of a public entity that has statutory or contractual responsibility for inmates or patients confined in a prison, jail, or mental health	§44-23-1150:(c)(1): When the sexual misconduct involves an act of sexual intercourse, whether vaginal, oral or anal, the actor is guilty of the felony of sexual misconduct first degree and, upon conviction, must be imprisoned for	§44-23-1150:(A)(2): A victim is not capable of providing consent for sexual intercourse or sexual contact with an actor.

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State	Statute	Title	Coverage	Definitions/Notes	Penalties	Defenses
South Carolina (Continued)			<p>or untruthful information concerning sexual misconduct as defined in this section is guilty of the misdemeanor of falsely reporting sexual misconduct and, upon conviction, must be imprisoned for not more than one year. (E) A person who has knowledge of sexual misconduct who has received information in the person's professional capacity and fails to report it to the appropriate law enforcement authority, or a person who threatens or attempts to intimidate a witness is guilty of a misdemeanor and upon conviction, must be imprisoned for not more than six months, or both.</p>	<p>facility, or who is an offender on parole, probation, or other community supervision programs. (2) 'Victim' means an inmate or patient who is confined in or lawfully or unlawfully absent from a prison, jail, or mental health facility, or who is an offender on parole, probation, or other community supervision programs. A victim is not capable of providing consent for sexual intercourse or sexual contact with an actor.</p> <p>§44-23-1150(C)(2): The term sexual contact, as used in this subsection, refers to an intrusion of any part of a person's body or of any object into the 'intimate parts,' as defined in Section 16-3-651(d), of another person's body, or to the fondling of the intimate parts of another person's body, which is done in a manner not</p>	<p>not more than ten years. (2) When the sexual misconduct does not involve sexual intercourse but involves other sexual contact which is engaged in for sexual gratification, the actor is guilty of the felony of sexual misconduct second degree and, upon conviction, must be imprisoned for not more than five years.</p>	

Fifty-State Survey of Criminal Laws Prohibiting Sexual Abuse of Prisoners (Continued)

State	Statute	Title	Coverage	Definitions/Notes	Penalties	Defenses
South Carolina (Continued)				required by professional duties, but instead is done to demonstrate affection, sexually stimulate that person or another person, or harass that person.		
South Dakota	S.D. Codified Laws Ann. §24-1-26.1 (Lexis 1998 and Supp. 2000)	§24-1-26.1 Sexual acts prohibited between prison employees and prisoners	§24-1-26.1: Sexual acts prohibited between prison employees and prisoners. Any person, employed by the state, or employed within any state prison or other detention facility, who knowingly engages in an act of sexual penetration with another person who is in detention and under the custodial, supervisory, or disciplinary authority of the person so engaging, is guilty of a Class 6 felony.		§24-1-26.1: The violation of this section is a Class 6 felony. §22-6-1: The penalty for a Class 6 felony shall be imprisonment in the state penitentiary for a term of 2 years and/or a fine of \$2,000.	
Tennessee	§41-21-241 (Lexis 1998 and Supp. 2000)	§41-21-241 Sexual contact with inmates	§41-21-241(a): It is an offense for a law enforcement officer or a correctional officer to voluntarily engage in sexual contact or sexual penetration ... with an inmate who is in custody at a penal institution.	§39-16-601(2),(4): "Custody" means under arrest by a law enforcement officer or under restraint by a public servant pursuant to an order of a court; "Penal institution" ... includes any institution or facility used to house or detain a person.	§41-21-241(b): A violation of this section is a Class A misdemeanor. The authorized term of imprisonment and fine for a Class A misdemeanor are not greater than 11 months 29 days imprisonment or a fine not to exceed \$2,500 or both.	

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State	Statute	Title	Coverage	Definitions/Notes	Penalties	Defenses
Texas	Tex. Penal Code Ann. §39.04 (West 1994 and Supp. 2000)	§39.04 Violations of the Civil Rights of Person in Custody; Improper Sexual Activity with person in custody	§39.04(a): An official or employee of a correctional facility or a peace officer commits an offense if he intentionally: (2) engages in sexual contact, sexual intercourse or deviate sexual intercourse with an individual in custody.	§39.04(e): In this section: (1) "Custody" means the detention, arrest, or confinement of an adult offender or the detention or the commitment to a facility operated by or under contract with the TX Youth Commission of a juvenile offender. (2) "Sexual Intercourse" and "deviate intercourse" have the meanings assigned by Section 21.01.	§39.04(b): An offense under Sections (a)(2) is a state jail felony. §12.35: The penalty for a state jail felony is 180 days to 2 years in the state jail and/or a fine not to exceed \$10,000. §12.42: Additional penalties may apply depending on prior offense history.	
Utah	UT ST §76-5-412 2001 UT S.B. 4 (SN) (West 2001) This act takes effect on July 1, 2001.	§76-5-412 Custodial sexual relations: Custodial sexual misconduct: Definitions Penalties Defenses.	§76-5-412 (2) (a): An actor commits custodial sexual relations and (ii)(A) the actor knows that the individual is a person in custody; or (B) a reasonable person in the actor's position should have known under the circumstances that the individual was a person in custody. (3) Acts referred to in Subsection (2)(a) are: (a) having sexual intercourse with a person in custody; (b) engaging in any sexual act a person in custody involving the genitals of one person and the mouth or anus of another person, regardless of the sex of either participant; or (c) causing the penetration, however slight, of the	76-5-412(1): As used in this section: (b) "Person in custody" means a person, either an adult 18 years of age or older, or a minor younger than 18 years of age, who is: (i) a prisoner, as defined in Section 76-5-101, and includes a prisoner who is in the custody of the Department of Corrections created under Section , 64-13-2 but who is	§76-5-412(b): A violation of Subsection (4)(a) is a class A misdemeanor, but if the person in custody is younger than 18 years of age, a violation of Subsection (4)(a) is a third degree felony (b) A violation of Subsection (2)(a) is a third degree felony, but if the person in custody is younger than 18 years of age, a violation of Subsection (2)(a) is	§76-5-412 (7)(a): It is not a defense to the commission of the offense of custodial sexual relations under Subsection (2) or custodial sexual misconduct under Subsection (4), or an attempt to commit either of these offenses, if the person in custody is younger than 18 years of age, that the actor (i) mistakenly believed the person in custody to be 18 years of age or older at the time of the alleged offense; or (ii) was unaware of the true age of the person in custody. (b) Consent of the person in

Fifty-State Survey of Criminal Laws Prohibiting Sexual Abuse of Prisoners (Continued)

State	Statute	Title	Coverage	Definitions/Notes	Penalties	Defenses
Utah (Continued)			genital or anal opening of a person in custody by any foreign object, substance, instrument, or device, including a part of the human body, with the intent to cause substantial emotional or bodily pain to any person, regardless of the sex of any participant.	being housed at the Utah State Hospital established under Section 62A-12-201 or other medical facility; (ii) under supervision, such as at a work release facility or as a parolee or probationer; or (iii) under lawful or unlawful arrest, either with or without a warrant. (c) "Private provider or contractor" means any person or entity that contracts with the Department of Corrections or with a county jail to provide services or functions that are part of the operation of the Department of Corrections or a county jail under state or local law.	a second degree felony. §76-6-106: Fines of persons (1) A person convicted of an offense may be sentenced to pay a fine, not exceeding: (a) \$10,000 for a felony conviction of the first degree or second degree; (b) \$5,000 for a felony conviction of the third degree; (c) \$2,500 for a class A misdemeanor conviction.	custody is not a defense to any violation or attempted violation of Subsection (2) or (4). (8) It is a defense that the commission by the actor of an act under Subsection (2) or (4) is the result of compulsion, as the defense is described in Subsection 76-2-302(1).
Vermont	Bill introduced in Vermont [pending legislation]	§3256 Sexual Exploitation of an inmate	§3256: Sexual Exploitation of an Inmate (a) No correctional officer employee, contractor or other person providing services to offenders on behalf of the department of corrections or pursuant to a court order or in accordance with a condition of probation, supervised community sentence or furlough shall knowingly		(b) A person who violates subsection (a) of this section shall be imprisoned for not more than two years or fined not more than \$10,000.00, or both.	

Fifty-State Survey of Criminal Laws Prohibiting Sexual Abuse of Prisoners (Continued)

State	Statute	Title	Coverage	Definitions/Notes	Penalties	Defenses
Vermont (Continued)			engage in a sexual act with a person who is in the custody of or confinement by the department of corrections or who is being supervised by the department of corrections while on parole, probation, supervised community sentence or furlough.			
Virginia	Code of VA §18.2-64.2 (Code of VA 1950) (Michie 2000)	§18.2-64.2 Carnal knowledge of an inmate, parolee, probationer, or pretrial or post- trial offender; penalty	An accused shall be guilty of carnal knowledge of an inmate, parolee, detainee, probationer, or pretrial or post-trial offender if he or she is an employee or contractual employee of, or a volunteer with a state or local correctional facility or regional jail, the Department of Corrections, the Department of Juvenile Justice, a secure facility or detention home, a local community correction program or a pretrial program; is in a position of authority over the inmate, probationer, parolee, detainee or a pretrial or post-trial offender; knows that the inmate, probationer, parolee, detainee or pretrial or post-trial offender is under the jurisdiction of the state or local correctional facility, a regional jail, the Department of Corrections, the Department of Juvenile Justice, a secure facility or detention home, a local community corrections program, or a pretrial program; and carnally knows without the use of force, threat or intimidations (i) an inmate who has been committed to jail or convicted and sentenced to confinement in a state or local correctional facility or regional jail or (ii) a probationer, parolee, detainee or		Such offense is a Class 6 felony. §18.2-10(f): The penalty for a Class 6 felony is imprisonment for 1–5 years if tried by a jury or up to 12 months if tried by the court and/or a fine not to exceed \$2,500.	

Fifty-State Survey of Criminal Laws Prohibiting Sexual Abuse of Prisoners (Continued)

State	Statute	Title	Coverage	Definitions/Notes	Penalties	Defenses
Virginia (Continued)			a pretrial or post-trial offender under the jurisdiction of the department of corrections, the Department of Juvenile Justice, a secure facility or detention home, a local community corrections program, a pretrial program, a local or regional jail for the purposes of imprisonment, a work program or any other parole/probationary or pretrial program.			
Washington	Rev. Code of WA Ann. §9A.44.160, 170 (West 2000 Supp.)		<p>§9A.44.160: A person is guilty of custodial sexual misconduct in the first degree when the person has sexual intercourse with another person; (a)(i) Who is a resident of a state, county, or city adult or juvenile correctional facility, including but not limited to jails, prisons, detention centers, or work release facilities, or (ii) who is under correctional supervision; and the perpetrator is an employee or contract personnel of a correctional agency and the perpetrator has, or the resident reasonably believes the perpetrator has, the ability to influence the terms, conditions, length or fact of incarceration or correctional supervision; or (b) who is being detained, under arrest or in the custody of a law enforcement officer and the perpetrator is a law enforcement officer.</p> <p>§9A.44.170: A person is guilty of custodial misconduct in the second degree when the person has sexual contact with another person [when in same circumstances as above].</p>		<p>§9A.44(3): Custodial sexual misconduct in the first degree is a class C felony.</p> <p>§9A.20.020(1)(c): The penalty for a class C felony is imprisonment for no more than 5 years and/or a fine of no more than \$20,000.</p> <p>§9A.44(3): Custodial sexual misconduct in the second degree is a gross misdemeanor.</p> <p>§9A.20.020(2): The penalty for a gross misdemeanor is imprisonment for up to 1 year and/or a fine of up to \$5,000.</p>	<p>§9A.44(2): Consent of the victim is not a defense.</p>

Fifty-State Survey of Criminal Laws Prohibiting Sexual Abuse of Prisoners (Continued)

State	Statute	Title	Coverage	Definitions/Notes	Penalties	Defenses
West Virginia	WV Stat. Ann. §61-8B-10 (Lexis 2000 Supp.)	§61-8B-10 Imposition of sexual intercourse or sexual intrusion on incarcerated persons; penalties	§61-8B-10(a): Any person, employed by the division of corrections, working at a correctional facility managed by the commissioner of corrections pursuant to contract or as an employee of a state agency, working at a correctional facility managed by the division of juvenile services pursuant to contract or as an employee of a state agency, employed by a county jail or by the regional jail and correctional facility authority or a county jail who engages in sexual intercourse or sexual intrusion with a person who is incarcerated is guilty of a felony.		§61-8B-10(a): Upon conviction thereof, the employee shall be sentenced to one to five years or fined up to \$5,000.	
			§61-8B-10(a): Any person employed by the division of corrections as a parole officer or as a probation officer who engages in sexual intercourse or sexual intrusion with someone he/she is charged with supervising is guilty of a felony.		§61-8B-10(b): Upon conviction thereof, the employee shall be sentenced to one to five years or fined up to \$5,000.	
Wisconsin	Wis. Stat. Ann. §940.29 (1999)	§940.29 Abuse of residents of penal facilities	§940.29: Any person in charge of or employed in a penal or correctional institution or other place of confinement who abuses, neglects or ill-treats any person confined in or a resident of any such institution or place or who knowingly permits another person to do so is guilty of a Class E felony.		§940.29: The abuse of residents of penal facilities is a Class E felony. §939.50(3)(e): The penalty for a Class E felony shall be imprisonment for a term not to exceed 5 years and/or a fine not to exceed \$10,000.	

Fifty-State Survey of Criminal Laws Prohibiting Sexual Abuse of Prisoners (Continued)

State	Statute	Title	Coverage	Definitions/Notes	Penalties	Defenses	
Wyoming	Wyo. Stat. §6-2-303 (Supp. 1999)	§6-2-303 Sexual assault in the second degree.	§6-2-303: Sexual Assault in the second degree. (a) Any actor who inflicts sexual intrusion on a victim commits sexual assault in the second degree if, under circumstances not constituting assault in the first degree: (vi) the actor is in a position of authority over the victim and uses this position of authority to cause the victim to submit.	§6-2-301(a)(vi): Position of authority means that position occupied by a parent, guardian, relative, household member, teacher, employer, custodian or any other person who, by reason of his position, is able to exercise significant influence over a person. <i>Scadden v. Wyoming</i> , 732 P.2d 1036, 1039 (Wyo. 1987). In <i>Scadden</i> , the Wyoming Supreme Court stated that “a jailer . . . [has] power over his prisoner, and therefore, the jailer is in a position of authority over the prisoner.” Id at 1042.	§6-2-306(a)(ii): Sexual assault in the 2nd degree is a felony punishable by imprisonment for not more than 20 years.		
	Wyo. Stat. §6-2-306 (1988 and Supp. 2000)						
United States	18 U.S.C. §2241 (West, Westlaw through P.L. 105-220, approved 8/7/98)	§2241 Aggravated sexual abuse	Specifically covers conduct in federal prisons.		For offenders with 0 to 1 prior offenses:	§2243: Sexual abuse of a minor or ward.	
	18 U.S.C. §2242 (West, Westlaw through P.L. 105-220, approved 8/7/98)	§2242 Sexual abuse	§2241: (a) Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, knowingly causes another person to engage in a sexual act (1) by using force, (2) threats, (b)(1)rendering the other unconscious, or (2)administering drugs. (c) With children. Whoever, in the special maritime and territorial jurisdiction of the U.S. or in a Federal prison, knowingly engages in a sexual		U.S.S.G. §2A3.1(b)(1) The base penalty for aggravated sexual abuse shall be imprisonment for a term of 108–135 months.	(c)(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.	
	18 U.S.C. §2243 (West, Westlaw through P.L. 105-220, approved 8/7/98)	§2243 Sexual abuse of a minor or ward					
	18 U.S.C. §2244 (West, Westlaw)	§2244 Abusive sexual contact				U.S.S.G. §2A3.1(a) The base penalty for sexual abuse shall be imprisonment for a term	

Fifty-State Survey of Criminal Laws Prohibiting Sexual Abuse of Prisoners (Continued)

State	Statute	Title	Coverage	Definitions/Notes	Penalties	Defenses
United States (Continued)	through P.L. 105-220, approved 8/7/98)	§2246 Definitions for chapter	act under the circumstances described in subsections (a) and (b) with another person who has attained the age of 12 but not 16 (and is at least 4 years younger than the person so engaging), or attempts to do so, shall be fined under this title, imprisoned for any term of years or life or both.		of 70–87 months.	
	18 U.S.C. §2244 (West, Westlaw through P.L. 105-220, approved 8/7/98)				U.S.S.G. §2A3.2(a) The base penalty for sexual abuse of a minor shall be imprisonment for a term of 18–24 months.	
	18 U.S.C. §2246 (West, Westlaw through P.L. 105-220, approved 8/7/98)				§2242: Covers engaging in a sexual act in federal prison with someone who is incapable of appraising the nature of the conduct or is physically incapable of declining participation. U.S.S.G. §2A3.3(a): The base penalty for sexual abuse of a ward shall be imprisonment for a term of 4–10 months.	
	§2243: Sexual abuse of a minor or ward. (b) 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 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 one year, or both. U.S.S.G. §2A3.4(a)(3): The base penalty for abusive sexual contact shall be imprisonment for a term of 6–27 months depending on the circumstances.					
			§2244: Abusive sexual conduct is sexual conduct in circumstances where sexual acts are punished under this chapter, if the sexual contact, had it been a sexual act, would have violated §2241, §2242, or §2243.			

^aIn states that have no specific legislation criminalizing the sexual abuse of prisoners, correctional officers may be prosecuted under the state's existing sexual assault and rape statutes. Under these laws, consent is a defense to criminal liability. However, many experts believe and courts have decided that the inherent disparity in power between prisoners and correctional employees renders valid consent impossible in the prison context. Also experts believe that from a management and public policy perspective, sanctioning consensual sex between correctional employees and prisoners severely compromises legitimate correctional goals such as prison security, inmate management and rehabilitation.

An End to Silence:

Prisoners' Handbook on Identifying
and Addressing Sexual Misconduct
Second Edition

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Sexual harassment and sexual misconduct against incarcerated persons violates either the law or corrections policy in all 50 states. Incarcerated men and women who experience verbal or physical harassment, assault or misconduct have the right to remedy the abuse. Corrections institutions should also remedy this conduct because sexual misconduct threatens both personal and institutional security. This publication provides critical information and strategies to address this problem. This publication is designed for incarcerated peoples and others concerned about sexual misconduct in correctional institutions.

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