Statutory Compilation: State Child Physical Abuse Laws & Penalties

Novemeber 2014

This compilation includes U.S. state, federal, and territorial statutes regarding criminal child physical abuse and the corresponding penalties. Please note that separate statutuory compilations regarding child endangerment, child abandoment, child toruture, child sexual abuse, child fatalities, child neglect, and strangulation are located on the NDAA website: http://www.ndaa.org/ncpca_state_statutes.html.

For further assistance, please consult the National District Attorneys Association's National Center for Prosecution of Child Abuse by calling (703) 549-9222 or by submitting a technical assistance request at http://www.ndaa.org/ta_form.php.

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ALABAMA

Ala. Code § 26-15-3.1 (2014). Aggravated child abuse.

(a) A responsible person, as defined in Section 26-15-2, commits the crime of aggravated child abuse if he or she does any of the following:

(1) He or she violates the provisions of Section 26-15-3 by acts taking place on more than one occasion.

(2) He or she violates Section 26-15-3 and in so doing also violates a court order concerning the parties or injunction.

(3) He or she violates the provisions of Section 26-15-3 which causes serious physical injury, as defined in Section 13A-1-2, to the child.

(b) The crime of aggravated child abuse is a Class B felony.

CREDIT(S)
(Acts 1977, No. 502, p. 658, § 2; Act 2006-204, p. 302, § 1.)
Current through Act 2014-457 of the 2014 Regular Session.

Ala. Code § 26-15-2 (2014). Definitions.

As used in this chapter, the following terms shall have the following meanings:

(1) Chemical substance. A substance intended to be used as a precursor in the manufacture of a controlled substance, or any other chemical intended to be used in the manufacture of a controlled substance. Intent under this subdivision may be demonstrated by the substance's use, quantity, manner of storage, or proximity to other precursors, or to manufacturing equipment.

(2) Controlled substance. Controlled substance as defined in subdivision (4) of Section 20-2-2.

(3) Drug paraphernalia. Drug paraphernalia as defined in Section 13A-12-260.

(4) Responsible person. A child's natural parent, stepparent, adoptive parent, legal guardian, custodian, or any other person who has the permanent or temporary care or custody or responsibility for the supervision of a child.

(5) Serious physical injury. Serious physical injury as defined in Section 13A-1-2.[1]

CREDIT(S)
(Acts 1977, No. 502, p. 658, § 2; Act 2006-204, p. 302, § 1.)
Current through Act 2014-457 of the 2014 Regular Session.

Ala. Code § 26-15-3 (2014). Torture, willful abuse, etc., of child under 18 years of age by responsible person.

A responsible person, as defined in Section 26-15-2, who shall torture, willfully abuse, cruelly beat, or otherwise willfully maltreat any child under the age of 18 years shall, on conviction, be guilty of a Class C felony.

CREDIT(S)
(Act 2001-371, p. 477, § 1; Act 2002-403, p. 1015, § 1.)
Current through Act 2014-457 of the 2014 Regular Session.

[1] (14) Serious physical injury. Physical injury which creates a substantial risk of death, or which causes serious and protracted disfigurement, protracted impairment of health, or protracted loss or impairment of the function of any bodily organ.

Ala. Code § 13A-5-6. Sentences of imprisonment for felonies.

(a) Sentences for felonies shall be for a definite term of imprisonment, which imprisonment includes hard labor, within the following limitations:

(1) For a Class A felony, for life or not more than 99 years or less than 10 years.

(2) For a Class B felony, not more than 20 years or less than 2 years.

(3) For a Class C felony, not more than 10 years or less than 1 year and 1 day.

(4) For a Class A felony in which a firearm or deadly weapon was used or attempted to be used in the commission of the felony, or a Class A felony criminal sex offense involving a child as defined in Section 15-20-21(5), not less than 20 years.

(5) For a Class B or C felony in which a firearm or deadly weapon was used or attempted to be used in the commission of the felony, or a Class B felony criminal sex offense involving a child as defined in Section 15-20-21(5), not less than 10 years.

(b) The actual time of release within the limitations established by subsection (a) of this section shall be determined under procedures established elsewhere by law.

(c) In addition to any penalties heretofore or hereafter provided by law, in all cases where an offender is designated as a sexually violent predator pursuant to Section 15-20-25.3, or where an offender is convicted of a Class A felony criminal sex offense involving a child as defined in Section 15-20-21(5), and is sentenced to a county jail or the Alabama Department of Corrections, the sentencing judge shall impose an additional penalty of not less than 10 years of post-release supervision to be served upon the defendant's release from incarceration.

(d) In addition to any penalties heretofore or hereafter provided by law, in all cases where an offender is convicted of a sex offense pursuant to Section 13A-6-61, 13A-6-63, or 13A-6-65.1, when the defendant was 21 years of age or older and the victim was six years of age or less at the time the offense was committed, the defendant shall be sentenced to life imprisonment without the possibility of parole.

CREDIT(S)
(Acts 1977, No. 607, p. 812, § 1225; Acts 1981, No. 81-840, p. 1505; Act 2005-301, 1st Sp. Sess. p. 571, § 1; Act 2011-555, p. 1037, § 1.)
Current through Act 2014-457 of the 2014 Regular Session.

ALASKA

Alaska Stat. §11.41.220(a)(1) & (3) (2014). Assault in the third degree

(a) A person commits the crime of assault in the third degree if that person

(1) recklessly

(A) places another person in fear of imminent serious physical injury by means of a dangerous instrument;

(B) causes physical injury to another person by means of a dangerous instrument; or

(C) while being 18 years of age or older,

(i) causes physical injury to a child under 12 years of age and the injury would cause a reasonable caregiver to seek medical attention from a health care professional in the form of diagnosis or treatment;

(ii) causes physical injury to a child under 12 years of age on more than one occasion;

(2) with intent to place another person in fear of death or serious physical injury to the person or the person's family member, makes repeated threats to cause death or serious physical injury to another person;

(3) while being 18 years of age or older, knowingly causes physical injury to a child under 16 years of age but at least 12 years of age and the injury reasonably requires medical treatment;

(4) with criminal negligence, causes serious physical injury under AS 11.81.900(b)(56)(B) to another person by means of a dangerous instrument; or

(5) commits a crime that is a violation of AS 11.41.230(a)(1) or (2) and, within the preceding 10 years, the person was convicted on two or more separate occasions of crimes under

(A) AS 11.41.100--11.41.170;

(B) AS 11.41.200--11.41.220, 11.41.230(a)(1) or (2), 11.41.280, or 11.41.282;

(C) AS 11.41.260 or 11.41.270;

(D) AS 11.41.410, 11.41.420, or 11.41.425(a)(1); or

(E) a law or ordinance of this or another jurisdiction with elements similar to those of an offense described in (A)--(D) of this paragraph.

(b) In a prosecution under (a)(3) of this section, it is an affirmative defense that, at the time of the alleged offense, the defendant reasonably believed the victim to be 16 years of age or older, unless the victim was under 13 years of age at the time of the alleged offense.

(c) In (a)(5) of this section, when considering whether a conviction has occurred in the preceding 10 years, the date that sentence is imposed is the date that a previous conviction has occurred.

(d) In this section, "the person's family member" means

(1) a spouse, child, grandchild, parent, grandparent, sibling, uncle, aunt, nephew, or niece, of the person, whether related by blood, marriage, or adoption;

(2) a person who lives or has lived, in a spousal relationship with the person;

(3) a person who lives in the same household as the person; or

(4) a person who is a former spouse of the person or is or has been in a dating, courtship, or engagement relationship with the person.

(e) Assault in the third degree is a class C felony.

CREDIT(S)

SLA 1980, ch. 102, § 5; SLA 1982, ch. 143, § 4; SLA 1992, ch. 79, § 4; SLA 1993, ch. 40, §§ 2, 3; SLA 1995, ch. 54, §§ 1, 2; SLA 2004, ch. 124, § 13; SLA 2005, ch. 69, § 1. Amended by SLA 2008, ch. 96, §§ 2, 3, eff. Sept. 14, 2008; SLA 2012, ch. 70, § 1, eff. July 1, 2012.Current through Ch. 116 (End) of the 2014 2nd Reg. Sess. of the 28th Legislature

Alaska Stat. § 12.55.125 (2014). Sentences of Imprisonment for Felonies

(a) A defendant convicted of murder in the first degree or murder of an unborn child under AS 11.41.150(a)(1) shall be sentenced to a definite term of imprisonment of at least 20 years but not more than 99 years. A defendant convicted of murder in the first degree shall be sentenced to a mandatory term of imprisonment of 99 years when

(1) the defendant is convicted of the murder of a uniformed or otherwise clearly identified peace officer, firefighter, or correctional employee who was engaged in the performance of official duties at the time of the murder;

(2) the defendant has been previously convicted of

(A) murder in the first degree under AS 11.41.100 or former AS 11.15.010 or 11.15.020;

(B) murder in the second degree under AS 11.41.110 or former AS 11.15.030; or

(C) homicide under the laws of another jurisdiction when the offense of which the defendant was convicted contains elements similar to first degree murder under AS 11.41.100 or second degree murder under AS 11.41.110;

(3) the defendant subjected the murder victim to substantial physical torture;

(4) the defendant is convicted of the murder of and personally caused the death of a person, other than a participant, during a robbery; or

(5) the defendant is a peace officer who used the officer's authority as a peace officer to facilitate the murder.

(b) A defendant convicted of attempted murder in the first degree, solicitation to commit murder in the first degree, conspiracy to commit murder in the first degree, kidnapping, or misconduct involving a controlled substance in the first degree shall be sentenced to a definite term of imprisonment of at least five years but not more than 99 years. A defendant convicted of murder in the second degree or murder of an unborn child under AS 11.41.150(a)(2)--(4) shall be sentenced to a definite term of imprisonment of at least 10 years but not more than 99 years. A defendant convicted of murder in the second degree shall be sentenced to a definite term of imprisonment of at least 20 years but not more than 99 years when the defendant is convicted of the murder of a child under 16 years of age and the court finds by clear and convincing evidence that the defendant (1) was a natural parent, a stepparent, an adoptive parent, a legal guardian, or a person occupying a position of authority in relation to the child; or (2) caused the death of the child by committing a crime against a person under AS 11.41.200--11.41.530. In this subsection, “legal guardian” and “position of authority” have the meanings given in AS 11.41.470.

(c) Except as provided in (i) of this section, a defendant convicted of a class A felony may be sentenced to a definite term of imprisonment of not more than 20 years, and shall be sentenced to a definite term within the following presumptive ranges, subject to adjustment as provided in AS 12.55.155--12.55.175:

(1) if the offense is a first felony conviction and does not involve circumstances described in (2) of this subsection, five to eight years;

(2) if the offense is a first felony conviction

(A) and the defendant possessed a firearm, used a dangerous instrument, or caused serious physical injury or death during the commission of the offense, or knowingly directed the conduct constituting the offense at a uniformed or otherwise clearly identified peace officer, firefighter, correctional employee, emergency medical technician, paramedic, ambulance attendant, or other emergency responder who was engaged in the performance of official duties at the time of the offense, seven to 11 years;

(B) and the conviction is for manufacturing related to methamphetamine under AS 11.71.020(a)(2)(A) or (B), seven to 11 years, if

(i) the manufacturing occurred in a building with reckless disregard that the building was used as a permanent or temporary home or place of lodging for one or more children under 18 years of age or the building was a place frequented by children; or

(ii) in the course of manufacturing or in preparation for manufacturing, the defendant obtained the assistance of one or more children under 18 years of age or one or more children were present;

(3) if the offense is a second felony conviction, 10 to 14 years;

(4) if the offense is a third felony conviction and the defendant is not subject to sentencing under (l) of this section, 15 to 20 years.

(d) Except as provided in (i) of this section, a defendant convicted of a class B felony may be sentenced to a definite term of imprisonment of not more than 10 years, and shall be sentenced to a definite term within the following presumptive ranges, subject to adjustment as provided in AS 12.55.155--12.55.175:

(1) if the offense is a first felony conviction and does not involve circumstances described in (2) of this subsection, one to three years; a defendant sentenced under this paragraph may, if the court finds it appropriate, be granted a suspended imposition of sentence under AS 12.55.085 if, as a condition of probation under AS 12.55.086, the defendant is required to serve an active term of imprisonment within the range specified in this paragraph, unless the court finds that a mitigation factor under AS 12.55.155 applies;

(2) if the offense is a first felony conviction,

(A) the defendant violated AS 11.41.130, and the victim was a child under 16 years of age, two to four years;

(B) two to four years if the conviction is for an attempt, solicitation, or conspiracy to manufacture related to methamphetamine under AS 11.31 and AS 11.71.020(a)(2)(A) or (B), and

(i) the attempted manufacturing occurred, or the solicited or conspired offense was to have occurred, in a building with reckless disregard that the building was used as a permanent or temporary home or place of lodging for one or more children under 18 years of age or the building was a place frequented by children; or

(ii) in the course of an attempt to manufacture, the defendant obtained the assistance of one or more children under 18 years of age or one or more children were present;

(3) if the offense is a second felony conviction, four to seven years;

(4) if the offense is a third felony conviction, six to 10 years.

(e) Except as provided in (i) of this section, a defendant convicted of a class C felony may be sentenced to a definite term of imprisonment of not more than five years, and shall be sentenced to a definite term within the following presumptive ranges, subject to adjustment as provided in AS 12.55.155--12.55.175:

(1) if the offense is a first felony conviction and does not involve circumstances described in (4) of this subsection, zero to two years; a defendant sentenced under this paragraph may, if the court finds it appropriate, be granted a suspended imposition of sentence under AS 12.55.085, and the court may, as a condition of probation under AS 12.55.086, require the defendant to serve an active term of imprisonment within the range specified in this paragraph;

(2) if the offense is a second felony conviction, two to four years;

(3) if the offense is a third felony conviction, three to five years;

(4) if the offense is a first felony conviction, and the defendant violated AS 08.54.720(a)(15), one to two years.

(f) If a defendant is sentenced under (a) or (b) of this section,

(1) imprisonment for the prescribed minimum or mandatory term may not be suspended under AS 12.55.080;

(2) imposition of sentence may not be suspended under AS 12.55.085;

(3) imprisonment for the prescribed minimum or mandatory term may not be reduced, except as provided in (j) of this section.

(g) If a defendant is sentenced under (c), (d), (e), or (i) of this section, except to the extent permitted under AS 12.55.155--12.55.175,

(1) imprisonment may not be suspended under AS 12.55.080 below the low end of the presumptive range;

(2) and except as provided in (d)(1) or (e)(1) of this section, imposition of sentence may not be suspended under AS 12.55.085;

(3) terms of imprisonment may not be otherwise reduced.

(h) Nothing in this section or AS 12.55.135 limits the discretion of the sentencing judge except as specifically provided. Nothing in (a) of this section limits the court's discretion to impose a sentence of 99 years imprisonment, or to limit parole eligibility, for a person convicted of murder in the first or second degree in circumstances other than those enumerated in (a).

(i) A defendant convicted of

(1) sexual assault in the first degree, sexual abuse of a minor in the first degree, or sex trafficking in the first degree under AS 11.66.110(a)(2) may be sentenced to a definite term of imprisonment of not more than 99 years and shall be sentenced to a definite term within the following presumptive ranges, subject to adjustment as provided in AS 12.55.155--12.55.175:

(A) if the offense is a first felony conviction, the offense does not involve circumstances described in (B) of this paragraph, and the victim was

(i) less than 13 years of age, 25 to 35 years;

(ii) 13 years of age or older, 20 to 30 years;

(B) if the offense is a first felony conviction and the defendant possessed a firearm, used a dangerous instrument, or caused serious physical injury during the commission of the offense, 25 to 35 years;

(C) if the offense is a second felony conviction and does not involve circumstances described in (D) of this paragraph, 30 to 40 years;

(D) if the offense is a second felony conviction and the defendant has a prior conviction for a sexual felony, 35 to 45 years;

(E) if the offense is a third felony conviction and the defendant is not subject to sentencing under (F) of this paragraph or (l) of this section, 40 to 60 years;

(F) if the offense is a third felony conviction, the defendant is not subject to sentencing under (l) of this section, and the defendant has two prior convictions for sexual felonies, 99 years;

(2) unlawful exploitation of a minor under AS 11.41.455(c)(2), online enticement of a minor under AS 11.41.452(e), or attempt, conspiracy, or solicitation to commit sexual assault in the first degree, sexual abuse of a minor in the first degree, or sex trafficking in the first degree under AS 11.66.110(a)(2) may be sentenced to a definite term of imprisonment of not more than 99 years and shall be sentenced to a definite term within the following presumptive ranges, subject to adjustment as provided in AS 12.55.155 - 12.55.175:

(A) if the offense is a first felony conviction, the offense does not involve circumstances described in (B) of this paragraph, and the victim was

(i) under 13 years of age, 20 to 30 years;

(ii) 13 years of age or older, 15 to 30 years;

(B) if the offense is a first felony conviction and the defendant possessed a firearm, used a dangerous instrument, or caused serious physical injury during the commission of the offense, 25 to 35 years;

(C) if the offense is a second felony conviction and does not involve circumstances described in (D) of this paragraph, 25 to 35 years;

(D) if the offense is a second felony conviction and the defendant has a prior conviction for a sexual felony, 30 to 40 years;

(E) if the offense is a third felony conviction, the offense does not involve circumstances described in (F) of this paragraph, and the defendant is not subject to sentencing under (l) of this section, 35 to 50 years;

(F) if the offense is a third felony conviction, the defendant is not subject to sentencing under (l) of this section, and the defendant has two prior convictions for sexual felonies, 99 years;

(3) sexual assault in the second degree, sexual abuse of a minor in the second degree, online enticement of a minor under AS 11.41.452(d), unlawful exploitation of a minor under AS 11.41.455(c)(1), or distribution of child pornography under AS 11.61.125(e)(2)

may be sentenced to a definite term of imprisonment of not more than 99 years and shall be sentenced to a definite term within the following presumptive ranges, subject to adjustment as provided in AS 12.55.155--12.55.175:

(A) if the offense is a first felony conviction, five to 15 years;

(B) if the offense is a second felony conviction and does not involve circumstances described in (C) of this paragraph, 10 to 25 years;

(C) if the offense is a second felony conviction and the defendant has a prior conviction for a sexual felony, 15 to 30 years;

(D) if the offense is a third felony conviction and does not involve circumstances described in (E) of this paragraph, 20 to 35 years;

(E) if the offense is a third felony conviction and the defendant has two prior convictions for sexual felonies, 99 years;

(4) sexual assault in the third degree, incest, indecent exposure in the first degree, possession of child pornography, distribution of child pornography under AS 11.61.125(e)(1), or attempt, conspiracy, or solicitation to commit sexual assault in the second degree, sexual abuse of a minor in the second degree, unlawful exploitation of a minor, or distribution of child pornography, may be sentenced to a definite term of imprisonment of not more than 99 years and shall be sentenced to a definite term within the following presumptive ranges, subject to adjustment as provided in AS 12.55.155--12.55.175:

(A) if the offense is a first felony conviction, two to 12 years;

(B) if the offense is a second felony conviction and does not involve circumstances described in (C) of this paragraph, eight to 15 years;

(C) if the offense is a second felony conviction and the defendant has a prior conviction for a sexual felony, 12 to 20 years;

(D) if the offense is a third felony conviction and does not involve circumstances described in (E) of this paragraph, 15 to 25 years;

(E) if the offense is a third felony conviction and the defendant has two prior convictions for sexual felonies, 99 years.

(j) A defendant sentenced to a (1) mandatory term of imprisonment of 99 years under (a) of this section may apply once for a modification or reduction of sentence under the Alaska Rules of Criminal Procedure after serving one-half of the mandatory term without

consideration of good time earned under AS 33.20.010, or (2) definite term of imprisonment under (l) of this section may apply once for a modification or reduction of sentence under the Alaska Rules of Criminal Procedure after serving one-half of the definite term. A defendant may not file and a court may not entertain more than one motion for modification or reduction of a sentence subject to this subsection, regardless of whether or not the court granted or denied a previous motion.

(k) Repealed by SLA 2005, ch. 2, § 32, eff. Mar. 23, 2005.

(l) Notwithstanding any other provision of law, a defendant convicted of an unclassified or class A felony offense, and not subject to a mandatory 99-year sentence under (a) of this section, shall be sentenced to a definite term of imprisonment of 99 years when the defendant has been previously convicted of two or more most serious felonies. If a defendant is sentenced to a definite term under this subsection,

(1) imprisonment for the prescribed definite term may not be suspended under AS 12.55.080;

(2) imposition of sentence may not be suspended under AS 12.55.085;

(3) imprisonment for the prescribed definite term may not be reduced, except as provided in (j) of this section.

(m) Notwithstanding (a)(4) and (f) of this section, if a court finds that imposition of a mandatory term of imprisonment of 99 years on a defendant subject to sentencing under (a)(4) of this section would be manifestly unjust, the court may sentence the defendant to a definite term of imprisonment otherwise permissible under (a) of this section.

(n) In imposing a sentence within a presumptive range under (c), (d), (e), or (i) of this section, the total term, made up of the active term of imprisonment plus any suspended term of imprisonment, must fall within the presumptive range, and the active term of imprisonment may not fall below the lower end of the presumptive range.

(o) Other than for convictions subject to a mandatory 99-year sentence, the court shall impose, in addition to an active term of imprisonment imposed under (i) of this section, a minimum period of (1) suspended imprisonment of five years and a minimum period of probation supervision of 15 years for conviction of an unclassified felony, (2) suspended imprisonment of three years and a minimum period of probation supervision of 10 years for conviction of a class A or class B felony, or (3) suspended imprisonment of two years and a minimum period of probation supervision of five years for conviction of a class C felony. The period of probation is in addition to any sentence received under (i) of this section and may not be suspended or reduced. Upon a defendant's release from confinement in a correctional facility, the defendant is subject to this probation

requirement and shall submit and comply with the terms and requirements of the probation.

(p) If the state seeks either (1) the imposition of a sentence under (a) of this section that would preclude the defendant from being awarded a good time deduction under AS 33.20.010(a) based on a fact other than a prior conviction; or (2) to establish a fact that would increase the presumptive sentencing range under (c)(2), (d)(2), (e)(4), (i)(1)(A) or (B), or (i)(2)(A) or (B) of this section, the factual question required to be decided shall be presented to a trial jury and proven beyond a reasonable doubt under procedures set by the court, unless the defendant waives trial by jury and either stipulates to the existence of the fact or consents to have the fact proven to the court sitting without a jury. Written notice of the intent to establish a fact under this subsection must be served on the defendant and filed with the court as provided for notice under AS 12.55.155(f)(2).

CREDIT(S)

SLA 1978, ch. 166, § 12; SLA 1982, ch. 45, § 18; SLA 1982, ch. 143, §§ 28--30; SLA 1983, ch. 78, § 8; SLA 1983, ch. 92, §§ 1--3; SLA 1988, ch. 59, § 5; SLA 1989, ch. 37, § 4; SLA 1992, ch. 79, §§ 23--25; SLA 1994, ch. 3, § 5; SLA 1996, ch. 6, §§ 1, 2, 6; SLA 1996, ch. 7, §§ 3--7; SLA 1996, ch. 30, § 8; SLA 1996, ch. 33, § 4; SLA 1999, ch. 54, §§ 9--11; SLA 1999, ch. 65, § 1; SLA 2000, ch. 49, §§ 1, 2; SLA 2002, ch. 60, § 4; SLA 2003, ch. 90, §§ 1--5; SLA 2004, ch. 99, § 5; SLA 2005, ch. 2, §§ 8--13, 32; SLA 2006, ch. 14, §§ 4 to 7, eff. April 28, 2006; SLA 2006, ch. 53, §§ 14, 15, eff. June 3, 2006; SLA 2006, ch. 73, §§ 8, 9, eff. Sept. 14, 2006. Amended by SLA 2007, ch. 8, § 2, eff. July 26, 2007; SLA 2007, ch. 24, § 23, eff. July 1, 2007; SLA 2009, ch. 41, § 9, eff. June 21, 2009; SLA 2011, ch. 20, § 18, eff. July 1, 2011; SLA 2012, ch. 70, §§ 11, 12, eff. July 1, 2012; 3rd Sp. Sess. 2012, ch. 1, § 20, eff. July 1, 2012.
Current through Ch. 116 (End) of the 2014 2nd Reg. Sess. of the 28th Legislature

ARIZONA

Ariz. Rev. Stat. Ann. §13-3623 (2014). Child or vulnerable adult abuse; emotional abuse; classification; exceptions; definitions

A. Under circumstances likely to produce death or serious physical injury, any person who causes a child or vulnerable adult to suffer physical injury or, having the care or custody of a child or vulnerable adult, who causes or permits the person or health of the child or vulnerable adult to be injured or who causes or permits a child or vulnerable adult to be placed in a situation where the person or health of the child or vulnerable adult is endangered is guilty of an offense as follows:

> 1. If done intentionally or knowingly, the offense is a class 2 felony and if the victim is under fifteen years of age it is punishable pursuant to § 13-705.

2. If done recklessly, the offense is a class 3 felony.

3. If done with criminal negligence, the offense is a class 4 felony.

B. Under circumstances other than those likely to produce death or serious physical injury to a child or vulnerable adult, any person who causes a child or vulnerable adult to suffer physical injury or abuse or, having the care or custody of a child or vulnerable adult, who causes or permits the person or health of the child or vulnerable adult to be injured or who causes or permits a child or vulnerable adult to be placed in a situation where the person or health of the child or vulnerable adult is endangered is guilty of an offense as follows:

1. If done intentionally or knowingly, the offense is a class 4 felony.

2. If done recklessly, the offense is a class 5 felony.

3. If done with criminal negligence, the offense is a class 6 felony.

C. For the purposes of subsections A and B of this section, the terms endangered and abuse include but are not limited to circumstances in which a child or vulnerable adult is permitted to enter or remain in any structure or vehicle in which volatile, toxic or flammable chemicals are found or equipment is possessed by any person for the purpose of manufacturing a dangerous drug in violation of § 13-3407, subsection A, paragraph 3 or 4. Notwithstanding any other provision of this section, a violation committed under the circumstances described in this subsection does not require that a person have care or custody of the child or vulnerable adult.

D. A person who intentionally or knowingly engages in emotional abuse of a vulnerable adult who is a patient or resident in any setting in which health care, health-related services or assistance with one or more of the activities of daily living is provided or, having the care or custody of a vulnerable adult, who intentionally or knowingly subjects or permits the vulnerable adult to be subjected to emotional abuse is guilty of a class 6 felony.

E. This section does not apply to:

1. A health care provider as defined in § 36-3201 who permits a patient to die or the patient's condition to deteriorate by not providing health care if that patient refuses that care directly or indirectly through a health care directive as defined in § 36-3201, through a surrogate pursuant to § 36-3231 or through a court appointed guardian as provided for in title 14, chapter 5, article 3.

2. A vulnerable adult who is being furnished spiritual treatment through prayer alone and who would not otherwise be considered to be abused, neglected or endangered if medical treatment were being furnished.

F. For the purposes of this section:

1. "Abuse", when used in reference to a child, means abuse as defined in § 8-201, except for those acts in the definition that are declared unlawful by another statute of this title and, when used in reference to a vulnerable adult, means:

(a) Intentional infliction of physical harm.

(b) Injury caused by criminally negligent acts or omissions.

(c) Unlawful imprisonment, as described in § 13-1303.

(d) Sexual abuse or sexual assault.

2. "Child" means an individual who is under eighteen years of age.

3. "Emotional abuse" means a pattern of ridiculing or demeaning a vulnerable adult, making derogatory remarks to a vulnerable adult, verbally harassing a vulnerable adult or threatening to inflict physical or emotional harm on a vulnerable adult.

4. "Physical injury" means the impairment of physical condition and includes any skin bruising, pressure sores, bleeding, failure to thrive, malnutrition, dehydration, burns, fracture of any bone, subdural hematoma, soft tissue swelling, injury to any internal organ or any physical condition that imperils health or welfare.

5. "Serious physical injury" means physical injury that creates a reasonable risk of death or that causes serious or permanent disfigurement, serious impairment of health or loss or protracted impairment of the function of any bodily organ or limb.

6. "Vulnerable adult" means an individual who is eighteen years of age or older and who is unable to protect himself from abuse, neglect or exploitation by others because of a mental or physical impairment.

CREDIT(S)
Added by Laws 1979, Ch. 136, § 1. Amended by Laws 1981, Ch. 293, § 7; Laws 1985, Ch. 364, § 31, eff. May 16, 1985; Laws 1991, Ch. 219, § 1; Laws 1992, Ch. 193, § 1; Laws 1996, Ch. 357, § 1; Laws 1998, Ch. 276, § 38; Laws 2000, Ch. 50, § 4; Laws 2006, Ch. 252, § 1; Laws 2008, Ch. 301, § 85, eff. Jan. 1, 2009.

Current through the Second Regular and Second Special Sessions of the Fifty-first Legislature

Ariz. Rev. Stat. § 13-702 (2014). First time felony offenders; sentencing; definition

A. Unless a specific sentence is otherwise provided, the term of imprisonment for a first felony offense shall be the presumptive sentence determined pursuant to subsection D of this section. Except for those felonies involving a dangerous offense or if a specific sentence is otherwise provided, the court may increase or reduce the presumptive sentence within the ranges set by subsection D of this section. Any reduction or increase shall be based on the aggravating and mitigating circumstances listed in § 13-701, subsections D and E and shall be within the ranges prescribed in subsection D of this section.

B. If a person is convicted of a felony without having previously been convicted of any felony and if at least two of the aggravating factors listed in § 13-701, subsection D apply, the court may increase the maximum term of imprisonment otherwise authorized for that offense to an aggravated term. If a person is convicted of a felony without having previously been convicted of any felony and if the court finds at least two mitigating factors listed in § 13-701, subsection E apply, the court may decrease the minimum term of imprisonment otherwise authorized for that offense to a mitigated term.

C. The aggravated or mitigated term imposed pursuant to subsection D of this section may be imposed only if at least two of the aggravating circumstances are found beyond a reasonable doubt to be true by the trier of fact or are admitted by the defendant, except that an aggravating circumstance under § 13-701, subsection D, paragraph 11 shall be found to be true by the court, or in mitigation of the crime are found to be true by the court, on any evidence or information introduced or submitted to the court or the trier of fact before sentencing or any evidence presented at trial, and factual findings and reasons in support of these findings are set forth on the record at the time of sentencing.

D. The term of imprisonment for a presumptive, minimum, maximum, mitigated or aggravated sentence shall be within the range prescribed under this subsection. The terms are as follows:

Felony	Mitigated	Minimum	Presumptive	Maximum	Aggravated
Class 2	3 years	4 years	5 years	10 years	12.5 years
Class 3	2 years	2.5 years	3.5 years	7 years	8.75 years
Class 4	1 year	1.5 years	2.5 years	3 years	3.75 years
Class 5	.5 years	.75 years	1.5 years	2 years	2.5 years
Class 6	.33 years	.5 years	1 year	1.5 years	2 years

E. The court shall inform all of the parties before sentencing occurs of its intent to increase or decrease a sentence to the aggravated or mitigated sentence pursuant this

section. If the court fails to inform the parties, a party waives its right to be informed unless the party timely objects at the time of sentencing.

F. For the purposes of this section, "trier of fact" means a jury, unless the defendant and the state waive a jury in which case the trier of fact means the court.

CREDIT(S)
Added as § 13-901.01 by Laws 1977, Ch. 142, § 57, eff. Oct. 1, 1978. Renumbered as § 13-702 and amended by Laws 1978, Ch. 201, §§ 104, 106, eff. Oct. 1, 1978. Amended by Laws 1982, Ch. 325, § 2; Laws 1982, 6th S.S., Ch. 3, § 3; Laws 1983, Ch. 268, § 1; Laws 1984, Ch. 16, § 1; Laws 1984, Ch. 43, § 1; Laws 1984, Ch. 44, § 1; Laws 1984, Ch. 49, § 1; Laws 1987, Ch. 121, § 1; Laws 1991, Ch. 229, § 3, eff. Jan. 1, 1992; Laws 1993, Ch. 255, § 11, eff. Jan. 1, 1994; Laws 1996, Ch. 343, § 1; Laws 1997, Ch. 213, § 1; Laws 1998, Ch. 302, § 9, eff. Dec. 1, 1998; Laws 1999, Ch. 211, § 10; Laws 1999, Ch. 261, § 8; Laws 2000, Ch. 361, § 2; Laws 2001, Ch. 51, § 1, eff. April 4, 2001; Laws 2002, Ch. 267, § 3; Laws 2003, Ch. 225, § 1; Laws 2004, Ch. 174, § 1; Laws 2005, Ch. 20, § 1; Laws 2005, Ch. 133, § 1; Laws 2005, Ch. 166, § 1; Laws 2006, Ch. 104, § 1; Laws 2006, Ch. 148, § 1; Laws 2008, Ch. 301, § 24, eff. Jan. 1, 2009.
Current through the Second Regular and Second Special Sessions of the Fifty-first Legislature

ARKANSAS

Ark. Code Ann. § 5-13-201 (2014). Battery in the first degree

(a) A person commits battery in the first degree if:

(1) With the purpose of causing serious physical injury to another person, the person causes serious physical injury to any person by means of a deadly weapon;

(2) With the purpose of seriously and permanently disfiguring another person or of destroying, amputating, or permanently disabling a member or organ of that other person's body, the person causes such an injury to any person;

(3) The person causes serious physical injury to another person under circumstances manifesting extreme indifference to the value of human life;

(4) Acting alone or with one (1) or more other persons:

(A) The person commits or attempts to commit a felony; and

(B) In the course of and in furtherance of the felony or in immediate flight from the felony:

(i) The person or an accomplice causes serious physical injury to any person under circumstances manifesting extreme indifference to the value of human life; or

(ii) Another person who is resisting the felony or flight causes serious physical injury to any person;

(5) With the purpose of causing serious physical injury to an unborn child or to a woman who is pregnant with an unborn child, the person causes serious physical injury to the unborn child;

(6) The person knowingly causes physical injury to a pregnant woman in the commission of a felony or a Class A misdemeanor, and in so doing, causes serious physical injury to the pregnant woman's unborn child, and the unborn child is subsequently born alive;

(7) The person knowingly, without legal justification, causes serious physical injury to a person he or she knows to be twelve (12) years of age or younger;

(8) With the purpose of causing physical injury to another person, the person causes physical injury to any person by means of a firearm; or

(9) The person knowingly causes serious physical injury to any person four (4) years of age or younger under circumstances manifesting extreme indifference to the value of human life.

(b) It is an affirmative defense in any prosecution under subdivision (a)(4) of this section in which the defendant was not the only participant that the defendant:

(1) Did not commit the battery or in any way solicit, command, induce, procure, counsel, or aid the battery's commission;

(2) Was not armed with a deadly weapon;

(3) Reasonably believed that no other participant was armed with a deadly weapon; and

(4) Reasonably believed that no other participant intended to engage in conduct that could result in serious physical injury.

(c)(1) Except as provided in subdivisions (c)(2) and (3) of this section, battery in the first degree is a Class B felony.

(2) Battery in the first degree is a Class Y felony under the circumstances described in subdivision (a)(9) of this section.

(3) Battery in the first degree is a Class Y felony if the injured person is a law enforcement officer acting in the line of duty.

CREDIT(S)
Acts of 1975, Act 280, § 1601; Acts of 1987, Act 482, § 1; Acts of 1995, Act 360, § 1; Acts of 1995, Act 1305, § 1; Acts of 2005, Act 1994, § 474, eff. Aug. 12, 2005; Acts of 2007, Act 622, § 1, eff. July 31, 2007; Acts of 2007, Act 709, § 2, eff. July 31, 2007; Acts of 2007, Act 827, § 26, eff. July 31, 2007.
Current through end of 2014 Second Extraordinary Session.

Ark. Code Ann. § 5-4-401 (2014). Felonies, incarceration

(a) A defendant convicted of a felony shall receive a determinate sentence according to the following limitations:

(1) For a Class Y felony, the sentence shall be not less than ten (10) years and not more than forty (40) years, or life;

(2) For a Class A felony, the sentence shall be not less than six (6) years nor more than thirty (30) years;

(3) For a Class B felony, the sentence shall be not less than five (5) years nor more than twenty (20) years;

(4) For a Class C felony, the sentence shall be not less than three (3) years nor more than ten (10) years;

(5) For a Class D felony, the sentence shall not exceed six (6) years; and

(6) For an unclassified felony, the sentence shall be in accordance with a limitation of the statute defining the felony.

(b) A defendant convicted of a misdemeanor may be sentenced according to the following limitations:

(1) For a Class A misdemeanor, the sentence shall not exceed one (1) year;

(2) For a Class B misdemeanor, the sentence shall not exceed ninety (90) days;

(3) For a Class C misdemeanor, the sentence shall not exceed thirty (30) days; and

(4) For an unclassified misdemeanor, the sentence shall be in accordance with a limitation of the statute defining the misdemeanor.

CREDIT(S)

Acts of 1975, Act 280, § 901; Acts of 1977, Act 474, § 3; Acts of 1981, Act 620, § 8; Acts of 1983, Act 409, § 2.
Current through end of 2014 Second Extraordinary Session.

CALIFORNIA

Cal. Penal Code § 273a (2014). Willful harm or injury to child; endangering person or health; punishment; conditions of probation

(a) Any person who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of that child to be injured, or willfully causes or permits that child to be placed in a situation where his or her person or health is endangered, shall be punished by imprisonment in a county jail not exceeding one year, or in the state prison for two, four, or six years.

(b) Any person who, under circumstances or conditions other than those likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of that child to be injured, or willfully causes or permits that child to be placed in a situation where his or her person or health may be endangered, is guilty of a misdemeanor.

(c) If a person is convicted of violating this section and probation is granted, the court shall require the following minimum conditions of probation:

(1) A mandatory minimum period of probation of 48 months.

(2) A criminal court protective order protecting the victim from further acts of violence or threats, and, if appropriate, residence exclusion or stay-away conditions.

(3)(A) Successful completion of no less than one year of a child abuser's treatment counseling program approved by the probation department. The defendant shall be ordered to begin participation in the program immediately upon the grant of probation. The counseling program shall meet the criteria specified in Section 273.1. The defendant shall produce documentation of program enrollment to the court within 30 days of enrollment, along with quarterly progress reports.

(B) The terms of probation for offenders shall not be lifted until all reasonable fees due to the counseling program have been paid in full, but in no case shall probation be extended beyond the term provided in subdivision (a) of Section 1203.1. If the court finds that the defendant does not have the ability to pay the fees based on the defendant's changed circumstances, the court may reduce or waive the fees.

(4) If the offense was committed while the defendant was under the influence of drugs or alcohol, the defendant shall abstain from the use of drugs or alcohol during the period of probation and shall be subject to random drug testing by his or her probation officer.

(5) The court may waive any of the above minimum conditions of probation upon a finding that the condition would not be in the best interests of justice. The court shall state on the record its reasons for any waiver.

CREDIT(S)

(Added by Stats.1905, c. 568, p. 759, § 5. Amended by Stats.1963, c. 783, p. 1811, § 1; Stats.1965, c. 697, p. 2091, § 1; Stats.1976, c. 1139, p. 5108, § 165, operative July 1, 1977; Stats.1980, c. 1117, p. 3590, § 4; Stats.1984, c. 1423, § 2, eff. Sept. 26, 1984; Stats.1993, c. 1253 (A.B.897), § 1; Stats.1994, c. 1263 (A.B.1328), § 3; Stats.1996, c. 1090 (A.B.3215), § 1; Stats.1997, c. 134 (A.B.273), § 1.)

Current with urgency legislation through Ch. 931 of 2014 Reg.Sess., Res. Ch. 1 of 2014-2014 2nd Ex.Sess., and all propositions on 2014 ballots

Cal. Penal Code § 273d (2014). Corporal punishment or injury of child; felony; punishment; enhancement for prior conviction; conditions of probation

(a) Any person who willfully inflicts upon a child any cruel or inhuman corporal punishment or an injury resulting in a traumatic condition is guilty of a felony and shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 for two, four, or six years, or in a county jail for not more than one year, by a fine of up to six thousand dollars ($6,000), or by both that imprisonment and fine.

(b) Any person who is found guilty of violating subdivision (a) shall receive a four-year enhancement for a prior conviction of that offense provided that no additional term shall be imposed under this subdivision for any prison term or term imposed under the provisions of subdivision (h) of Section 1170 served prior to a period of 10 years in which the defendant remained free of both the commission of an offense that results in a felony conviction and prison custody or custody in a county jail under the provisions of subdivision (h) of Section 1170.

(c) If a person is convicted of violating this section and probation is granted, the court shall require the following minimum conditions of probation:

(1) A mandatory minimum period of probation of 36 months.

(2) A criminal court protective order protecting the victim from further acts of violence or threats, and, if appropriate, residence exclusion or stay-away conditions.

(3)(A) Successful completion of no less than one year of a child abuser's treatment counseling program. The defendant shall be ordered to begin participation in the program immediately upon the grant of probation. The counseling program shall meet the criteria specified in Section 273.1. The defendant shall produce documentation of program enrollment to the court within 30 days of enrollment, along with quarterly progress reports.

(B) The terms of probation for offenders shall not be lifted until all reasonable fees due to the counseling program have been paid in full, but in no case shall probation be extended beyond the term provided in subdivision (a) of Section 1203.1. If the court finds that the defendant does not have the ability to pay the fees based on the defendant's changed circumstances, the court may reduce or waive the fees.

(4) If the offense was committed while the defendant was under the influence of drugs or alcohol, the defendant shall abstain from the use of drugs or alcohol during the period of probation and shall be subject to random drug testing by his or her probation officer.

(5) The court may waive any of the above minimum conditions of probation upon a finding that the condition would not be in the best interests of justice. The court shall state on the record its reasons for any waiver.

CREDIT(S)
(Added by Stats.1945, c. 1312, p. 2462, § 1. Amended by Stats.1957, c. 1342, p. 2673, § 1; Stats.1965, c. 1271, p. 3146, § 4; Stats.1976, c. 1139, p. 5109, § 166, operative July 1, 1977; Stats.1977, c. 908, p. 2780, § 1; Stats.1977, c. 912, p. 2786, § 2; Stats.1980, c. 1117, p. 3590, § 5; Stats.1984, c. 1423, § 3, eff. Sept. 26, 1984; Stats.1987, c. 415, § 1; Stats.1993, c. 607 (S.B.529), § 1; Stats.1996, c. 1090 (A.B.3215), § 2; Stats.1997, c. 134 (A.B.273), § 2; Stats.1999, c. 662 (S.B.218), § 8; Stats.2004, c. 229 (S.B.1104), § 14, eff. Aug. 16, 2004; Stats.2011, c. 15 (A.B.109), § 312, eff. April 4, 2011, operative Oct. 1, 2011; Stats.2011-2012, 1st Ex.Sess., c. 12 (A.B.17), § 8, eff. Sept. 21, 2011, operative Oct. 1, 2011.)

Current with urgency legislation through Ch. 931 of 2014 Reg.Sess., Res. Ch. 1 of 2014-2014 2nd Ex.Sess., and all propositions on 2014 ballots

COLORADO

COLO. REV. STAT. §18-6-401 (2014). Child abuse

18-6-401. Child abuse

(1)(a) A person commits child abuse if such person causes an injury to a child's life or health, or permits a child to be unreasonably placed in a situation that poses a threat of injury to the child's life or health, or engages in a continued pattern of conduct that results in malnourishment, lack of proper medical care, cruel punishment, mistreatment, or an accumulation of injuries that ultimately results in the death of a child or serious bodily injury to a child.

(b)(I) Except as otherwise provided in subparagraph (III) of this paragraph (b), a person commits child abuse if such person excises or infibulates, in whole or in part, the labia majora, labia minora, vulva, or clitoris of a female child. A parent, guardian, or other person legally responsible for a female child or charged with the care or custody of a female child commits child abuse if he or she allows the excision or infibulation, in whole or in part, of such child's labia majora, labia minora, vulva, or clitoris.

(II) Belief that the conduct described in subparagraph (I) of this paragraph (b) is required as a matter of custom, ritual, or standard practice or consent to the conduct by the child on whom it is performed or by the child's parent or legal guardian shall not be an affirmative defense to a charge of child abuse under this paragraph (b).

(III) A surgical procedure as described in subparagraph (I) of this paragraph (b) is not a crime if the procedure:

(A) Is necessary to preserve the health of the child on whom it is performed and is performed by a person licensed to practice medicine under article 36 of title 12, C.R.S.; or

(B) Is performed on a child who is in labor or who has just given birth and is performed for medical purposes connected with that labor or birth by a person licensed to practice medicine under article 36 of title 12, C.R.S.

(IV) If the district attorney having jurisdiction over a case arising under this paragraph (b) has a reasonable belief that any person arrested or charged pursuant to this paragraph (b) is not a citizen or national of the United States, the district attorney shall report such information to the immigration and naturalization service, or any successor agency, in an expeditious manner.

(c)(I) A person commits child abuse if, in the presence of a child, or on the premises where a child is found, or where a child resides, or in a vehicle containing a child, the person knowingly engages in the manufacture or attempted manufacture of a controlled substance, as defined by section 18-18-102(5), or knowingly possesses ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, with the intent to use the product as an immediate precursor in the manufacture of a controlled substance. It shall be no defense to the crime of child abuse, as described in this subparagraph (I), that the defendant did not know a child was present, a child could be found, a child resided on the premises, or that a vehicle contained a child.

(II) A parent or lawful guardian of a child or a person having the care or custody of a child who knowingly allows the child to be present at or reside at a premises or to be in a vehicle where the parent, guardian, or person having care or custody of the child knows or reasonably should know another person is engaged in the manufacture or attempted manufacture of methamphetamine commits child abuse.

(III) A parent or lawful guardian of a child or a person having the care or custody of a child who knowingly allows the child to be present at or reside at a premises or to be in a vehicle where the parent, guardian, or person having care or custody of the child knows or reasonably should know another person possesses ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, with the intent to use the product as an immediate precursor in the manufacture of methamphetamine commits child abuse.

(2) In this section, “child” means a person under the age of sixteen years.

(3) The statutory privilege between patient and physician and between husband and wife shall not be available for excluding or refusing testimony in any prosecution for a violation of this section.

(4) No person, other than the perpetrator, complicitor, coconspirator, or accessory, who reports an instance of child abuse to law enforcement officials shall be subjected to criminal or civil liability for any consequence of making such report unless he knows at the time of making it that it is untrue.

(5) Deferred prosecution is authorized for a first offense under this section unless the provisions of subsection (7.5) of this section or section 18-6-401.2 apply.

(6) Repealed by Laws 2001, Ch. 125, § 1, eff. July 1, 2001.

(7)(a) Where death or injury results, the following shall apply:

(I) When a person acts knowingly or recklessly and the child abuse results in death to the child, it is a class 2 felony except as provided in paragraph (c) of this subsection (7).

(II) When a person acts with criminal negligence and the child abuse results in death to the child, it is a class 3 felony.

(III) When a person acts knowingly or recklessly and the child abuse results in serious bodily injury to the child, it is a class 3 felony.

(IV) When a person acts with criminal negligence and the child abuse results in serious bodily injury to the child, it is a class 4 felony.

(V) When a person acts knowingly or recklessly and the child abuse results in any injury other than serious bodily injury, it is a class 1 misdemeanor; except that, if it is committed under the circumstances described in paragraph (e) of this subsection (7), then it is a class 5 felony.

(VI) When a person acts with criminal negligence and the child abuse results in any injury other than serious bodily injury to the child, it is a class 2 misdemeanor; except that, if it is committed under the circumstances described in paragraph (e) of this subsection (7), then it is a class 5 felony.

(b) Where no death or injury results, the following shall apply:

(I) An act of child abuse when a person acts knowingly or recklessly is a class 2 misdemeanor; except that, if it is committed under the circumstances described in paragraph (e) of this subsection (7), then it is a class 5 felony.

(II) An act of child abuse when a person acts with criminal negligence is a class 3 misdemeanor; except that, if it is committed under the circumstances described in paragraph (e) of this subsection (7), then it is a class 5 felony.

(c) When a person knowingly causes the death of a child who has not yet attained twelve years of age and the person committing the offense is one in a position of trust with respect to the child, such person commits the crime of murder in the first degree as described in section 18-3-102(1)(f).

(d) When a person commits child abuse as described in paragraph (c) of subsection (1) of this section, it is a class 3 felony.

(e) A person who has previously been convicted of a violation of this section or of an offense in any other state, the United States, or any territory subject to the jurisdiction of the United States that would constitute child abuse if committed in this state and who commits child abuse as provided in subparagraph (V) or (VI) of paragraph (a) of this

subsection (7) or as provided in subparagraph (I) or (II) of paragraph (b) of this subsection (7) commits a class 5 felony if the trier of fact finds that the new offense involved any of the following acts:

(I) The defendant, who was in a position of trust, as described in section 18-3-401(3.5), in relation to the child, participated in a continued pattern of conduct that resulted in the child's malnourishment or failed to ensure the child's access to proper medical care;

(II) The defendant participated in a continued pattern of cruel punishment or unreasonable isolation or confinement of the child;

(III) The defendant made repeated threats of harm or death to the child or to a significant person in the child's life, which threats were made in the presence of the child;

(IV) The defendant committed a continued pattern of acts of domestic violence, as that term is defined in section 18-6-800.3, in the presence of the child; or

(V) The defendant participated in a continued pattern of extreme deprivation of hygienic or sanitary conditions in the child's daily living environment.

(7.3) Felony child abuse is an extraordinary risk crime that is subject to the modified presumptive sentencing range specified in section 18-1.3-401(10). Misdemeanor child abuse is an extraordinary risk crime that is subject to the modified sentencing range specified in section 18-1.3-501(3).

(7.5) If a defendant is convicted of the class 2 or class 3 felony of child abuse under subparagraph (I) or (III) of paragraph (a) of subsection (7) of this section, the court shall sentence the defendant in accordance with section 18-1.3-401(8)(d).

(8) Repealed by Laws 1990, H.B.90-1093, § 6.

(9) If a parent is charged with permitting a child to be unreasonably placed in a situation that poses a threat of injury to the child's life or health, pursuant to paragraph (a) of subsection (1) of this section, and the child was seventy-two hours old or younger at the time of the alleged offense, it is an affirmative defense to the charge that the parent safely, reasonably, and knowingly handed the child over to a firefighter, as defined in section 18-3-201(1.5), or to a hospital staff member who engages in the admission, care, or treatment of patients, when the firefighter is at a fire station or the hospital staff member is at a hospital.

CREDIT(S)

Amended by Laws 1975, H.B.1203, § 15; Laws 1979, H.B.1110, § 8; Laws 1980, H.B.1035, §§ 1, 2; Laws 1985, S.B.42, §§ 1, 2; Laws 1987, S.B.144, § 21; Laws 1989,

S.B.29, § 2; Laws 1990, H.B.90-1093, § 6, eff. April 3, 1990; Laws 1991, H.B.91-1229, § 1, eff. May 24, 1991; Laws 1995, H.B.95-1109, § 4, eff. July 1, 1995; Laws 1999, Ch. 216, § 2, eff. May 24, 1999; Laws 2000, Ch. 384, § 1, eff. June 3, 2000; Laws 2001, Ch. 125, § 1, eff. July 1, 2001; Laws 2002, Ch. 318, § 198, eff. Oct. 1, 2002; Laws 2003, Ch. 359, §§ 1, 2, eff. July 1, 2003; Laws 2004, Ch. 200, § 9, eff. Aug. 4, 2004; Laws 2006, Ch. 341, § 4, eff. July 1, 2006; Laws 2006, Ch. 360, § 1, eff. July 1, 2006; Laws 2009, Ch. 343, § 2, eff. July 1, 2009; Laws 2011, Ch. 264, § 33, eff. Aug. 10, 2011; Laws 2014, Ch. 336, § 10, eff. Aug. 6, 2014.
Current through the Second Regular Session of the Sixty-Ninth General Assembly (2014)

COLO. REV. STAT. §18-1.3-401 (2014). Felonies classified--presumptive penalties

(1)(a)(I) As to any person sentenced for a felony committed after July 1, 1979, and before July 1, 1984, felonies are divided into five classes which are distinguished from one another by the following presumptive ranges of penalties which are authorized upon conviction:

Class
Presumptive Range
1
Life imprisonment or death
2
Eight to twelve years plus one year of parole
3
Four to eight years plus one year of parole
4
Two to four years plus one year of parole
5
One to two years plus one year of parole

(II) As to any person sentenced for a felony committed on or after July 1, 1984, and before July 1, 1985, felonies are divided into five classes which are distinguished from one another by the following presumptive ranges of penalties which are authorized upon conviction:

Class
Presumptive Range
1
Life imprisonment or death
2
Eight to twelve years
3
Four to eight years

4
Two to four years
5
One to two years

(III)(A) As to any person sentenced for a felony committed on or after July 1, 1985, except as otherwise provided in sub-subparagraph (E) of this subparagraph (III), in addition to, or in lieu of, any sentence to imprisonment, probation, community corrections, or work release, a fine within the following presumptive ranges may be imposed for the specified classes of felonies:

Class
Minimum Sentence
Maximum Sentence
1
No fine
No fine
2
Five thousand dollars
One million dollars
3
Three thousand dollars
Seven hundred fifty thousand dollars
4
Two thousand dollars
Five hundred thousand dollars
5
One thousand dollars
One hundred thousand dollars
6
One thousand dollars
One hundred thousand dollars

(A.5) Notwithstanding any provision of law to the contrary, any person who attempts to commit, conspires to commit, or commits against an elderly person any felony set forth in part 4 of article 4 of this title, part 1, 2, 3, or 5 of article 5 of this title, article 5.5 of this title, or section 11-51-603, C.R.S., shall be required to pay a mandatory and substantial fine within the limits permitted by law. However, all moneys collected from the offender shall be applied in the following order: Costs for crime victim compensation fund pursuant to section 24-4.1-119, C.R.S.; surcharges for victims and witnesses assistance and law enforcement fund pursuant to section 24-4.2-104, C.R.S.; restitution; time payment fee; late fees; and any other fines, fees, or surcharges. For purposes of this sub-subparagraph (A.5), an “elderly person” or “elderly victim” means a person sixty years of age or older.

(B) Failure to pay a fine imposed pursuant to this subparagraph (III) is grounds for revocation of probation or revocation of a sentence to community corrections, assuming the defendant's ability to pay. If such a revocation occurs, the court may impose the maximum sentence allowable in the given sentencing ranges.

(C) Each judicial district shall have at least one clerk who shall collect and administer the fines imposed under this subparagraph (III) and under section 18-1.3-501 in accordance with the provisions of sub-subparagraph (D) of this subparagraph (III).

(D) All fines collected pursuant to this subparagraph (III) shall be deposited in the fines collection cash fund, which fund is hereby created. The general assembly shall make annual appropriations out of such fund for administrative and personnel costs incurred in the collection and administration of said fines. All unexpended balances shall revert to the general fund at the end of each fiscal year.

(E) Notwithstanding the provisions of sub-subparagraph (A) of this subparagraph (III), a person who has been twice convicted of a felony under the laws of this state, any other state, or the United States prior to the conviction for which he or she is being sentenced shall not be eligible to receive a fine in lieu of any sentence to imprisonment, community corrections, or work release but shall be sentenced to at least the minimum sentence specified in subparagraph (V) of this paragraph (a) and may receive a fine in addition to said sentence.

(IV) As to any person sentenced for a felony committed on or after July 1, 1985, but prior to July 1, 1993, felonies are divided into six classes which are distinguished from one another by the following presumptive ranges of penalties which are authorized upon conviction:

Class
Minimum Sentence
Maximum Sentence
1
Life imprisonment
Death
2
Eight years imprisonment
Twenty-four years imprisonment
3
Four years imprisonment
Sixteen years imprisonment
4
Two years imprisonment
Eight years imprisonment

5
One year imprisonment
Four years imprisonment
6
One year imprisonment
Two years imprisonment

(V)(A) Except as otherwise provided in section 18-1.3-401.5 for offenses contained in article 18 of this title committed on or after October 1, 2014, as to any person sentenced for a felony committed on or after July 1, 1993, felonies are divided into six classes that are distinguished from one another by the following presumptive ranges of penalties that are authorized upon conviction:

Class
Minimum
Maximum
Mandatory
Sentence
Sentence
Period of Parole
1
Life imprisonment
Death
None
2
Eight years imprisonment
Twenty-four years imprisonment
Five years
3
Four years imprisonment
Twelve years imprisonment
Five years
4
Two years imprisonment
Six years imprisonment
Three years
5
One year imprisonment
Three years imprisonment
Two years
6
One year imprisonment
Eighteen months imprisonment
One year

(B) Any person who is paroled pursuant to section 17-22.5-403, C.R.S., or any person who is not paroled and is discharged pursuant to law, shall be subject to the mandatory period of parole established pursuant to sub-subparagraph (A) of this subparagraph (V). Such mandatory period of parole may not be waived by the offender or waived or suspended by the court and shall be subject to the provisions of section 17-22.5-403(8), C.R.S., which permits the state board of parole to discharge the offender at any time during the term of parole upon a determination that the offender has been sufficiently rehabilitated and reintegrated into society and can no longer benefit from parole supervision.

(C) Notwithstanding sub-subparagraph (A) of this subparagraph (V), the mandatory period of parole for a person convicted of a felony offense committed prior to July 1, 1996, pursuant to part 4 of article 3 of this title, or part 3 of article 6 of this title, shall be five years. Notwithstanding sub-subparagraph (A) of this subparagraph (V), and except as otherwise provided in sub-subparagraph (C.5) of this subparagraph (V), the period of parole for a person convicted of a felony offense committed on or after July 1, 1996, but prior to July 1, 2002, pursuant to part 4 of article 3 of this title, or part 3 of article 6 of this title, shall be set by the state board of parole pursuant to section 17-2-201(5)(a.5), C.R.S., but in no event shall the term of parole exceed the maximum sentence imposed upon the inmate by the court.

(C.3) Deleted by Laws 2002, Ch. 48, § 1, eff. March 26, 2002.

(C.5) Notwithstanding the provisions of sub-subparagraph (A) of this subparagraph (V), any person sentenced for a sex offense, as defined in section 18-1.3-1003(5), committed on or after November 1, 1998, shall be sentenced pursuant to the provisions of part 10 of this article.

(C.7) Any person sentenced for a felony committed on or after July 1, 2002, involving unlawful sexual behavior, as defined in section 16-22-102(9), C.R.S., or for a felony, committed on or after July 1, 2002, the underlying factual basis of which involved unlawful sexual behavior, and who is not subject to the provisions of part 10 of this article, shall be subject to the mandatory period of parole specified in sub-subparagraph (A) of this subparagraph (V).

(D) The mandatory period of parole imposed pursuant to sub-subparagraph (A) of this subparagraph (V) shall commence immediately upon the discharge of an offender from imprisonment in the custody of the department of corrections. If the offender has been granted release to parole supervision by the state board of parole, the offender shall be deemed to have discharged the offender's sentence to imprisonment provided for in sub-subparagraph (A) of this subparagraph (V) in the same manner as if such sentence were discharged pursuant to law; except that the sentence to imprisonment for any person sentenced as a sex offender pursuant to part 10 of this article shall not be deemed

discharged on release of said person on parole. When an offender is released by the state board of parole or released because the offender's sentence was discharged pursuant to law, the mandatory period of parole shall be served by such offender. An offender sentenced for nonviolent felony offenses, as defined in section 17-22.5-405(5), C.R.S., may receive earned time pursuant to section 17-22.5-405, C.R.S., while serving a mandatory parole period in accordance with this section, but not while such offender is reincarcerated after a revocation of the mandatory period of parole. An offender who is sentenced for a felony committed on or after July 1, 1993, and paroled on or after January 1, 2009, shall be eligible to receive any earned time while on parole or after reparole following a parole revocation. The offender shall not be eligible for earned time while the offender is reincarcerated after revocation of the mandatory period of parole pursuant to this subparagraph (V).

(E) If an offender is sentenced consecutively for the commission of two or more felony offenses pursuant to sub-subparagraph (A) of this subparagraph (V), the mandatory period of parole for such offender shall be the mandatory period of parole established for the highest class felony of which such offender has been convicted.

(VI) Any person sentenced for a class 2, 3, 4, or 5 felony, or a class 6 felony that is the offender's second or subsequent felony offense, committed on or after July 1, 1998, regardless of the length of the person's sentence to incarceration and the mandatory period of parole, shall not be deemed to have fully discharged his or her sentence until said person has either completed or been discharged by the state board of parole from the mandatory period of parole imposed pursuant to subparagraph (V) of this paragraph (a).

(b)(I) Except as provided in subsection (6) and subsection (8) of this section and in section 18-1.3-804, a person who has been convicted of a class 2, class 3, class 4, class 5, or class 6 felony shall be punished by the imposition of a definite sentence which is within the presumptive ranges set forth in paragraph (a) of this subsection (1). In imposing the sentence within the presumptive range, the court shall consider the nature and elements of the offense, the character and record of the offender, and all aggravating or mitigating circumstances surrounding the offense and the offender. The prediction of the potential for future criminality by a particular defendant, unless based on prior criminal conduct, shall not be considered in determining the length of sentence to be imposed.

(II) As to any person sentenced for a felony committed on or after July 1, 1985, a person may be sentenced to imprisonment as described in subparagraph (I) of this paragraph (b) or to pay a fine that is within the presumptive ranges set forth in subparagraph (III) of paragraph (a) of this subsection (1) or to both such fine and imprisonment; except that any person who has been twice convicted of a felony under the laws of this state, any other state, or the United States prior to the conviction for which he or she is being sentenced shall not be eligible to receive a fine in lieu of any sentence to imprisonment as described in subparagraph (I) of this paragraph (b) but shall be sentenced to at least the

minimum sentence specified in subparagraph (V) of paragraph (a) of this subsection (1) and may receive a fine in addition to said sentence.

(II.5) Notwithstanding anything in this section to the contrary, any person sentenced for a sex offense, as defined in section 18-1.3-1003(5), committed on or after November 1, 1998, may be sentenced to pay a fine in addition to, but not instead of, a sentence for imprisonment or probation pursuant to section 18-1.3-1004.

(III) Notwithstanding anything in this section to the contrary, as to any person sentenced for a crime of violence, as defined in section 18-1.3-406, committed on or after July 1, 1985, a person may be sentenced to pay a fine in addition to, but not instead of, a sentence for imprisonment.

(IV) If a person is convicted of assault in the first degree pursuant to section 18-3-202 or assault in the second degree pursuant to section 18-3-203 and the victim is a peace officer, firefighter, or emergency medical service provider engaged in the performance of his or her duties, as defined in section 18-1.3-501(1.5)(b), notwithstanding the provisions of subparagraph (III) of paragraph (a) of this subsection (1) and subparagraph (II) of this paragraph (b), the court shall sentence the person to the department of corrections. In addition to a term of imprisonment, the court may impose a fine on the person pursuant to subparagraph (III) of paragraph (a) of this subsection (1).

(c) Except as otherwise provided by statute, felonies are punishable by imprisonment in any correctional facility under the supervision of the executive director of the department of corrections. Nothing in this section shall limit the authority granted in part 8 of this article to increase sentences for habitual criminals. Nothing in this section shall limit the authority granted in parts 9 and 10 of this article to sentence sex offenders to the department of corrections or to sentence sex offenders to probation for an indeterminate term. Nothing in this section shall limit the authority granted in section 18-1.3-804 for increased sentences for habitual burglary offenders.

(2)(a) A corporation which has been found guilty of a class 2 or class 3 felony shall be subject to imposition of a fine of not less than five thousand dollars nor more than fifty thousand dollars. A corporation which has been found guilty of a class 4, class 5, or class 6 felony shall be subject to imposition of a fine of not less than one thousand dollars nor more than thirty thousand dollars.

(b) A corporation which has been found guilty of a class 2, class 3, class 4, class 5, or class 6 felony, for an act committed on or after July 1, 1985, shall be subject to imposition of a fine which is within the presumptive ranges set forth in subparagraph (III) of paragraph (a) of subsection (1) of this section.

(3) Every person convicted of a felony, whether defined as such within or outside this code, shall be disqualified from holding any office of honor, trust, or profit under the

laws of this state or from practicing as an attorney in any of the courts of this state during the actual time of confinement or commitment to imprisonment or release from actual confinement on conditions of probation. Upon his or her discharge after completion of service of his or her sentence or after service under probation, the right to hold any office of honor, trust, or profit shall be restored, except as provided in section 4 of article XII of the state constitution.

(4)(a) A person who has been convicted of a class 1 felony shall be punished by life imprisonment in the department of corrections unless a proceeding held to determine sentence according to the procedure set forth in section 18-1.3-1201, 18-1.3-1302, or 18-1.4-102, results in a verdict that requires imposition of the death penalty, in which event such person shall be sentenced to death. As to any person sentenced for a class 1 felony, for an act committed on or after July 1, 1985, and before July 1, 1990, life imprisonment shall mean imprisonment without the possibility of parole for forty calendar years. As to any person sentenced for a class 1 felony, for an act committed on or after July 1, 1990, life imprisonment shall mean imprisonment without the possibility of parole.

(b)(I) Notwithstanding the provisions of sub-subparagraph (A) of subparagraph (V) of paragraph (a) of subsection (1) of this section and notwithstanding the provisions of paragraph (a) of this subsection (4), as to a person who is convicted as an adult of a class 1 felony following direct filing of an information or indictment in the district court pursuant to section 19-2-517, C.R.S., or transfer of proceedings to the district court pursuant to section 19-2-518, C.R.S., the district court judge shall sentence the person to a term of life imprisonment with the possibility of parole after serving a period of forty calendar years. Regardless of whether the state board of parole releases the person on parole, the person shall remain in the legal custody of the department of corrections for the remainder of the person's life and shall not be discharged.

(II) The provisions of this paragraph (b) shall apply to persons sentenced for offenses committed on or after July 1, 2006.

(5) In the event the death penalty as provided for in this section is held to be unconstitutional by the Colorado supreme court or the United States supreme court, a person convicted of a crime punishable by death under the laws of this state shall be punished by life imprisonment. In such circumstance, the court which previously sentenced a person to death shall cause such person to be brought before the court, and the court shall sentence such person to life imprisonment.

(6) In imposing a sentence to incarceration, the court shall impose a definite sentence which is within the presumptive ranges set forth in subsection (1) of this section unless it concludes that extraordinary mitigating or aggravating circumstances are present, are based on evidence in the record of the sentencing hearing and the presentence report, and support a different sentence which better serves the purposes of this code with respect to sentencing, as set forth in section 18-1-102.5. If the court finds such extraordinary

mitigating or aggravating circumstances, it may impose a sentence which is lesser or greater than the presumptive range; except that in no case shall the term of sentence be greater than twice the maximum nor less than one-half the minimum term authorized in the presumptive range for the punishment of the offense.

(7) In all cases, except as provided in subsection (8) of this section, in which a sentence which is not within the presumptive range is imposed, the court shall make specific findings on the record of the case, detailing the specific extraordinary circumstances which constitute the reasons for varying from the presumptive sentence.

(8)(a) The presence of any one or more of the following extraordinary aggravating circumstances shall require the court, if it sentences the defendant to incarceration, to sentence the defendant to a term of at least the midpoint in the presumptive range but not more than twice the maximum term authorized in the presumptive range for the punishment of a felony:

(I) The defendant is convicted of a crime of violence under section 18-1.3-406;

(II) The defendant was on parole for another felony at the time of commission of the felony;

(III) The defendant was on probation or was on bond while awaiting sentencing following revocation of probation for another felony at the time of the commission of the felony;

(IV) The defendant was under confinement, in prison, or in any correctional institution as a convicted felon, or an escapee from any correctional institution for another felony at the time of the commission of a felony;

(V) At the time of the commission of the felony, the defendant was on appeal bond following his or her conviction for a previous felony;

(VI) At the time of the commission of a felony, the defendant was on probation for or on bond while awaiting sentencing following revocation of probation for a delinquent act that would have constituted a felony if committed by an adult.

(b) In any case in which one or more of the extraordinary aggravating circumstances provided for in paragraph (a) of this subsection (8) exist, the provisions of subsection (7) of this section shall not apply.

(c) Nothing in this subsection (8) shall preclude the court from considering aggravating circumstances other than those stated in paragraph (a) of this subsection (8) as the basis for sentencing the defendant to a term greater than the presumptive range for the felony.

(d)(I) If the defendant is convicted of the class 2 or the class 3 felony of child abuse under section 18-6-401(7)(a)(I) or (7)(a)(III), the court shall be required to sentence the defendant to the department of corrections for a term of at least the midpoint in the presumptive range but not more than twice the maximum term authorized in the presumptive range for the punishment of that class felony.

(II) In no case shall any defendant sentenced pursuant to subparagraph (I) of this paragraph (d) be eligible for suspension of sentence or for probation or deferred prosecution.

(e)(I) If the defendant is convicted of the class 2 felony of sexual assault in the first degree under section 18-3-402(3), commission of which offense occurs prior to November 1, 1998, the court shall be required to sentence the defendant to a term of at least the midpoint in the presumptive range but not more than twice the maximum term authorized in the presumptive range for the punishment of that class of felony.

(II) In no case shall any defendant sentenced pursuant to subparagraph (I) of this paragraph (e) be eligible for suspension of sentence or probation.

(III) As a condition of parole under section 17-2-201(5)(e), C.R.S., a defendant sentenced pursuant to this paragraph (e) shall be required to participate in a program of mental health counseling or receive appropriate treatment to the extent that the state board of parole deems appropriate to effectuate the successful reintegration of the defendant into the community while recognizing the need for public safety.

(e.5) If the defendant is convicted of the class 2 felony of sexual assault under section 18-3-402(5) or the class 2 felony of sexual assault in the first degree under section 18-3-402(3) as it existed prior to July 1, 2000, commission of which offense occurs on or after November 1, 1998, the court shall be required to sentence the defendant to the department of corrections for an indeterminate sentence of at least the midpoint in the presumptive range for the punishment of that class of felony up to the defendant's natural life.

(f) The court may consider aggravating circumstances such as serious bodily injury caused to the victim or the use of a weapon in the commission of a crime, notwithstanding the fact that such factors constitute elements of the offense.

(g) If the defendant is convicted of class 4 or class 3 felony vehicular homicide under section 18-3-106(1)(a) or (1)(b), and while committing vehicular homicide the defendant was in immediate flight from the commission of another felony, the court shall be required to sentence the defendant to the department of corrections for a term of at least the midpoint in the presumptive range but not more than twice the maximum term authorized in the presumptive range for the punishment of the class of felony vehicular homicide of which the defendant is convicted.

(9) The presence of any one or more of the following sentence-enhancing circumstances shall require the court, if it sentences the defendant to incarceration, to sentence the defendant to a term of at least the minimum in the presumptive range but not more than twice the maximum term authorized in the presumptive range for the punishment of a felony:

(a) At the time of the commission of the felony, the defendant was charged with or was on bond for a felony in a previous case and the defendant was convicted of any felony in the previous case;

(a.5) At the time of the commission of the felony, the defendant was charged with or was on bond for a delinquent act that would have constituted a felony if committed by an adult;

(b) At the time of the commission of the felony, the defendant was on bond for having pled guilty to a lesser offense when the original offense charged was a felony;

(c) The defendant was under a deferred judgment and sentence for another felony at the time of the commission of the felony;

(c.5) At the time of the commission of the felony, the defendant was on bond in a juvenile prosecution under title 19, C.R.S., for having pled guilty to a lesser delinquent act when the original delinquent act charged would have constituted a felony if committed by an adult;

(c.7) At the time of the commission of the felony, the defendant was under a deferred judgment and sentence for a delinquent act that would have constituted a felony if committed by an adult;

(d) At the time of the commission of the felony, the defendant was on parole for having been adjudicated a delinquent child for an offense which would constitute a felony if committed by an adult.

(10)(a) The general assembly hereby finds that certain crimes which are listed in paragraph (b) of this subsection (10) present an extraordinary risk of harm to society and therefore, in the interest of public safety, for such crimes which constitute class 3 felonies, the maximum sentence in the presumptive range shall be increased by four years; for such crimes which constitute class 4 felonies, the maximum sentence in the presumptive range shall be increased by two years; for such crimes which constitute class 5 felonies, the maximum sentence in the presumptive range shall be increased by one year; for such crimes which constitute class 6 felonies, the maximum sentence in the presumptive range shall be increased by six months.

(b) Crimes that present an extraordinary risk of harm to society shall include the following:

(I) Repealed by Laws 2004, Ch. 200, § 1, eff. Aug. 4, 2004.

(II) Repealed by Laws 2004, Ch. 200, § 1, eff. Aug. 4, 2004.

(III) Repealed by Laws 2004, Ch. 200, § 1, eff. Aug. 4, 2004.

(IV) Repealed by Laws 2004, Ch. 200, § 1, eff. Aug. 4, 2004.

(V) Repealed by Laws 2004, Ch. 200, § 1, eff. Aug. 4, 2004.

(VI) Repealed by Laws 2004, Ch. 200, § 1, eff. Aug. 4, 2004.

(VII) Repealed by Laws 2004, Ch. 200, § 1, eff. Aug. 4, 2004.

(VIII) Repealed by Laws 2004, Ch. 200, § 1, eff. Aug. 4, 2004.

(IX) Aggravated robbery, as defined in section 18-4-302;

(X) Child abuse, as defined in section 18-6-401;

(XI) Unlawful distribution, manufacturing, dispensing, sale, or possession of a controlled substance with the intent to sell, distribute, manufacture, or dispense, as defined in section 18-18-405;

(XII) Any crime of violence, as defined in section 18-1.3-406;

(XIII) Stalking, as described in section 18-9-111(4), as it existed prior to August 11, 2010, or section 18-3-602;

(XIV) Sale or distribution of materials to manufacture controlled substances, as described in section 18-18-412.7;

(XV) Felony invasion of privacy for sexual gratification, as described in section 18-3-405.6;

(XVI) A class 3 felony offense of human trafficking for involuntary servitude, as described in section 18-3-503; and

(XVII) A class 3 felony offense of human trafficking for sexual servitude, as described in section 18-3-504.

(c) Repealed by Laws 2004, Ch. 200, § 1, eff. Aug. 4, 2004.

(11) When it shall appear to the satisfaction of the court that the ends of justice and the best interest of the public, as well as the defendant, will be best served thereby, the court shall have the power to suspend the imposition or execution of sentence for such period and upon such terms and conditions as it may deem best; except that in no instance shall the court have the power to suspend a sentence to a term of incarceration when the defendant is sentenced pursuant to a sentencing provision that requires incarceration or imprisonment in the department of corrections, community corrections, or jail. In no instance shall a sentence be suspended if the defendant is ineligible for probation pursuant to section 18-1.3-201, except upon an express waiver being made by the sentencing court regarding a particular defendant upon recommendation of the district attorney and approval of such recommendation by an order of the sentencing court pursuant to section 18-1.3-201(4).

(12) Every sentence entered under this section shall include consideration of restitution as required by part 6 of this article and by article 18.5 of title 16, C.R.S.

(13)(a) The court, if it sentences a defendant who is convicted of any one or more of the offenses specified in paragraph (b) of this subsection (13) to incarceration, shall sentence the defendant to a term of at least the midpoint, but not more than twice the maximum, of the presumptive range authorized for the punishment of the offense of which the defendant is convicted if the court makes the following findings on the record:

(I) The victim of the offense was pregnant at the time of commission of the offense; and

(II) The defendant knew or reasonably should have known that the victim of the offense was pregnant.

(III) Deleted by Laws 2003, Ch. 340, § 3, eff. July 1, 2003.

(b) The provisions of this subsection (13) shall apply to the following offenses:

(I) Murder in the second degree, as described in section 18-3-103;

(II) Manslaughter, as described in section 18-3-104;

(III) Criminally negligent homicide, as described in section 18-3-105;

(IV) Vehicular homicide, as described in section 18-3-106;

(V) Assault in the first degree, as described in section 18-3-202;

(VI) Assault in the second degree, as described in section 18-3-203;

(VII) Vehicular assault, as described in section 18-3-205.

(c) Notwithstanding any provision of this subsection (13) to the contrary, for any of the offenses specified in paragraph (b) of this subsection (13) that constitute crimes of violence, the court shall sentence the defendant in accordance with the provisions of section 18-1.3-406.

(14) The court may sentence a defendant to the youthful offender system created in section 18-1.3-407 if the defendant is an eligible young adult offender pursuant to section 18-1.3-407.5.

CREDIT(S)

Relocated and amended by Laws 2002, Ch. 318, § 2, eff. Oct. 1, 2002. Amended by Laws 2002, Ch. 318, § 387, eff. Oct. 1, 2002; Laws 2002, 3rd Ex.Sess., Ch. 1, § 8, eff. July 12, 2002; Laws 2003, Ch. 199, §§ 4, 13, 32, eff. April 29, 2003; Laws 2003, Ch. 199, § 18, eff. July 1, 2003; Laws 2003, Ch. 340, § 3, eff. July 1, 2003; Laws 2003, Ch. 360, § 3, eff. July 1, 2004; Laws 2003, Ch. 423, § 5, eff. July 1, 2003; Laws 2004, Ch. 200, § 1, eff. Aug. 4, 2004; Laws 2006, Ch. 228, § 2, eff. May 25, 2006; Laws 2008, Ch. 378, § 6, eff. July 1, 2008; Laws 2008, Ch. 392, § 54, eff. Aug. 5, 2008; Laws 2009, Ch. 77, § 4, eff. Oct. 1, 2009; Laws 2010, Ch. 88, § 5, eff. Aug. 11, 2010; Laws 2010, Ch. 415, § 5, eff. July 1, 2012; Laws 2014, Ch. 282, § 15, eff. July 1, 2014; Laws 2014, Ch. 336, § 1, eff. Aug. 6, 2014; Laws 2014, Ch. 391, § 10, eff. June 6, 2014.
Current through the Second Regular Session of the Sixty-Ninth General Assembly (2014)

CONNECTICUT

Conn. Gen. Stat. Ann. § 53-20 (2014). Cruelty to persons

(a) (1) Any person who intentionally tortures, torments or cruelly or unlawfully punishes another person or intentionally deprives another person of necessary food, clothing, shelter or proper physical care shall be guilty of a class D felony.

(2) Any person who, with criminal negligence, deprives another person of necessary food, clothing, shelter or proper physical care shall be fined not more than five hundred dollars or imprisoned not more than one year, or both.

(b) (1) Any person who, having the control and custody of any child under the age of nineteen years, in any capacity whatsoever, intentionally maltreats, tortures, overworks or cruelly or unlawfully punishes such child or intentionally deprives such child of necessary food, clothing or shelter shall be guilty of a class D felony.

(2) Any person who, having the control and custody of any child under the age of nineteen years, in any capacity whatsoever, with criminal negligence, deprives such child of necessary food, clothing or shelter shall be fined not more than five hundred dollars or imprisoned not more than one year, or both..

CREDIT(S)
(1949 Rev., § 8368; 2005, P.A. 05-72, § 1; 2014, P.A. 13-258, § 111.)
Current with enactments of Public Acts of the 2014 February Regular Session of the Connecticut General Assembly.

Conn. Gen. Stat. Ann. § 53a-60 (2014). Assault in the second degree: Class D felony

(a) A person is guilty of assault in the second degree when: (1) With intent to cause serious physical injury to another person, he causes such injury to such person or to a third person; or (2) with intent to cause physical injury to another person, he causes such injury to such person or to a third person by means of a deadly weapon or a dangerous instrument other than by means of the discharge of a firearm; or (3) he recklessly causes serious physical injury to another person by means of a deadly weapon or a dangerous instrument; or (4) for a purpose other than lawful medical or therapeutic treatment, he intentionally causes stupor, unconsciousness or other physical impairment or injury to another person by administering to such person, without his consent, a drug, substance or preparation capable of producing the same; or (5) he is a parolee from a correctional institution and with intent to cause physical injury to an employee or member of the Board of Pardons and Paroles, he causes physical injury to such employee or member; or (6) with intent to cause serious physical injury to another person by rendering such other person unconscious, and without provocation by such other person, he causes such injury to such other person by striking such other person on the head.

(b) Assault in the second degree is a class D felony.

CREDIT(S)
(1969, P.A. 828, § 61, eff. Oct. 1, 1971; 1971, P.A. 871, § 18; 1973, P.A. 73-639, § 20; 1984, P.A. 84-236, § 4; 1993, P.A. 93-246, § 3; 1994, July Sp.Sess., P.A. 94-2, § 5; 2004, P.A. 04-234, § 2, eff. July 1, 2004; 2014, P.A. 14-220, § 1.)
Current with enactments of Public Acts of the 2014 February Regular Session of the Connecticut General Assembly.

Conn. Gen. Stat. § 53a-35a (2014). Imprisonment for felony committed on or after July 1, 1981. Definite sentence. Authorized term

For any felony committed on or after July 1, 1981, the sentence of imprisonment shall be a definite sentence and, unless the section of the general statutes that defines or provides the penalty for the crime specifically provides otherwise, the term shall be fixed by the court as follows:

(1) (A) For a capital felony committed prior to April 25, 2012, under the provisions of section 53a-54b in effect prior to April 25, 2012, a term of life imprisonment without the possibility of release unless a sentence of death is imposed in accordance with section 53a-46a, or (B) for the class A felony of murder with special circumstances committed on or after April 25, 2012, under

the provisions of section 53a-54b in effect on or after April 25, 2012, a term of life imprisonment without the possibility of release;

(2) For the class A felony of murder, a term not less than twenty-five years nor more than life;

(3) For the class A felony of aggravated sexual assault of a minor under section 53a-70c, a term not less than twenty-five years or more than fifty years;

(4) For a class A felony other than an offense specified in subdivision (2) or (3) of this section, a term not less than ten years nor more than twenty-five years;

(5) For the class B felony of manslaughter in the first degree with a firearm under section 53a-55a, a term not less than five years nor more than forty years;

(6) For a class B felony other than manslaughter in the first degree with a firearm under section 53a-55a, a term not less than one year nor more than twenty years;

(7) For a class C felony, a term not less than one year nor more than ten years;

(8) For a class D felony, a term not more than five years;

(9) For a class E felony, a term not more than three years; and

(10) For an unclassified felony, a term in accordance with the sentence specified in the section of the general statutes that defines or provides the penalty for the crime.

CREDIT(S)

(1980, P.A. 80-442, § 10, eff. July 1, 1981; 1986, P.A. 86-220; 1992, P.A. 92-260, § 15; 1994, July Sp.Sess., P.A. 94-2, § 2; 2007, P.A. 07-143, § 12, eff. July 1, 2007; 2010, P.A. 10-36, § 18, eff. July 1, 2010; 2012, P.A. 12-5, § 2, eff. April 25, 2012; 2014, P.A. 13-258, § 2.)
Current with enactments of Public Acts of the 2014 February Regular Session of the Connecticut General Assembly

DELAWARE

Del. Code . tit. 11 § 1103 (2014). Child abuse in the third degree; class A misdemeanor

(a) A person is guilty of child abuse in the third degree when:

(1) The person recklessly or intentionally causes physical injury to a child through an act of abuse and/or neglect of such child; or

(2) The person recklessly or intentionally causes physical injury to a child when the person has engaged in a previous pattern of abuse and/or neglect of such child.

(b) This offense shall be a class A misdemeanor.

2012 Legislation
Current through 79 Laws 2014, ch. 443. Revisions to 2014 Acts by the Delaware Code Revisors were unavailable at the time of publication.

Del. Code . tit. 11 § 1103A (2014). Child abuse in the second degree; class G felony

(a) A person is guilty of child abuse in the second degree when:

(1) The person intentionally or recklessly causes physical injury to a child who is 3 years of age or younger; or

(2) The person intentionally or recklessly causes physical injury to a child who has significant intellectual or developmental disabilities;

(3) The person intentionally or recklessly causes physical injury to a child by means of a deadly weapon or dangerous instrument.

(b) This offense shall be a Class G felony.

2012 Legislation
Current through 79 Laws 2014, ch. 443. Revisions to 2014 Acts by the Delaware Code Revisors were unavailable at the time of publication.

Del. Code . tit. 11§ 1103B (2014). Child abuse in the first degree; class B felony

A person is guilty of child abuse in the first degree when the person recklessly or intentionally causes serious physical injury to a child:

(1) Through an act of abuse and/or neglect of such child; or

(2) When the person has engaged in a previous pattern of abuse and/or neglect of such child.

Child abuse in the first degree is a class B felony.

2012 Legislation
Current through 79 Laws 2014, ch. 443. Revisions to 2014 Acts by the Delaware Code Revisors were unavailable at the time of publication.

Del. Code . tit. 11 § 1102 (2014). Endangering the welfare of a child; class E or G felony

(a) A person is guilty of endangering the welfare of a child when:

(1) Being a parent, guardian or any other person who has assumed responsibility for the care or supervision of a child the person:

a. Intentionally, knowingly, or recklessly acts in a manner likely to be injurious to the physical, mental or moral welfare of the child; or

b. Intentionally, knowingly or recklessly does or fails to do any act, including failing to report a missing child, with the result that the child becomes a neglected or abused child.

(2) The person knowingly contributes to the delinquency of any child less than 18 years old by doing or failing to do any act with the result, alone or in conjunction with other acts or circumstances, that the child becomes a delinquent child; or

(3) The person knowingly encourages, aids, abets or conspires with the child to run away from the home of the child's parents, guardian or custodian; or the person knowingly and illegally harbors a child who has run away from home; or

(4) The person commits any violent felony, or reckless endangering second degree, assault third degree, terroristic threatening, or unlawful imprisonment second degree against a victim, knowing that such felony or misdemeanor was witnessed, either by sight or sound, by a child less than 18 years of age who is a member of the person's family or the victim's family.

(5) The person commits the offense of Driving Under the Influence as set forth in § 4177 of Title 21, or the offense of Operating a Vessel or Boat Under the Influence as set forth in § 2302 of Title 23, and during the commission of the offense knowingly permits a child less than 18 years of age to be a passenger in or on such vehicle, vessel or boat.

(6) The person commits any offense set forth in Chapter 47 of Title 16 in any dwelling, knowing that any child less than 18 years of age is present in the dwelling at the time.

(7) The person provides or permits a child to consume or inhale any substance not prescribed to the child by a physician, as defined in §§ 4714, 4716, 4718, 4720, and 4722 of Title 16.

(b) Endangering the welfare of a child shall be punished as follows:

(1) When the death of a child occurs while the child's welfare was endangered as defined in subsection (a) of this section, endangering the welfare of a child is a class E felony;

(2) When serious physical injury to a child occurs while the child's welfare was endangered as defined in subsection (a) of this section, endangering the welfare of a child is a class G felony;

(3) When a child becomes the victim of a sexual offense as defined in § 761(g) of this title while the child's welfare was endangered as defined in subsection (a) of this section, endangering the welfare of a child is a class G felony;

(4) In all other cases, endangering the welfare of a child is a class A misdemeanor.

(c) For the purpose of imposing the penalties prescribed in subdivision (b)(1), (b)(2) or (b)(3) of this section, it is not necessary to prove the person's state of mind or liability for causation with regard to the resulting death of or physical injury to the child or sexual offense against the child, notwithstanding the provisions of § 251, § 252, § 261, § 262, § 263 or § 264 of this title, or any other statutes to the contrary.

CREDIT(S)

58 Laws 1972, ch. 497, § 1; 61 Laws 1978, ch. 334, § 6; 67 Laws 1989, ch. 130, § 8; 70 Laws 1995, ch. 186, § 1, eff. July 10, 1995; 70 Laws 1996, ch. 451, §§ 1, 2, eff. July 5, 1996; 71 Laws 1998, ch. 424, § 3, eff. July 13, 1998; 73 Laws 2001, ch. 208, §§ 1-3, eff. June 30, 2001; 77 Laws 2009, ch. 34, § 1, eff. May 22, 2009; 78 Laws 2012, ch. 242, § 1, eff. May 21, 2012; 78 Laws 2012, ch. 406, § 2, eff. Sept. 12, 2012.
Current through 79 Laws 2014, ch. 443. Revisions to 2014 Acts by the Delaware Code

Del. Code Ann. tit. 11 § 4205 (2014). Sentence for felonies

(a) A sentence of incarceration for a felony shall be a definite sentence.

(b) The term of incarceration which the court may impose for a felony is fixed as follows:

(1) For a class A felony not less than 15 years up to life imprisonment to be served at Level V except for conviction of first-degree murder in which event § 4209 of this title shall apply.

(2) For a class B felony not less than 2 years up to 25 years to be served at Level V.

(3) For a class C felony up to 15 years to be served at Level V.

(4) For a class D felony up to 8 years to be served at Level V.

(5) For a class E felony up to 5 years to be served at Level V.

(6) For a class F felony up to 3 years to be served at Level V.

(7) For a class G felony up to 2 years to be served at Level V.

(c) In the case of the conviction of any felony, the court shall impose a sentence of Level V incarceration where a minimum sentence is required by subsection (b) of this section and may impose a sentence of Level V incarceration up to the maximum stated in subsection (b) of this section for each class of felony.

(d) Where a minimum, mandatory, mandatory minimum or minimum mandatory sentence is required by subsection (b) of this section, such sentence shall not be subject to suspension by the court.

(e) Where no minimum sentence is required by subsection (b) of this section, or with regard to any sentence in excess of the minimum required sentence, the court may suspend that part of the sentence for probation or any other punishment set forth in § 4204 of this title.

(f) Any term of Level V incarceration imposed under this section must be served in its entirety at Level V, reduced only for earned "good time" as set forth in § 4381 of this title.

(g) No term of Level V incarceration imposed under this section shall be served in other than a full custodial Level V institutional setting unless such term is suspended by the court for such other level sanction.

(h) The Department of Correction, the remainder of this section notwithstanding, may house Level V inmates at a Level IV work release center or halfway house during the last

180 days of their sentence; provided, however, that the first 5 days of any sentence to Level V, not suspended by the court, must be served at Level V.

(i) The Department of Correction, the remainder of this section notwithstanding, may grant Level V inmates 48-hour furloughs during the last 120 days of their sentence to assist in their adjustment to the community.

(j) No sentence to Level V incarceration imposed pursuant to this section is subject to parole.

(k) In addition to the penalties set forth above, the court may impose such fines and penalties as it deems appropriate.

(l) In all sentences for less than 1 year the court may order that more than 5 days be served in Level V custodial setting before the Department may place the offender in Level IV custody.

CREDIT(S)
67 Laws 1989, ch. 130, § 6; 67 Laws 1990, ch. 260, § 1; 71 Laws 1997, ch. 98, § 6, eff. June 30, 1997; 74 Laws 2003, ch. 106, §§ 9, 10, eff. June 30, 2003.
Current through 79 Laws 2014, ch. 443. Revisions to 2014 Acts by the Delaware Code Revisors were unavailable at the time of publication.

DISTRICT OF COLUMBIA

D.C. Code § 22-1101 (2014). Definition and penalty.

(a) A person commits the crime of cruelty to children in the first degree if that person intentionally, knowingly, or recklessly tortures, beats, or otherwise willfully maltreats a child under 18 years of age or engages in conduct which creates a grave risk of bodily injury to a child, and thereby causes bodily injury.

(b) A person commits the crime of cruelty to children in the second degree if that person intentionally, knowingly, or recklessly:

> (1) Maltreats a child or engages in conduct which causes a grave risk of bodily injury to a child; or
>
> (2) Exposes a child, or aids and abets in exposing a child in any highway, street, field house, outhouse or other place, with intent to abandon the child.

(c)(1) Any person convicted of cruelty to children in the first degree shall be fined not more than $10,000 or be imprisoned not more than 15 years, or both.

(2) Any person convicted of cruelty to children in the second degree shall be fined not more than $10,000 or be imprisoned not more than 10 years, or both.

CREDIT(S)
(Feb. 13, 1885, 23 Stat. 303, ch. 58, § 3; Mar. 3, 1901, 31 Stat. 1322, ch. 854, § 814; May 21, 1994, D.C. Law 10-119, § 7, 41 DCR 1639; Aug. 20, 1994, D.C. Law 10-151, § 201, 41 DCR 2608; June 11, 2014, D.C. Law 19-317, § 211, 60 DCR 2064.)
Current through November 5, 2014

FLORIDA

Fla. Stat. § 827.03 (2014). Abuse, aggravated abuse, and neglect of a child; penalties

(1) Definitions.--As used in this section, the term:

(a) "Aggravated child abuse" occurs when a person:

1. Commits aggravated battery on a child;

2. Willfully tortures, maliciously punishes, or willfully and unlawfully cages a child; or

3. Knowingly or willfully abuses a child and in so doing causes great bodily harm, permanent disability, or permanent disfigurement to the child.

(b) "Child abuse" means:

1. Intentional infliction of physical or mental injury upon a child;

2. An intentional act that could reasonably be expected to result in physical or mental injury to a child; or

3. Active encouragement of any person to commit an act that results or could reasonably be expected to result in physical or mental injury to a child.

(c) "Maliciously" means wrongfully, intentionally, and without legal justification or excuse. Maliciousness may be established by circumstances from which one could conclude that a reasonable parent would not have engaged in the damaging acts toward the child for any valid reason and that the primary purpose of the acts was to cause the victim unjustifiable pain or injury.

(d) “Mental injury” means injury to the intellectual or psychological capacity of a child as evidenced by a discernible and substantial impairment in the ability of the child to function within the normal range of performance and behavior as supported by expert testimony.

(e) “Neglect of a child” means:

1. A caregiver's failure or omission to provide a child with the care, supervision, and services necessary to maintain the child's physical and mental health, including, but not limited to, food, nutrition, clothing, shelter, supervision, medicine, and medical services that a prudent person would consider essential for the well-being of the child; or

2. A caregiver's failure to make a reasonable effort to protect a child from abuse, neglect, or exploitation by another person.

Except as otherwise provided in this section, neglect of a child may be based on repeated conduct or on a single incident or omission that results in, or could reasonably be expected to result in, serious physical or mental injury, or a substantial risk of death, to a child.

(2) Offenses.--

(a) A person who commits aggravated child abuse commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) A person who willfully or by culpable negligence neglects a child and in so doing causes great bodily harm, permanent disability, or permanent disfigurement to the child commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) A person who knowingly or willfully abuses a child without causing great bodily harm, permanent disability, or permanent disfigurement to the child commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(d) A person who willfully or by culpable negligence neglects a child without causing great bodily harm, permanent disability, or permanent disfigurement to the child commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) Expert testimony.--

(a) Except as provided in paragraph (b), a physician may not provide expert testimony in a criminal child abuse case unless the physician is a physician licensed under chapter 458 or chapter 459 or has obtained certification as an expert witness pursuant to s. 458.3175.

(b) A physician may not provide expert testimony in a criminal child abuse case regarding mental injury unless the physician is a physician licensed under chapter 458 or chapter 459 who has completed an accredited residency in psychiatry or has obtained certification as an expert witness pursuant to s. 458.3175.

(c) A psychologist may not give expert testimony in a criminal child abuse case regarding mental injury unless the psychologist is licensed under chapter 490.

(d) The expert testimony requirements of this subsection apply only to criminal child abuse cases and not to family court or dependency court cases.

CREDIT(S)

Laws 1899, c. 4721, § 1; Laws 1901, c. 4971, § 1; Gen.St.1906, §§ 3236, 3238; Rev.Gen.St.1920, §§ 5069, 5071; Laws 1923, c. 9331, § 1; Comp.Gen.Laws 1927, §§ 7171, 7173; Laws 1965, c. 65-113, § 1; Laws 1970, c. 70-8, § 1; Laws 1971, c. 71-136, § 940; Fla.St.1973, § 828.04; Laws 1974, c. 74-383, § 49; Laws 1975, c. 75-298, § 30; Laws 1984, c. 84-238, § 1. Amended by Laws 1996, c. 96-322, § 8, eff. Oct. 1, 1996; Laws 1999, c. 99-168, § 16, eff. July 1, 1999; Laws 2003, c. 2003-130, § 1, eff. June 10, 2003; Laws 2012, c. 2012-155, § 9, eff. Oct. 1, 2012.

Fla. Stat. § 775.082 (2014). Penalties; applicability of sentencing structures; mandatory minimum sentences for certain reoffenders previously released from prison

(1)(a) Except as provided in paragraph (b), a person who has been convicted of a capital felony shall be punished by death if the proceeding held to determine sentence according to the procedure set forth in s. 921.141 results in findings by the court that such person shall be punished by death, otherwise such person shall be punished by life imprisonment and shall be ineligible for parole.

(b) 1. A person who actually killed, intended to kill, or attempted to kill the victim and who is convicted under s. 782.04 of a capital felony, or an offense that was reclassified as a capital felony, which was committed before the person attained 18 years of age shall be punished by a term of imprisonment for life if, after a sentencing hearing conducted by the court in accordance with s. 921.1401, the court finds that life imprisonment is an appropriate sentence. If the court finds that life imprisonment is not an appropriate sentence, such person shall be punished by a term of imprisonment of at least 40 years. A person sentenced pursuant to this subparagraph is entitled to a review of his or her sentence in accordance with s. 921.1402(2)(a).

2. A person who did not actually kill, intend to kill, or attempt to kill the victim and who is convicted under s. 782.04 of a capital felony, or an offense that was reclassified as a capital felony, which was committed before the person attained 18 years of age may be punished by a term of imprisonment for life or by a term of years equal to life if, after a sentencing hearing conducted by the court in accordance with s. 921.1401, the court finds that life imprisonment is an appropriate sentence. A person who is sentenced to a term of imprisonment of more than 15 years is entitled to a review of his or her sentence in accordance with s. 921.1402(2)(c).

3. The court shall make a written finding as to whether a person is eligible for a sentence review hearing under s. 921.1402(2)(a) or (c). Such a finding shall be based upon whether the person actually killed, intended to kill, or attempted to kill the victim. The court may find that multiple defendants killed, intended to kill, or attempted to kill the victim.

(2) In the event the death penalty in a capital felony is held to be unconstitutional by the Florida Supreme Court or the United States Supreme Court, the court having jurisdiction over a person previously sentenced to death for a capital felony shall cause such person to be brought before the court, and the court shall sentence such person to life imprisonment as provided in subsection (1). No sentence of death shall be reduced as a result of a determination that a method of execution is held to be unconstitutional under the State Constitution or the Constitution of the United States.

(3) A person who has been convicted of any other designated felony may be punished as follows:

(a) 1. For a life felony committed before October 1, 1983, by a term of imprisonment for life or for a term of at least 30 years.

2. For a life felony committed on or after October 1, 1983, by a term of imprisonment for life or by a term of imprisonment not exceeding 40 years.

3. Except as provided in subparagraph 4., for a life felony committed on or after July 1, 1995, by a term of imprisonment for life or by imprisonment for a term of years not exceeding life imprisonment.

4. a. Except as provided in sub-subparagraph b., for a life felony committed on or after September 1, 2005, which is a violation of s. 800.04(5)(b), by:

(I) A term of imprisonment for life; or

(II) A split sentence that is a term of at least 25 years' imprisonment and not exceeding life imprisonment, followed by probation or community control for the remainder of the person's natural life, as provided in s. 948.012(4).

b. For a life felony committed on or after July 1, 2008, which is a person's second or subsequent violation of s. 800.04(5)(b), by a term of imprisonment for life.

5. Notwithstanding subparagraphs 1.-4., a person who is convicted under s. 782.04 of an offense that was reclassified as a life felony which was committed before the person attained 18 years of age may be punished by a term of imprisonment for life or by a term of years equal to life imprisonment if the judge conducts a sentencing hearing in accordance with s. 921.1401 and finds that life imprisonment or a term of years equal to life imprisonment is an appropriate sentence.

a. A person who actually killed, intended to kill, or attempted to kill the victim and is sentenced to a term of imprisonment of more than 25 years is entitled to a review of his or her sentence in accordance with s. 921.1402(2)(b).

b. A person who did not actually kill, intend to kill, or attempt to kill the victim and is sentenced to a term of imprisonment of more than 15 years is entitled to a review of his or her sentence in accordance with s. 921.1402(2)(c).

c. The court shall make a written finding as to whether a person is eligible for a sentence review hearing under s. 921.1402(2)(b) or (c). Such a finding shall be based upon whether the person actually killed, intended to kill, or attempted to kill the victim. The court may find that multiple defendants killed, intended to kill, or attempted to kill the victim.

6. For a life felony committed on or after October 1, 2014, which is a violation of s. 787.06(3)(g), by a term of imprisonment for life.

(b) 1. For a felony of the first degree, by a term of imprisonment not exceeding 30 years or, when specifically provided by statute, by imprisonment for a term of years not exceeding life imprisonment.

2. Notwithstanding subparagraph 1., a person convicted under s. 782.04 of a first degree felony punishable by a term of years not exceeding life imprisonment, or an offense that was reclassified as a first degree felony punishable by a term of years not exceeding life, which was committed before the person attained 18 years of age may be punished by a term of years equal to life imprisonment if the judge conducts a sentencing hearing in accordance with s. 921.1401 and finds that a term of years equal to life imprisonment is an appropriate sentence.

a. A person who actually killed, intended to kill, or attempted to kill the victim and is sentenced to a term of imprisonment of more than 25 years is entitled to a review of his or her sentence in accordance with s. 921.1402(2)(b).

b. A person who did not actually kill, intend to kill, or attempt to kill the victim and is sentenced to a term of imprisonment of more than 15 years is entitled to a review of his or her sentence in accordance with s. 921.1402(2)(c).

c. The court shall make a written finding as to whether a person is eligible for a sentence review hearing under s. 921.1402(2)(b) or (c). Such a finding shall be based upon whether the person actually killed, intended to kill, or attempted to kill the victim. The court may find that multiple defendants killed, intended to kill, or attempted to kill the victim.

(c) Notwithstanding paragraphs (a) and (b), a person convicted of an offense that is not included in s. 782.04 but that is an offense that is a life felony or is punishable by a term of imprisonment for life or by a term of years not exceeding life imprisonment, or an offense that was reclassified as a life felony or an offense punishable by a term of imprisonment for life or by a term of years not exceeding life imprisonment, which was committed before the person attained 18 years of age may be punished by a term of imprisonment for life or a term of years equal to life imprisonment if the judge conducts a sentencing hearing in accordance with s. 921.1401 and finds that life imprisonment or a term of years equal to life imprisonment is an appropriate sentence. A person who is sentenced to a term of imprisonment of more than 20 years is entitled to a review of his or her sentence in accordance with s. 921.1402(2)(d).

(d) For a felony of the second degree, by a term of imprisonment not exceeding 15 years.

(e) For a felony of the third degree, by a term of imprisonment not exceeding 5 years.

(4) A person who has been convicted of a designated misdemeanor may be sentenced as follows:

(a) For a misdemeanor of the first degree, by a definite term of imprisonment not exceeding 1 year;

(b) For a misdemeanor of the second degree, by a definite term of imprisonment not exceeding 60 days.

(5) Any person who has been convicted of a noncriminal violation may not be sentenced to a term of imprisonment nor to any other punishment more severe than a fine, forfeiture, or other civil penalty, except as provided in chapter 316 or by ordinance of any city or county.

(6) Nothing in this section shall be construed to alter the operation of any statute of this state authorizing a trial court, in its discretion, to impose a sentence of imprisonment for an indeterminate period within minimum and maximum limits as provided by law, except as provided in subsection (1).

(7) This section does not deprive the court of any authority conferred by law to decree a forfeiture of property, suspend or cancel a license, remove a person from office, or impose any other civil penalty. Such a judgment or order may be included in the sentence.

(8)(a) The sentencing guidelines that were effective October 1, 1983, and any revisions thereto, apply to all felonies, except capital felonies, committed on or after October 1, 1983, and before January 1, 1994, and to all felonies, except capital felonies and life felonies, committed before October 1, 1983, when the defendant affirmatively selects to be sentenced pursuant to such provisions.

(b) The 1994 sentencing guidelines, that were effective January 1, 1994, and any revisions thereto, apply to all felonies, except capital felonies, committed on or after January 1, 1994, and before October 1, 1995.

(c) The 1995 sentencing guidelines that were effective October 1, 1995, and any revisions thereto, apply to all felonies, except capital felonies, committed on or after October 1, 1995, and before October 1, 1998.

(d) The Criminal Punishment Code applies to all felonies, except capital felonies, committed on or after October 1, 1998. Any revision to the Criminal Punishment Code applies to sentencing for all felonies, except capital felonies, committed on or after the effective date of the revision.

(e) Felonies, except capital felonies, with continuing dates of enterprise shall be sentenced under the sentencing guidelines or the Criminal Punishment Code in effect on the beginning date of the criminal activity.

(9)(a) 1. “Prison releasee reoffender” means any defendant who commits, or attempts to commit:

a. Treason;

b. Murder;

c. Manslaughter;

d. Sexual battery;

e. Carjacking;

f. Home-invasion robbery;

g. Robbery;

h. Arson;

i. Kidnapping;

j. Aggravated assault with a deadly weapon;

k. Aggravated battery;

l. Aggravated stalking;

m. Aircraft piracy;

n. Unlawful throwing, placing, or discharging of a destructive device or bomb;

o. Any felony that involves the use or threat of physical force or violence against an individual;

p. Armed burglary;

q. Burglary of a dwelling or burglary of an occupied structure; or

r. Any felony violation of s. 790.07, s. 800.04, s. 827.03, s. 827.071, or s. 847.0135(5);

within 3 years after being released from a state correctional facility operated by the Department of Corrections or a private vendor or within 3 years after being released from a correctional institution of another state, the District of Columbia, the United States, any possession or territory of the United States, or any foreign jurisdiction, following incarceration for an offense for which the sentence is punishable by more than 1 year in this state.

2. "Prison releasee reoffender" also means any defendant who commits or attempts to commit any offense listed in sub-subparagraphs (a)1.a.-r. while the defendant was serving a prison sentence or on escape status from a state correctional facility operated by the Department of Corrections or a private vendor or while the defendant was on escape status from a correctional institution of another state, the District of Columbia, the United States, any possession or territory of the United States, or any foreign jurisdiction, following incarceration for an offense for which the sentence is punishable by more than 1 year in this state.

3. If the state attorney determines that a defendant is a prison releasee reoffender as defined in subparagraph 1., the state attorney may seek to have the court sentence the defendant as a prison releasee reoffender. Upon proof from the state attorney that establishes by a preponderance of the evidence that a defendant is a prison releasee reoffender as defined in this section, such defendant is not eligible for sentencing under the sentencing guidelines and must be sentenced as follows:

a. For a felony punishable by life, by a term of imprisonment for life;

b. For a felony of the first degree, by a term of imprisonment of 30 years;

c. For a felony of the second degree, by a term of imprisonment of 15 years; and

d. For a felony of the third degree, by a term of imprisonment of 5 years.

(b) A person sentenced under paragraph (a) shall be released only by expiration of sentence and shall not be eligible for parole, control release, or any form of early release. Any person sentenced under paragraph (a) must serve 100 percent of the court-imposed sentence.

(c) Nothing in this subsection shall prevent a court from imposing a greater sentence of incarceration as authorized by law, pursuant to s. 775.084 or any other provision of law.

(d) 1. It is the intent of the Legislature that offenders previously released from prison who meet the criteria in paragraph (a) be punished to the fullest extent of the law and as provided in this subsection, unless the state attorney determines that extenuating circumstances exist which preclude the just prosecution of the offender, including whether the victim recommends that the offender not be sentenced as provided in this subsection.

2. For every case in which the offender meets the criteria in paragraph (a) and does not receive the mandatory minimum prison sentence, the state attorney must explain the sentencing deviation in writing and place such explanation in the case file maintained by the state attorney.

(10) If a defendant is sentenced for an offense committed on or after July 1, 2009, which is a third degree felony but not a forcible felony as defined in s. 776.08, and excluding any third degree felony violation under chapter 810, and if the total sentence points pursuant to s. 921.0024 are 22 points or fewer, the court must sentence the offender to a nonstate prison sanction. However, if the court makes written findings that a nonstate prison sanction could present a danger to the public, the court may sentence the offender to a state correctional facility pursuant to this section.

(11) The purpose of this section is to provide uniform punishment for those crimes made punishable under this section and, to this end, a reference to this section constitutes a general reference under the doctrine of incorporation by reference.
CREDIT(S)

Laws 1971, c. 71-136, § 3; Laws 1972, c. 72-118, §§ 1, 2; Laws 1972, c. 72-724, § 2; Laws 1974, c. 74-383, § 5; Laws 1977, c. 77-174, § 1; Laws 1983, c. 83-87, § 1. Amended by Laws 1994, c. 94-228, § 1, eff. May 25, 1994; Laws 1995, c. 95-184, § 16, eff. June 8, 1995; Laws 1995, c. 95-294, § 4, eff. Oct. 1, 1995; Laws 1997, c. 97-239, § 2, eff. May 30, 1997; Laws 1998, c. 98-3, § 2, eff. March 26, 1998; Laws 1998, c. 98-204, § 10, eff. Oct. 1, 1998; Laws 1999, c. 99-188, § 2, eff. July 1, 1999; Laws 2000, c. 2000-246, § 3, eff. Oct. 1, 2000; Laws 2001, c. 2001-239, § 1, eff. July 1, 2001; Laws 2002, c. 2002-70, § 2, eff. July 1, 2002; Laws 2002, c. 2002-211, §§ 1, 2; Laws 2005, c. 2005-28, § 4, eff. Sept. 1, 2005; Laws 2008, c. 2008-172, § 13, eff. Oct. 1, 2008; Laws 2008, c. 2008-182, § 1, eff. July 1, 2008; Laws 2009, c. 2009-63, § 1, eff. July 1, 2009; Laws 2011, c. 2011-200, § 2, eff. July 1, 2011; Laws 2014, c. 2014-160, § 8, eff. Oct. 1, 2014; Laws 2014, c. 2014-220, § 1, eff. July 1, 2014.

GEORGIA

Ga. Code Ann. § 16-5-70 (2014). Cruelty to children

(a) A parent, guardian, or other person supervising the welfare of or having immediate charge or custody of a child under the age of 18 commits the offense of cruelty to children in the first degree when such person willfully deprives the child of necessary sustenance to the extent that the child's health or well-being is jeopardized.

(b) Any person commits the offense of cruelty to children in the first degree when such person maliciously causes a child under the age of 18 cruel or excessive physical or mental pain.

(c) Any person commits the offense of cruelty to children in the second degree when such person with criminal negligence causes a child under the age of 18 cruel or excessive physical or mental pain.

(d) Any person commits the offense of cruelty to children in the third degree when:

> (1) Such person, who is the primary aggressor, intentionally allows a child under the age of 18 to witness the commission of a forcible felony, battery, or family violence battery; or
>
> (2) Such person, who is the primary aggressor, having knowledge that a child under the age of 18 is present and sees or hears the act, commits a forcible felony, battery, or family violence battery.

(e)(1) A person convicted of the offense of cruelty to children in the first degree as provided in this Code section shall be punished by imprisonment for not less than five nor more than 20 years.

(2) A person convicted of the offense of cruelty to children in the second degree shall be punished by imprisonment for not less than one nor more than ten years.

(3) A person convicted of the offense of cruelty to children in the third degree shall be punished as for a misdemeanor upon the first or second conviction. Upon conviction of a third or subsequent offense of cruelty to children in the third degree, the defendant shall be guilty of a felony and shall be sentenced to a fine not less than $1,000.00 nor more than $5,000.00 or imprisonment for not less than one year nor more than three years or shall be sentenced to both fine and imprisonment.

CREDIT(S)

Laws 1878-79, p. 162, § 3; Laws 1968, p. 1249, § 1; Laws 1978, p. 228, § 1; Laws 1981, p. 683, § 1; Laws 1995, p. 957, § 2; Laws 1996, p. 1071, § 1; Laws 1999, p. 381, § 6; Laws 2004, Act 439, § 3, eff. July 1, 2004. Current through Acts 343 to 669 of the 2014 Regular Session.

HAWAII

Haw. Stat. § 709-906 (2014). Abuse of family or household members; penalty

(1) It shall be unlawful for any person, singly or in concert, to physically abuse a family or household member or to refuse compliance with the lawful order of a police officer under subsection (4). The police, in investigating any complaint of abuse of a family or household member, upon request, may transport the abused person to a hospital or safe shelter.

For the purposes of this section, "family or household member" means spouses or reciprocal beneficiaries, former spouses or reciprocal beneficiaries, persons in a dating relationship as defined under section 586-1, persons who have a child in common, parents, children, persons related by consanguinity, and persons jointly residing or formerly residing in the same dwelling unit.

(2) Any police officer, with or without a warrant, may arrest a person if the officer has reasonable grounds to believe that the person is physically abusing, or has physically abused, a family or household member and that the person arrested is guilty thereof.

(3) A police officer who has reasonable grounds to believe that the person is physically abusing, or has physically abused, a family or household member shall prepare a written report.

(4) Any police officer, with or without a warrant, shall take the following course of action, regardless of whether the physical abuse or harm occurred in the officer's presence:

(a) The police officer shall make reasonable inquiry of the family or household member upon whom the officer believes physical abuse or harm has been inflicted and other witnesses as there may be;

(b) The police officer lawfully shall order the person who the police officer reasonably believes to have inflicted the abuse to leave the premises for a period of separation of forty-eight hours, during which time the person shall not initiate any contact, either by telephone or in person, with the family or household member; provided that the person is allowed to enter the premises with police escort to collect any necessary personal effects;

(c) When the incident occurs after 12:00 p.m. on any Friday, or on any Saturday, Sunday, or legal holiday, the order to leave the premises and to initiate no further contact shall commence immediately and be in full force, but the forty-eight hour period shall be enlarged and extended until 4:30 p.m. on the first day following the weekend or legal holiday;

(d) All persons who are ordered to leave as stated above shall be given a written warning citation stating the date, time, and location of the warning and stating the penalties for violating the warning. A copy of the warning citation shall be retained by the police officer and attached to a written report which shall be submitted in all cases. A third copy of the warning citation shall be given to the abused person;

(e) If the person so ordered refuses to comply with the order to leave the premises or returns to the premises before the expiration of the period of separation, or if the person so ordered initiates any contact with the abused person, the person shall be placed under arrest for the purpose of preventing further physical abuse or harm to the family or household member; and

(f) The police officer shall seize all firearms and ammunition that the police officer has reasonable grounds to believe were used or threatened to be used in the commission of an offense under this section.

(5) Abuse of a family or household member and refusal to comply with the lawful order of a police officer under subsection (4) are misdemeanors and the person shall be sentenced as follows:

(a) For the first offense the person shall serve a minimum jail sentence of forty-eight hours; and

(b) For a second offense that occurs within one year of the first conviction, the person shall be termed a "repeat offender" and serve a minimum jail sentence of thirty days.

Upon conviction and sentencing of the defendant, the court shall order that the defendant immediately be incarcerated to serve the mandatory minimum sentence imposed; provided that the defendant may be admitted to bail pending appeal pursuant to chapter 804. The court may stay the imposition of the sentence if special circumstances exist.

(6) Whenever a court sentences a person pursuant to subsection (5), it also shall require that the offender undergo any available domestic violence intervention programs ordered by the court. However, the court may suspend any portion of a jail sentence, except for the mandatory sentences under subsection (5)(a) and (b), upon the condition that the defendant remain arrest-free and conviction-free or complete court-ordered intervention.

(7) For a third or any subsequent offense that occurs within two years of a second or subsequent conviction, the offense shall be a class C felony.

(8) Where the physical abuse consists of intentionally or knowingly impeding the normal breathing or circulation of the blood of the family or household member by applying pressure on the throat or the neck, abuse of a family or household member is a class C felony.

(9) Where physical abuse occurs in the presence of any family or household member who is less than fourteen years of age, abuse of a family or household member is a class C felony.

(10) Any police officer who arrests a person pursuant to this section shall not be subject to any civil or criminal liability; provided that the police officer acts in good faith, upon reasonable belief, and does not exercise unreasonable force in effecting the arrest.

(11) The family or household member who has been physically abused or harmed by another person may petition the family court, with the assistance of the prosecuting attorney of the applicable county, for a penal summons or arrest warrant to issue forthwith or may file a criminal complaint through the prosecuting attorney of the applicable county.

(12) The respondent shall be taken into custody and brought before the family court at the first possible opportunity. The court may dismiss the petition or hold the respondent in custody, subject to bail. Where the petition is not dismissed, a hearing shall be set.

(13) This section shall not operate as a bar against prosecution under any other section of this Code in lieu of prosecution for abuse of a family or household member.

(14) It shall be the duty of the prosecuting attorney of the applicable county to assist any victim under this section in the preparation of the penal summons or arrest warrant.

(15) This section shall not preclude the physically abused or harmed family or household member from pursuing any other remedy under law or in equity.

(16) When a person is ordered by the court to undergo any domestic violence intervention, that person shall provide adequate proof of compliance with the court's order. The court shall order a subsequent hearing at which the person is required to make an appearance, on a date certain, to determine whether the person has completed the ordered domestic violence intervention. The court may waive the subsequent hearing and appearance where a court officer has established that the person has completed the intervention ordered by the court.

CREDIT(S)

Laws 1973, ch. 189, § 1; Laws 1980, ch. 106, § 1; Laws 1980, ch. 266, § 2; Laws 1981, ch. 82, § 37; Laws 1983, ch. 248, § 1; Laws 1985, ch. 143, § 1; Laws 1986, ch. 244, § 1; Laws 1987, ch. 360, § 1; Laws 1991, ch. 215, §§ 2, 4; Laws 1991, ch. 257, §§ 1, 2; Laws 1992, ch. 290, § 7; Laws 1994, ch. 182, §§ 1, 3; Laws 1995, ch. 116, § 1; Laws 1996, ch. 201, § 2; Laws 1997, ch. 321, § 1; Laws 1997, ch. 323, § 1; Laws 1997, ch. 383, § 70; Laws 1998, ch. 172, § 8; Laws 1999, ch. 18, § 18; Laws 2002, ch. 5, § 1; Laws 2006, ch. 230, § 46; Laws 2012, ch. 205, § 1, eff. July 3, 2012; Laws 2014, ch. 251, § 1, eff. July 1, 2014; Laws 2014, ch. 117, § 1, eff. June 20, 2014.

Haw. Stat. § 707-712 (2014). Assault in the third degree

(1) A person commits the offense of assault in the third degree if the person:
(a) Intentionally, knowingly, or recklessly causes bodily injury to another person; or
(b) Negligently causes bodily injury to another person with a dangerous instrument.
(2) Assault in the third degree is a misdemeanor unless committed in a fight or scuffle entered into by mutual consent, in which case it is a petty misdemeanor.
CREDIT(S)
Laws 1972, ch. 9, § 1; Laws 1984, ch. 90, § 1.

ILLINOIS

720 Ill. Comp. Stat. § 5/12-3.05 (2014). Aggravated battery

(a) Offense based on injury. A person commits aggravated battery when, in committing a battery, other than by the discharge of a firearm, he or she knowingly does any of the following:

(1) Causes great bodily harm or permanent disability or disfigurement.

(2) Causes severe and permanent disability, great bodily harm, or disfigurement by means of a caustic or flammable substance, a poisonous gas, a deadly biological or chemical contaminant or agent, a radioactive substance, or a bomb or explosive compound.

(3) Causes great bodily harm or permanent disability or disfigurement to an individual whom the person knows to be a peace officer, community policing volunteer, fireman, private security officer, correctional institution employee, or Department of Human Services employee supervising or controlling sexually dangerous persons or sexually violent persons:

(i) performing his or her official duties;

(ii) battered to prevent performance of his or her official duties; or

(iii) battered in retaliation for performing his or her official duties.

(4) Causes great bodily harm or permanent disability or disfigurement to an individual 60 years of age or older.

(5) Strangles another individual.

(b) Offense based on injury to a child or intellectually disabled person. A person who is at least 18 years of age commits aggravated battery when, in committing a battery, he or she knowingly and without legal justification by any means:

(1) causes great bodily harm or permanent disability or disfigurement to any child under the age of 13 years, or to any severely or profoundly intellectually disabled person; or

(2) causes bodily harm or disability or disfigurement to any child under the age of 13 years or to any severely or profoundly intellectually disabled person.

(c) Offense based on location of conduct. A person commits aggravated battery when, in committing a battery, other than by the discharge of a firearm, he or she is or the person battered is on or about a public way, public property, a public place of accommodation or amusement, a sports venue, or a domestic violence shelter.

(d) Offense based on status of victim. A person commits aggravated battery when, in committing a battery, other than by discharge of a firearm, he or she knows the individual battered to be any of the following:

(1) A person 60 years of age or older.

(2) A person who is pregnant or physically handicapped.

(3) A teacher or school employee upon school grounds or grounds adjacent to a school or in any part of a building used for school purposes.

(4) A peace officer, community policing volunteer, fireman, private security officer, correctional institution employee, or Department of Human Services employee supervising or controlling sexually dangerous persons or sexually violent persons:

(i) performing his or her official duties;

(ii) battered to prevent performance of his or her official duties; or

(iii) battered in retaliation for performing his or her official duties.

(5) A judge, emergency management worker, emergency medical technician, or utility worker:

(i) performing his or her official duties;

(ii) battered to prevent performance of his or her official duties; or

(iii) battered in retaliation for performing his or her official duties.

(6) An officer or employee of the State of Illinois, a unit of local government, or a school district, while performing his or her official duties.

(7) A transit employee performing his or her official duties, or a transit passenger.

(8) A taxi driver on duty.

(9) A merchant who detains the person for an alleged commission of retail theft under Section 16-26 of this Code and the person without legal justification by any means causes bodily harm to the merchant.

(10) A person authorized to serve process under Section 2-202 of the Code of Civil Procedure [FN1] or a special process server appointed by the circuit court while that individual is in the performance of his or her duties as a process server.

(11) A nurse while in the performance of his or her duties as a nurse.

(e) Offense based on use of a firearm. A person commits aggravated battery when, in committing a battery, he or she knowingly does any of the following:

(1) Discharges a firearm, other than a machine gun or a firearm equipped with a silencer, and causes any injury to another person.

(2) Discharges a firearm, other than a machine gun or a firearm equipped with a silencer, and causes any injury to a person he or she knows to be a peace officer, community policing volunteer, person summoned by a police officer, fireman, private security officer, correctional institution employee, or emergency management worker:

(i) performing his or her official duties;

(ii) battered to prevent performance of his or her official duties; or

(iii) battered in retaliation for performing his or her official duties.

(3) Discharges a firearm, other than a machine gun or a firearm equipped with a silencer, and causes any injury to a person he or she knows to be an emergency medical technician employed by a municipality or other governmental unit:

(i) performing his or her official duties;

(ii) battered to prevent performance of his or her official duties; or

(iii) battered in retaliation for performing his or her official duties.

(4) Discharges a firearm and causes any injury to a person he or she knows to be a teacher, a student in a school, or a school employee, and the teacher, student, or employee is upon school grounds or grounds adjacent to a school or in any part of a building used for school purposes.

(5) Discharges a machine gun or a firearm equipped with a silencer, and causes any injury to another person.

(6) Discharges a machine gun or a firearm equipped with a silencer, and causes any injury to a person he or she knows to be a peace officer, community policing volunteer, person summoned by a police officer, fireman, private security officer, correctional institution employee or emergency management worker:

(i) performing his or her official duties;

(ii) battered to prevent performance of his or her official duties; or

(iii) battered in retaliation for performing his or her official duties.

(7) Discharges a machine gun or a firearm equipped with a silencer, and causes any injury to a person he or she knows to be an emergency medical technician employed by a municipality or other governmental unit:

(i) performing his or her official duties;

(ii) battered to prevent performance of his or her official duties; or

(iii) battered in retaliation for performing his or her official duties.

(8) Discharges a machine gun or a firearm equipped with a silencer, and causes any injury to a person he or she knows to be a teacher, or a student in a school, or a school employee, and the teacher, student, or employee is upon school grounds or grounds adjacent to a school or in any part of a building used for school purposes.

(f) Offense based on use of a weapon or device. A person commits aggravated battery when, in committing a battery, he or she does any of the following:

(1) Uses a deadly weapon other than by discharge of a firearm, or uses an air rifle as defined in Section 24.8-0.1 of this Code .

(2) Wears a hood, robe, or mask to conceal his or her identity.

(3) Knowingly and without lawful justification shines or flashes a laser gunsight or other laser device attached to a firearm, or used in concert with a firearm, so that the laser beam strikes upon or against the person of another.

(4) Knowingly video or audio records the offense with the intent to disseminate the recording.

(g) Offense based on certain conduct. A person commits aggravated battery when, other than by discharge of a firearm, he or she does any of the following:

(1) Violates Section 401 of the Illinois Controlled Substances Act by unlawfully delivering a controlled substance to another and any user experiences great bodily harm or permanent disability as a result of the injection, inhalation, or ingestion of any amount of the controlled substance.

(2) Knowingly administers to an individual or causes him or her to take, without his or her consent or by threat or deception, and for other than medical purposes, any intoxicating, poisonous, stupefying, narcotic, anesthetic, or controlled substance, or gives to another person any food containing any substance or object intended to cause physical injury if eaten.

(3) Knowingly causes or attempts to cause a correctional institution employee or Department of Human Services employee to come into contact with blood, seminal fluid, urine, or feces by throwing, tossing, or expelling the fluid or material, and the person is

an inmate of a penal institution or is a sexually dangerous person or sexually violent person in the custody of the Department of Human Services.

(h) Sentence. Unless otherwise provided, aggravated battery is a Class 3 felony.

Aggravated battery as defined in subdivision (a)(4), (d)(4), or (g)(3) is a Class 2 felony.

Aggravated battery as defined in subdivision (a)(3) or (g)(1) is a Class 1 felony.

Aggravated battery as defined in subdivision (a)(1) is a Class 1 felony when the aggravated battery was intentional and involved the infliction of torture, as defined in paragraph (14) of subsection (b) of Section 9-1 of this Code, as the infliction of or subjection to extreme physical pain, motivated by an intent to increase or prolong the pain, suffering, or agony of the victim.

Aggravated battery under subdivision (a)(5) is a Class 1 felony if:

(A) the person used or attempted to use a dangerous instrument while committing the offense; or

(B) the person caused great bodily harm or permanent disability or disfigurement to the other person while committing the offense; or

(C) the person has been previously convicted of a violation of subdivision (a)(5) under the laws of this State or laws similar to subdivision (a)(5) of any other state.

Aggravated battery as defined in subdivision (e)(1) is a Class X felony.

Aggravated battery as defined in subdivision (a)(2) is a Class X felony for which a person shall be sentenced to a term of imprisonment of a minimum of 6 years and a maximum of 45 years.

Aggravated battery as defined in subdivision (e)(5) is a Class X felony for which a person shall be sentenced to a term of imprisonment of a minimum of 12 years and a maximum of 45 years.

Aggravated battery as defined in subdivision (e)(2), (e)(3), or (e)(4) is a Class X felony for which a person shall be sentenced to a term of imprisonment of a minimum of 15 years and a maximum of 60 years.

Aggravated battery as defined in subdivision (e)(6), (e)(7), or (e)(8) is a Class X felony for which a person shall be sentenced to a term of imprisonment of a minimum of 20 years and a maximum of 60 years.

Aggravated battery as defined in subdivision (b)(1) is a Class X felony, except that:

(1) if the person committed the offense while armed with a firearm, 15 years shall be added to the term of imprisonment imposed by the court;

(2) if, during the commission of the offense, the person personally discharged a firearm, 20 years shall be added to the term of imprisonment imposed by the court;

(3) if, during the commission of the offense, the person personally discharged a firearm that proximately caused great bodily harm, permanent disability, permanent disfigurement, or death to another person, 25 years or up to a term of natural life shall be added to the term of imprisonment imposed by the court.

(i) Definitions. For the purposes of this Section:

"Building or other structure used to provide shelter" has the meaning ascribed to "shelter" in Section 1 of the Domestic Violence Shelters Act.

"Domestic violence" has the meaning ascribed to it in Section 103 of the Illinois Domestic Violence Act of 1986.

"Domestic violence shelter" means any building or other structure used to provide shelter or other services to victims or to the dependent children of victims of domestic violence pursuant to the Illinois Domestic Violence Act of 1986 or the Domestic Violence Shelters Act, or any place within 500 feet of such a building or other structure in the case of a person who is going to or from such a building or other structure.

"Firearm" has the meaning provided under Section 1.1 of the Firearm Owners Identification Card Act, and does not include an air rifle as defined by Section 24.8-0.1 of this Code.

"Machine gun" has the meaning ascribed to it in Section 24-1 of this Code.

"Merchant" has the meaning ascribed to it in Section 16-0.1 of this Code.

"Strangle" means intentionally impeding the normal breathing or circulation of the blood of an individual by applying pressure on the throat or neck of that individual or by blocking the nose or mouth of that individual.

CREDIT(S)

Laws 1961, p. 1983, § 12-4, eff. Jan. 1, 1962. Amended by Laws 1961, p. 2457, § 1, eff. Aug. 1, 1961; Laws 1965, p. 294, § 1, eff. July 1, 1965; Laws 1965, p. 854, § 1, eff. July 1, 1965; Laws 1967, p. 341, § 1, eff. July 1, 1967; Laws 1967, p. 2595, § 1, eff. Aug. 3,

1967; Laws 1967, p. 3514, § 1, eff. Sept. 1, 1967; Laws 1968, p. 99, § 1, eff. Aug. 17, 1968; Laws 1968, p. 166, § 1, eff. Aug. 20, 1968; P.A. 76-836, § 1, eff. Aug. 19, 1969; P.A. 77-2638, § 1, eff. Jan. 1, 1973; P.A. 79-1001, § 1, eff. Oct. 1, 1975; P.A. 81-175, § 1, eff. Aug. 13, 1979; P.A. 81-571, § 1, eff. Sept. 14, 1979; P.A. 81-763, § 1, eff. Sept. 16, 1979; P.A. 81-925, § 1, eff. Sept. 22, 1979; P.A. 81-1509, Art. I, § 23, eff. Sept. 26, 1980; P.A. 83-423, § 1, eff. Jan. 1, 1984; P.A. 84-1083, § 1, eff. Dec. 2, 1985; P.A. 85-996, § 1, eff. July 1, 1988; P.A. 86-979, § 1, eff. July 1, 1990; P.A. 86-980, § 2, eff. July 1, 1990; P.A. 86-1028, Art. II, § 2-19, eff. Feb. 5, 1990; P.A. 87-921, § 1, eff. Jan. 1, 1993; P.A. 87-1083, § 1, eff. Jan. 1, 1993; P.A. 88-45, Art. II, § 2-57, eff. July 6, 1993; P.A. 88-433, § 5, eff. Jan. 1, 1994; P.A. 89-507, Art. 90, § 90L-93, eff. July 1, 1997; P.A. 90-115, § 5, eff. Jan. 1, 1998; P.A. 90-651, § 5, eff. Jan. 1, 1999; P.A. 90-735, § 5, eff. Aug. 11, 1998; P.A. 91-357, § 237, eff. July 29, 1999; P.A. 91-488, § 5, eff. Jan. 1, 2000; P.A. 91-619, § 5, eff. Jan. 1, 2000; P.A. 91-672, § 5, eff. Jan. 1, 2000; P.A. 92-16, § 88, eff. June 28, 2001; P.A. 92-516, § 5, eff. Jan. 1, 2002; P.A. 92-841, § 5, eff. Aug. 22, 2002; P.A. 92-865, § 5, eff. Jan. 3, 2003; P.A. 93-83, § 5, eff. July 2, 2003; P.A. 94-243, § 5, eff. Jan. 1, 2006; P.A. 94-327, § 5, eff. Jan. 1, 2006; P.A. 94-333, § 5, eff. July 26, 2005; P.A. 94-363, § 5, eff. July 29, 2005; P.A. 94-482, § 5, eff. Jan. 1, 2006; P.A. 95-236, § 5, eff. Jan. 1, 2008; P.A. 95-256, § 5, eff. Jan. 1, 2008; P.A. 95-331, § 1030, eff. Aug. 21, 2007; P.A. 95-429, § 5, eff. Jan. 1, 2008; P.A. 95-748, § 5, eff. Jan. 1, 2009; P.A. 95-876, § 315, eff. Aug. 21, 2008; P.A. 96-201, § 5, eff. Aug. 10, 2009; P.A. 96-363, § 5, eff. Aug. 13, 2009; P.A. 96-1000, § 600, eff. July 2, 2010. Renumbered and amended as § 12-3.05 by P.A. 96-1551, Art. 1, § 5, eff. July 1, 2011. Amended by P.A. 97-313, § 5, eff. Jan. 1, 2012; P.A. 97-467, § 5, eff. Jan. 1, 2012; P.A. 97-597, § 5, eff. Jan. 1, 2012; P.A. 97-1109, § 15-55, eff. Jan. 1, 2014; P.A. 98-369, § 5, eff. Jan. 1, 2014; P.A. 98-385, § 5, eff. Jan. 1, 2014; P.A. 98-756, § 695, eff. July 16, 2014.
Current through P.A. 98-1125 of the 2014 Reg. Sess.

730 Ill. Comp. Stat § 5/5-4.5-40 (2014). CLASS 3 FELONIES; SENTENCE

(a) TERM. The sentence of imprisonment shall be a determinate sentence of not less than 2 years and not more than 5 years. The sentence of imprisonment for an extended term Class 3 felony, as provided in Section 5-8-2 (730 ILCS 5/5-8-2), shall be a term not less than 5 years and not more than 10 years.

(b) PERIODIC IMPRISONMENT. A sentence of periodic imprisonment shall be for a definite term of up to 18 months, except as otherwise provided in Section 5-5-3 or 5-7-1 (730 ILCS 5/5-5-3 or 5/5-7-1).

(c) IMPACT INCARCERATION. See Sections 5-8-1.1 and 5-8-1.2 (730 ILCS 5/ 5-8-1.1 and 5/5-8-1.2) concerning eligibility for the impact incarceration program or the county impact incarceration program.

(d) PROBATION; CONDITIONAL DISCHARGE. Except as provided in Section 5-5-3 or 5-6-2 (730 ILCS 5/5-5-3 or 5/5-6-2), the period of probation or conditional discharge shall not exceed 30 months. The court shall specify the conditions of probation or conditional discharge as set forth in Section 5-6-3 (730 ILCS 5/5-6-3).

(e) FINE. Fines may be imposed as provided in Section 5-4.5-50(b) (730 ILCS 5/5-4.5-50(b)).

(f) RESTITUTION. See Section 5-5-6 (730 ILCS 5/5-5-6) concerning restitution.

(g) CONCURRENT OR CONSECUTIVE SENTENCE. The sentence shall be concurrent or consecutive as provided in Section 5-8-4 (730 ILCS 5/5-8-4) and Section 5-4.5-50 (730 ILCS 5/5-4.5-50).

(h) DRUG COURT. See Section 20 of the Drug Court Treatment Act (730 ILCS 166/20) concerning eligibility for a drug court program.

(i) CREDIT FOR HOME DETENTION. See Section 5-4.5-100 (730 ILCS 5/ 5-4.5-100) concerning credit for time spent in home detention prior to judgment.

(j) SENTENCE CREDIT. See Section 3-6-3 of this Code (730 ILCS 5/3-6-3) or the County Jail Good Behavior Allowance Act (730 ILCS 130/) for rules and regulations for sentence credit.

(k) ELECTRONIC HOME DETENTION. See Section 5-8A-3 (730 ILCS 5/5-8A-3) concerning eligibility for electronic home detention.

(l) PAROLE; MANDATORY SUPERVISED RELEASE. Except as provided in Section 3-3-8 or 5-8-1 (730 ILCS 5/3-3-8 or 5/5-8-1), the parole or mandatory supervised release term shall be one year upon release from imprisonment.

CREDIT(S)
P.A. 77-2097, § 40, added by P.A. 95-1052, § 5, eff. July 1, 2009. Amended by P.A. 97-697, § 5, eff. June 22, 2012. Current through P.A. 98-1125 of the 2014 Reg. Sess.

INDIANA

Ind. Code Ann. § 35-42-2-1. Battery (2014)

Sec. 1. (a) As used in this section, "public safety official" means:

(1) a law enforcement officer, including an alcoholic beverage enforcement officer;

(2) an employee of a penal facility or a juvenile detention facility (as defined in IC 31-9-2-71);

(3) an employee of the department of correction;

(4) a probation officer;

(5) a parole officer;

(6) a community corrections worker;

(7) a home detention officer;

(8) a department of child services employee;

(9) a firefighter;

(10) an emergency medical services provider; or

(11) a judicial officer.

(b) Except as provided in subsections (c) through (j), a person who knowingly or intentionally:

(1) touches another person in a rude, insolent, or angry manner; or

(2) in a rude, insolent, or angry manner places any bodily fluid or waste on another person;

commits battery, a Class B misdemeanor.

(c) The offense described in subsection (b)(1) or (b)(2) is a Class A misdemeanor if it results in bodily injury to any other person.

(d) The offense described in subsection (b)(1) or (b)(2) is a Level 6 felony if one (1) or more of the following apply:

(1) The offense results in moderate bodily injury to any other person.

(2) The offense is committed against a public safety official while the official is engaged in the official's official duty.

(3) The offense is committed against a person less than fourteen (14) years of age and is committed by a person at least eighteen (18) years of age.

(4) The offense is committed against a person of any age who has a mental or physical disability and is committed by a person having the care of the person with the mental or physical disability, whether the care is assumed voluntarily or because of a legal obligation.

(5) The offense is committed against an endangered adult (as defined in IC 12-10-3-2).

(6) The offense is committed against a family or household member (as defined in IC 35-31.5-2-128) if the person who committed the offense:

(A) is at least eighteen (18) years of age; and

(B) committed the offense in the physical presence of a child less than sixteen (16) years of age, knowing that the child was present and might be able to see or hear the offense.

(e) The offense described in subsection (b)(2) is a Level 6 felony if the person knew or recklessly failed to know that the bodily fluid or waste placed on another person was infected with hepatitis, tuberculosis, or human immunodeficiency virus.

(f) The offense described in subsection (b)(1) or (b)(2) is a Level 5 felony if one (1) or more of the following apply:

(1) The offense results in serious bodily injury to another person.

(2) The offense is committed with a deadly weapon.

(3) The offense results in bodily injury to a pregnant woman if the person knew of the pregnancy.

(4) The person has a previous conviction for battery against the same victim.

(5) The offense results in bodily injury to one (1) or more of the following:

(A) A public safety official while the official is engaged in the official's official duties.

(B) A person less than fourteen (14) years of age if the offense is committed by a person at least eighteen (18) years of age.

(C) A person who has a mental or physical disability if the offense is committed by an individual having care of the person with the disability, regardless of whether the care is assumed voluntarily or because of a legal obligation.

(D) An endangered adult (as defined in IC 12-10-3-2).

(g) The offense described in subsection (b)(2) is a Level 5 felony if:

(1) the person knew or recklessly failed to know that the bodily fluid or waste placed on another person was infected with hepatitis, tuberculosis, or human immunodeficiency virus; and

(2) the person placed the bodily fluid or waste on a public safety official.

(h) The offense described in subsection (b)(1) or (b)(2) is a Level 4 felony if it results in serious bodily injury to an endangered adult (as defined in IC 12-10-3-2).

(i) The offense described in subsection (b)(1) or (b)(2) is a Level 3 felony if it results in serious bodily injury to a person less than fourteen (14) years of age if the offense is committed by a person at least eighteen (18) years of age.

(j) The offense described in subsection (b)(1) or (b)(2) is a Level 2 felony if it results in the death of one (1) or more of the following:

(1) A person less than fourteen (14) years of age if the offense is committed by a person at least eighteen (18) years of age.

(2) An endangered adult (as defined in IC 12-10-3-2).

CREDIT(S)

As added by Acts 1976, P.L.148, SEC.2. Amended by Acts 1977, P.L.340, SEC.30; Acts 1979, P.L.298, SEC.1; Acts 1979, P.L.83, SEC.10; Acts 1981, P.L.299, SEC.1; P.L.185-1984, SEC.1; P.L.205-1986, SEC.1; P.L.322-1987, SEC.1; P.L.164-1993, SEC.10; P.L.59-1995, SEC.2; P.L.31-1996, SEC.20 and P.L.32-1996, SEC.20; P.L.255-1996, SEC.25; P.L.37-1997, SEC.2; P.L.212-1997, SEC.1; P.L.56-1999, SEC.1; P.L.188-1999, SEC.5; P.L.43-2000, SEC.1; P.L.222-2001, SEC.4; P.L.175-2003, SEC.2; P.L.281-2003, SEC.3; P.L.2-2005, SEC.125, eff. April 25, 2005; P.L.99-2007, SEC.209, eff. May 2, 2007; P.L.164-2007, SEC.1; P.L.120-2008, SEC.93; P.L.131-2009, SEC.73; P.L.114-2012, SEC.137; P.L.158-2014, SEC.420, eff. July 1, 2014; P.L.147-2014, SEC.2, eff. July 1, 2014. These statutes and Constitution are current with all 2014 Public Laws of the 2014 Second Regular Session and Second Regular Technical Session of the 118th General Assembly.

Ind. Code Ann. § 35-50-2-7 (2014). Class D/Level 6 felony

(a) A person who commits a Class D felony shall be imprisoned for a fixed term of between six (6) months and three (3) years, with the advisory sentence being one and one-half (1 1/2) years. In addition, the person may be fined not more than ten thousand dollars ($10,000).

(b) Notwithstanding subsection (a), if a person has committed a Class D felony, the court may enter judgment of conviction of a Class A misdemeanor and sentence accordingly. However, the court shall enter a judgment of conviction of a Class D felony if:

(1) the court finds that:

(A) the person has committed a prior, unrelated felony for which judgment was entered as a conviction of a Class A misdemeanor; and

(B) the prior felony was committed less than three (3) years before the second felony was committed;

(2) the offense is domestic battery as a Class D felony under IC 35-42-2-1.3; or

(3) the offense is possession of child pornography (IC 35-42-4-4(c)).

The court shall enter in the record, in detail, the reason for its action whenever it exercises the power to enter judgment of conviction of a Class A misdemeanor granted in this subsection.

(c) Notwithstanding subsection (a), the sentencing court may convert a Class D felony conviction to a Class A misdemeanor conviction if, after receiving a verified petition as described in subsection (d) and after conducting a hearing of which the prosecuting attorney has been notified, the court makes the following findings:

(1) The person is not a sex or violent offender (as defined in IC 11-8-8-5).

(2) The person was not convicted of a Class D felony that resulted in bodily injury to another person.
(3) The person has not been convicted of perjury under IC 35-44-2-1 or official misconduct under IC 35-44-1-2.

(4) At least three (3) years have passed since the person:

(A) completed the person's sentence; and

(B) satisfied any other obligation imposed on the person as part of the sentence;

for the Class D felony.

(5) The person has not been convicted of a felony since the person:

(A) completed the person's sentence; and

(B) satisfied any other obligation imposed on the person as part of the sentence;

for the Class D felony.

(6) No criminal charges are pending against the person.

(d) A petition filed under subsection (c) must be verified and set forth:

(1) the crime the person has been convicted of;

(2) the date of the conviction;

(3) the date the person completed the person's sentence;

(4) any obligations imposed on the person as part of the sentence;

(5) the date the obligations were satisfied; and

(6) a verified statement that there are no criminal charges pending against the person.

(e) If a person whose Class D felony conviction has been converted to a Class A misdemeanor conviction under subsection (c) is convicted of a felony within five (5) years after the conversion under subsection (c), a prosecuting attorney may petition a court to convert the person's Class A misdemeanor conviction back to a Class D felony conviction.

CREDIT(S)
As added by Acts 1976, P.L.148, SEC.8. Amended by Acts 1977, P.L.340, SEC.120; Acts 1982, P.L.204, SEC.40; P.L.334-1983, SEC.3; P.L.136-1987, SEC.7; P.L.167-1990, SEC.2; P.L.188-1999, SEC.9; P.L.98-2003, SEC.3; P.L.71-2005, SEC.10, eff. April 25, 2005; P.L.69-2012, SEC.6; P.L.13-2014, SEC.145, eff. April 1, 2014; P.L.159-2014, SEC.5, eff. July 1, 2014; P.L.158-2014, SEC.660, eff. July 1, 2014; P.L.168-2014, SEC.117, eff. July 1, 2014. The statutes and Constitution are current with all 2014 Public Laws of the 2014 Second Regular Session and Second Regular Technical Session of the 118th General Assembly.

Ind. Code Ann. § 35-50-2-6 (2014). Class C/Level 5 felony;

Sec. 6. (a) A person who commits a Class C felony (for a crime committed before July 1, 2014) shall be imprisoned for a fixed term of between two (2) and eight (8) years, with

the advisory sentence being four (4) years. In addition, the person may be fined not more than ten thousand dollars ($10,000).

(b) A person who commits a Level 5 felony (for a crime committed after June 30, 2014) shall be imprisoned for a fixed term of between one (1) and six (6) years, with the advisory sentence being three (3) years. In addition, the person may be fined not more than ten thousand dollars ($10,000).

(c) Notwithstanding subsections (a) and (b), if a person commits nonsupport of a child as a Class C felony (for a crime committed before July 1, 2014) or a Level 5 felony (for a crime committed after June 30, 2014) under IC 35-46-1-5, the sentencing court may convert the Class C felony conviction to a Class D felony conviction or a Level 5 felony conviction to a Level 6 felony conviction if, after receiving a verified petition as described in subsection (d) and after conducting a hearing in which the prosecuting attorney has been notified, the court makes the following findings:

(1) The person has successfully completed probation as required by the person's sentence.

(2) The person has satisfied other obligations imposed on the person as required by the person's sentence.

(3) The person has paid in full all child support arrearages due that are named in the information and no further child support arrearage is due.

(4) The person has not been convicted of another felony since the person was sentenced for the underlying nonsupport of a child felony.

(5) There are no criminal charges pending against the person.

(d) A petition filed under subsection (c) must be verified and set forth the following:

(1) A statement that the person was convicted of nonsupport of a child under IC 35-46-1-5.

(2) The date of the conviction.

(3) The date the person completed the person's sentence.

(4) The amount of the child support arrearage due at the time of conviction.

(5) The date the child support arrearage was paid in full.

(6) A verified statement that no further child support arrearage is due.

(7) Any other obligations imposed on the person as part of the person's sentence.

(8) The date the obligations were satisfied.

(9) A verified statement that there are no criminal charges pending against the person.

(e) A person whose conviction has been converted to a lower penalty under this section is eligible to seek expungement under IC 35-38-9-3 with the date of conversion used as the date of conviction to calculate time frames under IC 35-38-9.

CREDIT(S)

As added by Acts 1976, P.L.148, SEC.8. Amended by Acts 1977, P.L.340, SEC.119; P.L.167-1990, SEC.1; P.L.213-1996, SEC.5; P.L.71-2005, SEC.9, eff. April 25, 2005; P.L.158-2014, SEC.659, eff. July 1, 2014; P.L.148-2014, SEC.2, eff. July 1, 2014; P.L.168-2014, SEC.116, eff. July 1, 2014. The statutes and Constitution are current with all 2014 Public Laws of the 2014 Second Regular Session and Second Regular Technical Session of the 118th General Assembly.

IOWA

Iowa Code § 7726.6 (2014). Child endangerment

1. A person who is the parent, guardian, or person having custody or control over a child or a minor under the age of eighteen with a mental or physical disability, or a person who is a member of the household in which a child or such a minor resides, commits child endangerment when the person does any of the following:

a. Knowingly acts in a manner that creates a substantial risk to a child or minor's physical, mental or emotional health or safety.

b. By an intentional act or series of intentional acts, uses unreasonable force, torture or cruelty that results in bodily injury, or that is intended to cause serious injury.

c. By an intentional act or series of intentional acts, evidences unreasonable force, torture or cruelty which causes substantial mental or emotional harm to a child or minor.

d. Willfully deprives a child or minor of necessary food, clothing, shelter, health care or supervision appropriate to the child or minor's age, when the person is reasonably able to make the necessary provisions and which deprivation substantially harms the child or minor's physical, mental or emotional health. For purposes of this paragraph, the failure to provide specific medical treatment shall not for that reason alone be considered willful deprivation of health care if the person can show that such treatment would conflict with the tenets and practice of a recognized religious denomination of which the person is an

adherent or member. This exception does not in any manner restrict the right of an interested party to petition the court on behalf of the best interest of the child or minor.

e. Knowingly permits the continuing physical or sexual abuse of a child or minor. However, it is an affirmative defense to this subsection if the person had a reasonable apprehension that any action to stop the continuing abuse would result in substantial bodily harm to the person or the child or minor.

f. Abandons the child or minor to fend for the child or minor's self, knowing that the child or minor is unable to do so.

g. Knowingly permits a child or minor to be present at a location where amphetamine, its salts, isomers, or salts of isomers, or methamphetamine, its salts, isomers, or salts of isomers, is manufactured in violation of section 124.401, subsection 1, or where a product is possessed in violation of section 124.401, subsection 4.

h. Knowingly allows a person custody or control of, or unsupervised access to a child or a minor after knowing the person is required to register or is on the sex offender registry as a sex offender under chapter 692A. However, this paragraph does not apply to a person who is a parent or guardian of a child or a minor, who is required to register as a sex offender, or to a person who is married to and living with a person required to register as a sex offender.

2. A parent or person authorized by the parent shall not be prosecuted for a violation of subsection 1, paragraph "f", relating to abandonment, if the parent or person authorized by the parent has voluntarily released custody of a newborn infant in accordance with section 233.2.

3. For the purposes of subsection 1, "person having control over a child or a minor" means any of the following:

a. A person who has accepted, undertaken, or assumed supervision of a child or such a minor from the parent or guardian of the child or minor.

b. A person who has undertaken or assumed temporary supervision of a child or such a minor without explicit consent from the parent or guardian of the child or minor.

c. A person who operates a motor vehicle with a child or such a minor present in the vehicle.

4. A person who commits child endangerment resulting in the death of a child or minor is guilty of a class "B" felony. Notwithstanding section 902.9, subsection 1, paragraph "b", a person convicted of a violation of this subsection shall be confined for no more than fifty years.

5. A person who commits child endangerment resulting in serious injury to a child or minor is guilty of a class "C" felony.

6. A person who commits child endangerment resulting in bodily injury to a child or minor or child endangerment in violation of subsection 1, paragraph "g", that does not result in a serious injury, is guilty of a class "D" felony.

7. A person who commits child endangerment that is not subject to penalty under subsection 4, 5, or 6 is guilty of an aggravated misdemeanor.

CREDIT(S)
Added by Acts 1976 (66 G.A.) ch. 1245 (ch. 1), § 2606, eff. Jan. 1, 1978. Amended by Acts 1977 (67 G.A.) ch. 147, § 27, eff. Jan. 1, 1978; Acts 1985 (71 G.A.) ch. 180, § 3; Acts 1996 (76 G.A.) ch. 1129, § 109; Acts 2001 (79 G.A.) ch. 3, §§ 2 to 5; Acts 2001 (79 G.A.) ch. 67, § 12, eff. April 24, 2001; Acts 2002 (79 G.A.) ch. 1119, § 104; Acts 2004 (80 G.A.) ch. 1004, § 1; Acts 2004 (80 G.A.) ch. 1151, §§ 3, 4; Acts 2005 (81 G.A.) ch. 158, H.F. 619, § 31; Acts 2007 (82 G.A.) ch. 126, S.F. 333, § 109; Acts 2009 (83 G.A.) ch. 119, S.F. 340, § 65; Acts 2014 (85 G.A.) ch. 30, H.F. 417, § 252. The statutes and Constitution are current with all 2014 Public Laws of the 2014 Second Regular Session and Second Regular Technical Session of the 118th General Assembly.

Iowa Code § 902.9(2014). Maximum sentence for felons

<[Text subject to final changes by the Iowa Code Editor for Code 2015.]>

1. The maximum sentence for any person convicted of a felony shall be that prescribed by statute or, if not prescribed by statute, if other than a class "A" felony shall be determined as follows:

a. A felon sentenced for a first conviction for a violation of section 124.401D, shall be confined for no more than ninety-nine years.

b. A class "B" felon shall be confined for no more than twenty-five years.

c. An habitual offender shall be confined for no more than fifteen years.

d. A class "C" felon, not an habitual offender, shall be confined for no more than ten years, and in addition shall be sentenced to a fine of at least one thousand dollars but not more than ten thousand dollars.

e. A class "D" felon, not an habitual offender, shall be confined for no more than five years, and in addition shall be sentenced to a fine of at least seven hundred fifty dollars but not more than seven thousand five hundred dollars.

2. The surcharges required by sections 911.1, 911.2, 911.2A, and 911.3 shall be added to a fine imposed on a class "C" or class "D" felon, as provided by those sections, and are not a part of or subject to the maximums set in this section.

CREDIT(S)

Added by Acts 1976 (66 G.A.) ch. 1245 (ch. 3), § 209, eff. Jan. 1, 1978. Amended by Acts 1984 (70 G.A.) ch. 1134, § 1; Acts 1984 (70 G.A.) ch. 1219, § 38; Acts 1986 (71 G.A.) ch. 1220, § 44; Acts 1992 (74 G.A.) ch. 1163, § 121, Acts 1993 (75 G.A.) ch. 110, § 9; Acts 1999 (78 G.A.) ch. 12, § 17; Acts 1999 (78 G.A.) ch. 65, §§ 6, 7; Acts 2001 (79 G.A.) ch. 168, § 4; Acts 2002 (79 G.A.) ch. 1050, § 55; Acts 2002 (79 G.A.) ch. 1042, § 3; Acts 2004 (80 G.A.) ch. 1111, § 7; Acts 2014 (85 G.A.) ch. 30, H.F. 417, § 224; Acts 2014 (85 G.A.) ch. 1097, S.F. 2311, § 12, eff. July 1, 2014. The statutes and Constitution are current with all 2014 Public Laws of the 2014 Second Regular Session and Second Regular Technical Session of the 118th General Assembly.

KANSAS

Kan. Stat. § 21-5602 (2014). Abuse of a child

(a) Abuse of a child is knowingly:

(1) Torturing or cruelly beating any child under the age of 18 years;

(2) shaking any child under the age of 18 years which results in great bodily harm to the child; or

(3) inflicting cruel and inhuman corporal punishment upon any child under the age of 18 years.

(b) Abuse of a child is a severity level 5, person felony.

(c) A person who violates the provisions of this section may also be prosecuted for, convicted of, and punished for any form of battery or homicide.

CREDIT(S)
Laws 2010, ch. 136, § 79, eff. July 1, 2011; Laws 2011, ch. 30, § 285, eff. July 1, 2011. Current through 2014 regular session

Kan. Stat. § 21-6804 (2014). Sentencing grid for nondrug crimes; authority and responsibility of sentencing court; presumptive disposition

(a) The provisions of this section shall be applicable to the sentencing guidelines grid for nondrug crimes. The following sentencing guidelines grid shall be applicable to nondrug felony crimes:

(b) Sentences expressed in the sentencing guidelines grid for nondrug crimes represent months of imprisonment.

(c) The sentencing guidelines grid is a two-dimensional crime severity and criminal history classification tool. The grid's vertical axis is the crime severity scale which classifies current crimes of conviction. The grid's horizontal axis is the criminal history scale which classifies criminal histories.

(d) The sentencing guidelines grid for nondrug crimes as provided in this section defines presumptive punishments for felony convictions, subject to the sentencing court's discretion to enter a departure sentence. The appropriate punishment for a felony conviction should depend on the severity of the crime of conviction when compared to all other crimes and the offender's criminal history.

(e)(1) The sentencing court has discretion to sentence at any place within the sentencing range. In the usual case it is recommended that the sentencing judge select the center of the range and reserve the upper and lower limits for aggravating and mitigating factors insufficient to warrant a departure.

(2) In presumptive imprisonment cases, the sentencing court shall pronounce the complete sentence which shall include the:

(A) Prison sentence;

(B) maximum potential reduction to such sentence as a result of good time; and

(C) period of postrelease supervision at the sentencing hearing. Failure to pronounce the period of postrelease supervision shall not negate the existence of such period of postrelease supervision.

(3) In presumptive nonprison cases, the sentencing court shall pronounce the:

(A) Prison sentence; and

(B) duration of the nonprison sanction at the sentencing hearing.

(f) Each grid block states the presumptive sentencing range for an offender whose crime of conviction and criminal history place such offender in that grid block. If an offense is classified in a grid block below the dispositional line, the presumptive disposition shall be nonimprisonment. If an offense is classified in a grid block above the dispositional line, the presumptive disposition shall be imprisonment. If an offense is classified in grid blocks 5-H, 5-I or 6-G, the court may impose an optional nonprison sentence as provided in subsection (q).

(g) The sentence for a violation of K.S.A. 21-3415, prior to its repeal, aggravated battery against a law enforcement officer committed prior to July 1, 2006, or a violation of subsection (d) of K.S.A. 21-5412, and amendments thereto, aggravated assault against a law enforcement officer, which places the defendant's sentence in grid block 6-H or 6-I shall be presumed imprisonment. The court may impose an optional nonprison sentence as provided in subsection (q).

(h) When a firearm is used to commit any person felony, the offender's sentence shall be presumed imprisonment. The court may impose an optional nonprison sentence as provided in subsection (q).

(i)(1) The sentence for the violation of the felony provision of K.S.A. 8-1025, K.S.A. 8-2,144, K.S.A. 8-1567, subsection (b)(3) of K.S.A. 21-5414, subsections (b)(3) and (b)(4) of K.S.A. 21-5823, K.S.A. 21-6412 and K.S.A. 21-6416, and amendments thereto, shall be as provided by the specific mandatory sentencing requirements of that section and shall not be subject to the provisions of this section or K.S.A. 21-6807, and amendments thereto.

(2) If because of the offender's criminal history classification the offender is subject to presumptive imprisonment or if the judge departs from a presumptive probation sentence and the offender is subject to imprisonment, the provisions of this section and K.S.A. 21-6807, and amendments thereto, shall apply and the offender shall not be subject to the mandatory sentence as provided in K.S.A. 21-5823, and amendments thereto.

(3) Notwithstanding the provisions of any other section, the term of imprisonment imposed for the violation of the felony provision of K.S.A. 8-1025, K.S.A. 8-2,144, K.S.A. 8-1567, subsection (b)(3) of K.S.A. 21-5414, subsections (b)(3) and (b)(4) of K.S.A. 21-5823, K.S.A. 21-6412 and K.S.A. 21-6416, and amendments thereto, shall not be served in a state facility in the custody of the secretary of corrections, except that the term of imprisonment for felony violations of K.S.A. 8-1025 or K.S.A. 8-2,144 or K.S.A. 8-1567, and amendments thereto, may be served in a state correctional facility designated by the secretary of corrections if the secretary determines that substance abuse treatment resources and facility capacity is available. The secretary's determination regarding the availability of treatment resources and facility capacity shall not be subject to review. Prior to imposing any sentence pursuant to this subsection, the court may consider assigning the defendant to a house arrest program pursuant to K.S.A. 21-6609, and amendments thereto.

(j)(1) The sentence for any persistent sex offender whose current convicted crime carries a presumptive term of imprisonment shall be double the maximum duration of the presumptive imprisonment term. The sentence for any persistent sex offender whose current conviction carries a presumptive nonprison term shall be presumed imprisonment and shall be double the maximum duration of the presumptive imprisonment term.

(2) Except as otherwise provided in this subsection, as used in this subsection, "persistent sex offender" means a person who:

(A)(i) Has been convicted in this state of a sexually violent crime, as defined in K.S.A. 22-3717, and amendments thereto; and

(ii) at the time of the conviction under subsection (j)(2)(A)(i) has at least one conviction for a sexually violent crime, as defined in K.S.A. 22-3717, and amendments thereto, in this state or comparable felony under the laws of another state, the federal government or a foreign government; or

(B)(i) has been convicted of rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A. 21-5503, and amendments thereto; and

(ii) at the time of the conviction under subsection (j)(2)(B)(i) has at least one conviction for rape in this state or comparable felony under the laws of another state, the federal government or a foreign government.

(3) Except as provided in subsection (j)(2)(B), the provisions of this subsection shall not apply to any person whose current convicted crime is a severity level 1 or 2 felony.

(k)(1) If it is shown at sentencing that the offender committed any felony violation for the benefit of, at the direction of, or in association with any criminal street gang, with the specific intent to promote, further or assist in any criminal conduct by gang members, the offender's sentence shall be presumed imprisonment. The court may impose an optional nonprison sentence as provided in subsection (q).

(2) As used in this subsection, "criminal street gang" means any organization, association or group of three or more persons, whether formal or informal, having as one of its primary activities:

(A) The commission of one or more person felonies; or

(B) the commission of felony violations of article 57 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, K.S.A. 21-36a01 through 21-36a17, prior to their transfer, or any felony violation of any provision of the uniform controlled substances act prior to July 1, 2009; and

(C) its members have a common name or common identifying sign or symbol; and

(D) its members, individually or collectively, engage in or have engaged in the commission, attempted commission, conspiracy to commit or solicitation of two or more person felonies or felony violations of article 57 of chapter 21 of the Kansas Statutes

Annotated, and amendments thereto, K.S.A. 21-36a01 through 21-36a17, prior to their transfer, any felony violation of any provision of the uniform controlled substances act prior to July 1, 2009, or any substantially similar offense from another jurisdiction.

(l) Except as provided in subsection (o), the sentence for a violation of subsection (a)(1) of K.S.A. 21-5807, and amendments thereto, or any attempt or conspiracy, as defined in K.S.A. 21-5301 and 21-5302, and amendments thereto, to commit such offense, when such person being sentenced has a prior conviction for a violation of subsection (a) or (b) of K.S.A. 21-3715, prior to its repeal, 21-3716, prior to its repeal, subsection (a)(1) or (a)(2) of K.S.A. 21-5807, or subsection (b) of K.S.A. 21-5807, and amendments thereto, or any attempt or conspiracy to commit such offense, shall be presumptive imprisonment.

(m) The sentence for a violation of K.S.A. 22-4903 or subsection (a)(2) of K.S.A. 21-5913, and amendments thereto, shall be presumptive imprisonment. If an offense under such sections is classified in grid blocks 5-E, 5-F, 5-G, 5-H or 5-I, the court may impose an optional nonprison sentence as provided in subsection (q).

(n) The sentence for a violation of criminal deprivation of property, as defined in K.S.A. 21-5803, and amendments thereto, when such property is a motor vehicle, and when such person being sentenced has any combination of two or more prior convictions of subsection (b) of K.S.A. 21-3705, prior to its repeal, or of criminal deprivation of property, as defined in K.S.A. 21-5803, and amendments thereto, when such property is a motor vehicle, shall be presumptive imprisonment. Such sentence shall not be considered a departure and shall not be subject to appeal.

(o) The sentence for a felony violation of theft of property as defined in K.S.A. 21-5801, and amendments thereto, or burglary as defined in subsection (a) of K.S.A. 21-5807, and amendments thereto, when such person being sentenced has no prior convictions for a violation of K.S.A. 21-3701 or 21-3715, prior to their repeal, or theft of property as defined in K.S.A. 21-5801, and amendments thereto, or burglary as defined in subsection (a) of K.S.A. 21-5807, and amendments thereto; or the sentence for a felony violation of theft of property as defined in K.S.A. 21-5801, and amendments thereto, when such person being sentenced has one or two prior felony convictions for a violation of K.S.A. 21-3701, 21-3715 or 21-3716, prior to their repeal, or theft of property as defined in K.S.A. 21-5801, and amendments thereto, or burglary or aggravated burglary as defined in K.S.A. 21-5807, and amendments thereto; or the sentence for a felony violation of burglary as defined in subsection (a) of K.S.A. 21-5807, and amendments thereto, when such person being sentenced has one prior felony conviction for a violation of K.S.A. 21-3701, 21-3715 or 21-3716, prior to their repeal, or theft of property as defined in K.S.A. 21-5801, and amendments thereto, or burglary or aggravated burglary as defined in K.S.A. 21-5807, and amendments thereto, shall be the sentence as provided by this section, except that the court may order an optional nonprison sentence for a defendant to participate in a drug treatment program, including, but not limited to, an approved after-care plan, if the court makes the following findings on the record:

(1) Substance abuse was an underlying factor in the commission of the crime;

(2) substance abuse treatment in the community is likely to be more effective than a prison term in reducing the risk of offender recidivism; and

(3) participation in an intensive substance abuse treatment program will serve community safety interests.

A defendant sentenced to an optional nonprison sentence under this subsection shall be supervised by community correctional services. The provisions of subsection (f)(1) of K.S.A. 21-6824, and amendments thereto, shall apply to a defendant sentenced under this subsection. The sentence under this subsection shall not be considered a departure and shall not be subject to appeal.

(p) The sentence for a felony violation of theft of property as defined in K.S.A. 21-5801, and amendments thereto, when such person being sentenced has any combination of three or more prior felony convictions for violations of K.S.A. 21-3701, 21-3715 or 21-3716, prior to their repeal, or theft of property as defined in K.S.A. 21-5801, and amendments thereto, or burglary or aggravated burglary as defined in K.S.A. 21-5807, and amendments thereto; or the sentence for a violation of burglary as defined in subsection (a) of K.S.A. 21-5807, and amendments thereto, when such person being sentenced has any combination of two or more prior convictions for violations of K.S.A. 21-3701, 21-3715 and 21-3716, prior to their repeal, or theft of property as defined in K.S.A. 21-5801, and amendments thereto, or burglary or aggravated burglary as defined in K.S.A. 21-5807, and amendments thereto, shall be presumed imprisonment and the defendant shall be sentenced to prison as provided by this section, except that the court may recommend that an offender be placed in the custody of the secretary of corrections, in a facility designated by the secretary to participate in an intensive substance abuse treatment program, upon making the following findings on the record:

(1) Substance abuse was an underlying factor in the commission of the crime;

(2) substance abuse treatment with a possibility of an early release from imprisonment is likely to be more effective than a prison term in reducing the risk of offender recidivism; and

(3) participation in an intensive substance abuse treatment program with the possibility of an early release from imprisonment will serve community safety interests by promoting offender reformation.

The intensive substance abuse treatment program shall be determined by the secretary of corrections, but shall be for a period of at least four months. Upon the successful completion of such intensive treatment program, the offender shall be returned to the

court and the court may modify the sentence by directing that a less severe penalty be imposed in lieu of that originally adjudged within statutory limits. If the offender's term of imprisonment expires, the offender shall be placed under the applicable period of postrelease supervision. The sentence under this subsection shall not be considered a departure and shall not be subject to appeal.

(q) As used in this section, an "optional nonprison sentence" is a sentence which the court may impose, in lieu of the presumptive sentence, upon making the following findings on the record:

(1) An appropriate treatment program exists which is likely to be more effective than the presumptive prison term in reducing the risk of offender recidivism; and

(2) the recommended treatment program is available and the offender can be admitted to such program within a reasonable period of time; or

(3) the nonprison sanction will serve community safety interests by promoting offender reformation.

Any decision made by the court regarding the imposition of an optional nonprison sentence shall not be considered a departure and shall not be subject to appeal.

(r) The sentence for a violation of subsection (c)(2) of K.S.A. 21-5413, and amendments thereto, shall be presumptive imprisonment and shall be served consecutively to any other term or terms of imprisonment imposed. Such sentence shall not be considered a departure and shall not be subject to appeal.

(s) The sentence for a violation of K.S.A. 21-5512, and amendments thereto, shall be presumptive imprisonment. Such sentence shall not be considered a departure and shall not be subject to appeal.

(t)(1) If the trier of fact makes a finding that an offender wore or used ballistic resistant material in the commission of, or attempt to commit, or flight from any felony, in addition to the sentence imposed pursuant to the Kansas sentencing guidelines act, the offender shall be sentenced to an additional 30 months' imprisonment.

(2) The sentence imposed pursuant to subsection (t)(1) shall be presumptive imprisonment and shall be served consecutively to any other term or terms of imprisonment imposed. Such sentence shall not be considered a departure and shall not be subject to appeal.

(3) As used in this subsection, "ballistic resistant material" means: (A) Any commercially produced material designed with the purpose of providing ballistic and trauma protection, including, but not limited to, bulletproof vests and kevlar vests; and (B) any homemade

or fabricated substance or item designed with the purpose of providing ballistic and trauma protection.

(u) The sentence for a violation of K.S.A. 21-6107, and amendments thereto, or any attempt or conspiracy, as defined in K.S.A. 21-5301 and 21-5302, and amendments thereto, to commit such offense, when such person being sentenced has a prior conviction for a violation of K.S.A. 21-4018, prior to its repeal, or K.S.A. 21-6107, and amendments thereto, or any attempt or conspiracy to commit such offense, shall be presumptive imprisonment. Such sentence shall not be considered a departure and shall not be subject to appeal.

(v) The sentence for a third or subsequent violation of K.S.A. 8-1568, and amendments thereto, shall be presumptive imprisonment and shall be served consecutively to any other term or terms of imprisonment imposed. Such sentence shall not be considered a departure and shall not be subject to appeal.

CREDIT(S)

Laws 2010, ch. 136, § 285, eff. July 1, 2011; Laws 2011, ch. 37, § 1, eff. July 1, 2011; Laws 2011, ch. 100, § 21, eff. July 1, 2011; Laws 2012, ch. 172, § 30, eff. July 1, 2012; Laws 2014, ch. 122, § 9, eff. July 1, 2014; Laws 2014, ch. 76, § 2, eff. July 1, 2014. Current through 2014 regular session

SENTENCING RANGE - NONDRUG OFFENSES

Category →	A	B	C	D	E	F	G	H	I
Severity Level ↓	3 + Person Felonies	2 Person Felonies	1 Person & 1 Nonperson Felonies	1 Person Felony	3 + Nonperson Felonies	2 Nonperson Felonies	1 Nonperson Felony	2 + Misdemeanors	1 Misdemeanor No Record
I	653 620 592	618 586 554	285 272 258	267 253 240	246 234 221	226 214 203	203 195 184	186 176 166	165 155 147
II	493 467 442	460 438 416	216 205 194	200 190 181	184 174 165	168 160 152	154 146 138	138 131 123	123 117 109
III	247 233 221	228 216 206	107 102 96	100 94 89	92 88 82	83 79 74	77 72 68	71 66 61	61 59 55
IV	172 162 154	162 154 144	75 71 68	69 66 62	64 60 57	59 56 52	52 50 47	48 45 42	43 41 38
V	136 130 122	128 120 114	60 57 53	55 52 50	51 49 46	47 44 41	43 41 38	38 36 34	34 32 31
VI	46 43 40	41 39 37	38 36 34	36 34 32	32 30 28	29 27 25	26 24 22	21 20 19	19 18 17
VII	34 32 30	31 29 27	29 27 25	26 24 22	23 21 19	19 18 17	17 16 15	14 13 12	13 12 11
VIII	23 21 19	20 19 18	19 18 17	17 16 15	15 14 13	13 12 11	11 10 9	11 10 9	9 8 7
IX	17 16 15	15 14 13	13 12 11	13 12 11	11 10 9	10 9 8	9 8 7	8 7 6	7 6 5
X	13 12 11	12 11 10	11 10 9	10 9 8	9 8 7	8 7 6	7 6 5	7 6 5	7 6 5

LEGEND
Presumptive Probation
Border Box
Presumptive Imprisonment

KENTUCKY

Ky. Rev. Stat. Ann. § 508.100 (2014). Criminal abuse in the first degree

(1) A person is guilty of criminal abuse in the first degree when he intentionally abuses another person or permits another person of whom he has actual custody to be abused and thereby:

(a) Causes serious physical injury; or

(b) Places him in a situation that may cause him serious physical injury; or

(c) Causes torture, cruel confinement or cruel punishment;

to a person twelve (12) years of age or less, or who is physically helpless or mentally helpless.

(2) Criminal abuse in the first degree is a Class C felony.

CREDIT(S)
HISTORY: 1982 c 168, § 1, eff. 7-15-82
Current through the end of the 2014 legislation

Ky. Rev. Stat. Ann. § 508.110 (2014). Criminal abuse in the second degree

(1) A person is guilty of criminal abuse in the second degree when he wantonly abuses another person or permits another person of whom he has actual custody to be abused and thereby:

(a) Causes serious physical injury; or

(b) Places him in a situation that may cause him serious physical injury; or

(c) Causes torture, cruel confinement or cruel punishment;

to a person twelve (12) years of age or less, or who is physically helpless or mentally helpless.

(2) Criminal abuse in the second degree is a Class D felony.

CREDIT(S)
HISTORY: 1982 c 168, § 1, eff. 7-15-82
Current through the end of the 2014 legislation

Ky. Rev. Stat. Ann. § 508.120 (2014) Criminal abuse in the third degree

(1) A person is guilty of criminal abuse in the third degree when he recklessly abuses another person or permits another person of whom he has actual custody to be abused and thereby:

(a) Causes serious physical injury; or

(b) Places him in a situation that may cause him serious physical injury; or

(c) Causes torture, cruel confinement or cruel punishment; to a person twelve (12) years of age or less, or who is physically helpless or mentally helpless.

(2) Criminal abuse in the third degree is a Class A misdemeanor.

CREDIT(S)
HISTORY: 1982 c 168, § 1, eff. 7-15-82
Current through the end of the 2014 legislation

Ky. Rev. Stat. Ann. § 532.060 (2014). Sentence of imprisonment for felony; postincarceration supervision

(1) A sentence of imprisonment for a felony shall be an indeterminate sentence, the maximum of which shall be fixed within the limits provided by subsection (2), and subject to modification by the trial judge pursuant to KRS 532.070.

(2) Unless otherwise provided by law, the authorized maximum terms of imprisonment for felonies are:

(a) For a Class A felony, not less than twenty (20) years nor more than fifty (50) years, or life imprisonment;

(b) For a Class B felony, not less than ten (10) years nor more than twenty (20) years;

(c) For a Class C felony, not less than five (5) years nor more than ten (10) years; and

(d) For a Class D felony, not less than one (1) year nor more than five (5) years.

(3) For any felony specified in KRS Chapter 510, KRS 530.020, 530.064(1)(a), or 531.310, the sentence shall include an additional five (5) year period of postincarceration supervision which shall be added to the maximum sentence rendered for the offense. During this period of postincarceration supervision, if a defendant violates the provisions of postincarceration supervision, the defendant may be reincarcerated for:

(a) The remaining period of his initial sentence, if any is remaining; and

(b) The entire period of postincarceration supervision, or if the initial sentence has been served, for the remaining period of postincarceration supervision.

(4) In addition to the penalties provided in this section, for any person subject to a period of postincarceration supervision pursuant to KRS 532.400 his or her sentence shall include an additional one (1) year period of postincarceration supervision following release from incarceration upon expiration of sentence if the offender is not otherwise subject to another form of postincarceration supervision. During this period of postincarceration supervision, if an offender violates the provisions of supervision, the offender may be reincarcerated for the remaining period of his or her postincarceration supervision.

(5) The actual time of release within the maximum established by subsection (1), or as modified pursuant to KRS 532.070, shall be determined under procedures established elsewhere by law.

CREDIT(S)

HISTORY: 1982 c 168, § 1, eff. 7-15-82

Current through the end of the 2014 legislation

LOUISIANA

La. Rev. stat. ann. § 14:93 (2014). Cruelty to juveniles

A. Cruelty to juveniles is:

(1) The intentional or criminally negligent mistreatment or neglect by anyone seventeen years of age or older of any child under the age of seventeen whereby unjustifiable pain or suffering is caused to said child. Lack of knowledge of the child's age shall not be a defense; or

(2) The intentional or criminally negligent exposure by anyone seventeen years of age or older of any child under the age of seventeen to a clandestine laboratory operation as defined by R.S. 40:983 in a situation where it is foreseeable that the child may be physically harmed. Lack of knowledge of the child's age shall not be a defense.

(3) The intentional or criminally negligent allowing of any child under the age of seventeen years by any person over the age of seventeen years to be present during the manufacturing, distribution, or purchasing or attempted manufacturing, distribution, or purchasing of a controlled dangerous substance in violation of the Uniform Controlled Dangerous Substances Law. Lack of knowledge of the child's age shall not be a defense.

B. The providing of treatment by a parent or tutor in accordance with the tenets of a well-recognized religious method of healing, in lieu of medical treatment, shall not for that reason alone be considered to be criminally negligent mistreatment or neglect of a child. The provisions of this Subsection shall be an affirmative defense to a prosecution under this Section. Nothing herein shall be construed to limit the provisions of R.S. 40:1299.36.1.

C. The trial judge shall have the authority to issue any necessary orders to protect the safety of the child during the pendency of the criminal action and beyond its conclusion.

D. Whoever commits the crime of cruelty to juveniles shall be fined not more than one thousand dollars or imprisoned with or without hard labor for not more than ten years, or both.

CREDIT(S)

Amended by Acts 1966, No. 479, § 1; Acts 1968, No. 647, § 1, eff. July 20, 1968, at 1:30 P.M; Acts 1977, No. 55, § 1; Acts 1984, No. 621, § 1; Acts 1985, No. 827, § 1; Acts 2004, No. 143, § 1; Acts 2008, No. 7, § 1.

MAINE

Me. Rev. Stat. Ann. Tit. 17-A § 207 (2014). Assault

1. A person is guilty of assault if:

A. The person intentionally, knowingly or recklessly causes bodily injury or offensive physical contact to another person. Violation of this paragraph is a Class D crime; or

B. The person has attained at least 18 years of age and intentionally, knowingly or recklessly causes bodily injury to another person who is less than 6 years of age. Violation of this paragraph is a Class C crime.

2. Repealed. Laws 2001, c. 383, § 10, eff. Jan. 1, 2003.

3. For a violation under subsection 1, the court shall impose a sentencing alternative that involves a fine of not less than $300, which may not be suspended.

CREDIT(S)

1975, c. 499, § 1, eff. May 1, 1976; 1985, c. 495, § 4; 2001, c. 383, § 10, eff. Jan. 31, 2003; 2005, c. 12, § JJ-1. Current with legislation through the 2014 Second Regular Session of the 126th Legislature. The Second Regular Session convened January 8, 2014 and adjourned May 2, 2014. The general effective date is August 1, 2014.

Me. Rev. Stat. Ann. Tit. 17-A § 207-A(2014). Domestic violence assault

1. A person is guilty of domestic violence assault if:

A. The person violates section 207 and the victim is a family or household member as defined in Title 19-A, section 4002, subsection 4. Violation of this paragraph is a Class D crime; or

B. The person violates paragraph A and at the time of the offense:

(1) Has one or more prior convictions for violating paragraph A or for violating section 209-A, 210-B, 210-C or 211-A or one or more prior convictions for engaging in conduct substantially similar to that contained in paragraph A or in section 209-A, 210-B, 210-C or 211-A in another jurisdiction;

(2) Has one or more prior convictions for violating Title 19-A, section 4011, subsection 1 or one or more prior convictions for engaging in conduct substantially similar to that contained in Title 19-A, section 4011, subsection 1 in another jurisdiction; or

(3) Has one or more prior convictions for violating Title 15, section 1092, subsection 1, paragraph B when the condition of release violated is specified in Title 15, section 1026, subsection 3, paragraph A, subparagraph (5) or (8) when the alleged victim in the case for which the defendant was on bail was a family or household member as defined in Title 19-A, section 4002, subsection 4.

Violation of this paragraph is a Class C crime.

2. Section 9-A governs the use of prior convictions when determining a sentence.

CREDIT(S)
2007, c. 436, § 1, eff. Feb. 1, 2008; 2011, c. 640, § B-1.
Current with legislation through the 2014 Second Regular Session of the 126th Legislature. The Second Regular Session convened January 8, 2014 and adjourned May 2, 2014. The general effective date is August 1, 2014.

Me. Rev. Stat. Ann. Tit. 17-A §§ 1252 (2014). Imprisonment for crimes other than murder

§ 1252. Imprisonment for crimes other than murder

1. In the case of a person convicted of a crime other than murder, the court may sentence to imprisonment for a definite term as provided for in this section, unless the statute which the person is convicted of violating expressly provides that the fine and imprisonment penalties it authorizes may not be suspended, in which case the convicted person shall be sentenced to imprisonment and required to pay the fine authorized therein. Except as provided in subsection 7, the place of imprisonment must be as follows.

A. For a Class D or Class E crime the court must specify a county jail as the place of imprisonment.

B. For a Class A, Class B or Class C crime the court must:

(1) Specify a county jail as the place of imprisonment if the term of imprisonment is 9 months or less; or

(2) Commit the person to the Department of Corrections if the term of imprisonment is more than 9 months.

C. Repealed. Laws 1995, c. 425, § 2.

2. The court shall set the term of imprisonment as follows:

A. In the case of a Class A crime, the court shall set a definite period not to exceed 30 years;

B. In the case of a Class B crime, the court shall set a definite period not to exceed 10 years;

C. In the case of a Class C crime, the court shall set a definite period not to exceed 5 years;

D. In the case of a Class D crime, the court shall set a definite period of less than one year; or

E. In the case of a Class E crime, the court shall set a definite period not to exceed 6 months.

2-A. Repealed. Laws 1977, c. 510, § 76.

3. The court may add to the sentence of imprisonment a restitution order as is provided for in chapter 49, section 1204, subsection 2-A, paragraph B. In such cases, it shall be the responsibility of the Department of Corrections to determine whether the order has been complied with and consideration shall be given in the department's administrative decisions concerning the imprisoned person as to whether the order has been complied with.

3-A. At the request of or with the consent of a convicted person, a sentence of imprisonment under this chapter in a county jail or a sentence of probation involving imprisonment in a county jail under chapter 49 may be ordered to be served intermittently.

4. If the State pleads and proves that a Class B, C, D or E crime was committed with the use of a dangerous weapon then the sentencing class for such crime is one class higher than it would otherwise be. In the case of a Class A crime committed with the use of a dangerous weapon, such use should be given serious consideration by the court in exercising its sentencing discretion. This subsection does not apply to a violation or an attempted violation of section 208, to any other offenses to which use of a dangerous weapon serves as an element or to any offense for which the sentencing class is otherwise increased because the actor or an accomplice to that actor's or accomplice's knowledge is armed with a firearm or other dangerous weapon.

4-A. If the State pleads and proves that, at the time any crime, excluding murder, under chapter 9, 11, 13 or 27; section 402-A, subsection 1, paragraph A; or section 752-A or 752-C was committed, the defendant had 2 or more prior convictions under chapter 9, 11, 13 or 27; section 402-A, subsection 1, paragraph A; or section 752-A or 752-C or for

engaging in substantially similar conduct in another jurisdiction, the sentencing class for the crime is one class higher than it would otherwise be. In the case of a Class A crime, the sentencing class is not increased, but the prior record must be given serious consideration by the court when imposing a sentence. Section 9-A governs the use of prior convictions when determining a sentence, except that, for the purposes of this subsection, for violations under chapter 11, the dates of prior convictions may have occurred at any time. This subsection does not apply to section 210-A if the prior convictions have already served to enhance the sentencing class under section 210-A, subsection 1, paragraph C or any other offense in which prior convictions have already served to enhance the sentencing class.

4-B. If the State pleads and proves that the defendant is a repeat sexual assault offender, the court, notwithstanding subsection 2, may set a definite period of imprisonment for any term of years.

A. As used in this section, "repeat sexual assault offender" means a person who commits a new gross sexual assault after having been convicted previously and sentenced for any of the following:

(1) Gross sexual assault, formerly denominated as gross sexual misconduct;

(2) Rape;

(3) Attempted murder accompanied by sexual assault;

(4) Murder accompanied by sexual assault; or

(5) Conduct substantially similar to a crime listed in subparagraph (1), (2), (3) or (4) that is a crime under the laws of another jurisdiction.

The date of sentencing is the date of the oral pronouncement of the sentence by the trial court, even if an appeal is taken.

B. "Accompanied by sexual assault" as used with respect to attempted murder, murder and crimes involving substantially similar conduct in another jurisdiction is satisfied if it was definitionally an element of the crime or was pleaded and proved beyond a reasonable doubt at trial by the State or another jurisdiction.

4-C. If the State pleads and proves that a Class A crime of gross sexual assault was committed by a person who had previously been convicted and sentenced for a Class B or Class C crime of unlawful sexual contact, or an essentially similar crime in another jurisdiction, that prior conviction must be given serious consideration by the court in exercising its sentencing discretion.

4-D. If the State pleads and proves that a crime under section 282 was committed against a person who had not attained 12 years of age, the court, in exercising its sentencing discretion, shall give the age of the victim serious consideration.

4-E. If the State pleads and proves that a crime under section 253 was committed against a person who had not yet attained 12 years of age, the court, notwithstanding subsection 2, shall impose a definite term of imprisonment for any term of years. In determining the basic term of imprisonment as the first step in the sentencing process, the court shall select a term of at least 20 years.

5. Notwithstanding any other provision of this code, except as provided in this subsection, if the State pleads and proves that a Class A, B or C crime was committed with the use of a firearm against a person, the minimum sentence of imprisonment, which may not be suspended, is as follows: When the sentencing class for the crime is Class A, the minimum term of imprisonment is 4 years; when the sentencing class for the crime is Class B, the minimum term of imprisonment is 2 years; and when the sentencing class for the crime is Class C, the minimum term of imprisonment is one year. For purposes of this subsection, the applicable sentencing class is determined in accordance with subsection 4. This subsection does not apply if the State pleads and proves criminal threatening or attempted criminal threatening, as defined in section 209, or terrorizing or attempted terrorizing, as defined in section 210, subsection 1, paragraph A.

5-A. Notwithstanding any other provision of this Code, for a person convicted of violating section 1105-A, 1105-B, 1105-C or 1105-D:

A. Except as otherwise provided in paragraphs B and C, the minimum sentence of imprisonment, which may not be suspended, is as follows: When the sentencing class is Class A, the minimum term of imprisonment is 4 years; when the sentencing class is Class B, the minimum term of imprisonment is 2 years; and, with the exception of a conviction under section 1105-A, 1105-B, 1105-C or 1105-D when the drug that is the basis for the charge is marijuana, when the sentencing class is Class C, the minimum term of imprisonment is one year;

B. The court may impose a sentence other than a minimum unsuspended term of imprisonment set forth in paragraph A, if:

(1) The court finds by substantial evidence that:

(a) Imposition of a minimum unsuspended term of imprisonment under paragraph A will result in substantial injustice to the defendant. In making this determination, the court shall consider, among other considerations, whether the defendant did not know and reasonably should not have known that the victim was less than 18 years of age;

(b) Failure to impose a minimum unsuspended term of imprisonment under paragraph A will not have an adverse effect on public safety; and

(c) Failure to impose a minimum unsuspended term of imprisonment under paragraph A will not appreciably impair the effect of paragraph A in deterring others from violating section 1105-A, 1105-B, 1105-C or 1105-D; and

(2) The court finds that:

(a) Deleted. Laws 2003, c. 232, § 1.

(b) Deleted. Laws 2014, c. 133, § 15.

(c) The defendant's background, attitude and prospects for rehabilitation and the nature of the victim and the offense indicate that imposition of a sentence under paragraph A would frustrate the general purposes of sentencing set forth in section 1151.

If the court imposes a sentence under this paragraph, the court shall state in writing its reasons for its findings and for imposing a sentence under this paragraph rather than under paragraph A; and

C. If the court imposes a sentence under paragraph B, the minimum sentence of imprisonment, which may not be suspended, is as follows: When the sentencing class is Class A, the minimum term of imprisonment is 9 months; when the sentencing is Class B, the minimum term of imprisonment is 6 months; and, with the exception of trafficking or furnishing marijuana under section 1105-A or 1105-C, when the sentencing class is Class C, the minimum term of imprisonment is 3 months.

5-B. In using a sentencing alternative involving a term of imprisonment for a person convicted of the attempted murder, manslaughter, elevated aggravated assault or aggravated assault of a child who had not in fact attained the age of 6 years at the time the crime was committed, a court shall assign special weight to this objective fact in determining the basic term of imprisonment as the first step in the sentencing process. The court shall assign special weight to any subjective victim impact in determining the maximum period of incarceration in the 2nd step in the sentencing process. The court may not suspend that portion of the maximum term of imprisonment based on objective or subjective victim impact in arriving at the final sentence as the 3rd step in the sentencing process. Nothing in this subsection may be construed to restrict a court in setting a sentence from considering the age of the victim in other circumstances when relevant.

5-C. In using a sentencing alternative involving a term of imprisonment for a person convicted of the attempted murder, manslaughter, elevated aggravated assault or aggravated assault of a woman that the convicted person knew or had reasonable cause to

believe to be in fact pregnant at the time the crime was committed, a court shall assign special weight to this objective fact in determining the basic term of imprisonment as the first step in the sentencing process. The court shall assign special weight to any subjective victim impact in determining the maximum period of incarceration in the 2nd step in the sentencing process. The court may not suspend that portion of the maximum term of imprisonment based on objective or subjective victim impact in arriving at the final sentence as the 3rd step in the sentencing process. Nothing in this subsection may be construed to restrict a court in setting a sentence from considering the fact that the victim was pregnant in other circumstances when relevant.

5-D. In using a sentencing alternative involving a term of imprisonment for a person convicted of a Class C or higher crime, the victim of which was at the time of the commission of the crime in fact being stalked by that person, a court shall assign special weight to this objective fact in determining the basic sentence in the first step of the sentencing process. The court shall assign special weight to any subjective victim impact caused by the stalking in determining the maximum period of incarceration in the 2nd step in the sentencing process.

6. Repealed. Laws 1989, c. 693, § 6.

7. If a sentence to a term of imprisonment in a county jail is consecutive to or is to be followed by a sentence to a term of imprisonment in the custody of the Department of Corrections, the court imposing either sentence may order that both be served in the custody of the Department of Corrections. If a court imposes consecutive terms of imprisonment for Class D or Class E crimes and the aggregate length of the terms imposed is one year or more, the court may order that they be served in the custody of the Department of Corrections.

8. Repealed.

9. Subsections in this section that make the sentencing class for a crime one class higher than it would otherwise be when pled and proved may be applied successively if the subsections to be applied successively contain different class enhancement factors.

CREDIT(S)

1975, c. 499, § 1, eff. May 1, 1976; 1975, c. 740, §§ 116 to 118-A, eff. May 1, 1976; 1977, c. 176; 1977, c. 196; 1977, c. 217; 1977, c. 510, §§ 75 to 78; 1979, c. 701, § 30; 1983, c. 581, § 4, eff. Jan. 16, 1984; 1983, c. 673, § 4, eff. March 28, 1984; 1983, c. 816, Pt. A, § 6, eff. April 24, 1984; 1985, c. 821, §§ 7, 8; 1985, c. 821, § 9, eff. Jan. 1, 1989; 1987, c. 535, § 7; 1987, c. 808, § 1, eff. July 1, 1989; 1989, c. 693, §§ 5 to 7; 1989, c. 925, § 11; 1991, c. 622, § N-3, eff. Dec. 23, 1991; 1995, c. 28, § 1; 1995, c. 425, § 2; 1995, c. 473, § 1; 1997, c. 460, § 5; 1999, c. 374, § 6; 1999, c. 536, § 2; 1999, c. 788, § 8; 2001, c. 383, §§ 150, 151, eff. Jan. 31, 2003; 2001, c. 439, § OOO-4; 2001, c. 667, § A-

39, eff. Jan. 31, 2003; 2003, c. 1, § 10, eff. Jan. 31, 2003; 2003, c. 143, § 9; 2003, c. 232, § 1; 2003, c. 475, § 1; 2003, c. 657, § 10; 2003, c. 688, § A-14, eff. May 6, 2004; 2003, c. 711, §§ B-19, B-20; 2005, c. 88, § B-2; 2005, c. 447, § 1; 2005, c. 527, §§ 17 to 20; 2005, c. 673, §§ 3, 4; 2007, c. 476, §§ 45, 46; 2007, c. 685, § 2; 2014, c. 133, § 15, eff. Oct. 9, 2014. Current with legislation through the 2014 Second Regular Session of the 126th Legislature. The Second Regular Session convened January 8, 2014 and adjourned May 2, 2014. The general effective date is August 1, 2014.

MARYLAND

Md. Code Ann. Crim. Law. § 3-601 (2014). Child abuse

Definitions

(a)(1) In this section the following words have the meanings indicated.

(2) "Abuse" means physical injury sustained by a minor as a result of cruel or inhumane treatment or as a result of a malicious act under circumstances that indicate that the minor's health or welfare is harmed or threatened by the treatment or act.

(3) "Family member" means a relative of a minor by blood, adoption, or marriage.

(4) "Household member" means a person who lives with or is a regular presence in a home of a minor at the time of the alleged abuse.

(5) "Severe physical injury" means:

(i) brain injury or bleeding within the skull;

(ii) starvation; or

(iii) physical injury that:

1. creates a substantial risk of death; or

2. causes permanent or protracted serious:

A. disfigurement;

B. loss of the function of any bodily member or organ; or

C. impairment of the function of any bodily member or organ.

Child abuse in the first degree

(b)(1) A parent, family member, household member, or other person who has permanent or temporary care or custody or responsibility for the supervision of a minor may not cause abuse to the minor that:

(i) results in the death of the minor; or

(ii) causes severe physical injury to the minor.

(2) Except as provided in subsection (c) of this section, a person who violates paragraph (1) of this subsection is guilty of the felony of child abuse in the first degree and on conviction is subject to:

(i) imprisonment not exceeding 25 years; or

(ii) if the violation results in the death of the victim, imprisonment not exceeding 40 years.

Repeat offenders

(c) A person who violates this section after being convicted of a previous violation of this section is guilty of a felony and on conviction is subject to:

(1) imprisonment not exceeding 25 years; or

(2) if the violation results in the death of the victim, imprisonment not exceeding 40 years.

CREDIT(S)
Added by Acts 2002, c. 26, § 2, eff. Oct. 1, 2002. Amended by Acts 2002, c. 273, § 2, eff. Oct. 1, 2002; Acts 2003, c. 167, § 1, eff. Oct. 1, 2003; Acts 2012, c. 249, § 1, eff. Oct. 1, 2012; Acts 2012, c. 250, § 1, eff. Oct. 1, 2012.Current through the 2014 Regular Session of the General Assembly.

MASSACHUSETTS

Mass. Gen. Laws ann. Ch. 265 § 13J (2014). Assault and battery upon a child; penalties

(a) For the purposes of this section, the following words shall, unless the context indicates otherwise, have the following meanings:--

"Bodily injury", substantial impairment of the physical condition including any burn, fracture of any bone, subdural hematoma, injury to any internal organ, any injury which occurs as the result of repeated harm to any bodily function or organ including human skin or any physical condition which substantially imperils a child's health or welfare.

"Child", any person under fourteen years of age.

"Person having care and custody", a parent, guardian, employee of a home or institution or any other person with equivalent supervision or care of a child, whether the supervision is temporary or permanent.

"Substantial bodily injury", bodily injury which creates a permanent disfigurement, protracted loss or impairment of a function of a body member, limb or organ, or substantial risk of death.

(b) Whoever commits an assault and battery upon a child and by such assault and battery causes bodily injury shall be punished by imprisonment in the state prison for not more than five years or imprisonment in the house of correction for not more than two and one-half years.

Whoever commits an assault and battery upon a child and by such assault and battery causes substantial bodily injury shall be punished by imprisonment in the state prison for not more than fifteen years or imprisonment in the house of correction for not more than two and one-half years.

Whoever, having care and custody of a child, wantonly or recklessly permits bodily injury to such child or wantonly or recklessly permits another to commit an assault and battery upon such child, which assault and battery causes bodily injury, shall be punished by imprisonment for not more than two and one-half years in the house of correction.

Whoever, having care and custody of a child, wantonly or recklessly permits substantial bodily injury to such child or wantonly or recklessly permits another to commit an assault and battery upon such child, which assault and battery causes substantial bodily injury, shall be punished by imprisonment in the state prison for not more than five years, or by imprisonment in a jail or house of correction for not more than two and one-half years.

CREDIT(S)
Added by St.1993, c. 340, § 2.
Current through Chapter 379 of the 2014 2nd Annual Session

MICHIGAN

MICH. COMP. LAWS § 750.136b (2014). Child abuse

(1) As used in this section:

(a) “Child” means a person who is less than 18 years of age and is not emancipated by operation of law as provided in section 4 of 1968 PA 293, MCL 722.4.

(b) “Cruel” means brutal, inhuman, sadistic, or that which torments.

(c) “Omission” means a willful failure to provide food, clothing, or shelter necessary for a child's welfare or willful abandonment of a child.

(d) “Person” means a child's parent or guardian or any other person who cares for, has custody of, or has authority over a child regardless of the length of time that a child is cared for, in the custody of, or subject to the authority of that person.

(e) “Physical harm” means any injury to a child's physical condition.

(f) “Serious physical harm” means any physical injury to a child that seriously impairs the child's health or physical well-being, including, but not limited to, brain damage, a skull or bone fracture, subdural hemorrhage or hematoma, dislocation, sprain, internal injury, poisoning, burn or scald, or severe cut.

(g) “Serious mental harm” means an injury to a child's mental condition or welfare that is not necessarily permanent but results in visibly demonstrable manifestations of a substantial disorder of thought or mood which significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life.

(2) A person is guilty of child abuse in the first degree if the person knowingly or intentionally causes serious physical or serious mental harm to a child. Child abuse in the first degree is a felony punishable by imprisonment for life or any term of years.

(3) A person is guilty of child abuse in the second degree if any of the following apply:

(a) The person's omission causes serious physical harm or serious mental harm to a child or if the person's reckless act causes serious physical harm or serious mental harm to a child.

(b) The person knowingly or intentionally commits an act likely to cause serious physical or mental harm to a child regardless of whether harm results.

(c) The person knowingly or intentionally commits an act that is cruel to a child regardless of whether harm results.

(4) Child abuse in the second degree is a felony punishable by imprisonment as follows:

(a) For a first offense, not more than 10 years.

(b) For a second or subsequent offense, not more than 20 years.

(5) A person is guilty of child abuse in the third degree if any of the following apply:

(a) The person knowingly or intentionally causes physical harm to a child.

(b) The person knowingly or intentionally commits an act that under the circumstances poses an unreasonable risk of harm or injury to a child, and the act results in physical harm to a child.

(6) Child abuse in the third degree is a felony punishable by imprisonment for not more than 2 years.

(7) A person is guilty of child abuse in the fourth degree if any of the following apply:

(a) The person's omission or reckless act causes physical harm to a child.

(b) The person knowingly or intentionally commits an act that under the circumstances poses an unreasonable risk of harm or injury to a child, regardless of whether physical harm results.

(8) Child abuse in the fourth degree is a misdemeanor punishable by imprisonment for not more than 1 year.

(9) This section does not prohibit a parent or guardian, or other person permitted by law or authorized by the parent or guardian, from taking steps to reasonably discipline a child, including the use of reasonable force.

(10) It is an affirmative defense to a prosecution under this section that the defendant's conduct involving the child was a reasonable response to an act of domestic violence in light of all the facts and circumstances known to the defendant at that time. The defendant has the burden of establishing the affirmative defense by a preponderance of the evidence. As used in this subsection, "domestic violence" means that term as defined in section 1 of 1978 PA 389, MCL 400.1501.

CREDIT(S)
P.A.1931, No. 328, § 136b, added by P.A.1988, No. 251, § 1, Eff. Sept. 1, 1988. Amended by P.A.1999, No. 273, Eff. April 3, 2000; P.A.2008, No. 577, Eff. April 1, 2009; P.A.2012, No. 194, Eff. July 1, 2012. The statutes are current through P.A.2014, No. 355, of the 2014 Regular Session, 97th Legislature.

MINNESOTA

MINN. STAT. § 609.377 (2014). Malicious punishment of child

Subdivision 1. Malicious punishment. A parent, legal guardian, or caretaker who, by an intentional act or a series of intentional acts with respect to a child, evidences unreasonable force or cruel discipline that is excessive under the circumstances is guilty of malicious punishment of a child and may be sentenced as provided in subdivisions 2 to 6.

Subd. 2. Gross misdemeanor. If the punishment results in less than substantial bodily harm, the person may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both.

Subd. 3. Enhancement to a felony. Whoever violates the provisions of subdivision 2 during the time period between a previous conviction or adjudication for delinquency under this section or sections 609.221 to 609.2231, 609.224, 609.2242, 609.342 to 609.345, or 609.713, and the end of five years following discharge from sentence or disposition for that conviction or adjudication may be sentenced to imprisonment for not more than five years or a fine of $10,000, or both.

Subd. 4. Felony; child under age four. If the punishment is to a child under the age of four and causes bodily harm to the head, eyes, neck, or otherwise causes multiple bruises to the body, the person may be sentenced to imprisonment for not more than five years or a fine of $10,000, or both.

Subd. 5. Felony; substantial bodily harm. If the punishment results in substantial bodily harm, the person may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.

Subd. 6. Felony; great bodily harm. If the punishment results in great bodily harm, the person may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than $20,000, or both.

CREDIT(S)

Laws 1983, c. 217, § 4, eff. Aug. 1, 1983. Amended by Laws 1984, c. 628, art. 3, § 11, eff. May 3, 1984; Laws 1988, c. 655, § 2, eff. Aug. 1, 1988; Laws 1989, c. 290, art. 6, § 16, eff. Aug. 1, 1989; Laws 1990, c. 542, § 18; Laws 1994, c. 636, art. 2, § 37; Laws 2000, c. 437, § 14. Current with legislation through the end of the 2014 Regular Session.

MISSISSIPPI

Miss. Code Ann. §97-5-39 (2014). Child neglect, delinquency or abuse

(1)(a) Except as otherwise provided in this section, any parent, guardian or other person who intentionally, knowingly or recklessly commits any act or omits the performance of any duty, which act or omission contributes to or tends to contribute to the neglect or delinquency of any child or which act or omission results in the abuse of any child, as defined in Section 43-21-105(m) of the Youth Court Law, or who knowingly aids any child in escaping or absenting himself from the guardianship or custody of any person, agency or institution, or knowingly harbors or conceals, or aids in harboring or concealing, any child who has absented himself without permission from the guardianship or custody of any person, agency or institution to which the child shall have been committed by the youth court shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine not to exceed One Thousand Dollars ($1,000.00), or by imprisonment not to exceed one (1) year in jail, or by both such fine and imprisonment.

(b) For the purpose of this section, a child is a person who has not reached his eighteenth birthday. A child who has not reached his eighteenth birthday and is on active duty for a branch of the armed services, or who is married, is not considered a child for the purposes of this statute.

(c) If a child commits one (1) of the proscribed acts in subsection (2)(a), (b) or (c) of this section upon another child, then original jurisdiction of all such offenses shall be in youth court.

(d) If the child's deprivation of necessary clothing, shelter, health care or supervision appropriate to the child's age results in substantial harm to the child's physical, mental or emotional health, the person may be sentenced to imprisonment in custody of the Department of Corrections for not more than five (5) years or to payment of a fine of not more than Five Thousand Dollars ($5,000.00), or both.

(e) A parent, legal guardian or other person who knowingly permits the continuing physical or sexual abuse of a child is guilty of neglect of a child and may be sentenced to imprisonment in the custody of the Department of Corrections for not more than ten (10) years or to payment of a fine of not more than Ten Thousand Dollars ($10,000.00), or both.

(2) Any person shall be guilty of felonious child abuse in the following circumstances:

(a) Whether bodily harm results or not, if the person shall intentionally, knowingly or recklessly:

(i) Burn any child;

(ii) Physically torture any child;

(iii) Strangle, choke, smother or in any way interfere with any child's breathing;

(iv) Poison a child;

(v) Starve a child of nourishments needed to sustain life or growth;

(vi) Use any type of deadly weapon upon any child;

(b) If some bodily harm to any child actually occurs, and if the person shall intentionally, knowingly, or recklessly:

(i) Throw, kick, bite, or cut any child;

(ii) Strike a child under the age of fourteen (14) about the face or head with a closed fist;

(iii) Strike a child under the age of five (5) in the face or head;

(iv) Kick, bite, cut or strike a child's genitals; circumcision of a male child is not a violation under this subparagraph (iv);

(c) If serious bodily harm to any child actually occurs, and if the person shall intentionally, knowingly or recklessly:

(i) Strike any child on the face or head;

(ii) Disfigure or scar any child;

(iii) Whip, strike, or otherwise abuse any child;

(d) Any person, upon conviction under paragraph (a) or (c) of this subsection, shall be sentenced by the court to imprisonment in the custody of the Department of Corrections for a term of not less than five (5) years and up to life, as determined by the court. Any person, upon conviction under paragraph (b) of this subsection shall be sentenced by the court to imprisonment in the custody of the Department of Corrections for a term of not less than two (2) years nor more than ten (10) years, as determined by the court. For any second or subsequent conviction under this subsection (2), the person shall be sentenced to imprisonment for life.

(e) For the purposes of this subsection (2), “bodily harm” means any bodily injury to a child and includes, but is not limited to, bruising, bleeding, lacerations, soft tissue swelling, and external or internal swelling of any body organ.

(f) For the purposes of this subsection (2), “serious bodily harm” means any serious bodily injury to a child and includes, but is not limited to, the fracture of a bone, permanent disfigurement, permanent scarring, or any internal bleeding or internal trauma to any organ, any brain damage, any injury to the eye or ear of a child or other vital organ, and impairment of any bodily function.

(g) Nothing contained in paragraph (c) of this subsection shall preclude a parent or guardian from disciplining a child of that parent or guardian, or shall preclude a person in loco parentis to a child from disciplining that child, if done in a reasonable manner, and reasonable corporal punishment or reasonable discipline as to that parent or guardian's child or child to whom a person stands in loco parentis shall be a defense to any violation charged under paragraph (c) of this subsection.

(h) Reasonable discipline and reasonable corporal punishment shall not be a defense to acts described in paragraphs (a) and (b) of this subsection or if a child suffers serious bodily harm as a result of any act prohibited under paragraph (c) of this subsection.

(3) Nothing contained in this section shall prevent proceedings against the parent, guardian or other person under any statute of this state or any municipal ordinance defining any act as a crime or misdemeanor. Nothing in the provisions of this section shall preclude any person from having a right to trial by jury when charged with having violated the provisions of this section.

(4)(a) A parent, legal guardian or caretaker who endangers a child's person or health by knowingly causing or permitting the child to be present where any person is selling, manufacturing or possessing immediate precursors or chemical substances with intent to manufacture, sell or possess a controlled substance as prohibited under Section 41-29-139 or 41-29-313, is guilty of child endangerment and may be sentenced to imprisonment for not more than ten (10) years or to payment of a fine of not more than Ten Thousand Dollars ($10,000.00), or both.

(b) If the endangerment results in substantial harm to the child's physical, mental or emotional health, the person may be sentenced to imprisonment for not more than twenty (20) years or to payment of a fine of not more than Twenty Thousand Dollars ($20,000.00), or both.

(5) Nothing contained in this section shall prevent proceedings against the parent, guardian or other person under any statute of this state or any municipal ordinance defining any act as a crime or misdemeanor. Nothing in the provisions of this section shall preclude any person from having a right to trial by jury when charged with having violated the provisions of this section.

(6) After consultation with the Department of Human Services, a regional mental health center or an appropriate professional person, a judge may suspend imposition or execution of a sentence provided in subsections (1) and (2) of this section and in lieu thereof require treatment over a specified period of time at any approved public or private treatment facility. A person may be eligible for treatment in lieu of criminal penalties no more than one (1) time.

(7) In any proceeding resulting from a report made pursuant to Section 43-21-353 of the Youth Court Law, the testimony of the physician making the report regarding the child's injuries or condition or cause thereof shall not be excluded on the ground that the physician's testimony violates the physician-patient privilege or similar privilege or rule against disclosure. The physician's report shall not be considered as evidence unless introduced as an exhibit to his testimony.

(8) Any criminal prosecution arising from a violation of this section shall be tried in the circuit, county, justice or municipal court having jurisdiction; provided, however, that nothing herein shall abridge or dilute the contempt powers of the youth court.

CREDIT(S)

Laws 1979, Ch. 506, § 75; Laws 1980, Ch. 550, § 28; Laws 1986, Ch. 383, § 1; Laws 1989, Ch. 566, § 3, eff. from and after passage (approved April 21, 1989); Laws 2005, Ch. 467, § 3, eff. July 1, 2005; Laws 2005, Ch. 491, § 3, eff. July 1, 2005. Amended by Laws 2014, Ch. 483 (H.B. 1259), § 1, eff. July 1, 2014.

MISSOURI

Mo. Stat. § 568.060 (2014). Abuse or neglect of a child, penalty

<Text of section eff. until Jan. 1, 2017. See, also, section eff. Jan. 1, 2017.>

1. As used in this section, the following terms shall mean:

(1) “Abuse”, the infliction of physical, sexual, or mental injury against a child by any person eighteen years of age or older. For purposes of this section, abuse shall not include injury inflicted on a child by accidental means by a person with care, custody, or control of the child, or discipline of a child by a person with care, custody, or control of the child, including spanking, in a reasonable manner;

(2) “Abusive head trauma”, a serious physical injury to the head or brain caused by any means, including but not limited to shaking, jerking, pushing, pulling, slamming, hitting, or kicking;

(3) “Mental injury”, an injury to the intellectual or psychological capacity or the emotional condition of a child as evidenced by an observable and substantial impairment of the ability of the child to function within his or her normal range of performance or behavior;

(4) “Neglect”, the failure to provide, by those responsible for the care, custody, and control of a child under the age of eighteen years, the care reasonable and necessary to maintain the physical and mental health of the child, when such failure presents a substantial probability that death or physical injury or sexual injury would result;

(5) “Physical injury”, physical pain, illness, or any impairment of physical condition, including but not limited to bruising, lacerations, hematomas, welts, or permanent or temporary disfigurement and impairment of any bodily function or organ;

(6) “Serious emotional injury”, an injury that creates a substantial risk of temporary or permanent medical or psychological damage, manifested by impairment of a behavioral, cognitive, or physical condition. Serious emotional injury shall be established by testimony of qualified experts upon the reasonable expectation of probable harm to a reasonable degree of medical or psychological certainty;

(7) “Serious physical injury”, a physical injury that creates a substantial risk of death or that causes serious disfigurement or protracted loss or impairment of the function of any part of the body.

2. A person commits the offense of abuse or neglect of a child if such person knowingly causes a child who is less than eighteen years of age:

(1) To suffer physical or mental injury as a result of abuse or neglect; or

(2) To be placed in a situation in which the child may suffer physical or mental injury as the result of abuse or neglect.

3. A person commits the offense of abuse or neglect of a child if such person recklessly causes a child who is less than eighteen years of age to suffer from abusive head trauma.

4. A person does not commit the offense of abuse or neglect of a child by virtue of the sole fact that the person delivers or allows the delivery of child to a provider of emergency services.

5. The offense of abuse or neglect of a child is:

(1) A class C felony, without eligibility for probation or parole until the defendant has served no less than one year of such sentence, unless the person has previously been found guilty of a violation of this section or of a violation of the law of any other jurisdiction that prohibits the same or similar conduct or the injury inflicted on the child is a serious emotional injury or a serious physical injury, in which case abuse or neglect of a child is a class B felony, without eligibility for probation or parole until the defendant has served not less than five years of such sentence; or

(2) A class A felony if the child dies as a result of injuries sustained from conduct chargeable under the provisions of this section.

6. Notwithstanding subsection 5 of this section to the contrary, the offense of abuse or neglect of a child is a class A felony, without eligibility for probation or parole until the defendant has served not less than fifteen years of such sentence, if:

(1) The injury is a serious emotional injury or a serious physical injury;

(2) The child is less than fourteen years of age; and

(3) The injury is the result of sexual abuse as defined under section 566.100 or sexual exploitation of a minor as defined under section 573.023.

7. The circuit or prosecuting attorney may refer a person who is suspected of abuse or neglect of a child to an appropriate public or private agency for treatment or counseling so long as the agency has consented to taking such referrals. Nothing in this subsection shall limit the discretion of the circuit or prosecuting attorney to prosecute a person who has been referred for treatment or counseling pursuant to this subsection.

8. Nothing in this section shall be construed to alter the requirement that every element of any crime referred to herein must be proven beyond a reasonable doubt.

9. Discipline, including spanking administered in a reasonable manner, shall not be construed to be abuse under this section.

CREDIT(S)

(L.1977, S.B. No. 60, p. 662, § 1, eff. Jan. 1, 1979. Amended by L.1984, p. 753, H.B. No. 1255, § 1; L.1990, H.B. Nos. 1370, 1037 & 1084, § A; L.1997, S.B. No. 56, § A; L.2012, S.B. No. 628, § A; L.2014, H.B. No. 505, § A, eff. July 9, 2014.) Statutes are current through the end of the 2014 Second Regular Session of the 97th General Assembly, pending corrections received from the Missouri Revisor of Statutes. Constitution is current through the November 6, 2012 General Election.

Mo. Stat. § 557.021 (2014). Classification of offenses outside this code

1. Any offense defined outside this code which is declared to be a misdemeanor without specification of the penalty therefor is a class A misdemeanor.

2. Any offense defined outside this code which is declared to be a felony without specification of the penalty therefor is a class D felony.

3. For the purpose of applying the extended term provisions of section 558.016, RSMo, and the minimum prison term provisions of section 558.019, RSMo, and for determining

the penalty for attempts and conspiracies, offenses defined outside of this code shall be classified as follows:

(1) If the offense is a felony:

(a) It is a class A felony if the authorized penalty includes death, life imprisonment or imprisonment for a term of twenty years or more;

(b) It is a class B felony if the maximum term of imprisonment authorized exceeds ten years but is less than twenty years;

(c) It is a class C felony if the maximum term of imprisonment authorized is ten years;

(d) It is a class D felony if the maximum term of imprisonment is less than ten years;

(2) If the offense is a misdemeanor:

(a) It is a class A misdemeanor if the authorized imprisonment exceeds six months in jail;

(b) It is a class B misdemeanor if the authorized imprisonment exceeds thirty days but is not more than six months;

(c) It is a class C misdemeanor if the authorized imprisonment is thirty days or less;

(d) It is an infraction if there is no authorized imprisonment.

CREDIT(S)
(L.1977, S.B. No. 60, p. 662, § 1, eff. Jan. 1, 1979. Amended by L.1988, H.B. Nos. 1340 & 1348, § A.) Statutes are current through the end of the 2014 Second Regular Session of the 97th General Assembly, pending corrections received from the Missouri Revisor of Statutes. Constitution is current through the November 6, 2012 General Election.

MONTANA

Mont. Code § 45-5-201 (2014). Assault

(1) A person commits the offense of assault if the person:

(a) purposely or knowingly causes bodily injury to another;

(b) negligently causes bodily injury to another with a weapon;

(c) purposely or knowingly makes physical contact of an insulting or provoking nature with any individual; or

(d) purposely or knowingly causes reasonable apprehension of bodily injury in another.

(2) A person convicted of assault shall be fined not to exceed $500 or be imprisoned in the county jail for any term not to exceed 6 months, or both.

CREDIT(S)

Enacted 94-5-201 by Laws 1973, ch. 513, § 1; Revised Code of Montana 1947, 94-5-201. Amended by Laws 1979, ch. 261, § 1; amended by Laws 1981, ch. 198, § 7; amended by Laws 1991, ch. 188, § 1; amended by Laws 1999, ch. 432, § 4. Current through the 2014 Session, and the 2014 general election. Court Rules in the Code are current with amendments received through August 1, 2014.

Mont. Code Ann. § 45-5-202 (2014). Aggravated assault

(1) A person commits the offense of aggravated assault if the person purposely or knowingly causes serious bodily injury to another or purposely or knowingly, with the use of physical force or contact, causes reasonable apprehension of serious bodily injury or death in another.

(2) A person convicted of aggravated assault shall be imprisoned in the state prison for a term not to exceed 20 years and may be fined not more than $50,000, except as provided in 46-18-219 and 46-18-222.

CREDIT(S)

Enacted 94-5-201 by Laws 1973, ch. 513, § 1; Revised Code of Montana 1947, 94-5-201. Amended by Laws 1979, ch. 261, § 1; amended by Laws 1981, ch. 198, § 7; amended by Laws 1991, ch. 188, § 1; amended by Laws 1999, ch. 432, § 4. Current through the 2014 Session, and the 2014 general election. Court Rules in the Code are current with amendments received through August 1, 2014.

Mont. Code Ann. § 45-5-206 (2014). Partner or family member assault--penalty

(1) A person commits the offense of partner or family member assault if the person:

(a) purposely or knowingly causes bodily injury to a partner or family member;

(b) negligently causes bodily injury to a partner or family member with a weapon; or

(c) purposely or knowingly causes reasonable apprehension of bodily injury in a partner or family member.

(2) For the purposes of Title 40, chapter 15, 45-5-231 through 45-5-234, 46-6-311, and this section, the following definitions apply:

(a) “Family member” means mothers, fathers, children, brothers, sisters, and other past or present family members of a household. These relationships include relationships created by adoption and remarriage, including stepchildren, stepparents, in-laws, and adoptive children and parents. These relationships continue regardless of the ages of the parties and whether the parties reside in the same household.

(b) “Partners” means spouses, former spouses, persons who have a child in common, and persons who have been or are currently in a dating or ongoing intimate relationship.

(3)(a)(i) An offender convicted of partner or family member assault shall be fined an amount not less than $100 or more than $1,000 and be imprisoned in the county jail for a term not to exceed 1 year or not less than 24 hours for a first offense.

(ii) An offender convicted of a second offense under this section shall be fined not less than $300 or more than $1,000 and be imprisoned in the county jail not less than 72 hours or more than 1 year.

(iii) Upon a first or second conviction, the offender may be ordered into misdemeanor probation as provided in 46-23-1005.

(iv) On a third or subsequent conviction for partner or family member assault, the offender shall be fined not less than $500 and not more than $50,000 and be imprisoned for a term not less than 30 days and not more than 5 years. If the term of imprisonment does not exceed 1 year, the person shall be imprisoned in the county jail. If the term of imprisonment exceeds 1 year, the person shall be imprisoned in the state prison.

(v) If the offense was committed within the vision or hearing of a minor, the judge shall consider the minor's presence as a factor at the time of sentencing.

(b) For the purpose of determining the number of convictions under this section, a conviction means:

(i) a conviction, as defined in 45-2-101, under this section;

(ii) a conviction for domestic abuse under this section;

(iii) a conviction for a violation of a statute similar to this section in another state;

(iv) if the offender was a partner or family member of the victim, a conviction for aggravated assault under 45-5-202 or assault with a weapon under 45-5-213;

(v) a conviction in another state for an offense related to domestic violence between partners or family members, as those terms are defined in this section, regardless of what the offense is named or whether it is misdemeanor or felony, if the offense involves conduct similar to conduct that is prohibited under 45-5-202, 45-5-213, or this section; or

(vi) a forfeiture of bail or collateral deposited to secure the defendant's appearance in court in this state or in another state for a violation of a statute similar to this section, which forfeiture has not been vacated.

(4)(a) An offender convicted of partner or family member assault is required to pay for and complete a counseling assessment with a focus on violence, controlling behavior, dangerousness, and chemical dependency. An investigative criminal justice report, as defined in 45-5-231, must be copied and sent to the offender intervention program, as defined in 45-5-231, to assist the counseling provider in properly assessing the offender's need for counseling and treatment. Counseling providers shall take all required precautions to ensure the confidentiality of the report. If the report contains confidential information relating to the victim's location or not related to the charged offense, that information must be deleted from the report prior to being sent to the offender intervention program.

(b) The offender shall complete all recommendations for counseling, referrals, attendance at psychoeducational groups, or treatment, including any indicated chemical dependency treatment, made by the counseling provider. The counseling provider must be approved by the court. The counseling must include a preliminary assessment for counseling, as defined in 45-5-231. The offender shall complete a minimum of 40 hours of counseling. The counseling may include attendance at psychoeducational groups, as defined in 45-5-231, in addition to the assessment. The preliminary assessment and counseling that holds the offender accountable for the offender's violent or controlling behavior must be:

(i) with a person licensed under Title 37, chapter 17, 22, or 23;

(ii) with a professional person as defined in 53-21-102; or

(iii) in a specialized domestic violence intervention program.

(c) The minimum counseling and attendance at psychoeducational groups provided in subsection (4)(b) must be directed to the violent or controlling conduct of the offender. Other issues indicated by the assessment may be addressed in additional counseling beyond the minimum 40 hours. Subsection (4)(b) does not prohibit the placement of the offender in other appropriate treatment if the court determines that there is no available treatment program directed to the violent or controlling conduct of the offender.

(5) In addition to any sentence imposed under subsections (3) and (4), after determining the financial resources and future ability of the offender to pay restitution as provided for in 46-18-242, the court shall require the offender, if able, to pay the victim's reasonable actual medical, housing, wage loss, and counseling costs.

(6) In addition to the requirements of subsection (5), if financially able, the offender must be ordered to pay for the costs of the offender's probation, if probation is ordered by the court.

(7) The court may prohibit an offender convicted under this section from possession or use of the firearm used in the assault. The court may enforce 45-8-323 if a firearm was used in the assault.

(8) The court shall provide an offender with a written copy of the offender's sentence at the time of sentencing or within 2 weeks of sentencing if the copy is sent electronically or by mail.

CREDIT(S)

Enacted by Laws 1985, ch. 700, § 1. Amended by Laws 1989, ch. 480, § 1; amended by Laws 1991, ch. 800, § 257; amended by Laws 1993, ch. 425, § 2; amended by Laws 1995, ch. 18, § 51; amended by Laws 1995, ch. 350, § 10; amended by Laws 1997, ch. 245, § 2; amended by Laws 1997, ch. 484, § 5; amended by Laws 1999, ch. 432, § 8; amended by Laws 2001, ch. 503, § 6; amended by Laws 2003, ch. 438, § 1; amended by Laws 2014, ch. 161, § 1, eff. April 5, 2014; amended by Laws 2014, ch. 228, § 1, eff. April 18, 2014. Current through the 2014 Session, and the 2014 general election. Court Rules in the Code are current with amendments received through August 1, 2014.

NEBRASKA

Neb.Rev.St. § 28-707 (2014). Child abuse; privileges not available; penalties

(1) A person commits child abuse if he or she knowingly, intentionally, or negligently causes or permits a minor child to be:

(a) Placed in a situation that endangers his or her life or physical or mental health;

(b) Cruelly confined or cruelly punished;

(c) Deprived of necessary food, clothing, shelter, or care;

(d) Placed in a situation to be sexually exploited by allowing, encouraging, or forcing such minor child to solicit for or engage in prostitution, debauchery, public indecency, or obscene or pornographic photography, films, or depictions;

(e) Placed in a situation to be sexually abused as defined in section 28-319, 28-319.01, or 28-320.01; or

(f) Placed in a situation to be a trafficking victim as defined in section 28-830.

(2) The statutory privilege between patient and physician, between client and professional counselor, and between husband and wife shall not be available for excluding or refusing testimony in any prosecution for a violation of this section.

(3) Child abuse is a Class I misdemeanor if the offense is committed negligently and does not result in serious bodily injury as defined in section 28-109 or death.

(4) Child abuse is a Class IIIA felony if the offense is committed knowingly and intentionally and does not result in serious bodily injury as defined in section 28-109 or death.

(5) Child abuse is a Class IIIA felony if the offense is committed negligently and results in serious bodily injury as defined in section 28-109.

(6) Child abuse is a Class III felony if the offense is committed negligently and results in the death of such child.

(7) Child abuse is a Class II felony if the offense is committed knowingly and intentionally and results in serious bodily injury as defined in such section.

(8) Child abuse is a Class IB felony if the offense is committed knowingly and intentionally and results in the death of such child.

(9) For purposes of this section, negligently refers to criminal negligence and means that a person knew or should have known of the danger involved and acted recklessly, as defined in section 28-109, with respect to the safety or health of the minor child.

CREDIT(S)

Laws 1977, LB 38, § 146; Laws 1982, LB 347, § 10; Laws 1993, LB 130, § 3; Laws 1993, LB 430, § 3; Laws 1994, LB 908, § 1; Laws 1996, LB 645, § 15; Laws 1997, LB 364, § 9; Laws 2006, LB 1199, § 9; Laws 2010, LB 507, § 3, eff. July 15, 2010; Laws 2012, LB 799, § 2, eff. July 19, 2012; Laws 2014, LB 255, § 1, eff. Oct. 1, 2014. Current through End of 2014 Regular Session

Neb.Rev.St. § 28-105 (2014). Felonies; classification of penalties; sentences; where served; eligibility for probation

(1) For purposes of the Nebraska Criminal Code and any statute passed by the Legislature after the date of passage of the code, felonies are divided into nine classes which are distinguished from one another by the following penalties which are authorized upon conviction:

Class I felony	Death
Class IA felony	Life imprisonment
Class IB felony	Maximum--life imprisonment
	Minimum--twenty years imprisonment
Class IC felony	Maximum--fifty years imprisonment
	Mandatory minimum--five years imprisonment
Class ID felony	Maximum--fifty years imprisonment
	Mandatory minimum--three years imprisonment

Class II felony	Maximum--fifty years imprisonment
	Minimum--one year imprisonment
Class III felony	Maximum--twenty years imprisonment, or
	twenty-five thousand dollars fine, or both
	Minimum--one year imprisonment
Class IIIA felony	Maximum--five years imprisonment, or
	ten thousand dollars fine, or both
	Minimum—none
Class IV felony	Maximum--five years imprisonment, or
	ten thousand dollars fine, or both
	Minimum—none

(2) All sentences of imprisonment for Class IA, IB, IC, ID, II, and III felonies and sentences of one year or more for Class IIIA and IV felonies shall be served in institutions under the jurisdiction of the Department of Correctional Services. Sentences of less than one year shall be served in the county jail except as provided in this subsection. If the department certifies that it has programs and facilities available for persons sentenced to terms of less than one year, the court may order that any sentence of six months or more be served in any institution under the jurisdiction of the department. Any such certification shall be given by the department to the State Court Administrator, who shall forward copies thereof to each judge having jurisdiction to sentence in felony cases.

(3) Nothing in this section shall limit the authority granted in sections 29-2221 and 29-2222 to increase sentences for habitual criminals.

(4) A person convicted of a felony for which a mandatory minimum sentence is prescribed shall not be eligible for probation.
CREDIT(S)

Laws 1977, LB 38, § 5; Laws 1989, LB 592, § 1; Laws 1995, LB 371, § 2; Laws 1997, LB 364, § 1; Laws 1998, LB 900, § 1; Laws 1998, LB 1266, § 1; Laws 2002, 3rd Sp. Sess., LB 1, § 1; Laws 2011, LB 12, § 1, eff. Aug. 27, 2011. Current through End of 2014 Regular Session

Neb.Rev.St. § 28-106 (2014). Misdemeanors; classification of penalties; sentences; where served

(1) For purposes of the Nebraska Criminal Code and any statute passed by the Legislature after the date of passage of the code, misdemeanors are divided into seven classes which are distinguished from one another by the following penalties which are authorized upon conviction:

Class I misdemeanor	Maximum--not more than one year imprisonment, or one thousand dollars fine, or both Minimum--none
Class II misdemeanor	Maximum--six months imprisonment, or one thousand dollars fine, or both Minimum--none
Class III misdemeanor	Maximum--three months imprisonment, or five hundred dollars fine, or both Minimum--none
Class IIIA misdemeanor	Maximum--seven days imprisonment, five hundred dollars fine, or both Minimum--none
Class IV misdemeanor	Maximum--no imprisonment, five hundred dollars fine Minimum--one hundred dollars fine
Class V misdemeanor	Maximum--no imprisonment, one hundred dollars fine Minimum--none
Class W misdemeanor	Driving under the influence or implied consent First conviction Maximum--sixty days imprisonment and five hundred dollars fine Mandatory minimum--seven days imprisonment and five hundred dollars Fine Second conviction

Maximum--six months imprisonment and
five hundred dollars fine
Mandatory minimum--thirty days
imprisonment and five hundred dollars
Fine
Third conviction
Maximum--one year imprisonment and
one thousand dollars fine
Mandatory minimum--ninety days
imprisonment
and one thousand dollars fine

(2) Sentences of imprisonment in misdemeanor cases shall be served in the county jail, except that in the following circumstances the court may, in its discretion, order that such sentences be served in institutions under the jurisdiction of the Department of Correctional Services:

(a) If the sentence is for a term of one year upon conviction of a Class I misdemeanor;

(b) If the sentence is to be served concurrently or consecutively with a term for conviction of a felony; or

(c) If the Department of Correctional Services has certified as provided in section 28-105 as to the availability of facilities and programs for short-term prisoners and the sentence is for a term of six months or more.

Laws 1977, LB 38, § 5; Laws 1989, LB 592, § 1; Laws 1995, LB 371, § 2; Laws 1997, LB 364, § 1; Laws 1998, LB 900, § 1; Laws 1998, LB 1266, § 1; Laws 2002, 3rd Sp. Sess., LB 1, § 1; Laws 2011, LB 12, § 1, eff. Aug. 27, 2011. Current through End of 2014 Regular Session

Neb.Rev.St. § 28-109 (2014). Terms, defined

For purposes of the Nebraska Criminal Code, unless the context otherwise requires:

(1) Act shall mean a bodily movement, and includes words and possession of property;

(2) Aid or assist shall mean knowingly to give or lend money or credit to be used for, or to make possible or available, or to further activity thus aided or assisted;

(3) Benefit shall mean any gain or advantage to the beneficiary including any gain or advantage to another person pursuant to the desire or consent of the beneficiary;

(4) Bodily injury shall mean physical pain, illness, or any impairment of physical condition;

(5) Conduct shall mean an action or omission and its accompanying state of mind, or, where relevant, a series of acts and omissions;

(6) Deadly physical force shall mean force, the intended, natural, and probable consequence of which is to produce death, or which does, in fact, produce death;

(7) Deadly weapon shall mean any firearm, knife, bludgeon, or other device, instrument, material, or substance, whether animate or inanimate, which in the manner it is used or intended to be used is capable of producing death or serious bodily injury;

(8) Deface shall mean to alter the appearance of something by removing, distorting, adding to, or covering all or a part of the thing;

(9) Dwelling shall mean a building or other thing which is used, intended to be used, or usually used by a person for habitation;

(10) Government shall mean the United States, any state, county, municipality, or other political unit, any branch, department, agency, or subdivision of any of the foregoing, and any corporation or other entity established by law to carry out any governmental function;

(11) Governmental function shall mean any activity which a public servant is legally authorized to undertake on behalf of government;

(12) Motor vehicle shall mean every self-propelled land vehicle, not operated upon rails, except self-propelled chairs used by persons who are disabled and electric personal assistive mobility devices as defined in section 60-618.02;

(13) Omission shall mean a failure to perform an act as to which a duty of performance is imposed by law;

(14) Peace officer shall mean any officer or employee of the state or a political subdivision authorized by law to make arrests, and shall include members of the National Guard on active service by direction of the Governor during periods of emergency or civil disorder;

(15) Pecuniary benefit shall mean benefit in the form of money, property, commercial interest, or anything else, the primary significance of which is economic gain;

(16) Person shall mean any natural person and where relevant a corporation or an unincorporated association;

(17) Public place shall mean a place to which the public or a substantial number of the public has access, and includes but is not limited to highways, transportation facilities, schools, places of amusement, parks, playgrounds, and the common areas of public and private buildings and facilities;

(18) Public servant shall mean any officer or employee of government, whether elected or appointed, and any person participating as an advisor, consultant, process server, or otherwise in performing a governmental function, but the term does not include witnesses;

(19) Recklessly shall mean acting with respect to a material element of an offense when any person disregards a substantial and unjustifiable risk that the material element exists or will result from his or her conduct. The risk must be of such a nature and degree that, considering the nature and purpose of the actor's conduct and the circumstances known to the actor, its disregard involves a gross deviation from the standard of conduct that a law-abiding person would observe in the actor's situation;

(20) Serious bodily injury shall mean bodily injury which involves a substantial risk of death, or which involves substantial risk of serious permanent disfigurement, or protracted loss or impairment of the function of any part or organ of the body;

(21) Tamper shall mean to interfere with something improperly or to make unwarranted alterations in its condition;

(22) Thing of value shall mean real property, tangible and intangible personal property, contract rights, choses in action, services, and any rights of use or enjoyment connected therewith; and

(23) Voluntary act shall mean an act performed as a result of effort or determination, and includes the possession of property if the actor was aware of his or her physical possession or control thereof for a sufficient period to have been able to terminate it.

CREDIT(S)

Laws 1977, LB 38, § 9; Laws 1993, LB 370, § 8; Laws 2002, LB 1105, § 427.

Current through End of 2014 Regular Session

NEVADA

Nev.Rev.Stat. § 200.508 (2014). Abuse, neglect or endangerment of child: Penalties; definitions

1. A person who willfully causes a child who is less than 18 years of age to suffer unjustifiable physical pain or mental suffering as a result of abuse or neglect or to be

placed in a situation where the child may suffer physical pain or mental suffering as the result of abuse or neglect:

(a) If substantial bodily or mental harm results to the child:

(1) If the child is less than 14 years of age and the harm is the result of sexual abuse or exploitation, is guilty of a category A felony and shall be punished by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of 15 years has been served; or

(2) In all other such cases to which subparagraph (1) does not apply, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 20 years; or

(b) If substantial bodily or mental harm does not result to the child:

(1) If the person has not previously been convicted of a violation of this section or of a violation of the law of any other jurisdiction that prohibits the same or similar conduct, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years; or

(2) If the person has previously been convicted of a violation of this section or of a violation of the law of any other jurisdiction that prohibits the same or similar conduct, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 15 years,

unless a more severe penalty is prescribed by law for an act or omission that brings about the abuse or neglect.

2. A person who is responsible for the safety or welfare of a child and who permits or allows that child to suffer unjustifiable physical pain or mental suffering as a result of abuse or neglect or to be placed in a situation where the child may suffer physical pain or mental suffering as the result of abuse or neglect:

(a) If substantial bodily or mental harm results to the child:

(1) If the child is less than 14 years of age and the harm is the result of sexual abuse or exploitation, is guilty of a category A felony and shall be punished by imprisonment in

the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served; or

(2) In all other such cases to which subparagraph (1) does not apply, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 20 years; or

(b) If substantial bodily or mental harm does not result to the child:

(1) If the person has not previously been convicted of a violation of this section or of a violation of the law of any other jurisdiction that prohibits the same or similar conduct, is guilty of a gross misdemeanor; or

(2) If the person has previously been convicted of a violation of this section or of a violation of the law of any other jurisdiction that prohibits the same or similar conduct, is guilty of a category C felony and shall be punished as provided in NRS 193.130,

unless a more severe penalty is prescribed by law for an act or omission that brings about the abuse or neglect.

3. A person does not commit a violation of subsection 1 or 2 by virtue of the sole fact that the person delivers or allows the delivery of a child to a provider of emergency services pursuant to NRS 432B.630.

4. As used in this section:

(a) “Abuse or neglect” means physical or mental injury of a nonaccidental nature, sexual abuse, sexual exploitation, negligent treatment or maltreatment of a child under the age of 18 years, as set forth in paragraph (d) and NRS 432B.070, 432B.100, 432B.110, 432B.140 and 432B.150, under circumstances which indicate that the child's health or welfare is harmed or threatened with harm.

(b) “Allow” means to do nothing to prevent or stop the abuse or neglect of a child in circumstances where the person knows or has reason to know that the child is abused or neglected.

(c) “Permit” means permission that a reasonable person would not grant and which amounts to a neglect of responsibility attending the care, custody and control of a minor child.

(d) “Physical injury” means:

(1) Permanent or temporary disfigurement; or

(2) Impairment of any bodily function or organ of the body.

(e) “Substantial mental harm” means an injury to the intellectual or psychological capacity or the emotional condition of a child as evidenced by an observable and substantial impairment of the ability of the child to function within his or her normal range of performance or behavior.

CREDIT(S)
Added by Laws 1971, p. 772. Amended by Laws 1975, p. 1141; Laws 1977, pp. 738, 1629; Laws 1985, p. 1399; Laws 1989, pp. 866, 1510, 1512; Laws 1995, p. 1193; Laws 1997, c. 240, § 3; Laws 1997, c. 455, § 2; Laws 1999, c. 105, § 49, eff. May 11, 1999; Laws 2001, c. 258, § 1; Laws 2001, c. 276, § 14, eff. May 31, 2001; Laws 2003, c. 2, § 23, eff. March 5, 2003. Current through End of 28th Special Session (2014)

Nev.Rev.Stat. § 193.130 (2014). Categories and punishment of felonies

1. Except when a person is convicted of a category A felony, and except as otherwise provided by specific statute, a person convicted of a felony shall be sentenced to a minimum term and a maximum term of imprisonment which must be within the limits prescribed by the applicable statute, unless the statute in force at the time of commission of the felony prescribed a different penalty. The minimum term of imprisonment that may be imposed must not exceed 40 percent of the maximum term imposed.

2. Except as otherwise provided by specific statute, for each felony committed on or after July 1, 1995:

(a) A category A felony is a felony for which a sentence of death or imprisonment in the state prison for life with or without the possibility of parole may be imposed, as provided by specific statute.

(b) A category B felony is a felony for which the minimum term of imprisonment in the state prison that may be imposed is not less than 1 year and the maximum term of imprisonment that may be imposed is not more than 20 years, as provided by specific statute.

(c) A category C felony is a felony for which a court shall sentence a convicted person to imprisonment in the state prison for a minimum term of not less than 1 year and a

maximum term of not more than 5 years. In addition to any other penalty, the court may impose a fine of not more than $10,000, unless a greater fine is authorized or required by statute.

(d) A category D felony is a felony for which a court shall sentence a convicted person to imprisonment in the state prison for a minimum term of 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.

(e) A category E felony is a felony for which a court shall sentence a convicted person to imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 4 years. Except as otherwise provided in paragraph (b) of subsection 1 of NRS 176A.100, upon sentencing a person who is found guilty of a category E felony, the court shall suspend the execution of the sentence and grant probation to the person upon such conditions as the court deems appropriate. Such conditions of probation may include, but are not limited to, requiring the person to serve a term of confinement of not more than 1 year in the county jail. In addition to any other penalty, the court may impose a fine of not more than $5,000, unless a greater penalty is authorized or required by statute.

CREDIT(S)

Added by C&P (1911), § 18. NRS amended by Laws 1967, p. 458; Laws 1995, p. 1167; Laws 1997, c. 314, § 1, eff. July 1, 1998; Laws 1999, c. 288, § 1.
Current through End of 28th Special Session (2014)

NEW HAMPSHIRE

N.H. Rev. Stat. § 631:1 (2014). First Degree Assault.

I. A person is guilty of a class A felony if he:

(a) Purposely causes serious bodily injury to another; or

(b) Purposely or knowingly causes bodily injury to another by means of a deadly weapon, except that if the deadly weapon is a firearm, he shall be sentenced in accordance with RSA 651:2, II-g; or

(c) Purposely or knowingly causes injury to another resulting in miscarriage or stillbirth; or

(d) Knowingly or recklessly causes serious bodily injury to a person under 13 years of age.

II. In this section:

(a) “Miscarriage” means the interruption of the normal development of the fetus other than by a live birth and not an induced abortion, resulting in the complete expulsion or extraction of a fetus; and

(b) “Stillbirth” means the death of a fetus prior to complete expulsion or extraction and not an induced abortion.

<[Paragraph III effective January 1, 2015.]>

III. Upon proof that the victim and defendant were intimate partners or family or household members, as those terms are defined in RSA 631:2-b, III, a conviction under this section shall be recorded as “First Degree Assault--Domestic Violence.”

HISTORY

Source. 1971, 518:1. 1979, 126:1. 1990, 95:2. 1991, 75:1. 1992, 71:1, eff. Jan. 1, 1993. 2014, 152:3, eff. Jan. 1, 2015. Updated with laws current through Chapter 330 of the 2014 Reg. Sess.

N.H. Rev. Stat. § 631:2 (2014). Second Degree Assault.

I. A person is guilty of a class B felony if he or she:

(a) Knowingly or recklessly causes serious bodily injury to another; or

(b) Recklessly causes bodily injury to another by means of a deadly weapon, except that if the deadly weapon is a firearm, he or she shall be sentenced in accordance with RSA 651:2, II-g; or

(c) Recklessly causes bodily injury to another under circumstances manifesting extreme indifference to the value of human life; or

(d) Purposely or knowingly causes bodily injury to a child under 13 years of age; or

(e) Recklessly or negligently causes injury to another resulting in miscarriage or stillbirth; or

(f) Purposely or knowingly engages in the strangulation of another.

II. In this section:

(a) “Miscarriage” means the interruption of the normal development of the fetus other than by a live birth and not an induced abortion, resulting in the complete expulsion or extraction of a fetus.

(b) “Stillbirth” means the death of a fetus prior to complete expulsion or extraction and not an induced abortion.

(c) “Strangulation” means the application of pressure to another person's throat or neck, or the blocking of the person's nose or mouth, that causes the person to experience impeded breathing or blood circulation or a change in voice.

<[Paragraph III effective January 1, 2015.]>

III. Upon proof that the victim and defendant were intimate partners or family or household members, as those terms are defined in RSA 631:2-b, III, a conviction under this section shall be recorded as “Second Degree Assault--Domestic Violence.”

HISTORY

Source. 1971, 518:1. 1979, 126:2. 1985, 181:1. 1990, 95:3. 1991, 75:2, eff. Jan. 1, 1992. 2010, 8:1, eff. Jan. 1, 2011. 2014, 152:4, eff. Jan. 1, 2015. Updated with laws current through Chapter 330 of the 2014 Reg. Sess.

N.H. Rev. Stat. § 625:9 (2014). Classification of Crimes.

I. The provisions of this section govern the classification of every offense, whether defined within this code or by any other statute.

II. Every offense is either a felony, misdemeanor or violation.

(a) Felonies and misdemeanors are crimes.

(b) A violation does not constitute a crime and conviction of a violation shall not give rise to any disability or legal disadvantage based on conviction of a criminal offense.

III. A felony is murder or a crime so designated by statute within or outside this code or a crime defined by statute outside of this code where the maximum penalty provided is imprisonment in excess of one year; provided, however, that a crime defined by statute

outside of this code is a felony when committed by a corporation or an unincorporated association if the maximum fine therein provided is more than $200.

(a) Felonies other than murder are either class A felonies or class B felonies when committed by an individual. Felonies committed by a corporation or an unincorporated association are unclassified.

(1) Class A felonies are crimes so designated by statute within or outside this code and any crime defined by statute outside of this code for which the maximum penalty, exclusive of fine, is imprisonment in excess of 7 years.

(2) Class B felonies are crimes so designated by statute within or outside this code and any crime defined outside of this code for which the maximum penalty, exclusive of fine, is imprisonment in excess of one year but not in excess of 7 years.

IV. Misdemeanors are either class A misdemeanors or class B misdemeanors when committed by an individual. Misdemeanors committed by a corporation or an unincorporated association are unclassified.

(a) A class A misdemeanor is any crime so designated by statute within or outside this code and any crime defined outside of this code for which the maximum penalty, exclusive of fine, is imprisonment not in excess of one year.

(b) A class B misdemeanor is any crime so designated by statute within or outside this code and any crime defined outside of this code for which the maximum penalty does not include any term of imprisonment or any fine in excess of the maximum provided for a class B misdemeanor in RSA 651:2, IV(a).

(c) Any crime designated within or outside this code as a misdemeanor without specification of the classification shall be presumed to be a class B misdemeanor unless:

(1) An element of the offense involves an “act of violence” or “threat of violence” as defined in paragraph VII; or

(2) The state files a notice of intent to seek class A misdemeanor penalties on or before the date of arraignment. Such notice shall be on a form approved in accordance with RSA 490:26-d.

(d) Nothing in this paragraph shall prohibit the state from reducing any offense originally charged as a class A misdemeanor to a class B misdemeanor at any time with the agreement of the person charged.

V. A violation is an offense so designated by statute within or outside this code and, except as provided in this paragraph, any offense defined outside of this code for which there is no other penalty provided other than a fine or fine and forfeiture or other civil penalty. In the case of a corporation or an unincorporated association, offenses defined outside of this code are violations if the amount of any such fine provided does not exceed $50.

V-a. The violation of any requirement created by statute or by municipal regulation enacted pursuant to an enabling statute, where the statute neither specifies the penalty or offense classification, shall be deemed a violation, and the penalties to be imposed by the court shall be those provided for a violation under RSA 651:2.

VI. Prior to or at the time of arraignment, the state may, in its discretion, charge any offense designated a misdemeanor, as defined by paragraph IV, as a violation. At such time, the prosecutor shall make an affirmative statement to the court as to whether he intends to proceed under this paragraph. In such cases the penalties to be imposed by the court shall be those provided for a violation under RSA 651:2. This paragraph shall not apply to any offense for which a statute prescribes an enhanced penalty for a subsequent conviction of the same offense.

VII. The state may change any offense designated or defined as a class A misdemeanor as defined by paragraph IV to a class B misdemeanor, so long as no element of the offense involves an act of violence or threat of violence. The term "act of violence" means attempting to cause or purposely or recklessly causing bodily injury or serious bodily injury with or without a deadly weapon; and the term "threat of violence" means placing or attempting to place another in fear of imminent bodily injury either by physical menace or by threats to commit a crime against the person of the other. The state may change an offense pursuant to this paragraph if such change is in the interest of public safety and welfare and is not inconsistent with the societal goals of deterrence and prevention of recidivism, as follows:

(a) In its own discretion prior to or at the time of arraignment in the district court;

(b) In its own discretion following an entry of appeal in the superior court or within 20 days thereafter;

(c) With the agreement of the person charged at any other time; or

(d) In its own discretion, following entry of a complaint at a regional jury trial court or within 21 days thereafter.

VIII. If a person convicted of a class A misdemeanor has been sentenced and such sentence does not include any period of actual incarceration or a suspended or deferred jail sentence or any fine in excess of the maximum provided for a class B misdemeanor in RSA 651:2, IV(a), the court shall record such conviction and sentence as a class B misdemeanor.

HISTORY

Source. 1971, 518:1. 1973, 370:26-28. 1983, 382:7. 1988, 225:2. 1992, 269:1, 2. 1995, 277:21. 1996, 93:1. 2001, 274:5, eff. Jan. 1, 2002. 2006, 64:3, eff. Jan. 1, 2007. 2009, 142:1, 2, eff. Oct. 1, 2009. Updated with laws current through Chapter 330 of the 2014 Reg. Sess. Current with laws effective through L.2014, c. 68 and J.R. No. 3. Updated with laws current through Chapter 330 of the 2014 Reg. Sess.

NEW JERSEY

N.J. Stat. Ann. § 9:6-1 (2014). Abuse, abandonment, cruelty and neglect of child; what constitutes

a. (1) Any person having a legal duty for the care of a child or who has assumed responsibility for the care of a child who engages in sexual conduct which would impair or debauch the morals of the child is guilty of a crime of the second degree. Any other person who engages in conduct or who causes harm as described in this paragraph to a child is guilty of a crime of the third degree.

(2) Any person having a legal duty for the care of a child or who has assumed responsibility for the care of a child who causes the child harm that would make the child an abused or neglected child as defined in R.S.9:6-1, R.S.9:6-3 and P.L.1974, c. 119, § 1 (C.9:6-8.21) is guilty of a crime of the second degree. Any other person who engages in conduct or who causes harm as described in this paragraph to a child is guilty of a crime of the third degree.

b. (1) As used in this subsection:

"Child" means any person under 18 years of age.

"Distribute" means to sell, or to manufacture, give, provide, lend, trade, mail, deliver, publish, circulate, disseminate, present, exhibit, display, share, advertise, offer, or make available via the Internet or by any other means, whether for pecuniary gain or not. The term also includes an agreement or attempt to distribute.

"File-sharing program" means a computer program, application, software or operating system that allows the user of a computer on which such program, application, software or operating system is installed to designate files as available for searching by and copying to one or more other computers, to transmit such designated files directly to one or more other computers, and to request the transmission of such designated files directly from one or more other computers. The term "file-sharing program" includes but is not limited to a computer program, application or software that enables a computer user to participate in a peer-to-peer network.

"Internet" means the international computer network of both federal and non-federal interoperable packet switched data networks.

"Item depicting the sexual exploitation or abuse of a child" means a photograph, film, video, an electronic, electromagnetic or digital recording, an image stored or maintained in a computer program or file or in a portion of a file, or any other reproduction or reconstruction which depicts a child engaging in a prohibited sexual act or in the simulation of such an act.

"Peer-to-peer network" means a connection of computer systems through which files are shared directly between the systems on a network without the need of a central server.

"Prohibited sexual act" means

(a) Sexual intercourse; or

(b) Anal intercourse; or

(c) Masturbation; or

(d) Bestiality; or

(e) Sadism; or

(f) Masochism; or

(g) Fellatio; or

(h) Cunnilingus; or

(i) Nudity, if depicted for the purpose of sexual stimulation or gratification of any person who may view such depiction; or

(j) Any act of sexual penetration or sexual contact as defined in N.J.S.2C:14-1.

"Reproduction" means, but is not limited to, computer generated images.

(2) (Deleted by amendment, P.L.2001, c. 291).

(3) A person commits a crime of the first degree if he causes or permits a child to engage in a prohibited sexual act or in the simulation of such an act if the person knows, has reason to know or intends that the prohibited act may be photographed, filmed, reproduced, or reconstructed in any manner, including on the Internet, or may be part of an exhibition or performance.

(4) A person commits a crime of the second degree if he photographs or films a child in a prohibited sexual act or in the simulation of such an act or who uses any device, including a computer, to reproduce or reconstruct the image of a child in a prohibited sexual act or in the simulation of such an act.

(5)(a) A person commits a crime of the second degree if, by any means, including but not limited to the Internet, he:

(i) knowingly distributes an item depicting the sexual exploitation or abuse of a child;

(ii) knowingly possesses an item depicting the sexual exploitation or abuse of a child with the intent to distribute that item; or

(iii) knowingly stores or maintains an item depicting the sexual exploitation or abuse of a child using a file-sharing program which is designated as available for searching by or copying to one or more other computers.

In a prosecution under sub-subparagraph (iii) of this subparagraph, the State shall not be required to offer proof that an item depicting the sexual exploitation or abuse of a child had actually been searched, copied, transmitted or viewed by another user of the file-sharing program, or by any other person, and it shall be no defense that the defendant did not intend to distribute the item to another user of the file-sharing program or to any other person. Nor shall the State be required to prove that the defendant was aware that the item depicting the sexual exploitation or abuse of a child was available for searching or copying to one or more other computers, and the defendant shall be strictly liable for failing to designate the item as not available for searching or copying by one or more other computers.

Notwithstanding the provisions of subsection a. of N.J.S.2C:43-6, a person whose offense under this subparagraph involved 25 or more items depicting the sexual exploitation or abuse of a child shall be sentenced to a mandatory minimum term of imprisonment, which shall be fixed at, or between, one-third and one-half of the sentence imposed by the court or five years, whichever is greater, during which the defendant shall be ineligible for parole.

Notwithstanding the provisions of subsection a. of N.J.S.2C:43-6, a person convicted of a second or subsequent offense under this subparagraph shall be sentenced to an extended term of imprisonment as set forth in N.J.S.2C:43-7. For the purposes of this subparagraph, an offense is considered a second or subsequent offense if the actor has at any time been convicted pursuant to paragraph (3), (4) or (5) of this subsection, or under any similar statute of the United States, this State or any other state for an offense that is substantially equivalent to paragraph (3), (4) or (5) of this subsection.

For purposes of this subparagraph, the term “possess” includes receiving, viewing, or having under one's control, through any means, including the Internet.

(b) A person commits a crime of the third degree if he knowingly possesses , knowingly views , or knowingly has under his control, through any means, including the Internet, an item depicting the sexual exploitation or abuse of a child.

Notwithstanding the provisions of subsection e. of N.J.S.2C:44-1, in any instance where a person was convicted of an offense under this subparagraph that involved 100 or more items depicting the sexual exploitation or abuse of a child, the court shall impose a sentence of imprisonment unless, having regard to the character and condition of the defendant, it is of the opinion that

imprisonment would be a serious injustice which overrides the need to deter such conduct by others.

Notwithstanding the provisions of subsection a. of N.J.S.2C:43-6, a person convicted of a second or subsequent offense under this subparagraph shall be sentenced to an extended term of imprisonment as set forth in N.J.S.2C:43-7. For the purposes of this subparagraph, an offense is considered a second or subsequent offense if the actor has at any time been convicted pursuant to paragraph (3), (4) or (5) of this subsection, or under any similar statute of the United States, this State or any other state for an offense that is substantially equivalent to paragraph (3), (4) or (5) of this subsection.

Nothing in this subparagraph shall be construed to preclude or limit any prosecution or conviction for the offense set forth in subparagraph (a) of this paragraph.

(6) For purposes of this subsection, a person who is depicted as or presents the appearance of being under the age of 18 in any photograph, film, videotape, computer program or file, video game or any other reproduction or reconstruction shall be rebuttably presumed to be under the age of 18. If the child who is depicted as engaging in, or who is caused to engage in, a prohibited sexual act or simulation of a prohibited sexual act is under the age of 18, the actor shall be strictly liable and it shall not be a defense that the actor did not know that the child was under the age of 18, nor shall it be a defense that the actor believed that the child was 18 years of age or older, even if such a mistaken belief was reasonable.

(7) For aggregation purposes, each depiction of the sexual exploitation or abuse of a child shall be considered a separate item, and each individual act of distribution of an item depicting the sexual exploitation or abuse of a child shall be considered a separate item. For purposes of determining the number of items depicting the sexual exploitation or abuse of a child for purposes of sentencing pursuant to subparagraph (a) of paragraph (5) of this subsection, the court shall aggregate all items involved, whether the act or acts constituting the violation occurred at the same time or at different times and, with respect to distribution, whether the act or acts of distribution were to the same person or several persons or occurred at different times, provided that each individual act was committed within the applicable statute of limitations. For purposes of determining the number of items depicting the sexual exploitation or abuse of a child for purposes of sentencing pursuant to subparagraph (b) of paragraph (5) of this subsection, the court shall aggregate all items involved, whether the possession of such items occurred at the same time or at different times, provided that each individual act was committed within the applicable statute of limitations.

CREDIT(S)

L.1978, c. 95, § 2C:24-4, eff. Sept. 1, 1979. Amended by L.1979, c. 178, § 46, eff. Sept. 1, 1979; L.1983, c. 494, § 1, eff. Jan. 17, 1984; L.1992, c. 2, § 1, eff. April 2, 1992; L.1992, c. 6, § 1, eff. May 13, 1992; L.1995, c. 109, § 1, eff. June 1, 1995; L.1998, c. 126, § 1, eff. May 1, 1999; L.2001, c. 291, § 1, eff. Dec. 28, 2001, retroactive to May 1, 1999; L.2014, c. 51, § 13, eff. July 1, 2014; L.2014, c. 136, § 1, eff. Aug. 14, 2014. Current with laws effective through L.2014, c. 68 and J.R. No. 3.

N.J. Stat. Ann. § 9:6-3 (2014). Cruelty and neglect of children; crime of fourth degree; remedies

Any parent, guardian or person having the care, custody or control of any child, who shall abuse, abandon, be cruel to or neglectful of such child, or any person who shall abuse, be cruel to or neglectful of any child shall be deemed to be guilty of a crime of the fourth degree. If a fine be imposed, the court may direct the same to be paid in whole or in part to the parent, or to the guardian, custodian or trustee of such minor child or children; provided, however, that whenever in the judgment of the court it shall appear to the best interest of the child to place it in the temporary care or custody of a society or corporation, organized or incorporated under the laws of this State, having as one of its objects the prevention of cruelty to children, and the society or corporation is willing to assume such custody and control, the court may postpone sentence and place the child in the custody of such society or corporation, and may place defendant on probation, either with the county probation officers or an officer of the society or corporation to which the child is ordered, and may order the parent, guardian or person having the custody and control of such child to pay to such society or corporation a certain stated sum for the maintenance of such child. When, however, a child is so placed in the custody of such society or corporation, and defendant fails to make the payments as ordered by the court, the court shall cause the arrest and arraignment before it of such defendant, and shall impose upon the defendant the penalty provided in this section.

CREDIT(S)

Amended by L.1944, c. 196, p. 711, § 1; L.1990, c. 26, § 5, eff. Aug. 19, 1990. Current with laws effective through L.2014, c. 68 and J.R. No. 3. Current with laws effective through L.2014, c. 68 and J.R. No. 3.

N.J. Stat. Ann. § 2C:44-1 (2014). Criteria for withholding or imposing sentence of imprisonment

a. In determining the appropriate sentence to be imposed on a person who has been convicted of an offense, the court shall consider the following aggravating circumstances:

(1) The nature and circumstances of the offense, and the role of the actor therein, including whether or not it was committed in an especially heinous, cruel, or depraved manner;

(2) The gravity and seriousness of harm inflicted on the victim, including whether or not the defendant knew or reasonably should have known that the victim of the offense was particularly vulnerable or incapable of resistance due to advanced age, ill-health, or extreme youth, or was for any other reason substantially incapable of exercising normal physical or mental power of resistance;

(3) The risk that the defendant will commit another offense;

(4) A lesser sentence will depreciate the seriousness of the defendant's offense because it involved a breach of the public trust under chapters 27 and 30, or the defendant took advantage of a position of trust or confidence to commit the offense;

(5) There is a substantial likelihood that the defendant is involved in organized criminal activity;

(6) The extent of the defendant's prior criminal record and the seriousness of the offenses of which he has been convicted;

(7) The defendant committed the offense pursuant to an agreement that he either pay or be paid for the commission of the offense and the pecuniary incentive was beyond that inherent in the offense itself;

(8) The defendant committed the offense against a police or other law enforcement officer, correctional employee or fireman, acting in the performance of his duties while in uniform or exhibiting evidence of his authority; the defendant committed the offense because of the status of the victim as a public servant; or the defendant committed the offense against a sports official, athletic coach or manager, acting in or immediately following the performance of his duties or because of the person's status as a sports official, coach or manager;

(9) The need for deterring the defendant and others from violating the law;

(10) The offense involved fraudulent or deceptive practices committed against any department or division of State government;

(11) The imposition of a fine, penalty or order of restitution without also imposing a term of imprisonment would be perceived by the defendant or others merely as part of the cost of doing business, or as an acceptable contingent business or operating expense associated with the initial decision to resort to unlawful practices;

(12) The defendant committed the offense against a person who he knew or should have known was 60 years of age or older, or disabled; and

(13) The defendant, while in the course of committing or attempting to commit the crime, including the immediate flight therefrom, used or was in possession of a stolen motor vehicle.

b. In determining the appropriate sentence to be imposed on a person who has been convicted of an offense, the court may properly consider the following mitigating circumstances:

(1) The defendant's conduct neither caused nor threatened serious harm;

(2) The defendant did not contemplate that his conduct would cause or threaten serious harm;

(3) The defendant acted under a strong provocation;

(4) There were substantial grounds tending to excuse or justify the defendant's conduct, though failing to establish a defense;

(5) The victim of the defendant's conduct induced or facilitated its commission;

(6) The defendant has compensated or will compensate the victim of his conduct for the damage or injury that he sustained, or will participate in a program of community service;

(7) The defendant has no history of prior delinquency or criminal activity or has led a law-abiding life for a substantial period of time before the commission of the present offense;

(8) The defendant's conduct was the result of circumstances unlikely to recur;

(9) The character and attitude of the defendant indicate that he is unlikely to commit another offense;

(10) The defendant is particularly likely to respond affirmatively to probationary treatment;

(11) The imprisonment of the defendant would entail excessive hardship to himself or his dependents;

(12) The willingness of the defendant to cooperate with law enforcement authorities;

(13) The conduct of a youthful defendant was substantially influenced by another person more mature than the defendant.

c. (1) A plea of guilty by a defendant or failure to so plead shall not be considered in withholding or imposing a sentence of imprisonment.

(2) When imposing a sentence of imprisonment the court shall consider the defendant's eligibility for release under the law governing parole, including time credits awarded pursuant to Title 30 of the Revised Statutes, in determining the appropriate term of imprisonment.

d. Presumption of imprisonment. The court shall deal with a person who has been convicted of a crime of the first or second degree, or a crime of the third degree where the court finds that the aggravating factor in paragraph (5) of subsection a. applies, by imposing a sentence of imprisonment unless, having regard to the character and condition of the defendant, it is of the opinion that his imprisonment would be a serious injustice which overrides the need to deter such conduct by others. Notwithstanding the provisions of subsection e. of this section, the court shall deal with a person who has been convicted of theft of a motor vehicle or of the unlawful taking of a motor vehicle and who has previously been convicted of either offense by imposing a sentence of imprisonment unless, having regard to the character and condition of the defendant, it is of the opinion that his imprisonment would be a serious injustice which overrides the need to deter such conduct by others.

e. The court shall deal with a person convicted of an offense other than a crime of the first or second degree, who has not previously been convicted of an offense, without imposing a sentence of imprisonment unless, having regard to the nature and circumstances of the offense and the history, character and condition of the defendant, it is of the opinion that his imprisonment is necessary for the protection of the public under the criteria set forth in subsection a., except that this subsection shall not apply if the court finds that the aggravating factor in paragraph (5) of subsection a. applies if the person is convicted of any of the following crimes of the third degree: theft of a motor vehicle; unlawful taking of a motor vehicle; eluding; if the person is convicted of a crime of the third degree constituting use of a false government document in violation of subsection c. of section 1 of P.L.1983, c. 565 (C.2C:21-2.1); if the person is convicted of a crime of the third degree constituting distribution, manufacture or possession of an item containing personal identifying information in violation of subsection b. of section 6 of P.L.2003, c. 184 (C.2C:21-17.3); if the person is convicted of a crime of the third or fourth degree constituting bias intimidation in violation of N.J.S.2C:16-1; or if the person is convicted of a crime of the third degree under section 2 of P.L.1997, c. 111 (C.2C:12-1.1); or if the person is convicted of a crime of the third or fourth degree under the provisions of section 1 or 2 of P.L.2007, c. 341 (C.2C:33-29 or C.2C:33-30).

f. Presumptive Sentences. (1) Except for the crime of murder, unless the preponderance of aggravating or mitigating factors, as set forth in subsections a. and b., weighs in favor of a higher or lower term within the limits provided in N.J.S.2C:43-6, when a court

determines that a sentence of imprisonment is warranted, it shall impose sentence as follows:

(a) To a term of 20 years for aggravated manslaughter or kidnapping pursuant to paragraph (1) of subsection c. of N.J.S.2C:13-1 when the offense constitutes a crime of the first degree;

(b) Except as provided in paragraph (a) of this subsection to a term of 15 years for a crime of the first degree;

(c) To a term of seven years for a crime of the second degree;

(d) To a term of four years for a crime of the third degree; and

(e) To a term of nine months for a crime of the fourth degree.

In imposing a minimum term pursuant to 2C:43-6b., the sentencing court shall specifically place on the record the aggravating factors set forth in this section which justify the imposition of a minimum term.

Unless the preponderance of mitigating factors set forth in subsection b. weighs in favor of a lower term within the limits authorized, sentences imposed pursuant to 2C:43-7a.(1) shall have a presumptive term of life imprisonment. Unless the preponderance of aggravating and mitigating factors set forth in subsections a. and b. weighs in favor of a higher or lower term within the limits authorized, sentences imposed pursuant to 2C:43-7a.(2) shall have a presumptive term of 50 years' imprisonment; sentences imposed pursuant to 2C:43-7a.(3) shall have a presumptive term of 15 years' imprisonment; and sentences imposed pursuant to 2C:43-7a.(4) shall have a presumptive term of seven years' imprisonment.

In imposing a minimum term pursuant to 2C:43-7b., the sentencing court shall specifically place on the record the aggravating factors set forth in this section which justify the imposition of a minimum term.

(2) In cases of convictions for crimes of the first or second degree where the court is clearly convinced that the mitigating factors substantially outweigh the aggravating factors and where the interest of justice demands, the court may sentence the defendant to a term appropriate to a crime of one degree lower than that of the crime for which he was convicted. If the court does impose sentence pursuant to this paragraph, or if the court imposes a noncustodial or probationary sentence upon conviction for a crime of the first

or second degree, such sentence shall not become final for 10 days in order to permit the appeal of such sentence by the prosecution.

g. Imposition of Noncustodial Sentences in Certain Cases. If the court, in considering the aggravating factors set forth in subsection a., finds the aggravating factor in paragraph a.(2), a.(5), a.(10), or a.(12) and does not impose a custodial sentence, the court shall specifically place on the record the mitigating factors which justify the imposition of a noncustodial sentence.

h. Except as provided in section 2 of P.L.1993, c. 123 (C.2C:43-11), the presumption of imprisonment as provided in subsection d. of this section shall not preclude the admission of a person to the Intensive Supervision Program, established pursuant to the Rules Governing the Courts of the State of New Jersey.

CREDIT(S)

L.1978, c. 95, § 2C:44-1, eff. Sept. 1, 1979. Amended by L.1979, c. 178, § 93, eff. Sept. 1, 1979; L.1981, c. 290, § 40, eff. Sept. 24, 1981; L.1983, c. 317, § 1, eff. Aug. 29, 1983; L.1986, c. 172, § 4, eff. Dec. 8, 1986; L.1987, c. 76, § 36, eff. Dec. 9, 1987; L.1989, c. 23, § 4, eff. Feb. 6, 1989; L.1993, c. 123, § 1, eff. May 28, 1993; L.1993, c. 132, § 1, eff. June 3, 1993; L.1993, c. 135, § 1, eff. June 3, 1993; L.1995, c. 6, § 2, eff. Jan. 10, 1995; L.2001, c. 443, § 7, eff. Jan. 11, 2002; L.2003, c. 55, § 4, eff. June 1, 2003; L.2003, c. 184, § 4, eff. Sept. 25, 2003; L.2007, c. 83, § 3, eff. May 4, 2007; L.2007, c. 341, § 7, eff. Jan. 13, 2008; L.2010, c. 30, § 1, eff. June 29, 2010. Current with laws effective through L.2014, c. 68 and J.R. No. 3.

NEW MEXICO

N.M. Stat. § 30-6-1 (2014). Abandonment or abuse of a child

A. As used in this section:

(1) “child” means a person who is less than eighteen years of age;

(2) “neglect” means that a child is without proper parental care and control of subsistence, education, medical or other care or control necessary for the child's well-being because of the faults or habits of the child's parents, guardian or custodian or their neglect or refusal, when able to do so, to provide them; and

(3) “negligently” refers to criminal negligence and means that a person knew or should have known of the danger involved and acted with a reckless disregard for the safety or health of the child.

B. Abandonment of a child consists of the parent, guardian or custodian of a child intentionally leaving or abandoning the child under circumstances whereby the child may or does suffer neglect. A person who commits abandonment of a child is guilty of a misdemeanor, unless the abandonment results in the child's death or great bodily harm, in which case the person is guilty of a second degree felony.

C. A parent, guardian or custodian who leaves an infant less than ninety days old in compliance with the Safe Haven for Infants Act shall not be prosecuted for abandonment of a child.

D. Abuse of a child consists of a person knowingly, intentionally or negligently, and without justifiable cause, causing or permitting a child to be:

(1) placed in a situation that may endanger the child's life or health;

(2) tortured, cruelly confined or cruelly punished; or

(3) exposed to the inclemency of the weather.

E. A person who commits abuse of a child that does not result in the child's death or great bodily harm is, for a first offense, guilty of a third degree felony and for second and subsequent offenses is guilty of a second degree felony. If the abuse results in great bodily harm to the child, the person is guilty of a first degree felony.

F. A person who commits negligent abuse of a child that results in the death of the child is guilty of a first degree felony.

G. A person who commits intentional abuse of a child twelve to eighteen years of age that results in the death of the child is guilty of a first degree felony.

H. A person who commits intentional abuse of a child less than twelve years of age that results in the death of the child is guilty of a first degree felony resulting in the death of a child.

I. Evidence that demonstrates that a child has been knowingly, intentionally or negligently allowed to enter or remain in a motor vehicle, building or any other premises that contains chemicals and equipment used or intended for use in the manufacture of a controlled substance shall be deemed prima facie evidence of abuse of the child.

J. Evidence that demonstrates that a child has been knowingly and intentionally exposed to the use of methamphetamine shall be deemed prima facie evidence of abuse of the child.

K. A person who leaves an infant less than ninety days old at a hospital may be prosecuted for abuse of the infant for actions of the person occurring before the infant was left at the hospital.

CREDIT(S)

L. 1973, Ch. 360, § 10; L. 1977, Ch. 131, § 1; L. 1978, Ch. 103, § 1; L. 1984, Ch. 77, § 1; L. 1984, Ch. 92, § 5; L. 1989, Ch. 351, § 1; L. 1997, Ch. 163, § 1, eff. July 1, 1997; L. 2001, Ch. 31, § 9, eff. March 14, 2001; L. 2001, Ch. 132, § 9, eff. April 2, 2001; L. 2004, Ch. 10, § 1, eff. July 1, 2004; L. 2004, Ch. 11, § 1, eff. July 1, 2004; L. 2005, Ch. 59, § 1, eff. June 17, 2005; L. 2009, Ch. 259, § 1, eff. June 19, 2009. Current through the end of the Second Regular Session of the 51st Legislature (2014).

N.M. Stat. § 31-18-15 (2014). Sentencing authority; noncapital felonies; basic sentences and fines; parole authority; meritorious deductions

A. If a person is convicted of a noncapital felony, the basic sentence of imprisonment is as follows:

(1) for a first degree felony resulting in the death of a child, life imprisonment;

(2) for a first degree felony for aggravated criminal sexual penetration, life imprisonment;

(3) for a first degree felony, eighteen years imprisonment;

(4) for a second degree felony resulting in the death of a human being, fifteen years imprisonment;

(5) for a second degree felony for a sexual offense against a child, fifteen years imprisonment;

(6) for a second degree felony, nine years imprisonment;

(7) for a third degree felony resulting in the death of a human being, six years imprisonment;

(8) for a third degree felony for a sexual offense against a child, six years imprisonment;

(9) for a third degree felony, three years imprisonment; or

(10) for a fourth degree felony, eighteen months imprisonment.

B. The appropriate basic sentence of imprisonment shall be imposed upon a person convicted and sentenced pursuant to Subsection A of this section, unless the court alters the sentence pursuant to the provisions of the Criminal Sentencing Act.

C. The court shall include in the judgment and sentence of each person convicted and sentenced to imprisonment in a corrections facility designated by the corrections department authority for a period of parole to be served in accordance with the provisions of Section 31-21-10 NMSA 1978 after the completion of any actual time of imprisonment and authority to require, as a condition of parole, the payment of the costs of parole services and reimbursement to a law enforcement agency or local crime stopper program in accordance with the provisions of that section. The period of parole shall be deemed to be part of the sentence of the convicted person in addition to the basic sentence imposed pursuant to Subsection A of this section together with alterations, if any, pursuant to the provisions of the Criminal Sentencing Act.

D. When a court imposes a sentence of imprisonment pursuant to the provisions of Section 31-18-15.1, 31-18-16, 31-18-16.1 or 31-18-17 NMSA 1978 and suspends or defers the basic sentence of imprisonment provided pursuant to the provisions of Subsection A of this section, the period of parole shall be served in accordance with the provisions of Section 31-21-10 NMSA 1978 for the degree of felony for the basic sentence for which the inmate was convicted. For the purpose of designating a period of parole, a court shall not consider that the basic sentence of imprisonment was suspended or deferred and that the inmate served a period of imprisonment pursuant to the provisions of the Criminal Sentencing Act.

E. The court may, in addition to the imposition of a basic sentence of imprisonment, impose a fine not to exceed:

(1) for a first degree felony resulting in the death of a child, seventeen thousand five hundred dollars ($17,500);

(2) for a first degree felony for aggravated criminal sexual penetration, seventeen thousand five hundred dollars ($17,500);

(3) for a first degree felony, fifteen thousand dollars ($15,000);

(4) for a second degree felony resulting in the death of a human being, twelve thousand five hundred dollars ($12,500);

(5) for a second degree felony for a sexual offense against a child, twelve thousand five hundred dollars ($12,500);

(6) for a second degree felony, ten thousand dollars ($10,000);

(7) for a third degree felony resulting in the death of a human being, five thousand dollars ($5,000);

(8) for a third degree felony for a sexual offense against a child, five thousand dollars ($5,000); or

(9) for a third or fourth degree felony, five thousand dollars ($5,000).

F. When the court imposes a sentence of imprisonment for a felony offense, the court shall indicate whether or not the offense is a serious violent offense, as defined in Section 33-2-34 NMSA 1978. The court shall inform an offender that the offender's sentence of imprisonment is subject to the provisions of Sections 33-2-34, 33-2-36, 33-2-37 and 33-2-38 NMSA 1978. If the court fails to inform an offender that the offender's sentence is subject to those provisions or if the court provides the offender with erroneous information regarding those provisions, the failure to inform or the error shall not provide a basis for a writ of habeas corpus.

G. No later than October 31 of each year, the New Mexico sentencing commission shall provide a written report to the secretary of corrections, all New Mexico criminal court judges, the administrative office of the district attorneys and the chief public defender. The report shall specify the average reduction in the sentence of imprisonment for serious violent offenses and nonviolent offenses, as defined in Section 33-2-34 NMSA 1978, due to meritorious deductions earned by prisoners during the previous fiscal year pursuant to the provisions of Sections 33-2-34, 33-2-36, 33-2-37 and 33-2-38 NMSA 1978. The corrections department shall allow the commission access to documents used by the department to determine earned meritorious deductions for prisoners.

CREDIT(S)
L. 1977, Ch. 216, § 4. Amended by L. 1979, Ch. 152, § 1; L. 1980, Ch. 38, § 1; L. 1981, Ch. 285, § 1; L. 1987, Ch. 139, § 3; L. 1993, Ch. 38, § 1; L. 1993, Ch. 182, § 1; L. 1994, Ch. 23, § 3; L. 1999, Ch. 238, § 5, eff. July 1, 1999; L. 2003, Ch. 75, § 4, eff. July 1, 2003; L. 2003, Sp.Sess., Ch. 1, § 5; L. 2005, Ch. 59, § 2, eff. June 17, 2005; L. 2007, Ch. 69, § 2, eff. July 1, 2007. Current through the end of the Second Regular Session of the 51st Legislature (2014).

NEW YORK

N.Y. Penal Law § 120.05 (2014). Assault in the second degree

A person is guilty of assault in the second degree when:

1. With intent to cause serious physical injury to another person, he causes such injury to such person or to a third person; or

2. With intent to cause physical injury to another person, he causes such injury to such person or to a third person by means of a deadly weapon or a dangerous instrument; or

3. With intent to prevent a peace officer, a police officer, prosecutor as defined in subdivision thirty-one of section 1.20 of the criminal procedure law, registered nurse, licensed practical nurse, sanitation enforcement agent, New York city sanitation worker, a firefighter, including a firefighter acting as a paramedic or emergency medical technician administering first aid in the course of performance of duty as such firefighter, an emergency medical service paramedic or emergency medical service technician, or medical or related personnel in a hospital emergency department, a city marshal, a school crossing guard appointed pursuant to section two hundred eight-a of the general municipal law, a traffic enforcement officer or traffic enforcement agent, from performing a lawful duty, by means including releasing or failing to control an animal under circumstances evincing the actor's intent that the animal obstruct the lawful activity of such peace officer, police officer, prosecutor as defined in subdivision thirty-one of section 1.20 of the criminal procedure law, registered nurse, licensed practical nurse, sanitation enforcement agent, New York city sanitation worker, firefighter, paramedic, technician, city marshal, school crossing guard appointed pursuant to section two hundred eight-a of the general municipal law, traffic enforcement officer or traffic enforcement agent, he or she causes physical injury to such peace officer, police officer, prosecutor as defined in subdivision thirty-one of section 1.20 of the criminal procedure law, registered nurse, licensed practical nurse, sanitation enforcement agent, New York city sanitation worker, firefighter, paramedic, technician or medical or related personnel in a hospital emergency department, city marshal, school crossing guard, traffic enforcement officer or traffic enforcement agent; or

3-a. With intent to prevent an employee of a local social services district directly involved in investigation of or response to alleged abuse or neglect of a child, a vulnerable elderly person or an incompetent or physically disabled person, from performing such investigation or response, the actor, not being such child, vulnerable elderly person or incompetent or physically disabled person, or with intent to prevent an employee of a local social services district directly involved in providing public assistance and care from performing his or her job, causes physical injury to such employee including by means of releasing or failing to control an animal under

circumstances evincing the actor's intent that the animal obstruct the lawful activities of such employee; or

3-b. With intent to prevent an employee of the New York city housing authority from performing his or her lawful duties while located on housing project grounds, real property, or a building owned, managed, or operated by such authority he or she causes physical injury to such employee; or

4. He recklessly causes serious physical injury to another person by means of a deadly weapon or a dangerous instrument; or

4-a. He recklessly causes physical injury to another person who is a child under the age of eighteen by intentional discharge of a firearm, rifle or shotgun; or

5. For a purpose other than lawful medical or therapeutic treatment, he intentionally causes stupor, unconsciousness or other physical impairment or injury to another person by administering to him, without his consent, a drug, substance or preparation capable of producing the same; or

6. In the course of and in furtherance of the commission or attempted commission of a felony, other than a felony defined in article one hundred thirty which requires corroboration for conviction, or of immediate flight therefrom, he, or another participant if there be any, causes physical injury to a person other than one of the participants; or

7. Having been charged with or convicted of a crime and while confined in a correctional facility, as defined in subdivision three of section forty of the correction law, pursuant to such charge or conviction, with intent to cause physical injury to another person, he causes such injury to such person or to a third person; or

8. Being eighteen years old or more and with intent to cause physical injury to a person less than eleven years old, the defendant recklessly causes serious physical injury to such person; or

9. Being eighteen years old or more and with intent to cause physical injury to a person less than seven years old, the defendant causes such injury to such person; or

10. Acting at a place the person knows, or reasonably should know, is on school grounds and with intent to cause physical injury, he or she:

(a) causes such injury to an employee of a school or public school district; or

(b) not being a student of such school or public school district, causes physical injury to another, and such other person is a student of such school who is attending or present for

educational purposes. For purposes of this subdivision the term "school grounds" shall have the meaning set forth in subdivision fourteen of section 220.00 of this chapter.

11. With intent to cause physical injury to a train operator, ticket inspector, conductor, signalperson, bus operator or station agent employed by any transit agency, authority or company, public or private, whose operation is authorized by New York state or any of its political subdivisions, a city marshal, a school crossing guard appointed pursuant to section two hundred eight-a of the general municipal law, a traffic enforcement officer, traffic enforcement agent, prosecutor as defined in subdivision thirty-one of section 1.20 of the criminal procedure law, sanitation enforcement agent, New York city sanitation worker, registered nurse or licensed practical nurse he or she causes physical injury to such train operator, ticket inspector, conductor, signalperson, bus operator or station agent, city marshal, school crossing guard appointed pursuant to section two hundred eight-a of the general municipal law, traffic enforcement officer, traffic enforcement agent, prosecutor as defined in subdivision thirty-one of section 1.20 of the criminal procedure law, registered nurse, licensed practical nurse, sanitation enforcement agent or New York city sanitation worker, while such employee is performing an assigned duty on, or directly related to, the operation of a train or bus, or such city marshal, school crossing guard, traffic enforcement officer, traffic enforcement agent, prosecutor as defined in subdivision thirty-one of section 1.20 of the criminal procedure law, registered nurse, licensed practical nurse, sanitation enforcement agent or New York city sanitation worker, is performing an assigned duty.

11-a. With intent to cause physical injury to an employee of a local social services district directly involved in investigation of or response to alleged abuse or neglect of a child, vulnerable elderly person or an incompetent or physically disabled person, the actor, not being such child, vulnerable elderly person or incompetent or physically disabled person, or with intent to prevent an employee of a local social services district directly involved in providing public assistance and care from performing his or her job, causes physical injury to such employee; or

11-b. With intent to cause physical injury to an employee of the New York city housing authority performing his or her lawful duties while located on housing project grounds, real property, or a building owned, managed, or operated by such authority he or she causes physical injury to such employee; or

12. With intent to cause physical injury to a person who is sixty-five years of age or older, he or she causes such injury to such person, and the actor is more than ten years younger than such person.

Assault in the second degree is a class D felony.

CREDIT(S)

(L.1965, c. 1030. Amended L.1967, c. 791, § 7; L.1968, c. 37, § 1; L.1972, c. 598, § 2; L.1974, c. 239, § 1; L.1974, c. 660, § 1; L.1975, c. 134, § 1; L.1975, c. 667, § 37; L.1980, c. 471, § 25; L.1980, c. 843, § 39; L.1981, c. 372, §§ 4, 5; L.1984, c. 284, § 1; L.1985, c. 262, § 1; L.1990, c. 477, § 2; L.1996, c. 122, § 4; L.1998, c. 269, § 1, eff. Nov. 1, 1998; L.1998, c. 287, § 1, eff. Nov. 1, 1998; L.2000, c. 181, § 13, eff. Nov. 1, 2000; L.2002, c. 598, § 1, eff. Nov. 1, 2002; L.2003, c. 607, § 1, eff. Nov. 1, 2003; L.2006, c. 100, § 1, eff. Nov. 1, 2006; L.2008, c. 45, § 1, eff. July 22, 2008; L.2008, c. 68, § 1, eff. June 29, 2008; L.2010, c. 318, §§ 1, 2, eff. Nov. 1, 2010; L.2010, c. 345, § 1, eff. Sept. 12, 2010; L.2012, c. 377, § 1, eff. Sept. 16, 2012; L.2012, c. 434, § 1, eff. Nov. 1, 2012; L.2014, c. 1, § 32, eff. March 16, 2014; L.2014, c. 259, §§ 1, 2, eff. Jan. 27, 2014; L.2014, c. 196, § 1, eff. Nov. 1, 2014; L.2014, c. 197, § 1, eff. Sept. 3, 2014.) Current through L.2014, chapters 1 to 431.

N.Y. Penal Law § 70.00 (2014). Sentence of imprisonment for felony

1. [Eff. until Sept. 1, 2014, pursuant to L.1995, c. 3, § 74, subd. d. See, also, subd. 1 below.] Indeterminate sentence. Except as provided in subdivisions four, five and six of this section or section 70.80 of this article, a sentence of imprisonment for a felony, other than a felony defined in article two hundred twenty or two hundred twenty-one of this chapter, shall be an indeterminate sentence. When such a sentence is imposed, the court shall impose a maximum term in accordance with the provisions of subdivision two of this section and the minimum period of imprisonment shall be as provided in subdivision three of this section.

1. [Eff. Sept. 1, 2014. See, also, subd. 1, above.] Indeterminate sentence. Except as provided in subdivisions four and five of this section or section 70.80 of this article, a sentence of imprisonment for a felony, other than a felony defined in article two hundred twenty or two hundred twenty-one of this chapter, shall be an indeterminate sentence. When such a sentence is imposed, the court shall impose a maximum term in accordance with the provisions of subdivision two of this section and the minimum period of imprisonment shall be as provided in subdivision three of this section.

2. Maximum term of sentence. The maximum term of an indeterminate sentence shall be at least three years and the term shall be fixed as follows:

(a) For a class A felony, the term shall be life imprisonment;

(b) For a class B felony, the term shall be fixed by the court, and shall not exceed twenty-five years;

(c) For a class C felony, the term shall be fixed by the court, and shall not exceed fifteen years;

(d) For a class D felony, the term shall be fixed by the court, and shall not exceed seven years; and

(e) For a class E felony, the term shall be fixed by the court, and shall not exceed four years.

3. Minimum period of imprisonment. The minimum period of imprisonment under an indeterminate sentence shall be at least one year and shall be fixed as follows:

(a) In the case of a class A felony, the minimum period shall be fixed by the court and specified in the sentence.

(i) For a class A-I felony, such minimum period shall not be less than fifteen years nor more than twenty-five years; provided, however, that (A) where a sentence, other than a sentence of death or life imprisonment without parole, is imposed upon a defendant convicted of murder in the first degree as defined in section 125.27 of this chapter such minimum period shall be not less than twenty years nor more than twenty-five years, and, (B) where a sentence is imposed upon a defendant convicted of murder in the second degree as defined in subdivision five of section 125.25 of this chapter or convicted of aggravated murder as defined in section 125.26 of this chapter, the sentence shall be life imprisonment without parole, and, (C) where a sentence is imposed upon a defendant convicted of attempted murder in the first degree as defined in article one hundred ten of this chapter and subparagraph (i), (ii) or (iii) of paragraph (a) of subdivision one and paragraph (b) of subdivision one of section 125.27 of this chapter or attempted aggravated murder as defined in article one hundred ten of this chapter and section 125.26 of this chapter such minimum period shall be not less than twenty years nor more than forty years.

(ii) For a class A-II felony, such minimum period shall not be less than three years nor more than eight years four months, except that for the class A-II felony of predatory sexual assault as defined in section 130.95 of this chapter or the class A-II felony of predatory sexual assault against a child as defined in section 130.96 of this chapter, such minimum period shall be not less than ten years nor more than twenty-five years.

(b) For any other felony, the minimum period shall be fixed by the court and specified in the sentence and shall be not less than one year nor more than one-third of the maximum term imposed.

4. Alternative definite sentence for class D and E felonies. When a person, other than a second or persistent felony offender, is sentenced for a class D or class E felony, and the court, having regard to the nature and circumstances of the crime and to the history and

character of the defendant, is of the opinion that a sentence of imprisonment is necessary but that it would be unduly harsh to impose an indeterminate or determinate sentence, the court may impose a definite sentence of imprisonment and fix a term of one year or less.

5. Life imprisonment without parole. Notwithstanding any other provision of law, a defendant sentenced to life imprisonment without parole shall not be or become eligible for parole or conditional release. For purposes of commitment and custody, other than parole and conditional release, such sentence shall be deemed to be an indeterminate sentence. A defendant may be sentenced to life imprisonment without parole upon conviction for the crime of murder in the first degree as defined in section 125.27 of this chapter and in accordance with the procedures provided by law for imposing a sentence for such crime. A defendant must be sentenced to life imprisonment without parole upon conviction for the crime of terrorism as defined in section 490.25 of this chapter, where the specified offense the defendant committed is a class A-I felony; the crime of criminal possession of a chemical weapon or biological weapon in the first degree as defined in section 490.45 of this chapter; or the crime of criminal use of a chemical weapon or biological weapon in the first degree as defined in section 490.55 of this chapter; provided, however, that nothing in this subdivision shall preclude or prevent a sentence of death when the defendant is also convicted of the crime of murder in the first degree as defined in section 125.27 of this chapter. A defendant must be sentenced to life imprisonment without parole upon conviction for the crime of murder in the second degree as defined in subdivision five of section 125.25 of this chapter or for the crime of aggravated murder as defined in subdivision one of section 125.26 of this chapter. A defendant may be sentenced to life imprisonment without parole upon conviction for the crime of aggravated murder as defined in subdivision two of section 125.26 of this chapter.

6. [Deemed repealed Sept. 1, 2014, pursuant to L.1995, c. 3, § 74, subd. d.] Determinate sentence. Except as provided in subdivision four of this section and subdivisions two and four of section 70.02, when a person is sentenced as a violent felony offender pursuant to section 70.02 or as a second violent felony offender pursuant to section 70.04 or as a second felony offender on a conviction for a violent felony offense pursuant to section 70.06, the court must impose a determinate sentence of imprisonment in accordance with the provisions of such sections and such sentence shall include, as a part thereof, a period of post-release supervision in accordance with section 70.45.

CREDIT(S)

(L.1965, c. 1030. Amended L.1973, c. 276, § 9; L.1973, c. 277, §§ 7, 8; L.1976, c. 480, § 5; L.1978, c. 481, § 2; L.1979, c. 410, § 6; L.1980, c. 873, §§ 1, 2; L.1983, c. 238, § 1; L.1986, c. 280, §§ 1, 2; L.1995, c. 1, §§ 3 to 5; L.1995, c. 3, §§ 1-c to 3; L.1998, c. 1, §§ 2 to 4, eff. Aug. 6, 1998; L.2004, c. 1, pt. A, § 5, eff. July 23, 2004; L.2004, c. 459, § 3, eff. Nov. 1, 2004; L.2004, c. 738, § 28, eff. Dec. 12, 2004; L.2004, c. 738, § 29; L.2005, c. 765, §§ 2, 3, eff. Dec. 21, 2005; L.2006, c. 107, § 3, eff. June 23, 2006; L.2006, c. 746,

§ 3, eff. Dec. 15, 2006; L.2007, c. 7, § 36, eff. April 13, 2007; L.2007, c. 7, § 37; L.2009, c. 482, § 2, eff. Oct. 9, 2009.) .) Current through L.2014, chapters 1 to 431.

NORTH CAROLINA

N.C. Gen. Stat. § 14-318.2 (2014). Child abuse a misdemeanor

(a) Any parent of a child less than 16 years of age, or any other person providing care to or supervision of such child, who inflicts physical injury, or who allows physical injury to be inflicted, or who creates or allows to be created a substantial risk of physical injury, upon or to such child by other than accidental means is guilty of the Class A1 misdemeanor of child abuse.

(b) The Class A1 misdemeanor of child abuse is an offense additional to other civil and criminal provisions and is not intended to repeal or preclude any other sanctions or remedies.

(c) A parent who abandons an infant less than seven days of age pursuant to G.S. 14-322.3 shall not be prosecuted under this section for any acts or omissions related to the care of that infant.

CREDIT(S)

Added by Laws 1965, c. 472, § 1. Amended by Laws 1971, c. 710, § 6; Laws 1993, c. 539, § 223, eff. Oct. 1, 1994; Laws 1994 (1st Ex. Sess.), c. 14, § 13, eff. Oct. 1, 1994; Laws 1994 (1st Ex. Sess.), c. 24, § 14(c), eff. March 26, 1994; S.L. 2001-291, § 4, eff. July 19, 2001; S.L. 2008-191, § 1, eff. Dec. 1, 2008; S.L. 2009-570, § 6, eff. Aug. 28, 2009. The statutes and Constitution are current through Chapters 1-117, excluding 100, 102, 107, 109, 110, and 115, of the 2014 Regular Session of the General Assembly.

N.C. Gen. Stat. § 14-33 (2014). Misdemeanor assaults, batteries, and affrays, simple and aggravated; punishments

(a) Any person who commits a simple assault or a simple assault and battery or participates in a simple affray is guilty of a Class 2 misdemeanor.

(b) Unless his conduct is covered under some other provision of law providing greater punishment, any person who commits any assault, assault and battery, or affray is guilty of a Class 1 misdemeanor if, in the course of the assault, assault and battery, or affray, he:

(1) to (3) Repealed by Laws 1995, c. 507, § 19.5(b), eff. Dec. 1, 1995.

(4) to (7) Repealed by Laws 1991, c. 525, § 1.

(8) Repealed by Laws 1995, c. 507, § 19.5(b), eff. Dec. 1, 1995.

(9) Commits an assault and battery against a sports official when the sports official is discharging or attempting to discharge official duties at a sports event, or immediately after the sports event at which the sports official discharged official duties. A "sports official" is a person at a sports event who enforces the rules of the event, such as an umpire or referee, or a person who supervises the participants, such as a coach. A "sports event" includes any interscholastic or intramural athletic activity in a primary, middle, junior high, or high school, college, or university, any organized athletic activity sponsored by a community, business, or nonprofit organization, any athletic activity that is a professional or semiprofessional event, and any other organized athletic activity in the State.

(c) Unless the conduct is covered under some other provision of law providing greater punishment, any person who commits any assault, assault and battery, or affray is guilty of a Class A1 misdemeanor if, in the course of the assault, assault and battery, or affray, he or she:

(1) Inflicts serious injury upon another person or uses a deadly weapon;

(2) Assaults a female, he being a male person at least 18 years of age;

(3) Assaults a child under the age of 12 years;

(4) Assaults an officer or employee of the State or any political subdivision of the State, when the officer or employee is discharging or attempting to discharge his official duties; or

(5) Deleted by S.L. 1999-105, § 1, eff. Dec. 1, 1999.

(6) Assaults a school employee or school volunteer when the employee or volunteer is discharging or attempting to discharge his or her duties as an employee or volunteer, or assaults a school employee or school volunteer as a result of the discharge or attempt to discharge that individual's duties as a school employee or school volunteer. For purposes of this subdivision, the following definitions shall apply:

a. "Duties" means:

1. All activities on school property;

2. All activities, wherever occurring, during a school authorized event or the accompanying of students to or from that event; and

3. All activities relating to the operation of school transportation.

b. “Employee” or “volunteer” means:

1. An employee of a local board of education; or a charter school authorized under G.S. 115C-238.29D, or a nonpublic school which has filed intent to operate under Part 1 or Part 2 of Article 39 of Chapter 115C of the General Statutes;

2. An independent contractor or an employee of an independent contractor of a local board of education, charter school authorized under G.S. 115C-238.29D, or a nonpublic school which has filed intent to operate under Part 1 or Part 2 of Article 39 of Chapter 115C of the General Statutes, if the independent contractor carries out duties customarily performed by employees of the school; and

3. An adult who volunteers his or her services or presence at any school activity and is under the supervision of an individual listed in sub-sub-subdivision 1. or 2. of this sub-subdivision.

(7) Assaults a public transit operator, including a public employee or a private contractor employed as a public transit operator, when the operator is discharging or attempting to discharge his or her duties.

(8) Assaults a company police officer certified pursuant to the provisions of Chapter 74E of the General Statutes or a campus police officer certified pursuant to the provisions of Chapter 74G, Chapter 17C, or Chapter 116 of the General Statutes in the performance of that person's duties.

(c1) No school personnel as defined in G.S. 14-33(c)(6) who takes reasonable actions in good faith to end a fight or altercation between students shall incur any civil or criminal liability as the result of those actions.

(d) Any person who, in the course of an assault, assault and battery, or affray, inflicts serious injury upon another person, or uses a deadly weapon, in violation of subdivision (c)(1) of this section, on a person with whom the person has a personal relationship, and in the presence of a minor, is guilty of a Class A1 misdemeanor. A person convicted under this subsection, who is sentenced to a community punishment, shall be placed on supervised probation in addition to any other punishment imposed by the court.

A person committing a second or subsequent violation of this subsection shall be sentenced to an active punishment of no less than 30 days in addition to any other punishment imposed by the court.

The following definitions apply to this subsection:

(1) "Personal relationship" is as defined in G.S. 50B-1(b).

(2) "In the presence of a minor" means that the minor was in a position to have observed the assault.

(3) "Minor" is any person under the age of 18 years who is residing with or is under the care and supervision of, and who has a personal relationship with, the person assaulted or the person committing the assault.

CREDIT(S)

(L.1965, c. 1030. Amended L.1973, c. 276, § 9; L.1973, c. 277, §§ 7, 8; L.1976, c. 480, § 5; L.1978, c. 481, § 2; L.1979, c. 410, § 6; L.1980, c. 873, §§ 1, 2; L.1983, c. 238, § 1; L.1986, c. 280, §§ 1, 2; L.1995, c. 1, §§ 3 to 5; L.1995, c. 3, §§ 1-c to 3; L.1998, c. 1, §§ 2 to 4, eff. Aug. 6, 1998; L.2004, c. 1, pt. A, § 5, eff. July 23, 2004; L.2004, c. 459, § 3, eff. Nov. 1, 2004; L.2004, c. 738, § 28, eff. Dec. 12, 2004; L.2004, c. 738, § 29; L.2005, c. 765, §§ 2, 3, eff. Dec. 21, 2005; L.2006, c. 107, § 3, eff. June 23, 2006; L.2006, c. 746, § 3, eff. Dec. 15, 2006; L.2007, c. 7, § 36, eff. April 13, 2007; L.2007, c. 7, § 37; L.2009, c. 482, § 2, eff. Oct. 9, 2009.) Current through L.2014, chapters 1 to 431.

N.C. Gen. Stat. § 14-318.4 (2014). Child abuse a felony

(a) A parent or any other person providing care to or supervision of a child less than 16 years of age who intentionally inflicts any serious physical injury upon or to the child or who intentionally commits an assault upon the child which results in any serious physical injury to the child is guilty of a Class E felony, except as otherwise provided in subsection (a3) of this section.

(a1) Any parent of a child less than 16 years of age, or any other person providing care to or supervision of the child, who commits, permits, or encourages any act of prostitution with or by the child is guilty of child abuse and shall be punished as a Class E felon.

(a2) Any parent or legal guardian of a child less than 16 years of age who commits or allows the commission of any sexual act upon the child is guilty of a Class E felony.

(a3) A parent or any other person providing care to or supervision of a child less than 16 years of age who intentionally inflicts any serious bodily injury to the child or who intentionally commits an assault upon the child which results in any serious bodily injury to the child, or which results in permanent or protracted loss or impairment of any mental or emotional function of the child, is guilty of a Class C felony.

(a4) A parent or any other person providing care to or supervision of a child less than 16 years of age whose willful act or grossly negligent omission in the care of the child shows a reckless disregard for human life is guilty of a Class E felony if the act or omission results in serious bodily injury to the child.

(a5) A parent or any other person providing care to or supervision of a child less than 16 years of age whose willful act or grossly negligent omission in the care of the child shows a reckless disregard for human life is guilty of a Class H felony if the act or omission results in serious physical injury to the child.

(b) The felony of child abuse is an offense additional to other civil and criminal provisions and is not intended to repeal or preclude any other sanctions or remedies.

(c) Abandonment of an infant less than seven days of age pursuant to G.S. 14-322.3 may be treated as a mitigating factor in sentencing for a conviction under this section involving that infant.

(d) The following definitions apply in this section:

(1) Serious bodily injury. -- Bodily injury that creates a substantial risk of death or that causes serious permanent disfigurement, coma, a permanent or protracted condition that causes extreme pain, or permanent or protracted loss or impairment of the function of any bodily member or organ, or that results in prolonged hospitalization.

(2) Serious physical injury. -- Physical injury that causes great pain and suffering. The term includes serious mental injury.

CREDIT(S)

Amended by Laws 1949, c. 298; Laws 1969, c. 618, § 1; Laws 1971, c. 765, § 2; Laws 1973, c. 229, § 4; Laws 1973, c. 1413; Laws 1979, c. 524; Laws 1979, c. 656; Laws 1981, c. 180; Laws 1983, c. 175, §§ 6, 10; Laws 1983, c. 720, § 4; Laws 1985, c. 321, § 1; Laws 1991, c. 525, § 1; Laws 1993, c. 286, § 1, eff. Dec. 1, 1993; Laws 1993, c. 539, § 16, eff. Oct. 1, 1994; Laws 1993 (Reg. Sess. 1994), c. 687, § 1, eff. Oct. 1, 1994; Laws 1994, (1st Ex. Sess.), c. 14, § 3, eff. Oct. 1, 1994; Laws 1994 (1st Ex. Sess.), c. 24, § 14(c), eff. March 26, 1994; Laws 1995, c. 352, § 1, eff. Dec. 1, 1995; Laws 1995, c. 507, § 19.5(b), eff. Dec. 1, 1995; S.L. 1999-105, § 1, eff. Dec. 1, 1999; S.L. 2003-409, § 1,

eff. Dec. 1, 2003; S.L. 2004-26, § 1, eff. Dec. 1, 2004; S.L. 2004-199, § 7, eff. Aug. 17, 2004; S.L. 2005-231, § 6.2, eff. July 28, 2005; S.L. 2012-149, § 1, eff. July 12, 2012. The statutes and Constitution are current through Chapters 1-117, excluding 100, 102, 107, 109, 110, and 115, of the 2014 Regular Session of the General Assembly.

N.C. Gen. Stat. § 15A-1340.17 (2014). Punishment limits for each class of offense and prior record level

<Note: H.B. 75/S.B. 70, Kilah's Law/Increase Child Abuse Penalties, Presented to Governor Apr. 19, 2014>

(a) Offense Classification; Default Classifications.--The offense classification is as specified in the offense for which the sentence is being imposed. If the offense is a felony for which there is no classification, it is a Class I felony.

(b) Fines.--Any judgment that includes a sentence of imprisonment may also include a fine. If a community punishment is authorized, the judgment may consist of a fine only. Additionally, when the defendant is other than an individual, the judgment may consist of a fine only. Unless otherwise provided, the amount of the fine is in the discretion of the court.

(c) Punishments for Each Class of Offense and Prior Record Level; Punishment Chart Described.--The authorized punishment for each class of offense and prior record level is as specified in the chart below. Prior record levels are indicated by the Roman numerals placed horizontally on the top of the chart. Classes of offense are indicated by the letters placed vertically on the left side of the chart. Each cell on the chart contains the following components:

(1) A sentence disposition or dispositions: “C” indicates that a community punishment is authorized; “I” indicates that an intermediate punishment is authorized; “A” indicates that an active punishment is authorized; and “Life Imprisonment Without Parole” indicates that the defendant shall be imprisoned for the remainder of the prisoner's natural life.

(2) A presumptive range of minimum durations, if the sentence of imprisonment is neither aggravated or mitigated; any minimum term of imprisonment in that range is permitted unless the court finds pursuant to G.S. 15A-1340.16 that an aggravated or mitigated sentence is appropriate. The presumptive range is the middle of the three ranges in the cell.

(3) A mitigated range of minimum durations if the court finds pursuant to G.S. 15A-1340.16 that a mitigated sentence of imprisonment is justified; in such a case, any minimum term of imprisonment in the mitigated range is permitted. The mitigated range is the lower of the three ranges in the cell.

(4) An aggravated range of minimum durations if the court finds pursuant to G.S. 15A-1340.16 that an aggravated sentence of imprisonment is justified; in such a case, any minimum term of imprisonment in the aggravated range is permitted. The aggravated range is the higher of the three ranges in the cell.

PRIOR RECORD LEVEL

	I 0-1 Pt	II 2-5 Pts	III 6-9 Pts	IV 10-13 Pts	V 14-17 Pts	VI 18+ Pts	
A	Life Imprisonment Without Parole or Death as Established by Statute						
	A 240-300	A 276-345	A 317-397	A 365-456	A Life Imprisonment Without Parole	A	DISPOSITION Aggravated
B1	192-240	221-276	254-317	292-365	336-420	386-483	PRESUMPTIVE
	144-192	166-221	190-254	219-292	252-336	290-386	Mitigated
	A	A	A	A	A	A	DISPOSITION
	157-196	180-225	207-258	238-297	273-342	314-393	Aggravated
B2	125-157	144-180	165-207	190-238	219-273	251-314	PRESUMPTIVE
	94-125	108-144	124-165	143-190	164-219	189-251	Mitigated
	A	A	A	A	A	A	DISPOSITION
	73-92	83-104	96-120	110-138	127-159	146-182	Aggravated
C	58-73	67-83	77-96	88-110	101-127	117-146	PRESUMPTIVE
	44-58	50-67	58-77	66-88	76-101	87-117	Mitigated
	A	A	A	A	A	A	DISPOSITION
	64-80	73-92	84-105	97-121	111-139	128-160	Aggravated
D	51-64	59-73	67-84	78-97	89-111	103-128	PRESUMPTIVE
	38-51	44-59	51-67	58-78	67-89	77-103	Mitigated
	I/A	I/A	A	A	A	A	DISPOSITION
	25-31	29-36	33-41	38-48	44-55	50-63	Aggravated

E	20-25	23-29	26-33	30-38	35-44	40-50	PRESUMPTIVE
	15-20	17-23	20-26	23-30	26-35	30-40	Mitigated
	I/A	I/A	I/A	A	A	A	DISPOSITION
	16-20	19-23	21-27	25-31	28-36	33-41	Aggravated
F	13-16	15-19	17-21	20-25	23-28	26-33	PRESUMPTIVE
	10-13	11-15	13-17	15-20	17-23	20-26	Mitigated
	I/A	I/A	I/A	I/A	A	A	DISPOSITION
	13-16	14-18	17-21	19-24	22-27	25-31	Aggravated
G	10-13	12-14	13-17	15-19	17-22	20-25	PRESUMPTIVE
	8-10	9-12	10-13	11-15	13-17	15-20	Mitigated
	C/I/A	I/A	I/A	I/A	I/A	A	DISPOSITION
	6-8	8-10	10-12	11-14	15-19	20-25	Aggravated
H	5-6	6-8	8-10	9-11	12-15	16-20	PRESUMPTIVE
	4-5	4-6	6-8	7-9	9-12	12-16	Mitigated
	C	C/I/	I	I/A	I/A	I/A	DISPOSITION
	6-8	6-8	6-8	8-10	9-11	10-12	Aggravated
I	4-6	4-6	5-6	6-8	7-9	8-10	PRESUMPTIVE
	3-4	3-4	4-5	4-6	5-7	6-8	Mitigated

(d) Maximum Sentences Specified for Class F through Class I Felonies.--Unless provided otherwise in a statute establishing a punishment for a specific crime, for each minimum term of imprisonment in the chart in subsection (c) of this section, expressed in months, the corresponding maximum term of imprisonment, also expressed in months, is as specified in the table below for Class F through Class I felonies. The first figure in each cell in the table is the minimum term and the second is the maximum term.

3-13	4-14	5-15	6-17	7-18	8-19	9-20	10-21
11-23	12-24	13-25	14- 26	15-27	16-29	17-30	18-31
19-32	20-33	21-35	22- 36	23-37	24-38	25-39	26-41
27-42	28-43	29-44	30- 45	31-47	32-48	33-49	34-50
35-51	36-53	37-54	38- 55	39-56	40-57	41-59	42-60
43-61	44-62	45-63	46-65	47-66	48-67	49-68	

(e) Maximum Sentences Specified for Class B1 through Class E Felonies for Minimum Terms up to 339 Months.--Unless provided otherwise in a statute establishing a punishment for a specific crime, for each minimum term of imprisonment in the chart in subsection (c) of this section, expressed in months, the corresponding maximum term of imprisonment, also expressed in months, is as specified in the table below for Class B1

through Class E felonies. The first figure in each cell of the table is the minimum term and the second is the maximum term.

15-30	16-32	17-33	18- 34	19-35	20-36	21-38	22-39
23-40	24-41	25-42	26- 44	27-45	28-46	29-47	30-48
31-50	32-51	33-52	34- 53	35-54	36-56	37-57	38-58
39-59	40-60	41-62	42- 63	43-64	44-65	45-66	46-68
47-69	48-70	49-71	50- 72	51-74	52-75	53-76	54-77
55-78	56-80	57-81	58- 82	59-83	60-84	61-86	62-87
63-88	64-89	65-90	66- 91	67-93	68-94	69-95	70-96
71-98	72-99	73-100	74 -101	75-102	76-104	77-105	78-106
79-107	80-108	81-110	82-111	83-112	84-113	85-114	86-115
87-117	88-118	89-119	90-120	91-122	92-123	93-124	94-125
95-126	96-128	97-129	98-130	99-131	100-132	101-134	102-135
103-136	104-137	105-138	106-140	107-141	108-142	109-143	110-144
111-146	112-147	113-148	114-149	115-150	116-152	117-153	118-154
119-155	120-156	121-158	122-159	123-160	124-161	125-162	126-164
127-165	128-166	129-167	130-168	131-170	132-171	133-172	134-173
135-174	136-176	137-177	138-178	139-179	140-180	141-182	142-183
143-184	144-185	145-186	146-188	147-189	148-190	149-191	150-192
151-194	152-195	153-196	154-197	155-198	156-200	157-201	158-202
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(e1) Maximum Sentences Specified for Class B1 through Class E Felonies for Minimum Terms of 340 Months or More.--Unless provided otherwise in a statute establishing a punishment for a specific crime, when the minimum sentence is 340 months or more, the corresponding maximum term of imprisonment shall be equal to the sum of the minimum term of imprisonment and twenty percent (20%) of the minimum term of imprisonment, rounded to the next highest month, plus 12 additional months.

(f) Maximum Sentences Specified for Class B1 Through Class E Sex Offenses. -- Unless provided otherwise in a statute establishing a punishment for a specific crime, for offenders sentenced for a Class B1 through E felony that is a reportable conviction subject to the registration requirement of Article 27A of Chapter 14 of the General Statutes, the maximum term of imprisonment shall be equal to the sum of the minimum term of imprisonment and twenty percent (20%) of the minimum term of imprisonment, rounded to the next highest month, plus 60 additional months.

CREDIT(S)
Added by Laws 1993, c. 538, § 1, eff. Oct. 1, 1994. Amended by Laws 1994(1st Ex. Sess.), c. 14, §§ 20, 21, eff. Oct. 1, 1994; Laws 1994 (1st Ex. Sess.),c. 22, § 7, eff. Oct. 1, 1994; Laws 1994 (1st Ex. Sess.), c. 24, § 14(b),eff. March 26, 1994; Laws 1995, c. 507, § 19.5(l), eff. Dec. 1, 1995; Laws 1995, c. 507, § 28.12; S.L. 1997-80, § 3, eff. Dec. 1, 1997; S.L. 2009-555, § 2, eff. Dec. 1, 2009; S.L. 2009-556, § 1, eff. Dec. 1, 2009; S.L. 2011-192, §§ 2(e), (f), (g), eff. Dec. 1, 2011; S.L. 2011-307, § 1, eff. Dec. 1, 2011; S.L. 2011-412, § 2.4(a), eff. Dec. 1, 2011; S.L. 2014-410, § 3(b), eff. Aug. 23, 2014; S.L. 2014-101, § 6, eff. Oct. 1, 2014. The statutes and Constitution are current through Chapters 1-117, excluding 100, 102, 107, 109, 110, and 115, of the 2014 Regular Session of the General Assembly.

NORTH DAKOTA

N.D. Cent. Code § 14-09-22 (2014). Abuse or neglect of child--Penalty

1. Except as provided in subsection 2 or 3, a parent, adult family or household member, guardian, or other custodian of any child, who willfully commits any of the following offenses is guilty of a class C felony except if the victim of an offense under subdivision a is under the age of six years in which case the offense is a class B felony:

a. Inflicts, or allows to be inflicted, upon the child, bodily injury, substantial bodily injury, or serious bodily injury as defined by section 12. 1-01-04 or mental injury.

b. Fails to provide proper parental care or control, subsistence, education as required by law, or other care or control necessary for the child's physical, mental, or emotional health, or morals.

c. Permits the child to be, or fails to exercise reasonable diligence in preventing the child from being, in a disreputable place or associating with vagrants or vicious or immoral persons.

d. Permits the child to engage in, or fails to exercise reasonable diligence in preventing the child from engaging in, an occupation forbidden by the laws of this state or an occupation injurious to the child's health or morals or the health or morals of others.

2. A person who provides care, supervision, education, or guidance for a child unaccompanied by the child's parent, adult family or household member, guardian, or custodian in exchange for money, goods, or other services and who while providing such services commits an offense under subdivision a of subsection 1 is guilty of a class B felony. Any such person who commits, allows to be committed, or conspires to commit, against the child, a sex offense as defined in chapter 12.1-20 is subject to the penalties provided in that chapter.

3. A person who commits an offense under subdivision a of subsection 1 is guilty of a class B felony if the victim suffers permanent loss or impairment of the function of a bodily member or organ, except if the victim of the offense is under the age of six years in which case the offense is a class A felony.

CREDIT(S)

S.L. 1947, ch. 137, §§ 1, 2; S.L. 1973, ch. 120, § 10; S.L. 1975, ch. 106, § 113; S.L. 1991, ch. 511, § 1; S.L. 1999, ch. 123, § 4; S.L. 2001, ch. 155, § 1; S.L. 2011, ch. 113, § 1, eff. Aug. 1, 2011. Current through chapter 522 (end) of the 2014 Regular Session of the 63rd Legislative Assembly.

N.D. Cent. Code § 12.1-32-01 (2014). Classification of offenses--Penalties

Offenses are divided into seven classes, which are denominated and subject to maximum penalties, as follows:

1. Class AA felony, for which a maximum penalty of life imprisonment without parole may be imposed. The court must designate whether the life imprisonment sentence

imposed is with or without an opportunity for parole. Notwithstanding the provisions of section 12-59-05, a person found guilty of a class AA felony and who receives a sentence of life imprisonment with parole, shall not be eligible to have that person's sentence considered by the parole board for thirty years, less sentence reduction earned for good conduct, after that person's admission to the penitentiary.

2. Class A felony, for which a maximum penalty of twenty years' imprisonment, a fine of ten thousand dollars, or both, may be imposed.

3. Class B felony, for which a maximum penalty of ten years' imprisonment, a fine of ten thousand dollars, or both, may be imposed.

4. Class C felony, for which a maximum penalty of five years' imprisonment, a fine of five thousand dollars, or both, may be imposed.

5. Class A misdemeanor, for which a maximum penalty of one year's imprisonment, a fine of two thousand dollars, or both, may be imposed.

6. Class B misdemeanor, for which a maximum penalty of thirty days' imprisonment, a fine of one thousand dollars, or both, may be imposed.

7. Infraction, for which a maximum fine of five hundred dollars may be imposed. Any person convicted of an infraction who has, within one year prior to commission of the infraction of which the person was convicted, been previously convicted of an offense classified as an infraction may be sentenced as though convicted of a class B misdemeanor. If the prosecution contends that the infraction is punishable as a class B misdemeanor, the complaint shall specify that the offense is a misdemeanor.

This section shall not be construed to forbid sentencing under section 12.1-32-09, relating to extended sentences.

CREDIT(S)
S.L. 1973, ch. 116, § 31; S.L. 1975, ch. 116, § 23; S.L. 1979, ch. 177, § 2; S.L. 1995, ch. 134, § 1; S.L. 1997, ch. 132, § 1; S.L. 2014, ch. 104, § 11, eff. Aug. 1, 2014. Current through chapter 522 (end) of the 2014 Regular Session of the 63rd Legislative Assembly.

OHIO

Ohio Rev. Code Ann. § 2919.22 (2014). Endangering children.

(A) No person, who is the parent, guardian, custodian, person having custody or control, or person in loco parentis of a child under eighteen years of age or a mentally or

physically handicapped child under twenty-one years of age, shall create a substantial risk to the health or safety of the child, by violating a duty of care, protection, or support. It is not a violation of a duty of care, protection, or support under this division when the parent, guardian, custodian, or person having custody or control of a child treats the physical or mental illness or defect of the child by spiritual means through prayer alone, in accordance with the tenets of a recognized religious body.

(B) No person shall do any of the following to a child under eighteen years of age or a mentally or physically handicapped child under twenty-one years of age:

(1) Abuse the child;

(2) Torture or cruelly abuse the child;

(3) Administer corporal punishment or other physical disciplinary measure, or physically restrain the child in a cruel manner or for a prolonged period, which punishment, discipline, or restraint is excessive under the circumstances and creates a substantial risk of serious physical harm to the child;

(4) Repeatedly administer unwarranted disciplinary measures to the child, when there is a substantial risk that such conduct, if continued, will seriously impair or retard the child's mental health or development;

(5) Entice, coerce, permit, encourage, compel, hire, employ, use, or allow the child to act, model, or in any other way participate in, or be photographed for, the production, presentation, dissemination, or advertisement of any material or performance that the offender knows or reasonably should know is obscene, is sexually oriented matter, or is nudity-oriented matter;

(6) Allow the child to be on the same parcel of real property and within one hundred feet of, or, in the case of more than one housing unit on the same parcel of real property, in the same housing unit and within one hundred feet of, any act in violation of section 2925.04 or 2925.041 of the Revised Code when the person knows that the act is occurring, whether or not any person is prosecuted for or convicted of the violation of section 2925.04 or 2925.041 of the Revised Code that is the basis of the violation of this division.

(C)(1) No person shall operate a vehicle, streetcar, or trackless trolley within this state in violation of division (A) of section 4511.19 of the Revised Code when one or more children under eighteen years of age are in the vehicle, streetcar, or trackless trolley. Notwithstanding any other provision of law, a person may be convicted at the same trial or proceeding of a violation of this division and a violation of division (A) of section 4511.19 of the Revised Code that constitutes the basis of the charge of the violation of this division. For purposes of sections 4511.191 to 4511.197 of the Revised Code and all

related provisions of law, a person arrested for a violation of this division shall be considered to be under arrest for operating a vehicle while under the influence of alcohol, a drug of abuse, or a combination of them or for operating a vehicle with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the whole blood, blood serum or plasma, breath, or urine.

(2) As used in division (C)(1) of this section:

(a) "Controlled substance" has the same meaning as in section 3719.01 of the Revised Code.

(b) "Vehicle," "streetcar," and "trackless trolley" have the same meanings as in section 4511.01 of the Revised Code.

(D)(1) Division (B)(5) of this section does not apply to any material or performance that is produced, presented, or disseminated for a bona fide medical, scientific, educational, religious, governmental, judicial, or other proper purpose, by or to a physician, psychologist, sociologist, scientist, teacher, person pursuing bona fide studies or research, librarian, member of the clergy, prosecutor, judge, or other person having a proper interest in the material or performance.

(2) Mistake of age is not a defense to a charge under division (B)(5) of this section.

(3) In a prosecution under division (B)(5) of this section, the trier of fact may infer that an actor, model, or participant in the material or performance involved is a juvenile if the material or performance, through its title, text, visual representation, or otherwise, represents or depicts the actor, model, or participant as a juvenile.

(4) As used in this division and division (B)(5) of this section:

(a) "Material," "performance," "obscene," and "sexual activity" have the same meanings as in section 2907.01 of the Revised Code.

(b) "Nudity-oriented matter" means any material or performance that shows a minor in a state of nudity and that, taken as a whole by the average person applying contemporary community standards, appeals to prurient interest.

(c) "Sexually oriented matter" means any material or performance that shows a minor participating or engaging in sexual activity, masturbation, or bestiality.

(E)(1) Whoever violates this section is guilty of endangering children.

(2) If the offender violates division (A) or (B)(1) of this section, endangering children is one of the following, and, in the circumstances described in division (E)(2)(e) of this section, that division applies:

(a) Except as otherwise provided in division (E)(2)(b), (c), or (d) of this section, a misdemeanor of the first degree;

(b) If the offender previously has been convicted of an offense under this section or of any offense involving neglect, abandonment, contributing to the delinquency of, or physical abuse of a child, except as otherwise provided in division (E)(2)(c) or (d) of this section, a felony of the fourth degree;

(c) If the violation is a violation of division (A) of this section and results in serious physical harm to the child involved, a felony of the third degree;

(d) If the violation is a violation of division (B)(1) of this section and results in serious physical harm to the child involved, a felony of the second degree.

(e) If the violation is a felony violation of division (B)(1) of this section and the offender also is convicted of or pleads guilty to a specification as described in section 2941.1422 of the Revised Code that was included in the indictment, count in the indictment, or information charging the offense, the court shall sentence the offender to a mandatory prison term as provided in division (B)(7) of section 2929.14 of the Revised Code and shall order the offender to make restitution as provided in division (B)(8) of section 2929.18 of the Revised Code.

(3) If the offender violates division (B)(2), (3), (4), or (6) of this section, except as otherwise provided in this division, endangering children is a felony of the third degree. If the violation results in serious physical harm to the child involved, or if the offender previously has been convicted of an offense under this section or of any offense involving neglect, abandonment, contributing to the delinquency of, or physical abuse of a child, endangering children is a felony of the second degree. If the offender violates division (B)(2), (3), or (4) of this section and the offender also is convicted of or pleads guilty to a specification as described in section 2941.1422 of the Revised Code that was included in the indictment, count in the indictment, or information charging the offense, the court shall sentence the offender to a mandatory prison term as provided in division (B)(7) of section 2929.14 of the Revised Code and shall order the offender to make restitution as provided in division (B)(8) of section 2929.18 of the Revised Code. If the offender violates division (B)(6) of this section and the drug involved is methamphetamine, the court shall impose a mandatory prison term on the offender as follows:

(a) If the violation is a violation of division (B)(6) of this section that is a felony of the third degree under division (E)(3) of this section and the drug involved is methamphetamine, except as otherwise provided in this division, the court shall impose

as a mandatory prison term one of the prison terms prescribed for a felony of the third degree that is not less than two years. If the violation is a violation of division (B)(6) of this section that is a felony of the third degree under division (E)(3) of this section, if the drug involved is methamphetamine, and if the offender previously has been convicted of or pleaded guilty to a violation of division (B)(6) of this section, a violation of division (A) of section 2925.04 of the Revised Code, or a violation of division (A) of section 2925.041 of the Revised Code, the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the third degree that is not less than five years.

(b) If the violation is a violation of division (B)(6) of this section that is a felony of the second degree under division (E)(3) of this section and the drug involved is methamphetamine, except as otherwise provided in this division, the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the second degree that is not less than three years. If the violation is a violation of division (B)(6) of this section that is a felony of the second degree under division (E)(3) of this section, if the drug involved is methamphetamine, and if the offender previously has been convicted of or pleaded guilty to a violation of division (B)(6) of this section, a violation of division (A) of section 2925.04 of the Revised Code, or a violation of division (A) of section 2925.041 of the Revised Code, the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the second degree that is not less than five years.

(4) If the offender violates division (B)(5) of this section, endangering children is a felony of the second degree. If the offender also is convicted of or pleads guilty to a specification as described in section 2941.1422 of the Revised Code that was included in the indictment, count in the indictment, or information charging the offense, the court shall sentence the offender to a mandatory prison term as provided in division (B)(7) of section 2929.14 of the Revised Code and shall order the offender to make restitution as provided in division (B)(8) of section 2929.18 of the Revised Code.

(5) If the offender violates division (C) of this section, the offender shall be punished as follows:

(a) Except as otherwise provided in division (E)(5)(b) or (c) of this section, endangering children in violation of division (C) of this section is a misdemeanor of the first degree.

(b) If the violation results in serious physical harm to the child involved or the offender previously has been convicted of an offense under this section or any offense involving neglect, abandonment, contributing to the delinquency of, or physical abuse of a child, except as otherwise provided in division (E)(5)(c) of this section, endangering children in violation of division (C) of this section is a felony of the fifth degree.

(c) If the violation results in serious physical harm to the child involved and if the offender previously has been convicted of a violation of division (C) of this section,

section 2903.06 or 2903.08 of the Revised Code, section 2903.07 of the Revised Code as it existed prior to March 23, 2000, or section 2903.04 of the Revised Code in a case in which the offender was subject to the sanctions described in division (D) of that section, endangering children in violation of division (C) of this section is a felony of the fourth degree.

(d) In addition to any term of imprisonment, fine, or other sentence, penalty, or sanction it imposes upon the offender pursuant to division (E)(5)(a), (b), or (c) of this section or pursuant to any other provision of law and in addition to any suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege under Chapter 4506., 4509., 4510., or 4511. of the Revised Code or under any other provision of law, the court also may impose upon the offender a class seven suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege from the range specified in division (A)(7) of section 4510.02 of the Revised Code.

(e) In addition to any term of imprisonment, fine, or other sentence, penalty, or sanction imposed upon the offender pursuant to division (E)(5)(a), (b), (c), or (d) of this section or pursuant to any other provision of law for the violation of division (C) of this section, if as part of the same trial or proceeding the offender also is convicted of or pleads guilty to a separate charge charging the violation of division (A) of section 4511.19 of the Revised Code that was the basis of the charge of the violation of division (C) of this section, the offender also shall be sentenced in accordance with section 4511.19 of the Revised Code for that violation of division (A) of section 4511.19 of the Revised Code.

(F)(1)(a) A court may require an offender to perform not more than two hundred hours of supervised community service work under the authority of an agency, subdivision, or charitable organization. The requirement shall be part of the community control sanction or sentence of the offender, and the court shall impose the community service in accordance with and subject to divisions (F)(1)(a) and (b) of this section. The court may require an offender whom it requires to perform supervised community service work as part of the offender's community control sanction or sentence to pay the court a reasonable fee to cover the costs of the offender's participation in the work, including, but not limited to, the costs of procuring a policy or policies of liability insurance to cover the period during which the offender will perform the work. If the court requires the offender to perform supervised community service work as part of the offender's community control sanction or sentence, the court shall do so in accordance with the following limitations and criteria:

(i) The court shall require that the community service work be performed after completion of the term of imprisonment or jail term imposed upon the offender for the violation of division (C) of this section, if applicable.

(ii) The supervised community service work shall be subject to the limitations set forth in divisions (B)(1), (2), and (3) of section 2951.02 of the Revised Code.

(iii) The community service work shall be supervised in the manner described in division (B)(4) of section 2951.02 of the Revised Code by an official or person with the qualifications described in that division. The official or person periodically shall report in writing to the court concerning the conduct of the offender in performing the work.

(iv) The court shall inform the offender in writing that if the offender does not adequately perform, as determined by the court, all of the required community service work, the court may order that the offender be committed to a jail or workhouse for a period of time that does not exceed the term of imprisonment that the court could have imposed upon the offender for the violation of division (C) of this section, reduced by the total amount of time that the offender actually was imprisoned under the sentence or term that was imposed upon the offender for that violation and by the total amount of time that the offender was confined for any reason arising out of the offense for which the offender was convicted and sentenced as described in sections 2949.08 and 2967.191 of the Revised Code, and that, if the court orders that the offender be so committed, the court is authorized, but not required, to grant the offender credit upon the period of the commitment for the community service work that the offender adequately performed.

(b) If a court, pursuant to division (F)(1)(a) of this section, orders an offender to perform community service work as part of the offender's community control sanction or sentence and if the offender does not adequately perform all of the required community service work, as determined by the court, the court may order that the offender be committed to a jail or workhouse for a period of time that does not exceed the term of imprisonment that the court could have imposed upon the offender for the violation of division (C) of this section, reduced by the total amount of time that the offender actually was imprisoned under the sentence or term that was imposed upon the offender for that violation and by the total amount of time that the offender was confined for any reason arising out of the offense for which the offender was convicted and sentenced as described in sections 2949.08 and 2967.191 of the Revised Code. The court may order that a person committed pursuant to this division shall receive hour-for-hour credit upon the period of the commitment for the community service work that the offender adequately performed. No commitment pursuant to this division shall exceed the period of the term of imprisonment that the sentencing court could have imposed upon the offender for the violation of division (C) of this section, reduced by the total amount of time that the offender actually was imprisoned under that sentence or term and by the total amount of time that the offender was confined for any reason arising out of the offense for which the offender was convicted and sentenced as described in sections 2949.08 and 2967.191 of the Revised Code.

(2) Division (F)(1) of this section does not limit or affect the authority of the court to suspend the sentence imposed upon a misdemeanor offender and place the offender under

a community control sanction pursuant to section 2929.25 of the Revised Code, to require a misdemeanor or felony offender to perform supervised community service work in accordance with division (B) of section 2951.02 of the Revised Code, or to place a felony offender under a community control sanction.

(G)(1) If a court suspends an offender's driver's or commercial driver's license or permit or nonresident operating privilege under division (E)(5)(d) of this section, the period of the suspension shall be consecutive to, and commence after, the period of suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege that is imposed under Chapter 4506., 4509., 4510., or 4511. of the Revised Code or under any other provision of law in relation to the violation of division (C) of this section that is the basis of the suspension under division (E)(5)(d) of this section or in relation to the violation of division (A) of section 4511.19 of the Revised Code that is the basis for that violation of division (C) of this section.

(2) An offender is not entitled to request, and the court shall not grant to the offender, limited driving privileges if the offender's license, permit, or privilege has been suspended under division (E)(5)(d) of this section and the offender, within the preceding six years, has been convicted of or pleaded guilty to three or more violations of one or more of the following:

(a) Division (C) of this section;

(b) Any equivalent offense, as defined in section 4511.181 of the Revised Code.

(H)(1) If a person violates division (C) of this section and if, at the time of the violation, there were two or more children under eighteen years of age in the motor vehicle involved in the violation, the offender may be convicted of a violation of division (C) of this section for each of the children, but the court may sentence the offender for only one of the violations.

(2)(a) If a person is convicted of or pleads guilty to a violation of division (C) of this section but the person is not also convicted of and does not also plead guilty to a separate charge charging the violation of division (A) of section 4511.19 of the Revised Code that was the basis of the charge of the violation of division (C) of this section, both of the following apply:

(i) For purposes of the provisions of section 4511.19 of the Revised Code that set forth the penalties and sanctions for a violation of division (A) of section 4511.19 of the Revised Code, the conviction of or plea of guilty to the violation of division (C) of this section shall not constitute a violation of division (A) of section 4511.19 of the Revised Code;

(ii) For purposes of any provision of law that refers to a conviction of or plea of guilty to a violation of division (A) of section 4511.19 of the Revised Code and that is not described in division (H)(2)(a)(i) of this section, the conviction of or plea of guilty to the violation of division (C) of this section shall constitute a conviction of or plea of guilty to a violation of division (A) of section 4511.19 of the Revised Code.

(b) If a person is convicted of or pleads guilty to a violation of division (C) of this section and the person also is convicted of or pleads guilty to a separate charge charging the violation of division (A) of section 4511.19 of the Revised Code that was the basis of the charge of the violation of division (C) of this section, the conviction of or plea of guilty to the violation of division (C) of this section shall not constitute, for purposes of any provision of law that refers to a conviction of or plea of guilty to a violation of division (A) of section 4511.19 of the Revised Code, a conviction of or plea of guilty to a violation of division (A) of section 4511.19 of the Revised Code.

(I) As used in this section:

(1) "Community control sanction" has the same meaning as in section 2929.01 of the Revised Code;

(2) "Limited driving privileges" has the same meaning as in section 4501.01 of the Revised Code;

(3) "Methamphetamine" has the same meaning as in section 2925.01 of the Revised Code.

CREDIT(S)

(2011 H 86, eff. 9-30-11; 2008 H 280, eff. 4-7-09; 2006 S 8, eff. 8-17-06; 2006 S 53, eff. 5-17-06; 2004 S 58, eff. 8-11-04; 2002 H 490, eff. 1-1-04; 2002 S 123, eff. 1-1-04; 2000 S 180, eff. 3-22-01; 1999 S 107, eff. 3-23-00; 1999 H 162, eff. 8-25-99; 1997 S 60, eff. 10-21-97; 1996 S 269, § 8, eff. 5-15-97; 1996 S 269, § 1, eff. 7-1-96; 1996 H 353, § 4, eff. 5-15-97; 1996 H 353, § 1, eff. 9-17-96; 1995 H 167, eff. 5-15-97; 1995 S 2, eff. 7-1-96; 1994 H 236, eff. 9-29-94; 1988 H 51, eff. 3-17-89; 1985 H 349; 1984 S 321, H 44; 1977 S 243; 1972 H 511) R.C. § 2919.22, OH ST § 2919.22 Current through Files 1 to 140 and Statewide Issue 1 of the 130th GA (2014-2014).

Ohio Rev. Code Ann. § 2929.14 (2014). Prison terms

(A) Except as provided in division (B)(1), (B)(2), (B)(3), (B)(4), (B)(5), (B)(6), (B)(7), (B)(8), (E), (G), (H), or (J) of this section or in division (D)(6) of section 2919.25 of the Revised Code and except in relation to an offense for which a sentence of death or life imprisonment is to be imposed, if the court imposing a sentence upon an offender for a

felony elects or is required to impose a prison term on the offender pursuant to this chapter, the court shall impose a definite prison term that shall be one of the following:

(1) For a felony of the first degree, the prison term shall be three, four, five, six, seven, eight, nine, ten, or eleven years.

(2) For a felony of the second degree, the prison term shall be two, three, four, five, six, seven, or eight years.

(3)(a) For a felony of the third degree that is a violation of section 2903.06, 2903.08, 2907.03, 2907.04, or 2907.05 of the Revised Code or that is a violation of section 2911.02 or 2911.12 of the Revised Code if the offender previously has been convicted of or pleaded guilty in two or more separate proceedings to two or more violations of section 2911.01, 2911.02, 2911.11, or 2911.12 of the Revised Code, the prison term shall be twelve, eighteen, twenty-four, thirty, thirty-six, forty-two, forty-eight, fifty-four, or sixty months.

(b) For a felony of the third degree that is not an offense for which division (A)(3)(a) of this section applies, the prison term shall be nine, twelve, eighteen, twenty-four, thirty, or thirty-six months.

(4) For a felony of the fourth degree, the prison term shall be six, seven, eight, nine, ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, or eighteen months.

(5) For a felony of the fifth degree, the prison term shall be six, seven, eight, nine, ten, eleven, or twelve months.

(B)(1)(a) Except as provided in division (B)(1)(e) of this section, if an offender who is convicted of or pleads guilty to a felony also is convicted of or pleads guilty to a specification of the type described in section 2941.141, 2941.144, or 2941.145 of the Revised Code, the court shall impose on the offender one of the following prison terms:

(i) A prison term of six years if the specification is of the type described in section 2941.144 of the Revised Code that charges the offender with having a firearm that is an automatic firearm or that was equipped with a firearm muffler or silencer on or about the offender's person or under the offender's control while committing the felony;

(ii) A prison term of three years if the specification is of the type described in section 2941.145 of the Revised Code that charges the offender with having a firearm on or about the offender's person or under the offender's control while committing the offense and

displaying the firearm, brandishing the firearm, indicating that the offender possessed the firearm, or using it to facilitate the offense;

(iii) A prison term of one year if the specification is of the type described in section 2941.141 of the Revised Code that charges the offender with having a firearm on or about the offender's person or under the offender's control while committing the felony.

(b) If a court imposes a prison term on an offender under division (B)(1)(a) of this section, the prison term shall not be reduced pursuant to section 2967.19, section 2929.20, section 2967.193, or any other provision of Chapter 2967. or Chapter 5120. of the Revised Code. Except as provided in division (B)(1)(g) of this section, a court shall not impose more than one prison term on an offender under division (B)(1)(a) of this section for felonies committed as part of the same act or transaction.

(c) Except as provided in division (B)(1)(e) of this section, if an offender who is convicted of or pleads guilty to a violation of section 2923.161 of the Revised Code or to a felony that includes, as an essential element, purposely or knowingly causing or attempting to cause the death of or physical harm to another, also is convicted of or pleads guilty to a specification of the type described in section 2941.146 of the Revised Code that charges the offender with committing the offense by discharging a firearm from a motor vehicle other than a manufactured home, the court, after imposing a prison term on the offender for the violation of section 2923.161 of the Revised Code or for the other felony offense under division (A), (B)(2), or (B)(3) of this section, shall impose an additional prison term of five years upon the offender that shall not be reduced pursuant to section 2929.20, section 2967.19, section 2967.193, or any other provision of Chapter 2967. or Chapter 5120. of the Revised Code. A court shall not impose more than one additional prison term on an offender under division (B)(1)(c) of this section for felonies committed as part of the same act or transaction. If a court imposes an additional prison term on an offender under division (B)(1)(c) of this section relative to an offense, the court also shall impose a prison term under division (B)(1)(a) of this section relative to the same offense, provided the criteria specified in that division for imposing an additional prison term are satisfied relative to the offender and the offense.

(d) If an offender who is convicted of or pleads guilty to an offense of violence that is a felony also is convicted of or pleads guilty to a specification of the type described in section 2941.1411 of the Revised Code that charges the offender with wearing or carrying body armor while committing the felony offense of violence, the court shall impose on the offender a prison term of two years. The prison term so imposed, subject to divisions (C) to (I) of section 2967.19 of the Revised Code, shall not be reduced pursuant to section 2929.20, section 2967.19, section 2967.193, or any other provision of Chapter 2967. or Chapter 5120. of the Revised Code. A court shall not impose more than one prison term on an offender under division (B)(1)(d) of this section for felonies committed as part of the same act or transaction. If a court imposes an additional prison term under

division (B)(1)(a) or (c) of this section, the court is not precluded from imposing an additional prison term under division (B)(1)(d) of this section.

(e) The court shall not impose any of the prison terms described in division (B)(1)(a) of this section or any of the additional prison terms described in division (B)(1)(c) of this section upon an offender for a violation of section 2923.12 or 2923.123 of the Revised Code. The court shall not impose any of the prison terms described in division (B)(1)(a) or (b) of this section upon an offender for a violation of section 2923.122 that involves a deadly weapon that is a firearm other than a dangerous ordnance, section 2923.16, or section 2923.121 of the Revised Code. The court shall not impose any of the prison terms described in division (B)(1)(a) of this section or any of the additional prison terms described in division (B)(1)(c) of this section upon an offender for a violation of section 2923.13 of the Revised Code unless all of the following apply:

(i) The offender previously has been convicted of aggravated murder, murder, or any felony of the first or second degree.

(ii) Less than five years have passed since the offender was released from prison or post-release control, whichever is later, for the prior offense.

(f) If an offender is convicted of or pleads guilty to a felony that includes, as an essential element, causing or attempting to cause the death of or physical harm to another and also is convicted of or pleads guilty to a specification of the type described in section 2941.1412 of the Revised Code that charges the offender with committing the offense by discharging a firearm at a peace officer as defined in section 2935.01 of the Revised Code or a corrections officer, as defined in section 2941.1412 of the Revised Code, the court, after imposing a prison term on the offender for the felony offense under division (A), (B)(2), or (B)(3) of this section, shall impose an additional prison term of seven years upon the offender that shall not be reduced pursuant to section 2929.20, section 2967.19, section 2967.193, or any other provision of Chapter 2967. or Chapter 5120. of the Revised Code. If an offender is convicted of or pleads guilty to two or more felonies that include, as an essential element, causing or attempting to cause the death or physical harm to another and also is convicted of or pleads guilty to a specification of the type described under division (B)(1)(f) of this section in connection with two or more of the felonies of which the offender is convicted or to which the offender pleads guilty, the sentencing court shall impose on the offender the prison term specified under division (B)(1)(f) of this section for each of two of the specifications of which the offender is convicted or to which the offender pleads guilty and, in its discretion, also may impose on the offender the prison term specified under that division for any or all of the remaining specifications. If a court imposes an additional prison term on an offender under division (B)(1)(f) of this section relative to an offense, the court shall not impose a prison term under division (B)(1)(a) or (c) of this section relative to the same offense.

(g) If an offender is convicted of or pleads guilty to two or more felonies, if one or more of those felonies are aggravated murder, murder, attempted aggravated murder, attempted murder, aggravated robbery, felonious assault, or rape, and if the offender is convicted of or pleads guilty to a specification of the type described under division (B)(1)(a) of this section in connection with two or more of the felonies, the sentencing court shall impose on the offender the prison term specified under division (B)(1)(a) of this section for each of the two most serious specifications of which the offender is convicted or to which the offender pleads guilty and, in its discretion, also may impose on the offender the prison term specified under that division for any or all of the remaining specifications.

(2)(a) If division (B)(2)(b) of this section does not apply, the court may impose on an offender, in addition to the longest prison term authorized or required for the offense, an additional definite prison term of one, two, three, four, five, six, seven, eight, nine, or ten years if all of the following criteria are met:

(i) The offender is convicted of or pleads guilty to a specification of the type described in section 2941.149 of the Revised Code that the offender is a repeat violent offender.

(ii) The offense of which the offender currently is convicted or to which the offender currently pleads guilty is aggravated murder and the court does not impose a sentence of death or life imprisonment without parole, murder, terrorism and the court does not impose a sentence of life imprisonment without parole, any felony of the first degree that is an offense of violence and the court does not impose a sentence of life imprisonment without parole, or any felony of the second degree that is an offense of violence and the trier of fact finds that the offense involved an attempt to cause or a threat to cause serious physical harm to a person or resulted in serious physical harm to a person.

(iii) The court imposes the longest prison term for the offense that is not life imprisonment without parole.

(iv) The court finds that the prison terms imposed pursuant to division (B)(2)(a)(iii) of this section and, if applicable, division (B)(1) or (3) of this section are inadequate to punish the offender and protect the public from future crime, because the applicable factors under section 2929.12 of the Revised Code indicating a greater likelihood of recidivism outweigh the applicable factors under that section indicating a lesser likelihood of recidivism.

(v) The court finds that the prison terms imposed pursuant to division (B)(2)(a)(iii) of this section and, if applicable, division (B)(1) or (3) of this section are demeaning to the seriousness of the offense, because one or more of the factors under section 2929.12 of the Revised Code indicating that the offender's conduct is more serious than conduct normally constituting the offense are present, and they outweigh the applicable factors

under that section indicating that the offender's conduct is less serious than conduct normally constituting the offense.

(b) The court shall impose on an offender the longest prison term authorized or required for the offense and shall impose on the offender an additional definite prison term of one, two, three, four, five, six, seven, eight, nine, or ten years if all of the following criteria are met:

(i) The offender is convicted of or pleads guilty to a specification of the type described in section 2941.149 of the Revised Code that the offender is a repeat violent offender.

(ii) The offender within the preceding twenty years has been convicted of or pleaded guilty to three or more offenses described in division (CC)(1) of section 2929.01 of the Revised Code, including all offenses described in that division of which the offender is convicted or to which the offender pleads guilty in the current prosecution and all offenses described in that division of which the offender previously has been convicted or to which the offender previously pleaded guilty, whether prosecuted together or separately.

(iii) The offense or offenses of which the offender currently is convicted or to which the offender currently pleads guilty is aggravated murder and the court does not impose a sentence of death or life imprisonment without parole, murder, terrorism and the court does not impose a sentence of life imprisonment without parole, any felony of the first degree that is an offense of violence and the court does not impose a sentence of life imprisonment without parole, or any felony of the second degree that is an offense of violence and the trier of fact finds that the offense involved an attempt to cause or a threat to cause serious physical harm to a person or resulted in serious physical harm to a person.

(c) For purposes of division (B)(2)(b) of this section, two or more offenses committed at the same time or as part of the same act or event shall be considered one offense, and that one offense shall be the offense with the greatest penalty.

(d) A sentence imposed under division (B)(2)(a) or (b) of this section shall not be reduced pursuant to section 2929.20, section 2967.19, or section 2967.193, or any other provision of Chapter 2967. or Chapter 5120. of the Revised Code. The offender shall serve an additional prison term imposed under this section consecutively to and prior to the prison term imposed for the underlying offense.

(e) When imposing a sentence pursuant to division (B)(2)(a) or (b) of this section, the court shall state its findings explaining the imposed sentence.

(3) Except when an offender commits a violation of section 2903.01 or 2907.02 of the Revised Code and the penalty imposed for the violation is life imprisonment or commits a violation of section 2903.02 of the Revised Code, if the offender commits a violation of section 2925.03 or 2925.11 of the Revised Code and that section classifies the offender as a major drug offender, if the offender commits a felony violation of section 2925.02, 2925.04, 2925.05, 2925.36, 3719.07, 3719.08, 3719.16, 3719.161, 4729.37, or 4729.61, division (C) or (D) of section 3719.172, division (C) of section 4729.51, or division (J) of section 4729.54 of the Revised Code that includes the sale, offer to sell, or possession of a schedule I or II controlled substance, with the exception of marihuana, and the court imposing sentence upon the offender finds that the offender is guilty of a specification of the type described in section 2941.1410 of the Revised Code charging that the offender is a major drug offender, if the court imposing sentence upon an offender for a felony finds that the offender is guilty of corrupt activity with the most serious offense in the pattern of corrupt activity being a felony of the first degree, or if the offender is guilty of an attempted violation of section 2907.02 of the Revised Code and, had the offender completed the violation of section 2907.02 of the Revised Code that was attempted, the offender would have been subject to a sentence of life imprisonment or life imprisonment without parole for the violation of section 2907.02 of the Revised Code, the court shall impose upon the offender for the felony violation a mandatory prison term of the maximum prison term prescribed for a felony of the first degree that, subject to divisions (C) to (I) of section 2967.19 of the Revised Code, cannot be reduced pursuant to section 2929.20, section 2967.19, or any other provision of Chapter 2967. or 5120. of the Revised Code.

(4) If the offender is being sentenced for a third or fourth degree felony OVI offense under division (G)(2) of section 2929.13 of the Revised Code, the sentencing court shall impose upon the offender a mandatory prison term in accordance with that division. In addition to the mandatory prison term, if the offender is being sentenced for a fourth degree felony OVI offense, the court, notwithstanding division (A)(4) of this section, may sentence the offender to a definite prison term of not less than six months and not more than thirty months, and if the offender is being sentenced for a third degree felony OVI offense, the sentencing court may sentence the offender to an additional prison term of any duration specified in division (A)(3) of this section. In either case, the additional prison term imposed shall be reduced by the sixty or one hundred twenty days imposed upon the offender as the mandatory prison term. The total of the additional prison term imposed under division (B)(4) of this section plus the sixty or one hundred twenty days imposed as the mandatory prison term shall equal a definite term in the range of six months to thirty months for a fourth degree felony OVI offense and shall equal one of the authorized prison terms specified in division (A)(3) of this section for a third degree felony OVI offense. If the court imposes an additional prison term under division (B)(4) of this section, the offender shall serve the additional prison term after the offender has served the mandatory prison term required for the offense. In addition to the mandatory prison term or mandatory and additional prison term imposed as described in division (B)(4) of this section, the court also may sentence the offender to a community control

sanction under section 2929.16 or 2929.17 of the Revised Code, but the offender shall serve all of the prison terms so imposed prior to serving the community control sanction.

If the offender is being sentenced for a fourth degree felony OVI offense under division (G)(1) of section 2929.13 of the Revised Code and the court imposes a mandatory term of local incarceration, the court may impose a prison term as described in division (A)(1) of that section.

(5) If an offender is convicted of or pleads guilty to a violation of division (A)(1) or (2) of section 2903.06 of the Revised Code and also is convicted of or pleads guilty to a specification of the type described in section 2941.1414 of the Revised Code that charges that the victim of the offense is a peace officer, as defined in section 2935.01 of the Revised Code, or an investigator of the bureau of criminal identification and investigation, as defined in section 2903.11 of the Revised Code, the court shall impose on the offender a prison term of five years. If a court imposes a prison term on an offender under division (B)(5) of this section, the prison term, subject to divisions (C) to (I) of section 2967.19 of the Revised Code, shall not be reduced pursuant to section 2929.20, section 2967.19, section 2967.193, or any other provision of Chapter 2967. or Chapter 5120. of the Revised Code. A court shall not impose more than one prison term on an offender under division (B)(5) of this section for felonies committed as part of the same act.

(6) If an offender is convicted of or pleads guilty to a violation of division (A)(1) or (2) of section 2903.06 of the Revised Code and also is convicted of or pleads guilty to a specification of the type described in section 2941.1415 of the Revised Code that charges that the offender previously has been convicted of or pleaded guilty to three or more violations of division (A) or (B) of section 4511.19 of the Revised Code or an equivalent offense, as defined in section 2941.1415 of the Revised Code, or three or more violations of any combination of those divisions and offenses, the court shall impose on the offender a prison term of three years. If a court imposes a prison term on an offender under division (B)(6) of this section, the prison term, subject to divisions (C) to (I) of section 2967.19 of the Revised Code, shall not be reduced pursuant to section 2929.20, section 2967.19, section 2967.193, or any other provision of Chapter 2967. or Chapter 5120. of the Revised Code. A court shall not impose more than one prison term on an offender under division (B)(6) of this section for felonies committed as part of the same act.

(7)(a) If an offender is convicted of or pleads guilty to a felony violation of section 2905.01, 2905.02, 2907.21, 2907.22, or 2923.32, division (A)(1) or (2) of section 2907.323, or division (B)(1), (2), (3), (4), or (5) of section 2919.22 of the Revised Code and also is convicted of or pleads guilty to a specification of the type described in section 2941.1422 of the Revised Code that charges that the offender knowingly committed the

offense in furtherance of human trafficking, the court shall impose on the offender a mandatory prison term that is one of the following:

(i) If the offense is a felony of the first degree, a definite prison term of not less than five years and not greater than ten years;

(ii) If the offense is a felony of the second or third degree, a definite prison term of not less than three years and not greater than the maximum prison term allowed for the offense by division (A) of section 2929.14 of the Revised Code;

(iii) If the offense is a felony of the fourth or fifth degree, a definite prison term that is the maximum prison term allowed for the offense by division (A) of section 2929.14 of the Revised Code.

(b) Subject to divisions (C) to (I) of section 2967.19 of the Revised Code, the prison term imposed under division (B)(7)(a) of this section shall not be reduced pursuant to section 2929.20, section 2967.19, section 2967.193, or any other provision of Chapter 2967. of the Revised Code. A court shall not impose more than one prison term on an offender under division (B)(7)(a) of this section for felonies committed as part of the same act, scheme, or plan.

(8) If an offender is convicted of or pleads guilty to a felony violation of section 2903.11, 2903.12, or 2903.13 of the Revised Code and also is convicted of or pleads guilty to a specification of the type described in section 2941.1423 of the Revised Code that charges that the victim of the violation was a woman whom the offender knew was pregnant at the time of the violation, notwithstanding the range of prison terms prescribed in division (A) of this section for felonies of the same degree as the violation, the court shall impose on the offender a mandatory prison term that is either a definite prison term of six months or one of the prison terms prescribed in section 2929.14 of the Revised Code for felonies of the same degree as the violation.

(C)(1)(a) Subject to division (C)(1)(b) of this section, if a mandatory prison term is imposed upon an offender pursuant to division (B)(1)(a) of this section for having a firearm on or about the offender's person or under the offender's control while committing a felony, if a mandatory prison term is imposed upon an offender pursuant to division (B)(1)(c) of this section for committing a felony specified in that division by discharging a firearm from a motor vehicle, or if both types of mandatory prison terms are imposed, the offender shall serve any mandatory prison term imposed under either division consecutively to any other mandatory prison term imposed under either division or under division (B)(1)(d) of this section, consecutively to and prior to any prison term imposed for the underlying felony pursuant to division (A), (B)(2), or (B)(3) of this

section or any other section of the Revised Code, and consecutively to any other prison term or mandatory prison term previously or subsequently imposed upon the offender.

(b) If a mandatory prison term is imposed upon an offender pursuant to division (B)(1)(d) of this section for wearing or carrying body armor while committing an offense of violence that is a felony, the offender shall serve the mandatory term so imposed consecutively to any other mandatory prison term imposed under that division or under division (B)(1)(a) or (c) of this section, consecutively to and prior to any prison term imposed for the underlying felony under division (A), (B)(2), or (B)(3) of this section or any other section of the Revised Code, and consecutively to any other prison term or mandatory prison term previously or subsequently imposed upon the offender.

(c) If a mandatory prison term is imposed upon an offender pursuant to division (B)(1)(f) of this section, the offender shall serve the mandatory prison term so imposed consecutively to and prior to any prison term imposed for the underlying felony under division (A), (B)(2), or (B)(3) of this section or any other section of the Revised Code, and consecutively to any other prison term or mandatory prison term previously or subsequently imposed upon the offender.

(d) If a mandatory prison term is imposed upon an offender pursuant to division (B)(7) or (8) of this section, the offender shall serve the mandatory prison term so imposed consecutively to any other mandatory prison term imposed under that division or under any other provision of law and consecutively to any other prison term or mandatory prison term previously or subsequently imposed upon the offender.

(2) If an offender who is an inmate in a jail, prison, or other residential detention facility violates section 2917.02, 2917.03, or 2921.35 of the Revised Code or division (A)(1) or (2) of section 2921.34 of the Revised Code, if an offender who is under detention at a detention facility commits a felony violation of section 2923.131 of the Revised Code, or if an offender who is an inmate in a jail, prison, or other residential detention facility or is under detention at a detention facility commits another felony while the offender is an escapee in violation of division (A)(1) or (2) of section 2921.34 of the Revised Code, any prison term imposed upon the offender for one of those violations shall be served by the offender consecutively to the prison term or term of imprisonment the offender was serving when the offender committed that offense and to any other prison term previously or subsequently imposed upon the offender.

(3) If a prison term is imposed for a violation of division (B) of section 2911.01 of the Revised Code, a violation of division (A) of section 2913.02 of the Revised Code in which the stolen property is a firearm or dangerous ordnance, or a felony violation of division (B) of section 2921.331 of the Revised Code, the offender shall serve that prison term consecutively to any other prison term or mandatory prison term previously or subsequently imposed upon the offender.

(4) If multiple prison terms are imposed on an offender for convictions of multiple offenses, the court may require the offender to serve the prison terms consecutively if the court finds that the consecutive service is necessary to protect the public from future crime or to punish the offender and that consecutive sentences are not disproportionate to the seriousness of the offender's conduct and to the danger the offender poses to the public, and if the court also finds any of the following:

(a) The offender committed one or more of the multiple offenses while the offender was awaiting trial or sentencing, was under a sanction imposed pursuant to section 2929.16, 2929.17, or 2929.18 of the Revised Code, or was under post-release control for a prior offense.

(b) At least two of the multiple offenses were committed as part of one or more courses of conduct, and the harm caused by two or more of the multiple offenses so committed was so great or unusual that no single prison term for any of the offenses committed as part of any of the courses of conduct adequately reflects the seriousness of the offender's conduct.

(c) The offender's history of criminal conduct demonstrates that consecutive sentences are necessary to protect the public from future crime by the offender.

(5) If a mandatory prison term is imposed upon an offender pursuant to division (B)(5) or (6) of this section, the offender shall serve the mandatory prison term consecutively to and prior to any prison term imposed for the underlying violation of division (A)(1) or (2) of section 2903.06 of the Revised Code pursuant to division (A) of this section or section 2929.142 of the Revised Code. If a mandatory prison term is imposed upon an offender pursuant to division (B)(5) of this section, and if a mandatory prison term also is imposed upon the offender pursuant to division (B)(6) of this section in relation to the same violation, the offender shall serve the mandatory prison term imposed pursuant to division (B)(5) of this section consecutively to and prior to the mandatory prison term imposed pursuant to division (B)(6) of this section and consecutively to and prior to any prison term imposed for the underlying violation of division (A)(1) or (2) of section 2903.06 of the Revised Code pursuant to division (A) of this section or section 2929.142 of the Revised Code.

(6) When consecutive prison terms are imposed pursuant to division (C)(1), (2), (3), (4), or (5) or division (H)(1) or (2) of this section, the term to be served is the aggregate of all of the terms so imposed.

(D)(1) If a court imposes a prison term for a felony of the first degree, for a felony of the second degree, for a felony sex offense, or for a felony of the third degree that is not a

felony sex offense and in the commission of which the offender caused or threatened to cause physical harm to a person, it shall include in the sentence a requirement that the offender be subject to a period of post-release control after the offender's release from imprisonment, in accordance with that division. If a court imposes a sentence including a prison term of a type described in this division on or after July 11, 2006, the failure of a court to include a post-release control requirement in the sentence pursuant to this division does not negate, limit, or otherwise affect the mandatory period of post-release control that is required for the offender under division (B) of section 2967.28 of the Revised Code. Section 2929.191 of the Revised Code applies if, prior to July 11, 2006, a court imposed a sentence including a prison term of a type described in this division and failed to include in the sentence pursuant to this division a statement regarding post-release control.

(2) If a court imposes a prison term for a felony of the third, fourth, or fifth degree that is not subject to division (D)(1) of this section, it shall include in the sentence a requirement that the offender be subject to a period of post-release control after the offender's release from imprisonment, in accordance with that division, if the parole board determines that a period of post-release control is necessary. Section 2929. 191 of the Revised Code applies if, prior to July 11, 2006, a court imposed a sentence including a prison term of a type described in this division and failed to include in the sentence pursuant to this division a statement regarding post-release control.

(E) The court shall impose sentence upon the offender in accordance with section 2971.03 of the Revised Code, and Chapter 2971. of the Revised Code applies regarding the prison term or term of life imprisonment without parole imposed upon the offender and the service of that term of imprisonment if any of the following apply:

(1) A person is convicted of or pleads guilty to a violent sex offense or a designated homicide, assault, or kidnapping offense, and, in relation to that offense, the offender is adjudicated a sexually violent predator.

(2) A person is convicted of or pleads guilty to a violation of division (A)(1)(b) of section 2907.02 of the Revised Code committed on or after January 2, 2007, and either the court does not impose a sentence of life without parole when authorized pursuant to division (B) of section 2907.02 of the Revised Code, or division (B) of section 2907.02 of the Revised Code provides that the court shall not sentence the offender pursuant to section 2971.03 of the Revised Code.

(3) A person is convicted of or pleads guilty to attempted rape committed on or after January 2, 2007, and a specification of the type described in section 2941.1418, 2941.1419, or 2941.1420 of the Revised Code.

(4) A person is convicted of or pleads guilty to a violation of section 2905.01 of the Revised Code committed on or after January 1, 2008, and that section requires the court to sentence the offender pursuant to section 2971. 03 of the Revised Code.

(5) A person is convicted of or pleads guilty to aggravated murder committed on or after January 1, 2008, and division (A)(2)(b)(ii) of section 2929.022, division (A)(1)(e), (C)(1)(a)(v), (C)(2)(a)(ii), (D)(2)(b), (D)(3)(a)(iv), or (E)(1)(d) of section 2929.03, or division (A) or (B) of section 2929.06 of the Revised Code requires the court to sentence the offender pursuant to division (B)(3) of section 2971.03 of the Revised Code.

(6) A person is convicted of or pleads guilty to murder committed on or after January 1, 2008, and division (B)(2) of section 2929.02 of the Revised Code requires the court to sentence the offender pursuant to section 2971.03 of the Revised Code.

(F) If a person who has been convicted of or pleaded guilty to a felony is sentenced to a prison term or term of imprisonment under this section, sections 2929.02 to 2929.06 of the Revised Code, section 2929.142 of the Revised Code, section 2971.03 of the Revised Code, or any other provision of law, section 5120.163 of the Revised Code applies regarding the person while the person is confined in a state correctional institution.

(G) If an offender who is convicted of or pleads guilty to a felony that is an offense of violence also is convicted of or pleads guilty to a specification of the type described in section 2941.142 of the Revised Code that charges the offender with having committed the felony while participating in a criminal gang, the court shall impose upon the offender an additional prison term of one, two, or three years.

(H)(1) If an offender who is convicted of or pleads guilty to aggravated murder, murder, or a felony of the first, second, or third degree that is an offense of violence also is convicted of or pleads guilty to a specification of the type described in section 2941.143 of the Revised Code that charges the offender with having committed the offense in a school safety zone or towards a person in a school safety zone, the court shall impose upon the offender an additional prison term of two years. The offender shall serve the additional two years consecutively to and prior to the prison term imposed for the underlying offense.

(2)(a) If an offender is convicted of or pleads guilty to a felony violation of section 2907.22, 2907.24, 2907.241, or 2907.25 of the Revised Code and to a specification of the type described in section 2941.1421 of the Revised Code and if the court imposes a prison term on the offender for the felony violation, the court may impose upon the offender an additional prison term as follows:

(i) Subject to division (H)(2)(a)(ii) of this section, an additional prison term of one, two, three, four, five, or six months;

(ii) If the offender previously has been convicted of or pleaded guilty to one or more felony or misdemeanor violations of section 2907.22, 2907.23, 2907.24, 2907.241, or 2907.25 of the Revised Code and also was convicted of or pleaded guilty to a specification of the type described in section 2941.1421 of the Revised Code regarding one or more of those violations, an additional prison term of one, two, three, four, five, six, seven, eight, nine, ten, eleven, or twelve months.

(b) In lieu of imposing an additional prison term under division (H)(2)(a) of this section, the court may directly impose on the offender a sanction that requires the offender to wear a real-time processing, continual tracking electronic monitoring device during the period of time specified by the court. The period of time specified by the court shall equal the duration of an additional prison term that the court could have imposed upon the offender under division (H)(2)(a) of this section. A sanction imposed under this division shall commence on the date specified by the court, provided that the sanction shall not commence until after the offender has served the prison term imposed for the felony violation of section 2907.22, 2907.24, 2907.241, or 2907.25 of the Revised Code and any residential sanction imposed for the violation under section 2929.16 of the Revised Code. A sanction imposed under this division shall be considered to be a community control sanction for purposes of section 2929.15 of the Revised Code, and all provisions of the Revised Code that pertain to community control sanctions shall apply to a sanction imposed under this division, except to the extent that they would by their nature be clearly inapplicable. The offender shall pay all costs associated with a sanction imposed under this division, including the cost of the use of the monitoring device.

(I) At the time of sentencing, the court may recommend the offender for placement in a program of shock incarceration under section 5120.031 of the Revised Code or for placement in an intensive program prison under section 5120.032 of the Revised Code, disapprove placement of the offender in a program of shock incarceration or an intensive program prison of that nature, or make no recommendation on placement of the offender. In no case shall the department of rehabilitation and correction place the offender in a program or prison of that nature unless the department determines as specified in section 5120.031 or 5120.032 of the Revised Code, whichever is applicable, that the offender is eligible for the placement.

If the court disapproves placement of the offender in a program or prison of that nature, the department of rehabilitation and correction shall not place the offender in any program of shock incarceration or intensive program prison.

If the court recommends placement of the offender in a program of shock incarceration or in an intensive program prison, and if the offender is subsequently placed in the

recommended program or prison, the department shall notify the court of the placement and shall include with the notice a brief description of the placement.

If the court recommends placement of the offender in a program of shock incarceration or in an intensive program prison and the department does not subsequently place the offender in the recommended program or prison, the department shall send a notice to the court indicating why the offender was not placed in the recommended program or prison.

If the court does not make a recommendation under this division with respect to an offender and if the department determines as specified in section 5120.031 or 5120.032 of the Revised Code, whichever is applicable, that the offender is eligible for placement in a program or prison of that nature, the department shall screen the offender and determine if there is an available program of shock incarceration or an intensive program prison for which the offender is suited. If there is an available program of shock incarceration or an intensive program prison for which the offender is suited, the department shall notify the court of the proposed placement of the offender as specified in section 5120.031 or 5120.032 of the Revised Code and shall include with the notice a brief description of the placement. The court shall have ten days from receipt of the notice to disapprove the placement.

(J) If a person is convicted of or pleads guilty to aggravated vehicular homicide in violation of division (A)(1) of section 2903.06 of the Revised Code and division (B)(2)(c) of that section applies, the person shall be sentenced pursuant to section 2929.142 of the Revised Code.

CREDIT(S)

(2012 S 337, eff. 9-28-12; 2011 H 86, eff. 9-30-11; 2008 H 130, eff. 4-7-09; 2008 H 280, eff. 4-7-09; 2008 S 220, eff. 9-30-08; 2008 S 184, eff. 9-9-08; 2007 S 10, eff. 1-1-08; 2006 S 281, eff. 4-5-07; 2006 H 461, eff. 4-4-07; 2006 S 260, eff. 1-2-07; 2006 H 137, § 3, eff. 8-3-06; 2006 H 137, § 1, eff. 7-11-06; 2006 H 95, eff. 8-3-06; 2004 H 473, eff. 4-29-05; 2004 H 163, eff. 9-23-04; 2004 H 52, eff. 6-1-04; 2004 H 12, § 3, eff. 4-8-04; 2004 H 12, § 1, eff. 4-8-04; 2002 H 130, eff. 4-7-03; 2002 S 123, eff. 1-1-04; 2002 H 485, eff. 6-13-02; 2002 H 327, eff. 7-8-02; 2000 S 222, eff. 3-22-01; 1999 S 22, eff. 5-17-00; 1999 S 107, eff. 3-23-00; 1999 H 29, eff. 10-29-99; 1999 S 1, eff. 8-6-99; 1998 H 2, eff. 1-1-99; 1997 S 111, eff. 3-17-98; 1997 H 32, eff. 3-10-98; 1997 H 151, eff. 9-16-97; 1996 H 180, eff. 1-1-97; 1996 S 166, eff. 10-17-96; 1996 H 154, eff. 10-4-96; 1996 S 269, eff. 7-1-96; 1996 H 445, eff. 9-3-96; 1996 H 88, eff. 9-3-96; 1995 S 2, eff. 7-1-96)
Current through Files 1 to 140 and Statewide Issue 1 of the 130th GA (2014-2014).

OKLAHOMA

Okla. Stat. Tit. 21 Ann. § 843.5 (2014). Child abuse--Child neglect--Child sexual abuse--Child sexual exploitation--Enabling--Penalties

A. Any parent or other person who shall willfully or maliciously engage in child abuse shall, upon conviction, be guilty of a felony punishable by imprisonment in the custody of the Department of Corrections not exceeding life imprisonment, or by imprisonment in a county jail not exceeding one (1) year, or by a fine of not less than Five Hundred Dollars ($500.00) nor more than Five Thousand Dollars ($5,000.00), or both such fine and imprisonment. As used in this subsection, "child abuse" means the willful or malicious harm or threatened harm or failure to protect from harm or threatened harm to the health, safety, or welfare of a child under eighteen (18) years of age by another, or the act of willfully or maliciously injuring, torturing or maiming a child under eighteen (18) years of age by another.

B. Any parent or other person who shall willfully or maliciously engage in enabling child abuse shall, upon conviction, be punished by imprisonment in the custody of the Department of Corrections not exceeding life imprisonment, or by imprisonment in a county jail not exceeding one (1) year, or by a fine of not less than Five Hundred Dollars ($500.00) nor more than Five Thousand Dollars ($5,000.00) or both such fine and imprisonment. As used in this subsection, "enabling child abuse" means the causing, procuring or permitting of a willful or malicious act of harm or threatened harm or failure to protect from harm or threatened harm to the health, safety, or welfare of a child under eighteen (18) years of age by another. As used in this subsection, "permit" means to authorize or allow for the care of a child by an individual when the person authorizing or allowing such care knows or reasonably should know that the child will be placed at risk of abuse as proscribed by this subsection.

C. Any parent or other person who shall willfully or maliciously engage in child neglect shall, upon conviction, be punished by imprisonment in the custody of the Department of Corrections not exceeding life imprisonment, or by imprisonment in a county jail not exceeding one (1) year, or by a fine of not less than Five Hundred Dollars ($500.00) nor more than Five Thousand Dollars ($5,000.00), or both such fine and imprisonment. As used in this subsection, "child neglect" means the willful or malicious neglect, as defined by paragraph 47 of Section 1-1-105 of Title 10A of the Oklahoma Statutes, of a child under eighteen (18) years of age by another.

D. Any parent or other person who shall willfully or maliciously engage in enabling child neglect shall, upon conviction, be punished by imprisonment in the custody of the Department of Corrections not exceeding life imprisonment, or by imprisonment in a county jail not exceeding one (1) year, or by a fine of not less than Five Hundred Dollars ($500.00) nor more than Five Thousand Dollars ($5,000.00), or both such fine and imprisonment. As used in this subsection, "enabling child neglect" means the causing, procuring or permitting of a willful or malicious act of child neglect, as defined by

paragraph 47 of Section 1-1-105 of Title 10A of the Oklahoma Statutes, of a child under eighteen (18) years of age by another. As used in this subsection, "permit" means to authorize or allow for the care of a child by an individual when the person authorizing or allowing such care knows or reasonably should know that the child will be placed at risk of neglect as proscribed by this subsection.

E. Any parent or other person who shall willfully or maliciously engage in child sexual abuse shall, upon conviction, be punished by imprisonment in the custody of the Department of Corrections not exceeding life imprisonment, or by imprisonment in a county jail not exceeding one (1) year, or by a fine of not less than Five Hundred Dollars ($500.00) nor more than Five Thousand Dollars ($5,000.00), or both such fine and imprisonment, except as provided in Section 51.1a of this title or as otherwise provided in subsection F of this section for a child victim under twelve (12) years of age. Except for persons sentenced to life or life without parole, any person sentenced to imprisonment for two (2) years or more for a violation of this subsection shall be required to serve a term of post-imprisonment supervision pursuant to subparagraph f of paragraph 1 of subsection A of Section 991a of Title 22 of the Oklahoma Statutes under conditions determined by the Department of Corrections. The jury shall be advised that the mandatory post-imprisonment supervision shall be in addition to the actual imprisonment. As used in this section, "child sexual abuse" means the willful or malicious sexual abuse, which includes but is not limited to rape, incest, and lewd or indecent acts or proposals, of a child under eighteen (18) years of age by another.

F. Any parent or other person who shall willfully or maliciously engage in sexual abuse to a child under twelve (12) years of age shall, upon conviction, be punished by imprisonment in the custody of the Department of Corrections for not less than twenty-five (25) years nor more than life imprisonment, and by a fine of not less than Five Hundred Dollars ($500.00) nor more than Five Thousand Dollars ($5,000.00).

G. Any parent or other person who shall willfully or maliciously engage in enabling child sexual abuse shall, upon conviction, be punished by imprisonment in the custody of the Department of Corrections not exceeding life imprisonment, or by imprisonment in a county jail not exceeding one (1) year, or by a fine of not less than Five Hundred Dollars ($500.00) nor more than Five Thousand Dollars ($5,000.00), or both such fine and imprisonment. As used in this subsection, "enabling child sexual abuse" means the causing, procuring or permitting of a willful or malicious act of child sexual abuse, which includes but is not limited to rape, incest, and lewd or indecent acts or proposals, of a child under the age of eighteen (18) by another. As used in this subsection, "permit" means to authorize or allow for the care of a child by an individual when the person authorizing or allowing such care knows or reasonably should know that the child will be placed at risk of sexual abuse as proscribed by this subsection.

H. Any parent or other person who shall willfully or maliciously engage in child sexual exploitation shall, upon conviction, be punished by imprisonment in the custody of the

Department of Corrections not exceeding life imprisonment, or by imprisonment in a county jail not exceeding one (1) year, or by a fine of not less than Five Hundred Dollars ($500.00) nor more than Five Thousand Dollars ($5,000.00), or both such fine and imprisonment except as provided in subsection I of this section for a child victim under twelve (12) years of age. Except for persons sentenced to life or life without parole, any person sentenced to imprisonment for two (2) years or more for a violation of this subsection shall be required to serve a term of post-imprisonment supervision pursuant to subparagraph f of paragraph 1 of subsection A of Section 991a of Title 22 of the Oklahoma Statutes under conditions determined by the Department of Corrections. The jury shall be advised that the mandatory post-imprisonment supervision shall be in addition to the actual imprisonment. As used in this subsection, "child sexual exploitation" means the willful or malicious sexual exploitation, which includes but is not limited to allowing, permitting, or encouraging a child under eighteen (18) years of age to engage in prostitution or allowing, permitting, encouraging or engaging in the lewd, obscene or pornographic photographing, filming, or depicting of a child under eighteen (18) years of age by another.

I. Any parent or other person who shall willfully or maliciously engage in sexual exploitation of a child under twelve (12) years of age shall, upon conviction, be punished by imprisonment in the custody of the Department of Corrections for not less than twenty-five (25) years nor more than life imprisonment, and by a fine of not less than Five Hundred Dollars ($500.00) nor more than Five Thousand Dollars ($5,000.00).

J. Any parent or other person who shall willfully or maliciously engage in enabling child sexual exploitation shall, upon conviction, be punished by imprisonment in the custody of the Department of Corrections not exceeding life imprisonment, or by imprisonment in a county jail not exceeding one (1) year, or by a fine of not less than Five Hundred Dollars ($500.00) nor more than Five Thousand Dollars ($5,000.00), or both such fine and imprisonment. As used in this subsection, "enabling child sexual exploitation" means the causing, procuring or permitting of a willful or malicious act of child sexual exploitation, which includes but is not limited to allowing, permitting, or encouraging a child under eighteen (18) years of age to engage in prostitution or allowing, permitting, encouraging or engaging in the lewd, obscene or pornographic photographing, filming, or depicting of a child under eighteen (18) years of age by another. As used in this subsection, "permit" means to authorize or allow for the care of a child by an individual when the person authorizing or allowing such care knows or reasonably should know that the child will be placed at risk of sexual exploitation as proscribed by this subsection.

K. Notwithstanding any other provision of law, any parent or other person convicted of forcible anal or oral sodomy, rape, rape by instrumentation, or lewd molestation of a child under fourteen (14) years of age subsequent to a previous conviction for any offense of forcible anal or oral sodomy, rape, rape by instrumentation, or lewd molestation of a child under fourteen (14) years of age shall be punished by death or by imprisonment for life without parole.

L. Provided, however, that nothing contained in this section shall prohibit any parent or guardian from using reasonable and ordinary force pursuant to Section 844 of this title.

CREDIT(S)

Laws 1963, c. 53, § 1, emerg. eff. May 8, 1963; Laws 1975, c. 250, § 2, emerg. eff. June 2, 1975; Laws 1977, c. 172, § 1, eff. Oct. 1, 1977; Laws 1982, c. 7, § 1, operative Oct. 1, 1982; Laws 1989, c. 348, § 12, eff. Nov. 1, 1989; Laws 1990, c. 224, § 5, eff. Sept. 1, 1990. Renumbered from Title 21, § 843 and amended by Laws 1995, c. 353, §§ 15, 20, eff. Nov. 1, 1995. Laws 1996, c. 200, § 15, eff. Nov. 1, 1996; Laws 1997, c. 133, § 127, eff. July 1, 1999; Laws 1999, 1st Ex.Sess., c. 5, § 57, eff. July 1, 1999; Laws 2000, c. 291, § 1, eff. Nov. 1, 2000; Laws 2002, c. 455, § 7, emerg. eff. June 5, 2002; Laws 2006, c. 326, § 1, eff. July 1, 2006; Laws 2007, c. 325, § 1, eff. Nov. 1, 2007; Laws 2008, c. 3, § 5, emerg. eff. Feb. 28, 2008. Renumbered from Title 10, § 7115 by Laws 2009, c. 233, § 207, emerg. eff. May 21, 2009; Laws 2010, c. 278, § 18, eff. Nov. 1, 2010; Laws 2014, c. 240, § 1, emerg. eff. May 9, 2014. Current through Chapter 430 (End) of the Second Session of the 54th Legislature (2014)

OREGON

Or. Rev. Stat. § 163.205 (2014). Criminal mistreatment in the first degree

(1) A person commits the crime of criminal mistreatment in the first degree if:

(a) The person, in violation of a legal duty to provide care for another person, or having assumed the permanent or temporary care, custody or responsibility for the supervision of another person, intentionally or knowingly withholds necessary and adequate food, physical care or medical attention from that other person; or

(b) The person, in violation of a legal duty to provide care for a dependent person or elderly person, or having assumed the permanent or temporary care, custody or responsibility for the supervision of a dependent person or elderly person, intentionally or knowingly:

(A) Causes physical injury or injuries to the dependent person or elderly person;

(B) Deserts the dependent person or elderly person in a place with the intent to abandon that person;

(C) Leaves the dependent person or elderly person unattended at a place for such a period of time as may be likely to endanger the health or welfare of that person;

(D) Hides the dependent person's or elderly person's money or property or takes the money or property for, or appropriates the money or property to, any use or purpose not in the due and lawful execution of the person's responsibility;

(E) Takes charge of a dependent or elderly person for the purpose of fraud; or

(F) Leaves the dependent person or elderly person, or causes the dependent person or elderly person to enter or remain, in or upon premises where a chemical reaction involving one or more precursor substances:

(i) Is occurring as part of unlawfully manufacturing a controlled substance or grinding, soaking or otherwise breaking down a precursor substance for the unlawful manufacture of a controlled substance; or

(ii) Has occurred as part of unlawfully manufacturing a controlled substance or grinding, soaking or otherwise breaking down a precursor substance for the unlawful manufacture of a controlled substance and the premises have not been certified as fit for use under ORS 453.885.

(2) As used in this section:

(a) “Controlled substance” has the meaning given that term in ORS 475.005.

(b) “Dependent person” means a person who because of either age or a physical or mental disability is dependent upon another to provide for the person's physical needs.

(c) “Elderly person” means a person 65 years of age or older.

(d) “Legal duty” includes but is not limited to a duty created by familial relationship, court order, contractual agreement or statutory or case law.

(e) “Precursor substance” has the meaning given that term in ORS 475.940.

(3) Criminal mistreatment in the first degree is a Class C felony.

CREDIT(S)

Laws 1973, c. 627, § 2; Laws 1993, c. 364, § 1. Current with 2014 Reg. Sess. legislation effective through 7/1/14 and ballot measures on the 11/4/14 ballot. Revisions to Acts made by the Oregon Reviser were unavailable at the time of publication.

Or. Rev. Stat. § 161.605 (2014). Maximum terms of imprisonment; felonies

The maximum term of an indeterminate sentence of imprisonment for a felony is as follows:

(1) For a Class A felony, 20 years.

(2) For a Class B felony, 10 years.

(3) For a Class C felony, 5 years.

(4) For an unclassified felony as provided in the statute defining the crime.

CREDIT(S)

Laws 1971, c. 743, § 74. . Current with 2014 Reg. Sess. legislation effective through 7/1/14 and ballot measures on the 11/4/14 ballot. Revisions to Acts made by the Oregon Reviser were unavailable at the time of publication

PENNSYLVANIA

18 Pa. Cons. Stat. Ann. § 2701 (2014). Simple assault

(a) Offense defined.-- Except as provided under section 2702 (relating to aggravated assault), a person is guilty of assault if he:

(1) attempts to cause or intentionally, knowingly or recklessly causes bodily injury to another;

(2) negligently causes bodily injury to another with a deadly weapon;

(3) attempts by physical menace to put another in fear of imminent serious bodily injury; or

(4) conceals or attempts to conceal a hypodermic needle on his person and intentionally or knowingly penetrates a law enforcement officer or an officer or an employee of a correctional institution, county jail or prison, detention facility or mental hospital during the course of an arrest or any search of the person.

(b) Grading.--Simple assault is a misdemeanor of the second degree unless committed:

(1) in a fight or scuffle entered into by mutual consent, in which case it is a misdemeanor of the third degree; or

(2) against a child under 12 years of age by a person 18 years of age or older, in which case it is a misdemeanor of the first degree.

CREDIT(S)

1972, Dec. 6, P.L. 1482, No. 334, § 1, effective June 6, 1973. Amended 1988, Dec. 19, P.L. 1275, No. 158, § 1, effective in 60 days; 2001, June 22, P.L. 605, No. 48, § 1, effective in 60 days; 2002, Dec. 9, P.L. 1391, No. 172, § 1, effective in 60 days; 2014, Dec. 18, P.L. 1198, No. 118, § 1, effective Jan. 1, 2014. Current through 2014 Regular Session Acts 1 to 152, 154, 156, 159, 160, 170, 173 to 175 and 180 Current through 2014 Regular Session Acts 1 to 152, 154, 156, 159, 160, 170, 173 to 175 and 180

18 Pa. Cons. Stat. Ann. § 2702 (2014). Aggravated assault

(a) Offense defined.--A person is guilty of aggravated assault if he:

(1) attempts to cause serious bodily injury to another, or causes such injury intentionally, knowingly or recklessly under circumstances manifesting extreme indifference to the value of human life;

(2) attempts to cause or intentionally, knowingly or recklessly causes serious bodily injury to any of the officers, agents, employees or other persons enumerated in subsection (c) or to an employee of an agency, company or other entity engaged in public transportation, while in the performance of duty;

(3) attempts to cause or intentionally or knowingly causes bodily injury to any of the officers, agents, employees or other persons enumerated in subsection (c), in the performance of duty;

(4) attempts to cause or intentionally or knowingly causes bodily injury to another with a deadly weapon;

(5) attempts to cause or intentionally or knowingly causes bodily injury to a teaching staff member, school board member or other employee, including a student employee, of any elementary or secondary publicly-funded educational institution, any elementary or secondary private school licensed by the Department of Education or any elementary or

secondary parochial school while acting in the scope of his or her employment or because of his or her employment relationship to the school;

(6) attempts by physical menace to put any of the officers, agents, employees or other persons enumerated in subsection (c), while in the performance of duty, in fear of imminent serious bodily injury;

(7) uses tear or noxious gas as defined in section 2708(b) (relating to use of tear or noxious gas in labor disputes) or uses an electric or electronic incapacitation device against any officer, employee or other person enumerated in subsection (c) while acting in the scope of his employment;

(8) attempts to cause or intentionally, knowingly or recklessly causes bodily injury to a child less than six years of age, by a person 18 years of age or older; or

(9) attempts to cause or intentionally, knowingly or recklessly causes serious bodily injury to a child less than 13 years of age, by a person 18 years of age or older.

(b) Grading.--Aggravated assault under subsection (a)(1), (2) and (9) is a felony of the first degree. Aggravated assault under subsection (a)(3), (4), (5), (6), (7) and (8) is a felony of the second degree.

(c) Officers, employees, etc., enumerated.--The officers, agents, employees and other persons referred to in subsection (a) shall be as follows:

(1) Police officer.

(2) Firefighter.

(3) County adult probation or parole officer.

(4) County juvenile probation or parole officer.

(5) An agent of the Pennsylvania Board of Probation and Parole.

(6) Sheriff.

(7) Deputy sheriff.

(8) Liquor control enforcement agent.

(9) Officer or employee of a correctional institution, county jail or prison, juvenile detention center or any other facility to which the person has been ordered by the court pursuant to a petition alleging delinquency under 42 Pa.C.S. Ch. 63 (relating to juvenile matters).

(10) Judge of any court in the unified judicial system.

(11) The Attorney General.

(12) A deputy attorney general.

(13) A district attorney.

(14) An assistant district attorney.

(15) A public defender.

(16) An assistant public defender.

(17) A Federal law enforcement official.

(18) A State law enforcement official.

(19) A local law enforcement official.

(20) Any person employed to assist or who assists any Federal, State or local law enforcement official.

(21) Emergency medical services personnel.

(22) Parking enforcement officer.

(23) A magisterial district judge.

(24) A constable.

(25) A deputy constable.

(26) A psychiatric aide.

(27) A teaching staff member, a school board member or other employee, including a student employee, of any elementary or secondary publicly funded educational institution, any elementary or secondary private school licensed by the Department of Education or any elementary or secondary parochial school while acting in the scope of his or her employment or because of his or her employment relationship to the school.

(28) Governor.

(29) Lieutenant Governor.

(30) Auditor General.

(31) State Treasurer.

(32) Member of the General Assembly.

(33) An employee of the Department of Environmental Protection.

(34) An individual engaged in the private detective business as defined in section 2(a) and (b) of the act of August 21, 1953 (P.L. 1273, No. 361), [FN1] known as The Private Detective Act of 1953.

(35) An employee or agent of a county children and youth social service agency or of the legal representative of such agency.

(36) A public utility employee or an employee of an electric cooperative.

(37) A wildlife conservation officer or deputy wildlife conservation officer of the Pennsylvania Game Commission.

(38) A waterways conservation officer or deputy waterways conservation officer of the Pennsylvania Fish and Boat Commission.

(d) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

“Electric or electronic incapacitation device.” A portable device which is designed or intended by the manufacturer to be used, offensively or defensively, to temporarily

immobilize or incapacitate persons by means of electric pulse or current, including devices operated by means of carbon dioxide propellant. The term does not include cattle prods, electric fences or other electric devices when used in agricultural, animal husbandry or food production activities.

"Emergency medical services personnel." The term includes, but is not limited to, doctors, residents, interns, registered nurses, licensed practical nurses, nurse aides, ambulance attendants and operators, paramedics, emergency medical technicians and members of a hospital security force while working within the scope of their employment.

CREDIT(S)

1972, Dec. 6, P.L. 1482, No. 334, § 1, effective June 6, 1973. Amended 1980, Oct. 1, P.L. 689, No. 139, § 1, effective in 60 days; 1980, Oct. 16, P.L. 978, No. 167, § 2, effective in 60 days; 1986, Dec. 11, P.L. 1517, No. 164, § 1, effective in 60 days; 1990, Feb. 2, P.L. 6, No. 4, § 1, effective in 60 days; 1995, July 6, P.L. 238, No. 27, § 1, effective in 60 days; 1996, Feb. 23, P.L. 17, No. 7, § 1, effective in 60 days; 1996, July 2, P.L. 478, No. 75, § 1, effective in 60 days; 1998, Dec. 21, P.L. 1245, No. 159, § 1, effective in 60 days; 2002, Nov. 6, P.L. 1096, No. 132, § 3, effective in 60 days; 2004, Nov. 29, P.L. 1349, No. 173, § 1, effective in 60 days [Jan. 28, 2005]; 2004, Nov. 30, P.L. 1618, No. 207, § 4, effective in 60 days [Jan. 31, 2005]; 2012, Oct. 24, P.L. 1205, No. 150, § 1, effective in 60 days [Dec. 24, 2012]; 2014, Dec. 18, P.L. 1198, No. 118, § 2, effective Jan. 1, 2014. Current through 2014 Regular Session Acts 1 to 152, 154, 156, 159, 160, 170, 173 to 175 and 180

18 Pa. Cons. Stat. Ann. § 106 (2014). Classes of offenses

(a) General rule.--An offense defined by this title for which a sentence of death or of imprisonment is authorized constitutes a crime. The classes of crime are:

(1) Murder of the first degree, of the second degree or of the third degree, first degree murder of an unborn child, second degree murder of an unborn child or third degree murder of an unborn child.

(2) Felony of the first degree.

(3) Felony of the second degree.

(4) Felony of the third degree.

(5) Misdemeanor of the first degree.

(6) Misdemeanor of the second degree.

(7) Misdemeanor of the third degree.

(b) Classification of crimes.--

(1) A crime is a murder of the first degree, of the second degree or of the third degree if it is so designated in this title or if a person convicted of criminal homicide may be sentenced in accordance with the provisions of section 1102 (relating to sentence for murder and murder of an unborn child). A crime is first degree murder of an unborn child, second degree murder of an unborn child or third degree murder of an unborn child if it is so designated in this title or if a person convicted of criminal homicide of an unborn child may be sentenced in accordance with the provisions of section 1102.

(2) A crime is a felony of the first degree if it is so designated in this title or if a person convicted thereof may be sentenced to a term of imprisonment, the maximum of which is more than ten years.

(3) A crime is a felony of the second degree if it is so designated in this title or if a person convicted thereof may be sentenced to a term of imprisonment, the maximum of which is not more than ten years.

(4) A crime is a felony of the third degree if it is so designated in this title or if a person convicted thereof may be sentenced to a term of imprisonment, the maximum of which is not more than seven years.

(5) A crime declared to be a felony, without specification of degree, is of the third degree.

(6) A crime is a misdemeanor of the first degree if it is so designated in this title or if a person convicted thereof may be sentenced to a term of imprisonment, the maximum of which is not more than five years.

(7) A crime is a misdemeanor of the second degree if it is so designated in this title or if a person convicted thereof may be sentenced to a term of imprisonment, the maximum of which is not more than two years.

(8) A crime is a misdemeanor of the third degree if it is so designated in this title or if a person convicted thereof may be sentenced to a term of imprisonment, the maximum of which is not more than one year.

(9) A crime declared to be a misdemeanor, without specification of degree, is of the third degree.

(c) Summary offenses.--An offense defined by this title constitutes a summary offense if:

(1) it is so designated in this title, or in a statute other than this title; or

(2) if a person convicted thereof may be sentenced to a term of imprisonment, the maximum of which is not more than 90 days.

(d) Other crimes.--Any offense declared by law to constitute a crime, without specification of the class thereof, is a misdemeanor of the second degree, if the maximum sentence does not make it a felony under this section.

(e) Section applicable to other statutes.--An offense hereafter defined by any statute other than this title shall be classified as provided in this section.

CREDIT(S)
1972, Dec. 6, P.L. 1482, No. 334, § 1, effective June 6, 1973. Amended 1974, March 26, P.L. 213, No. 46, § 1, imd. effective; 1997, Oct. 2, P.L. 379, No. 44, § 1, effective in 180 days. Current through 2014 Regular Session Acts 1 to 152, 154, 156, 159, 160, 170, 173 to 175 and 180

RHODE ISLAND

R.I. Gen. Laws § 11-9-5.3 (2014). Child abuse--Brendan's Law

(a) This section shall be known and may be referred to as "Brendan's Law".

(b) Whenever a person having care of a child, as defined by § 40-11-2(2), whether assumed voluntarily or because of a legal obligation, including any instance where a child has been placed by his or her parents, caretaker, or licensed or governmental child placement agency for care or treatment, knowingly or intentionally:
(1) Inflicts upon a child serious bodily injury, shall be guilty of first degree child abuse.

(2) Inflicts upon a child any other physical injury, shall be guilty of second degree child abuse.

(c) For the purposes of this section, "serious bodily injury" means physical injury that:

(1) Creates a substantial risk of death;

(2) Causes protracted loss or impairment of the function of any bodily parts, member or organ, including any fractures of any bones;

(3) Causes serious disfigurement; or

(4) Evidences subdural hematoma, intercranial hemorrhage and/or retinal hemorrhages as signs of "shaken baby syndrome" and/or "abusive head trauma."

(d) For the purpose of this section, "other physical injury" is defined as any injury, other than a serious bodily injury, which arises other than from the imposition of nonexcessive corporal punishment.

(e) Any person who commits first degree child abuse shall be imprisoned for not more than twenty (20) years, nor less than ten (10) years and fined not more than ten thousand dollars ($10,000). Any person who is convicted of second degree child abuse shall be imprisoned for not more than ten (10) years, nor less than five (5) years and fined not more than five thousand dollars ($5,000).

(f) Any person who commits first degree child abuse on a child age five (5) or under shall not on the first ten (10) years of his or her sentence be afforded the benefit of suspension or deferment of sentence nor of probation for penalties provided in this section; and provided further, that the court shall order the defendant to serve a minimum of eight and one-half (8 1/2) years or more of the sentence before he or she becomes eligible for parole.

(g) Any person who has been previously convicted of first or second degree child abuse under this section and thereafter commits first degree child abuse shall be imprisoned for not more than forty (40) years, nor less than twenty (20) years and fined not more than twenty thousand ($20,000) dollars and shall be subject to subsection (f) of this section if applicable. Any person who has been previously convicted of first or second degree child abuse under this section and thereafter commits second degree child abuse shall be imprisoned for not more than twenty (20) years, nor less than ten (10) years and fined not more than ten thousand ($10,000) dollars.

CREDIT(S)

P.L. 1995, ch. 211, § 1; P.L. 1996, ch. 130, § 1; P.L. 1996, ch. 134, § 1; P.L. 1997, ch. 139, § 1; P.L. 2001, ch. 109, § 1; P.L. 2011, ch. 271, § 1, eff. July 12, 2011; P.L. 2011,

ch. 318, § 1, eff. July 12, 2011. The statutes and Constitution are current through Chapter 555 of the January 2014 session.

R.I. Gen. Laws § 11-5-14.2 (2014). Battery by an adult upon child ten (10) years of age or younger causing serious bodily injury

(a) Any person eighteen (18) years of age or older who shall commit a battery upon a child ten (10) years of age or younger, causing serious bodily injury, shall be deemed to have committed a felony and shall be punished by imprisonment for not less than five (5) years but not more than twenty (20) years and a fine of not less than five thousand ($5,000) dollars nor more than twenty thousand ($20,000) dollars.

(b)"Serious bodily injury" means physical injury that:

(1) Creates a substantial risk of death;

(2) Causes protracted loss or impairment of the function of any bodily part, member or organ; or

(3) Causes serious permanent disfigurement.

CREDIT(S)

P.L. 1996, ch. 90, § 1; P.L. 1996, ch. 109, § 1. The statutes and Constitution are current through Chapter 555 of the January 2014 session.

SOUTH CAROLINA

S.C. Code Ann.§ 16-3-95 (2014). Infliction or allowing infliction of great bodily injury upon a child; penalty; definition; corporal punishment and traffic accident exceptions.

(A) It is unlawful to inflict great bodily injury upon a child. A person who violates this subsection is guilty of a felony and, upon conviction, must be imprisoned not more than twenty years.

(B) It is unlawful for a child's parent or guardian, person with whom the child's parent or guardian is cohabitating, or any other person responsible for a child's welfare as defined in Section 63-7-20 knowingly to allow another person to inflict great bodily injury upon a child. A person who violates this subsection is guilty of a felony and, upon conviction, must be imprisoned not more than five years.

(C) For purposes of this section, "great bodily injury" means bodily injury which creates a substantial risk of death or which causes serious or permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

(D) This section may not be construed to prohibit corporal punishment or physical discipline which is administered by a parent or person in loco parentis in a manner which does not cause great bodily injury upon a child.

(E) This section does not apply to traffic accidents unless the accident was caused by the driver's reckless disregard for the safety of others.

CREDIT(S)
HISTORY: 2000 Act No. 261, § 2.
Current through End of 2014 Reg. Sess.

S.C. Code Ann.§ 16-25-20 (2014). Acts prohibited; penalties; criminal domestic violence conviction in another state as prior offense.

(A) It is unlawful to:
(1) cause physical harm or injury to a person's own household member; or

(2) offer or attempt to cause physical harm or injury to a person's own household member with apparent present ability under circumstances reasonably creating fear of imminent peril.

(B) Except as otherwise provided in this section, a person who violates the provisions of subsection (A) is guilty of the offense of criminal domestic violence and, upon conviction, must be punished as follows:

(1) for a first offense, the person is guilty of a misdemeanor and must be fined not less than one thousand dollars nor more than two thousand five hundred dollars or imprisoned not more than thirty days. The court may suspend the imposition or execution of all or part of the fine conditioned upon the offender completing, to the satisfaction of the court, and in accordance with the provisions of Section 16-25-20(H), a program designed to treat batterers. Notwithstanding the provisions of Sections 22-3-540, 22-3-545, and 22-3-550, an offense pursuant to the provisions of this subsection must be tried in summary court;

(2) for a second offense, the person is guilty of a misdemeanor and must be fined not less than two thousand five hundred dollars nor more than five thousand dollars and imprisoned not less than a mandatory minimum of thirty days nor more than one year. The court may suspend the imposition or execution of all or part of the sentence, except the thirty-day mandatory minimum sentence, conditioned upon the offender completing,

to the satisfaction of the court, and in accordance with the provisions of Section 16-25-20(H), a program designed to treat batterers. If a person is sentenced to a mandatory minimum of thirty days pursuant to the provisions of this subsection, the judge may provide that the sentence be served two days during the week or on weekends until the sentence is completed and is eligible for early release based on credits he is able to earn during the service of his sentence, including, but not limited to, good-time credits;

(3) for a third or subsequent offense, the person is guilty of a felony and must be imprisoned not less than a mandatory minimum of one year but not more than five years.

(C) For the purposes of subsections (A) and (B), a conviction within the previous ten years for a violation of subsection (A), Section 16-25-65, or a criminal domestic violence offense in another state which includes similar elements to the provisions of subsection (A) or Section 16-25-65, constitutes a prior offense. A conviction for a violation of a criminal domestic violence offense in another state does not constitute a prior offense if the offense is committed against a person other than a "household member" as defined in Section 16-25-10.

(D) A person who violates the terms and conditions of an order of protection issued in this State under Chapter 4, Title 20, the "Protection from Domestic Abuse Act", or a valid protection order related to domestic or family violence issued by a court of another state, tribe, or territory is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than thirty days and fined not more than five hundred dollars.

(E) Unless the complaint is voluntarily dismissed or the charge is dropped prior to the scheduled trial date, a person charged with a violation provided in this chapter must appear before a judge for disposition of the case.

(F) When a person is convicted of a violation of Section 16-25-65 or sentenced pursuant to subsection (C), the court may suspend execution of all or part of the sentence, except for the mandatory minimum sentence, and place the offender on probation, conditioned upon:

(1) the offender completing, to the satisfaction of the court, a program designed to treat batterers;

(2) fulfillment of all the obligations arising under court order pursuant to this section and Section 16-25-65; and

(3) other reasonable terms and conditions of probation as the court may determine necessary to ensure the protection of the victim.

(G) In determining whether or not to suspend the imposition or execution of all or part of a sentence as provided in this section, the court must consider the nature and severity of

the offense, the number of times the offender has repeated the offense, and the best interests and safety of the victim.

(H) An offender who participates in a batterer treatment program pursuant to this section, must participate in a program offered through a government agency, nonprofit organization, or private provider approved by the Department of Social Services. The offender must pay a reasonable fee for participation in the treatment program but no person may be denied treatment due to inability to pay. If the offender suffers from a substance abuse problem, the judge may order, or the batterer treatment program may refer, the offender to supplemental treatment coordinated through the Department of Alcohol and Other Drug Abuse Services with the local alcohol and drug treatment authorities pursuant to Section 61-12-20. The offender must pay a reasonable fee for participation in the substance abuse treatment program, but no person may be denied treatment due to inability to pay.

CREDIT(S)
HISTORY: 1984 Act No. 484, § 1; 1994 Act No. 519, § 1; 2003 Act No. 92, § 3, eff January 1, 2004; 2005 Act No. 166, § 2, eff January 1, 2006; 2008 Act No. 255, § 1, eff June 4, 2008. Current through End of 2014 Reg. Sess.

SOUTH DAKOTA

S.D. Codified Laws § 26-10-1 (2014). Abuse of or cruelty to minor as felony--Reasonable force as defense--Limitation of action

Any person who abuses, exposes, tortures, torments, or cruelly punishes a minor in a manner which does not constitute aggravated assault, is guilty of a Class 4 felony. If the victim is less than seven years of age, the person is guilty of a Class 3 felony. The use of reasonable force, as provided in § 22-18-5, is a defense to an offense under this section. Notwithstanding § 23A-42-2, a charge brought pursuant to this section may be commenced at any time before the victim becomes age twenty-five.

If any person convicted of this offense is the minor's parent, guardian, or custodian, the court shall include as part of the sentence, or conditions required as part of suspended execution or imposition of such sentence, that the person receive instruction on parenting approved or provided by the Department of Social Services.

CREDIT(S)
Source: SDC 1939, §§ 13.3301, 13.3303; SDCL § 26-10-5; SL 1969, ch 32; SL 1975, ch 179, § 1; SL 1977, ch 189, § 96; SL 1983, ch 211, § 2; SL 1998, ch 162, § 3; SL 2001, ch 145, § 1; SL 2008, ch 140, § 1. Current through the 2014 Regular Session, 2014 general election results, and Supreme Court Rule 14-10

S.D. Codified Laws § 22-6-1 (2014). Felony classes and penalties--Restitution--Habitual criminal sentences

< Amended by 2014 South Dakota Laws SB 39 (West's No. 224).>

Except as otherwise provided by law, felonies are divided into the following nine classes which are distinguished from each other by the following maximum penalties which are authorized upon conviction:

(1) Class A felony: death or life imprisonment in the state penitentiary. A lesser sentence than death or life imprisonment may not be given for a Class A felony. In addition, a fine of fifty thousand dollars may be imposed;

(2) Class B felony: life imprisonment in the state penitentiary. A lesser sentence may not be given for a Class B felony. In addition, a fine of fifty thousand dollars may be imposed;

(3) Class C felony: life imprisonment in the state penitentiary. In addition, a fine of fifty thousand dollars may be imposed;

(4) Class 1 felony: fifty years imprisonment in the state penitentiary. In addition, a fine of fifty thousand dollars may be imposed;

(5) Class 2 felony: twenty-five years imprisonment in the state penitentiary. In addition, a fine of fifty thousand dollars may be imposed;

(6) Class 3 felony: fifteen years imprisonment in the state penitentiary. In addition, a fine of thirty thousand dollars may be imposed;

(7) Class 4 felony: ten years imprisonment in the state penitentiary. In addition, a fine of twenty thousand dollars may be imposed;

(8) Class 5 felony: five years imprisonment in the state penitentiary. In addition, a fine of ten thousand dollars may be imposed; and

(9) Class 6 felony: two years imprisonment in the state penitentiary or a fine of four thousand dollars, or both.

If the defendant is under the age of eighteen years at the time of the offense and found guilty of a Class A or B felony, the maximum sentence may be life imprisonment in the state penitentiary. In addition, a fine of fifty thousand dollars may be imposed.

The court, in imposing sentence on a defendant who has been found guilty of a felony, shall order in addition to the sentence that is imposed pursuant to the provisions of this section, that the defendant make restitution to any victim in accordance with the provisions of chapter 23A-28.

Nothing in this section limits increased sentences for habitual criminals under §§ 22-7-7, 22-7-8, and 22-7-8.1.

Credits:

Source: SDC 1939, § 13.0606; SL 1976, ch 158, §§ 6-1, 6-4; SL 1977, ch 189, § 16; SL 1978, ch 158, § 4; SL 1979, ch 160, § 1; SL 1980, ch 173, § 8; SL 1985, ch 192, § 2; SL 1997, ch 143, § 5; SL 2005, ch 120, § 148; SL 2014, ch 105, § 1. Current through the 2014 Regular Session, 2014 general election results, and Supreme Court Rule 14-10

TENNESSEE

Tenn. Code § 39-15-401 (2014). Abuse or neglect

(a)(1) A person commits aggravated assault who:

(A) Intentionally or knowingly commits an assault as defined in § 39-13-101, and the assault:

(i) Results in serious bodily injury to another;

(ii) Results in the death of another;

(iii) Involved the use or display of a deadly weapon; or

(iv) Was intended to cause bodily injury to another by strangulation or bodily injury by strangulation was attempted; or

(B) Recklessly commits an assault as defined in § 39-13-101(a)(1), and the assault:

(i) Results in serious bodily injury to another;

(ii) Results in the death of another; or

(iii) Involved the use or display of a deadly weapon.

(2) For purposes of subdivision (a)(1)(A)(iii) “strangulation” means intentionally impeding normal breathing or circulation of the blood by applying pressure to the throat or neck or by blocking the nose and mouth of another person.

(b) A person commits aggravated assault who, being the parent or custodian of a child or the custodian of an adult, intentionally or knowingly fails or refuses to protect the child or adult from an aggravated assault as defined in subdivision (a)(1) or aggravated child abuse as defined in § 39-15-402.

(c) A person commits aggravated assault who, after having been enjoined or restrained by an order, diversion or probation agreement of a court of competent jurisdiction from in any way causing or attempting to cause bodily injury or in any way committing or attempting to commit an assault against an individual or individuals, intentionally or knowingly attempts to cause or causes bodily injury or commits or attempts to commit an assault against the individual or individuals.

(d) A person commits aggravated assault who, with intent to cause physical injury to any public employee or an employee of a transportation system, public or private, whose operation is authorized by title 7, chapter 56, causes physical injury to the employee while the public employee is performing a duty within the scope of the public employee's employment or while the transportation system employee is performing an assigned duty on, or directly related to, the operation of a transit vehicle.

(e)(1)(A) Aggravated assault under:

(i) Subsection (d) is a Class A misdemeanor;

(ii) Subdivision (a)(1)(A)(i), (iii), or (iv) is a Class C felony;

(iii) Subdivision (a)(1)(A)(ii) is a Class C felony;

(iv) Subdivision (b) or (c) is a Class C felony;

(v) Subdivision (a)(1)(B)(i) or (iii) is a Class D felony;

(vi) Subdivision (a)(1)(B)(ii) is a Class D felony.

(B) However, the maximum fine shall be fifteen thousand dollars ($15,000) for an offense under subdivision (a)(1)(A), subdivision (a)(1)(B), subsection (c), or subsection (d) committed against any of the following persons who are discharging or attempting to discharge their official duties:

(A) Law enforcement officer;

(B) Firefighter;

(C) Medical fire responder;

(D) Paramedic;

(E) Emergency medical technician;

(F) Health care provider; or

(G) Any other first responder.

(2) In addition to any other punishment that may be imposed for a violation of this section, if the relationship between the defendant and the victim of the assault is such that the victim is a victim as defined in § 36-3-601(5), and if, as determined by the court, the defendant possesses the ability to pay a fine in an amount not in excess of two hundred dollars ($200), then the court shall impose a fine at the level of the defendant's ability to pay, but not in excess of two hundred dollars ($200). The additional fine shall be paid to the clerk of the court imposing sentence, who shall transfer it to the state treasurer, who shall credit the fine to the general fund. All fines so credited to the general fund shall be subject to appropriation by the general assembly for the exclusive purpose of funding family violence shelters and shelter services. Such appropriation shall be in addition to any amount appropriated pursuant to § 67-4-411.

CREDIT(S)

1989 Pub.Acts, c. 591, § 1; 1990 Pub.Acts, c. 980, § 2; 1990 Pub.Acts, c. 1030, §§ 12, 13; 1993 Pub.Acts, c. 306, § 1, eff. May 12, 1993; 1995 Pub.Acts, c. 452, § 1, eff. June 12, 1995; 1996 Pub.Acts, c. 830, § 1, eff. July 1, 1996; 1996 Pub.Acts, c. 1009, § 19, eff. Nov. 1, 1996; 1998 Pub.Acts, c. 1049, § 9, eff. May 18, 1998; 2002 Pub.Acts, c. 649, § 2, eff. July 1, 2002; 2005 Pub.Acts, c. 353, § 10, eff. June 7, 2005; 2009 Pub.Acts, c. 394, § 1, eff. June 9, 2009; 2009 Pub.Acts, c. 412, § 2, eff. July 1, 2009; 2010 Pub.Acts, c. 981, § 3, eff. May 27, 2010; 2011 Pub.Acts, c. 401, § 1, eff. July 1, 2011; 2014 Pub.Acts, c. 325, § 2, eff. July 1, 2014; 2014 Pub.Acts, c. 407, § 1, eff. July 1, 2014; 2014 Pub.Acts, c. 461, §§ 2, 3, eff. July 1, 2014. Current through end of the 2014 Second Reg. Sess.

Tenn. Code § 40-35-111 (2014). Authorized sentences; prison terms or fines; reports

(a) A sentence for a felony is a determinate sentence.

(b) The authorized terms of imprisonment and fines for felonies are:

(1) Class A felony, not less than fifteen (15) nor more than sixty (60) years. In addition, the jury may assess a fine not to exceed fifty thousand dollars ($50,000), unless otherwise provided by statute;

(2) Class B felony, not less than eight (8) nor more than thirty (30) years. In addition, the jury may assess a fine not to exceed twenty-five thousand dollars ($25,000), unless otherwise provided by statute;

(3) Class C felony, not less than three (3) years nor more than fifteen (15) years. In addition, the jury may assess a fine not to exceed ten thousand dollars ($10,000), unless otherwise provided by statute;

(4) Class D felony, not less than two (2) years nor more than twelve (12) years. In addition, the jury may assess a fine not to exceed five thousand dollars ($5,000), unless otherwise provided by statute; and

(5) Class E felony, not less than one (1) year nor more than six (6) years. In addition, the jury may assess a fine not to exceed three thousand dollars ($3,000), unless otherwise provided by statute.

(c)(1) A sentence to pay a fine, when imposed on a corporation for an offense defined in title 39 or for any offense defined in any other title for which no special corporate fine is specified, is a sentence to pay an amount, not to exceed:

(A) Three hundred fifty thousand dollars ($350,000) for a Class A felony;

(B) Three hundred thousand dollars ($300,000) for a Class B felony;

(C) Two hundred fifty thousand dollars ($250,000) for a Class C felony;

(D) One hundred twenty-five thousand dollars ($125,000) for a Class D felony; and

(E) Fifty thousand dollars ($50,000) for a Class E felony.

(2) If a special fine for a corporation is expressly specified in the statute that defines an offense, the fine fixed shall be within the limits specified in the statute.

(d) A sentence for a misdemeanor is a determinate sentence.

(e) The authorized terms of imprisonment and fines for misdemeanors are:

(1) Class A misdemeanor, not greater than eleven (11) months, twenty-nine (29) days or a fine not to exceed two thousand five hundred dollars ($2,500), or both, unless otherwise provided by statute;

(2) Class B misdemeanor, not greater than six (6) months or a fine not to exceed five hundred dollars ($500), or both, unless otherwise provided by statute; and

(3) Class C misdemeanor, not greater than thirty (30) days or a fine not to exceed fifty dollars ($50.00), or both, unless otherwise provided by statute.

(f) In order to furnish the general assembly with information necessary to make an informed determination as to whether the increase in the cost of living and changes in income for residents of Tennessee has resulted in the minimum and maximum authorized fine ranges no longer being commensurate with the amount of fine deserved for the offense committed, every five (5) years, on or before January 15, the fiscal review committee shall report to the chief clerks of the senate and the house of representatives of the general assembly the percentage of change in the average consumer price index (all items-city average) as published by the United States department of labor, bureau of labor statistics and shall inform the general assembly what the statutory minimum and maximum authorized fine for each offense classification would be if adjusted to reflect the compounded cost-of-living increases during the five-year period.

CREDIT(S)
1989 Pub.Acts, c. 591, § 6; 2007 Pub.Acts, c. 61, § 1, eff. July 1, 2007. Current through end of the 2014 Second Reg. Sess.

TEXAS

Tex. Penal Code § 22.04 (2014). Injury to a Child, Elderly Individual, or Disabled Individual

(a) A person commits an offense if he intentionally, knowingly, recklessly, or with criminal negligence, by act or intentionally, knowingly, or recklessly by omission, causes to a child, elderly individual, or disabled individual:

(1) serious bodily injury;

(2) serious mental deficiency, impairment, or injury; or

(3) bodily injury.

(a-1) A person commits an offense if the person is an owner, operator, or employee of a group home, nursing facility, assisted living facility, intermediate care facility for persons with mental retardation, or other institutional care facility and the person intentionally, knowingly, recklessly, or with criminal negligence by omission causes to a child, elderly individual, or disabled individual who is a resident of that group home or facility:

(1) serious bodily injury;

(2) serious mental deficiency, impairment, or injury; or

(3) bodily injury.

(b) An omission that causes a condition described by Subsection (a)(1), (2), or (3) or (a-1)(1), (2), or (3) is conduct constituting an offense under this section if:

(1) the actor has a legal or statutory duty to act; or

(2) the actor has assumed care, custody, or control of a child, elderly individual, or disabled individual.

(c) In this section:

(1) "Child" means a person 14 years of age or younger.

(2) "Elderly individual" means a person 65 years of age or older.

(3) "Disabled individual" means a person older than 14 years of age who by reason of age or physical or mental disease, defect, or injury is substantially unable to protect himself from harm or to provide food, shelter, or medical care for himself.

(4) Repealed by Acts 2011, 82nd Leg., ch. 620 (S.B. 688), § 11.

(d) For purposes of an omission that causes a condition described by Subsection (a)(1), (2), or (3), the actor has assumed care, custody, or control if he has by act, words, or course of conduct acted so as to cause a reasonable person to conclude that he has accepted responsibility for protection, food, shelter, and medical care for a child, elderly

individual, or disabled individual. For purposes of an omission that causes a condition described by Subsection (a-1)(1), (2), or (3), the actor acting during the actor's capacity as owner, operator, or employee of a group home or facility described by Subsection (a-1) is considered to have accepted responsibility for protection, food, shelter, and medical care for the child, elderly individual, or disabled individual who is a resident of the group home or facility.

(e) An offense under Subsection (a)(1) or (2) or (a-1)(1) or (2) is a felony of the first degree when the conduct is committed intentionally or knowingly. When the conduct is engaged in recklessly, the offense is a felony of the second degree.

(f) An offense under Subsection (a)(3) or (a-1)(3) is a felony of the third degree when the conduct is committed intentionally or knowingly, except that an offense under Subsection (a)(3) is a felony of the second degree when the conduct is committed intentionally or knowingly and the victim is a disabled individual residing in a center, as defined by Section 555.001, Health and Safety Code, or in a facility licensed under Chapter 252, Health and Safety Code, and the actor is an employee of the center or facility whose employment involved providing direct care for the victim. When the conduct is engaged in recklessly, the offense is a state jail felony.

(g) An offense under Subsection (a) is a state jail felony when the person acts with criminal negligence. An offense under Subsection (a-1) is a state jail felony when the person, with criminal negligence and by omission, causes a condition described by Subsection (a-1)(1), (2), or (3).

(h) A person who is subject to prosecution under both this section and another section of this code may be prosecuted under either or both sections. Section 3.04 does not apply to criminal episodes prosecuted under both this section and another section of this code. If a criminal episode is prosecuted under both this section and another section of this code and sentences are assessed for convictions under both sections, the sentences shall run concurrently.

(i) It is an affirmative defense to prosecution under Subsection (b)(2) that before the offense the actor:

(1) notified in person the child, elderly individual, or disabled individual that he would no longer provide any of the care described by Subsection (d); and

(2) notified in writing the parents or person other than himself acting in loco parentis to the child, elderly individual, or disabled individual that he would no longer provide any of the care described by Subsection (d); or

(3) notified in writing the Department of Protective and Regulatory Services that he would no longer provide any of the care set forth in Subsection (d).

(j) Written notification under Subsection (i)(2) or (i)(3) is not effective unless it contains the name and address of the actor, the name and address of the child, elderly individual, or disabled individual, the type of care provided by the actor, and the date the care was discontinued.

(k) It is a defense to prosecution under this section that the act or omission consisted of:

(1) reasonable medical care occurring under the direction of or by a licensed physician; or

(2) emergency medical care administered in good faith and with reasonable care by a person not licensed in the healing arts.

(l) It is an affirmative defense to prosecution under this section:

(1) that the act or omission was based on treatment in accordance with the tenets and practices of a recognized religious method of healing with a generally accepted record of efficacy;

(2) for a person charged with an act of omission causing to a child, elderly individual, or disabled individual a condition described by Subsection (a)(1), (2), or (3) that:

(A) there is no evidence that, on the date prior to the offense charged, the defendant was aware of an incident of injury to the child, elderly individual, or disabled individual and failed to report the incident; and

(B) the person:

(i) was a victim of family violence, as that term is defined by Section 71.004, Family Code, committed by a person who is also charged with an offense against the child, elderly individual, or disabled individual under this section or any other section of this title;

(ii) did not cause a condition described by Subsection (a)(1), (2), or (3); and

(iii) did not reasonably believe at the time of the omission that an effort to prevent the person also charged with an offense against the child, elderly individual, or disabled individual from committing the offense would have an effect; or

(3) that:

(A) the actor was not more than three years older than the victim at the time of the offense; and

(B) the victim was a child at the time of the offense.

CREDIT(S)

Acts 1973, 63rd Leg., p. 883, ch. 399, § 1, eff. Jan. 1, 1974. Amended by Acts 1977, 65th Leg., p. 2067, ch. 819, § 1, eff. Aug. 29, 1977; Acts 1979, 66th Leg., p. 365, ch. 162, § 1, eff. Aug. 27, 1979; Acts 1981, 67th Leg., p. 472, ch. 202, § 4, eff. Sept. 1, 1981; Acts 1981, 67th Leg., p. 2397, ch. 604, § 1, eff. Sept. 1, 1981; Acts 1989, 71st Leg., ch. 357, § 1, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 497, § 1, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 900, § 1.01, eff. Sept. 1, 1994; Acts 1995, 74th Leg., ch. 76, § 8.139, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 62, § 15.02(b), eff. Sept. 1, 1999; Acts 2005, 79th Leg., ch. 268, § 1.125(a), eff. Sept. 1, 2005; Acts 2005, 79th Leg., ch. 949, § 46, eff. Sept. 1, 2005; Acts 2009, 81st Leg., ch. 284, § 38, eff. June 11, 2009; Acts 2011, 82nd Leg., ch. 620 (S.B. 688), §§ 5, 11, eff. Sept. 1, 2011. Current through the end of the 2014 Third Called Session of the 83rd Legislature

Tex. Penal Code § 12.32 (2014). First Degree Felony Punishment

(a) An individual adjudged guilty of a felony of the first degree shall be punished by imprisonment in the Texas Department of Criminal Justice for life or for any term of not more than 99 years or less than 5 years.

(b) In addition to imprisonment, an individual adjudged guilty of a felony of the first degree may be punished by a fine not to exceed $10,000.

CREDIT(S)

Acts 1973, 63rd Leg., p. 883, ch. 399, § 1, eff. Jan. 1, 1974. Renumbered from V.T.C.A., Penal Code § 12.31 by Acts 1973, 63rd Leg., p. 1124, ch. 426, art. 2, § 2, eff. Jan. 1, 1974. Amended by Acts 1979, 66th Leg., p. 1058, ch. 488, § 1, eff. Sept. 1, 1979; Acts 1993, 73rd Leg., ch. 900, § 1.01, eff. Sept. 1, 1994; Acts 2009, 81st Leg., ch. 87, § 25.146, eff. Sept. 1, 2009. Current through the end of the 2014 Third Called Session of the 83rd Legislature

Tex. Penal Code § 12.33 (2014). Second Degree Felony Punishment

(a) An individual adjudged guilty of a felony of the second degree shall be punished by imprisonment in the Texas Department of Criminal Justice for any term of not more than 20 years or less than 2 years.

(b) In addition to imprisonment, an individual adjudged guilty of a felony of the second degree may be punished by a fine not to exceed $10,000.

CREDIT(S)

Acts 1973, 63rd Leg., p. 883, ch. 399, § 1, eff. Jan. 1, 1974. Renumbered from V.T.C.A., Penal Code § 12.32 by Acts 1973, 63rd Leg., p. 1124, ch. 426, art. 2, § 2, eff. Jan. 1, 1974. Amended by Acts 1993, 73rd Leg., ch. 900, § 1.01, eff. Sept. 1, 1994; Acts 2009, 81st Leg., ch. 87, § 25.147, eff. Sept. 1, 2009. Current through the end of the 2014 Third Called Session of the 83rd Legislature

Tex. Penal Code § 12.34 (2014). Third Degree Felony Punishment

(a) An individual adjudged guilty of a felony of the third degree shall be punished by imprisonment in the Texas Department of Criminal Justice for any term of not more than 10 years or less than 2 years.

(b) In addition to imprisonment, an individual adjudged guilty of a felony of the third degree may be punished by a fine not to exceed $10,000.

CREDIT(S)

Acts 1973, 63rd Leg., p. 883, ch. 399, § 1, eff. Jan. 1, 1974. Renumbered from V.T.C.A., Penal Code § 12.33 by Acts 1973, 63rd Leg., p. 1124, ch. 426, art. 2, § 2, eff. Jan. 1,1974. Amended by Acts 1989, 71st Leg., ch. 785, § 4.01, eff. Sept. 1, 1989; Acts 1990, 71st Leg., 6th C.S., ch. 25, § 7, eff. June 18, 1990; Acts 1993, 73rd Leg., ch. 900, § 1.01, eff. Sept. 1, 1994; Acts 2009, 81st Leg., ch. 87, § 25.148, eff. Sept. 1, 2009. Current through the end of the 2014 Third Called Session of the 83rd Legislature

UTAH

Utah Code Ann. § 76-5-109 (2014). Child abuse--Child abandonment

(1) As used in this section:

(a) “Child” means a human being who is under 18 years of age.

(b)(i) “Child abandonment” means that a parent or legal guardian of a child:

(A) intentionally ceases to maintain physical custody of the child;

(B) intentionally fails to make reasonable arrangements for the safety, care, and physical custody of the child; and

(C)(I) intentionally fails to provide the child with food, shelter, or clothing;

(II) manifests an intent to permanently not resume physical custody of the child; or

(III) for a period of at least 30 days:

(Aa) intentionally fails to resume physical custody of the child; and

(Bb) fails to manifest a genuine intent to resume physical custody of the child.

(ii) "Child abandonment" does not include:

(A) safe relinquishment of a child pursuant to the provisions of Section 62A-4a-802; or

(B) giving legal consent to a court order for termination of parental rights:

(I) in a legal adoption proceeding; or

(II) in a case where a petition for the termination of parental rights, or the termination of a guardianship, has been filed.

(c) "Child abuse" means any offense described in Subsection (2), (3), or (4) or in Section 76-5-109.1.

(d) "Enterprise" is as defined in Section 76-10-1602.

(e) "Physical injury" means an injury to or condition of a child which impairs the physical condition of the child, including:

(i) a bruise or other contusion of the skin;

(ii) a minor laceration or abrasion;

(iii) failure to thrive or malnutrition; or

(iv) any other condition which imperils the child's health or welfare and which is not a serious physical injury as defined in Subsection (1)(f).

(f)(i) “Serious physical injury” means any physical injury or set of injuries that:

(A) seriously impairs the child's health;

(B) involves physical torture;

(C) causes serious emotional harm to the child; or

(D) involves a substantial risk of death to the child.

(ii) “Serious physical injury” includes:

(A) fracture of any bone or bones;

(B) intracranial bleeding, swelling or contusion of the brain, whether caused by blows, shaking, or causing the child's head to impact with an object or surface;

(C) any burn, including burns inflicted by hot water, or those caused by placing a hot object upon the skin or body of the child;

(D) any injury caused by use of a dangerous weapon as defined in Section 76-1-601;

(E) any combination of two or more physical injuries inflicted by the same person, either at the same time or on different occasions;

(F) any damage to internal organs of the body;

(G) any conduct toward a child that results in severe emotional harm, severe developmental delay or intellectual disability, or severe impairment of the child's ability to function;

(H) any injury that creates a permanent disfigurement or protracted loss or impairment of the function of a bodily member, limb, or organ;

(I) any conduct that causes a child to cease breathing, even if resuscitation is successful following the conduct; or

(J) any conduct that results in starvation or failure to thrive or malnutrition that jeopardizes the child's life.

(2) Any person who inflicts upon a child serious physical injury or, having the care or custody of such child, causes or permits another to inflict serious physical injury upon a child is guilty of an offense as follows:

(a) if done intentionally or knowingly, the offense is a felony of the second degree;

(b) if done recklessly, the offense is a felony of the third degree; or

(c) if done with criminal negligence, the offense is a class A misdemeanor.

(3) Any person who inflicts upon a child physical injury or, having the care or custody of such child, causes or permits another to inflict physical injury upon a child is guilty of an offense as follows:

(a) if done intentionally or knowingly, the offense is a class A misdemeanor;

(b) if done recklessly, the offense is a class B misdemeanor; or

(c) if done with criminal negligence, the offense is a class C misdemeanor.

(4) A person who commits child abandonment, or encourages or causes another to commit child abandonment, or an enterprise that encourages, commands, or causes another to commit child abandonment, is:

(a) except as provided in Subsection (4)(b), guilty of a felony of the third degree; or

(b) guilty of a felony of the second degree, if, as a result of the child abandonment:

(i) the child suffers a serious physical injury; or

(ii) the person or enterprise receives, directly or indirectly, any benefit.

(5)(a) In addition to the penalty described in Subsection (4)(b), the court may order the person or enterprise described in Subsection (4)(b)(ii) to pay the costs of investigating

and prosecuting the offense and the costs of securing any forfeiture provided for under Subsection (5)(b).

(b) Any tangible or pecuniary benefit received under Subsection (4)(b)(ii) is subject to criminal or civil forfeiture pursuant to Title 24, Chapter 1, Utah Uniform Forfeiture Procedures Act.

(6) A parent or legal guardian who provides a child with treatment by spiritual means alone through prayer, in lieu of medical treatment, in accordance with the tenets and practices of an established church or religious denomination of which the parent or legal guardian is a member or adherent shall not, for that reason alone, be considered to have committed an offense under this section.

(7) A parent or guardian of a child does not violate this section by selecting a treatment option for the medical condition of the child, if the treatment option is one that a reasonable parent or guardian would believe to be in the best interest of the child.

(8) A person is not guilty of an offense under this section for conduct that constitutes:

(a) reasonable discipline or management of a child, including withholding privileges;

(b) conduct described in Section 76-2-401; or

(c) the use of reasonable and necessary physical restraint or force on a child:

(i) in self-defense;

(ii) in defense of others;

(iii) to protect the child; or

(iv) to remove a weapon in the possession of a child for any of the reasons described in Subsections (8)(c)(i) through (iii).

CREDIT(S)

Laws 1981, c. 64, § 1; Laws 1992, c. 192, § 1; Laws 1997, c. 289, § 5, eff. May 5, 1997; Laws 1997, c. 303, § 2, eff. May 5, 1997; Laws 1998, c. 81, § 1, eff. May 4, 1998; Laws 1999, c. 67, § 1, eff. March 17, 1999; Laws 2000, c. 125, § 1, eff. May 1, 2000; Laws 2005, c. 95, § 4, eff. May 2, 2005; Laws 2006, c. 75, § 14, eff. May 1, 2006; Laws 2008,

c. 45, § 2, eff. May 5, 2008; Laws 2011, c. 366, § 161, eff. May 10, 2011. Current through 2014 General Session.

Utah Code Ann. § 76-3-203 (2014). Felony conviction--Indeterminate term of imprisonment

A person who has been convicted of a felony may be sentenced to imprisonment for an indeterminate term as follows:

(1) In the case of a felony of the first degree, unless the statute provides otherwise, for a term of not less than five years and which may be for life.

(2) In the case of a felony of the second degree, unless the statute provides otherwise, for a term of not less than one year nor more than 15 years.

(3) In the case of a felony of the third degree, unless the statute provides otherwise, for a term not to exceed five years.

CREDIT(S)

Laws 1973, c. 196, § 76-3-203; Laws 1976, c. 9, § 1; Laws 1977, c. 88, § 1; Laws 1983, c. 88, § 5; Laws 1995, c. 244, § 2, eff. May 1, 1995; Laws 1997, c. 289, § 2, eff. May 5, 1997; Laws 2000, c. 214, § 1, eff. March 14, 2000; Laws 2003, c. 148, § 2, eff. May 5, 2003. Current through 2014 General Session.

Utah Code Ann. § 76-5-110 (2014). Abuse or neglect of a child with a disability

(1) As used in this section:

(a) "Abuse" means:

(i) inflicting physical injury, as that term is defined in Section 76-5-109;

(ii) having the care or custody of a child with a disability, causing or permitting another to inflict physical injury, as that term is defined in Section 76-5-109; or

(iii) unreasonable confinement.

(b) "Caretaker" means:

(i) any parent, legal guardian, or other person having under that person's care and custody a child with a disability; or

(ii) any person, corporation, or public institution that has assumed by contract or court order the responsibility to provide food, shelter, clothing, medical, and other necessities to a child with a disability.

(c) "Child with a disability" means any person under 18 years of age who is impaired because of mental illness, mental deficiency, physical illness or disability, or other cause, to the extent that the person is unable to care for the person's own personal safety or to provide necessities such as food, shelter, clothing, and medical care.

(d) "Neglect" means failure by a caretaker to provide care, nutrition, clothing, shelter, supervision, or medical care.

(2) Any caretaker who intentionally, knowingly, or recklessly abuses or neglects a child with a disability is guilty of a third degree felony.

(3)(a) A parent or legal guardian who provides a child with treatment by spiritual means alone through prayer, in lieu of medical treatment, in accordance with the tenets and practices of an established church or religious denomination of which the parent or legal guardian is a member or adherent shall not, for that reason alone, be considered to be in violation under this section.

(b) Subject to Subsection 78A-6-117 (2)(n)(iii), the exception under Subsection (3)(a) does not preclude a court from ordering medical services from a physician licensed to engage in the practice of medicine to be provided to the child where there is substantial risk of harm to the child's health or welfare if the treatment is not provided.

(c) A caretaker of a child with a disability does not violate this section by selecting a treatment option for a medical condition of a child with a disability, if the treatment option is one that a reasonable caretaker would believe to be in the best interest of the child with a disability.

CREDIT(S)

Laws 1988, c. 39, § 1; Laws 1993, c. 299, § 1; Laws 1995, c. 77, § 1, eff. May 1, 1995; Laws 1997, c. 303, § 3, eff. May 5, 1997; Laws 2005, c. 95, § 5, eff. May 2, 2005; Laws 2006, c. 75, § 15, eff. May 1, 2006; Laws 2008, c. 3, § 235, eff. Feb. 7, 2008; Laws 2009, c. 219, § 1, eff. May 12, 2009; Laws 2011, c. 366, § 162, eff. May 10, 2011. Current through 2014 General Session.

VERMONT

Vt. Stat. Ann. Tit. 13 § 1304 (2014). Cruelty to children under 10 by one over 16

A person over the age of 16 years, having the custody, charge or care of a child under 10 years of age, who wilfully assaults, ill treats, neglects or abandons or exposes such child, or causes or procures such child to be assaulted, ill-treated, neglected, abandoned or exposed, in a manner to cause such child unnecessary suffering, or to endanger his or her health, shall be imprisoned not more than two years or fined not more than $500.00, or both.

CREDIT(S)

1971, Adj. Sess., No. 199, § 15.

Current through the laws of the Adjourned Session of the 2014-2014 Vermont General Assembly (2014).

Vt. Stat. Ann. Tit. 13 § 1305 (2014). Cruelty by person having custody of another

A person having the custody, charge, care or control of another person, who inflicts unnecessary cruelty upon such person, or unnecessarily and cruelly fails to provide such person with proper food, drink, shelter or protection from the weather, or unnecessarily and cruelly neglects to properly care for such person, shall be imprisoned not more than one year or fined not more than $200.00, or both.

CREDIT(S)

1971, Adj. Sess., No. 199, § 15.

Current through the laws of the Adjourned Session of the 2014-2014 Vermont General Assembly (2014).

VIRGINIA

VA Code Ann. § 18.2-371.1 (2014). Abuse and neglect of children; penalty; abandoned infant

A. Any parent, guardian, or other person responsible for the care of a child under the age of 18 who by willful act or omission or refusal to provide any necessary care for the child's health causes or permits serious injury to the life or health of such child shall be guilty of a Class 4 felony. For purposes of this subsection, "serious injury" shall include but not be limited to (i) disfigurement, (ii) a fracture, (iii) a severe burn or laceration, (iv) mutilation, (v) maiming, (vi) forced ingestion of dangerous substances, or (vii) life-threatening internal injuries.

B. 1. Any parent, guardian, or other person responsible for the care of a child under the age of 18 whose willful act or omission in the care of such child was so gross, wanton and culpable as to show a reckless disregard for human life shall be guilty of a Class 6 felony.

2. If a prosecution under this subsection is based solely on the accused parent having left the child at a hospital or rescue squad, it shall be an affirmative defense to prosecution of a parent under this subsection that such parent safely delivered the child to a hospital that provides 24-hour emergency services or to an attended rescue squad that employs emergency medical technicians, within the first 14 days of the child's life. In order for the affirmative defense to apply, the child shall be delivered in a manner reasonably calculated to ensure the child's safety.

C. Any parent, guardian or other person having care, custody, or control of a minor child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination shall not, for that reason alone, be considered in violation of this section.

CREDIT(S)

Acts 1975, c. 14; Acts 1975, c. 15; Acts 1988, c. 228; Acts 1990, c. 638; Acts 1993, c. 628; Acts 2003, c. 816; Acts 2003, c. 822; Acts 2006, c. 935. Current through the End of 2014 Reg. Sess. and includes cc. 1 to 5 from the 2014 Sp. S. I.

VA Code Ann. § 18.2-10 (2014). Punishment for conviction of felony; penalty

The authorized punishments for conviction of a felony are:

(a) For Class 1 felonies, death, if the person so convicted was 18 years of age or older at the time of the offense and is not determined to be mentally retarded pursuant to § 19.2-264.3:1.1, or imprisonment for life and, subject to subdivision (g), a fine of not more than $100,000. If the person was under 18 years of age at the time of the offense or is determined to be mentally retarded pursuant to § 19.2-264.3:1.1, the punishment shall be imprisonment for life and, subject to subdivision (g), a fine of not more than $100,000.

(b) For Class 2 felonies, imprisonment for life or for any term not less than 20 years and, subject to subdivision (g), a fine of not more than $100,000.

(c) For Class 3 felonies, a term of imprisonment of not less than five years nor more than 20 years and, subject to subdivision (g), a fine of not more than $100,000.

(d) For Class 4 felonies, a term of imprisonment of not less than two years nor more than 10 years and, subject to subdivision (g), a fine of not more than $100,000.

(e) For Class 5 felonies, a term of imprisonment of not less than one year nor more than 10 years, or in the discretion of the jury or the court trying the case without a jury, confinement in jail for not more than 12 months and a fine of not more than $2,500, either or both.

(f) For Class 6 felonies, a term of imprisonment of not less than one year nor more than five years, or in the discretion of the jury or the court trying the case without a jury, confinement in jail for not more than 12 months and a fine of not more than $2,500, either or both.

(g) Except as specifically authorized in subdivision (e) or (f), or in Class 1 felonies for which a sentence of death is imposed, the court shall impose either a sentence of imprisonment together with a fine, or imprisonment only. However, if the defendant is not a natural person, the court shall impose only a fine.

For any felony offense committed (i) on or after January 1, 1995, the court may, and (ii) on or after July 1, 2000, shall, except in cases in which the court orders a suspended term of confinement of at least six months, impose an additional term of not less than six months nor more than three years, which shall be suspended conditioned upon successful completion of a period of post-release supervision pursuant to § 19.2-295.2 and compliance with such other terms as the sentencing court may require. However, such additional term may only be imposed when the sentence includes an active term of incarceration in a correctional facility.

For a felony offense prohibiting proximity to children as described in subsection A of § 18.2-370.2, the sentencing court is authorized to impose the punishment set forth in that section in addition to any other penalty provided by law.CREDIT(S)

Credit(s)

Acts 1975, c. 14; Acts 1975, c. 15; Acts 1977, c. 492; Acts 1990, c. 788; Acts 1991, c. 7; Acts 1994, Sp. S. II, c. 1, eff. Oct. 13, 1994; Acts 1994, Sp. S. II, c. 2, eff. Oct. 13, 1994; Acts 1995, c. 427; Acts 2000, c. 361; Acts 2000, c. 767; Acts 2000, c. 770; Acts 2003, c. 1031, eff. April 29, 2003; Acts 2003, c. 1040, eff. May 1, 2003; Acts 2006, c. 36; Acts 2006, c. 733; Acts 2008, c. 579.

WASHINGTON

Wash. Rev. Code 9A.36.021 (2014). Assault in the second degree

(1) A person is guilty of assault in the second degree if he or she, under circumstances not amounting to assault in the first degree:

(a) Intentionally assaults another and thereby recklessly inflicts substantial bodily harm; or

(b) Intentionally and unlawfully causes substantial bodily harm to an unborn quick child by intentionally and unlawfully inflicting any injury upon the mother of such child; or

(c) Assaults another with a deadly weapon; or

(d) With intent to inflict bodily harm, administers to or causes to be taken by another, poison or any other destructive or noxious substance; or

(e) With intent to commit a felony, assaults another; or

(f) Knowingly inflicts bodily harm which by design causes such pain or agony as to be the equivalent of that produced by torture; or

(g) Assaults another by strangulation or suffocation.

(2)(a) Except as provided in (b) of this subsection, assault in the second degree is a class B felony.

(b) Assault in the second degree with a finding of sexual motivation under RCW 9.94A.835 or 13.40.135 is a class A felony.

Credit(s)
[2011 c 166 § 1, eff. July 22, 2011; 2007 c 79 § 2; 2003 c 53 § 64, eff. July 1, 2004; 2001 2nd sp.s. c 12 § 355; 1997 c 196 § 2. Prior: 1988 c 266 § 2; 1988 c 206 § 916; 1988 c 158 § 2; 1987 c 324 § 2; 1986 c 257 § 5.]Current with all 2014 Legislation and Initiative Measures 594 (2015 c 1) and 1351 (2015 c 2)

Wash. Rev. Code 9A.36.031 (2014). Assault in the third degree

(1) A person is guilty of assault in the third degree if he or she, under circumstances not amounting to assault in the first or second degree:

(a) With intent to prevent or resist the execution of any lawful process or mandate of any court officer or the lawful apprehension or detention of himself, herself, or another person, assaults another; or

(b) Assaults a person employed as a transit operator or driver, the immediate supervisor of a transit operator or driver, a mechanic, or a security officer, by a public or private transit company or a contracted transit service provider, while that person is performing his or her official duties at the time of the assault; or

(c) Assaults a school bus driver, the immediate supervisor of a driver, a mechanic, or a security officer, employed by a school district transportation service or a private company under contract for transportation services with a school district, while the person is performing his or her official duties at the time of the assault; or

(d) With criminal negligence, causes bodily harm to another person by means of a weapon or other instrument or thing likely to produce bodily harm; or

(e) Assaults a firefighter or other employee of a fire department, county fire marshal's office, county fire prevention bureau, or fire protection district who was performing his or her official duties at the time of the assault; or

(f) With criminal negligence, causes bodily harm accompanied by substantial pain that extends for a period sufficient to cause considerable suffering; or

(g) Assaults a law enforcement officer or other employee of a law enforcement agency who was performing his or her official duties at the time of the assault; or

(h) Assaults a peace officer with a projectile stun gun; or

(i) Assaults a nurse, physician, or health care provider who was performing his or her nursing or health care duties at the time of the assault. For purposes of this subsection: "Nurse" means a person licensed under chapter 18.79 RCW; "physician" means a person licensed under chapter 18.57 or 18.71 RCW; and "health care provider" means a person certified under chapter 18.71 or 18.73 RCW who performs emergency medical services or a person regulated under Title 18 RCW and employed by, or contracting with, a hospital licensed under chapter 70.41 RCW; or

(j) Assaults a judicial officer, court-related employee, county clerk, or county clerk's employee, while that person is performing his or her official duties at the time of the assault or as a result of that person's employment within the judicial system. For purposes of this subsection, "court-related employee" includes bailiffs, court reporters, judicial assistants, court managers, court managers' employees, and any other employee, regardless of title, who is engaged in equivalent functions.

(2) Assault in the third degree is a class C felony.

CREDIT(S)
[2014 c 256 § 1, eff. July 28, 2014. Prior: 2011 c 336 § 359, eff. July 22, 2011; 2011 c 238 § 1, eff. July 22, 2011; 2005 c 458 § 1, eff. July 24, 2005; 1999 c 328 § 1; 1998 c 94 § 1; 1997 c 172 § 1; 1996 c 266 § 1; 1990 c 236 § 1; 1989 c 169 § 1; 1988 c 158 § 3; 1986 c 257 § 6.] Current with all 2014 Legislation and Initiative Measures 594 (2015 c 1) and 1351 (2015 c 2)

Wash. Rev. Code 9A.36.120 (2014). Assault of a child in the first degree

(1) A person eighteen years of age or older is guilty of the crime of assault of a child in the first degree if the child is under the age of thirteen and the person:

(a) Commits the crime of assault in the first degree, as defined in RCW 9A.36.011, against the child; or

(b) Intentionally assaults the child and either:

(i) Recklessly inflicts great bodily harm; or

(ii) Causes substantial bodily harm, and the person has previously engaged in a pattern or practice either of (A) assaulting the child which has resulted in bodily harm that is greater than transient physical pain or minor temporary marks, or (B) causing the child physical pain or agony that is equivalent to that produced by torture.

(2) Assault of a child in the first degree is a class A felony.\

CREDIT(S)

[1992 c 145 § 1.]

Current with all 2014 Legislation and Initiative Measures 594 (2015 c 1) and 1351 (2015 c 2)

Wash. Rev. Code 36.130 (2014). Assault of a child in the second degree

(1) A person eighteen years of age or older is guilty of the crime of assault of a child in the second degree if the child is under the age of thirteen and the person:

(a) Commits the crime of assault in the second degree, as defined in RCW 9A.36.021, against a child; or

(b) Intentionally assaults the child and causes bodily harm that is greater than transient physical pain or minor temporary marks, and the person has previously engaged in a pattern or practice either of (i) assaulting the child which has resulted in bodily harm that is greater than transient pain or minor temporary marks, or (ii) causing the child physical pain or agony that is equivalent to that produced by torture.

(2) Assault of a child in the second degree is a class B felony.

CREDIT(S)

[1992 c 145 § 1.]

Current with all 2014 Legislation and Initiative Measures 594 (2015 c 1) and 1351 (2015 c 2)

Wash. Rev. Code 36.140 (2014). Assault of a child in the third degree

(1) A person eighteen years of age or older is guilty of the crime of assault of a child in the third degree if the child is under the age of thirteen and the person commits the crime of assault in the third degree as defined in RCW 9A.36.031(1)(d) or (f) against the child.

(2) Assault of a child in the third degree is a class C felony.

Credit(s)
2010 c 167 § 1, eff. June 10, 2010; 2009 c 281 § 1, eff. July 26, 2009.]
Current with all 2014 Legislation and Initiative Measures 594 (2015 c 1) and 1351 (2015 c 2)

Wash. Rev. Code 9A.20.021 (2014). Maximum sentences for crimes committed July 1, 1984, and after

(1) Felony. Unless a different maximum sentence for a classified felony is specifically established by a statute of this state, no person convicted of a classified felony shall be punished by confinement or fine exceeding the following:

(a) For a class A felony, by confinement in a state correctional institution for a term of life imprisonment, or by a fine in an amount fixed by the court of fifty thousand dollars, or by both such confinement and fine;

(b) For a class B felony, by confinement in a state correctional institution for a term of ten years, or by a fine in an amount fixed by the court of twenty thousand dollars, or by both such confinement and fine;

(c) For a class C felony, by confinement in a state correctional institution for five years, or by a fine in an amount fixed by the court of ten thousand dollars, or by both such confinement and fine.

(2) Gross misdemeanor. Every person convicted of a gross misdemeanor defined in Title 9A RCW shall be punished by imprisonment in the county jail for a maximum term fixed by the court of up to three hundred sixty-four days, or by a fine in an amount fixed by the court of not more than five thousand dollars, or by both such imprisonment and fine.

(3) Misdemeanor. Every person convicted of a misdemeanor defined in Title 9A RCW shall be punished by imprisonment in the county jail for a maximum term fixed by the

court of not more than ninety days, or by a fine in an amount fixed by the court of not more than one thousand dollars, or by both such imprisonment and fine.

(4) This section applies to only those crimes committed on or after July 1, 1984.

CREDIT(S)

[2011 c 96 § 13, eff. July 22, 2011. Prior: 2003 c 288 § 7, eff. July 27, 2003; 2003 c 53 § 63, eff. July 1, 2004; 1982 c 192 § 10.] Current with all 2014 Legislation and Initiative Measures 594 (2015 c 1) and 1351 (2015 c 2)

WEST VIRGINIA

W. Va. Code, § 61-8D-1 (2014). Definitions

In this article, unless a different meaning plainly is required:

In this article, unless a different meaning is plainly required:

(1) "Abuse" means the infliction upon a minor of physical injury by other than accidental means.

(2) "Child" means any person under eighteen years of age not otherwise emancipated by law.

(3) "Controlled substance" means controlled substance as that term is defined in subsection (d), section one hundred one, article one, chapter sixty-a of this code.

(4) "Custodian" means a person over the age of fourteen years who has or shares actual physical possession or care and custody of a child on a full-time or temporary basis, regardless of whether such person has been granted custody of the child by any contract, agreement or legal proceeding. "Custodian" shall also include, but not be limited to, the spouse of a parent, guardian or custodian, or a person cohabiting with a parent, guardian or custodian in the relationship of husband and wife, where such spouse or other person shares actual physical possession or care and custody of a child with the parent, guardian or custodian.

(5) "Guardian" means a person who has care and custody of a child as the result of any contract, agreement or legal proceeding.

(6) “Gross neglect” means reckless or intentional conduct, behavior or inaction by a parent, guardian or custodian that evidences a clear disregard for a minor child's health, safety or welfare.

(7) “Neglect” means the unreasonable failure by a parent, guardian or custodian of a minor child to exercise a minimum degree of care to assure the minor child's physical safety or health. For purposes of this article, the following do not constitute “neglect” by a parent, guardian or custodian:

(A) Permitting a minor child to participate in athletic activities or other similar activities that if done properly are not inherently dangerous, regardless of whether that participation creates a risk of bodily injury;

(B) Exercising discretion in choosing a lawful method of educating a minor child; or

(C) Exercising discretion in making decisions regarding the nutrition and medical care provided to a minor child based upon religious conviction or reasonable personal belief.

(8) “Parent” means the biological father or mother of a child, or the adoptive mother or father of a child.

(9) “Sexual contact” means sexual contact as that term is defined in section one, article eight-b, chapter sixty-one of this code.

(10) “Sexual exploitation” means an act whereby:

(A) A parent, custodian, guardian or other person in a position of trust to a child, whether for financial gain or not, persuades, induces, entices or coerces the child to engage in sexually explicit conduct as that term is defined in section one, article eight-c, chapter sixty-one of this code; or

(B) A parent, guardian, custodian or other person in a position of trust in relation to a child persuades, induces, entices or coerces the child to display his or her sex organs for the sexual gratification of the parent, guardian, custodian, person in a position of trust or a third person, or to display his or her sex organs under circumstances in which the parent, guardian, custodian or other person in a position of trust knows such display is likely to be observed by others who would be affronted or alarmed.

(11) “Sexual intercourse” means sexual intercourse as that term is defined in section one, article eight-b, chapter sixty-one of this code.

(12) “Sexual intrusion” means sexual intrusion as that term is defined in section one, article eight-b, chapter sixty-one of this code.

(13) A “person in a position of trust in relation to a child” refers to any person who is acting in the place of a parent and charged with any of a parent's rights, duties or responsibilities concerning a child or someone responsible for the general supervision of a child's welfare, or any person who by virtue of their occupation or position is charged with any duty or responsibility for the health, education, welfare, or supervision of the child.
CREDIT(S)
Acts 1988, c. 42; Acts 2005, c. 74, eff. 90 days after April 9, 2005; Acts 2014, c. 36, eff. June 6, 2014. Current with laws of the 2014 Second Extraordinary Session.

W. Va. Code, § 61-8D-3 (2014). Child abuse resulting in injury; child abuse or neglect creating risk of injury; criminal penalties

(a) If any parent, guardian or custodian shall abuse a child and by such abuse cause such child bodily injury as such term is defined in section one, article eight-b of this chapter, then such parent, guardian or custodian shall be guilty of a felony and, upon conviction thereof, shall be fined not less than $100 nor more than $1,000 and imprisoned in a state correctional facility for not less than one nor more than five years, or in the discretion of the court, be confined in jail for not more than one year.
(b) If any parent, guardian or custodian shall abuse a child and by such abuse cause said child serious bodily injury as such term is defined in section one, article eight-b of this chapter, then such parent, guardian or custodian shall be guilty of a felony and, upon conviction thereof, shall be fined not less than $1,000 nor more than $5,000 and committed to the custody of the Division of Corrections not less than two nor more than ten years.
(c) Any parent, guardian or custodian who abuses a child and by the abuse creates a substantial risk of death or serious bodily injury, as serious bodily injury is defined in section one, article eight-b of this chapter, to the child is guilty of a felony and, upon conviction thereof, shall be fined not more than $3,000 or imprisoned in a state correctional facility for not less than one nor more than five years, or both.
(d)(1) If a parent, guardian or custodian who has not previously been convicted under this section, section four of this article or a law of another state or the federal government with the same essential elements abuses a child and by the abuse creates a substantial risk of bodily injury, as bodily injury is defined in section one, article eight-b of this chapter, to the child is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $100 nor more than $1,000 or confined in jail not more than six months, or both.
(2) For a second offense under this subsection or for a person with one prior conviction under this section, section four of this article or a law of another state or the federal government with the same essential elements, the parent, guardian or custodian is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $1,500 and confined in jail not less than thirty days nor more than one year, or both.
(3) For a third or subsequent offense under this subsection or for a person with two or more prior convictions under this section, section four of this article or a law of another

state or the federal government with the same essential elements, the parent, guardian or custodian is guilty of a felony and, upon conviction thereof, shall be fined not more than $3,000 and imprisoned in a state correctional facility not less than one year nor more than three years, or both.

(e) Any person convicted of a misdemeanor offense under this section:
(1) May be required to complete parenting classes, substance abuse counseling, anger management counseling, or other appropriate services, or any combination thereof, as determined by Department of Health and Human Resources, Bureau for Children and Families through its services assessment evaluation, which shall be submitted to the court of conviction upon written request;
(2) Shall not be required to register pursuant to article thirteen, chapter fifteen of this code; and
(3) Shall not, solely by virtue of the conviction, have their custody, visitation or parental rights automatically restricted.
(f) Nothing in this section shall preclude a parent, guardian or custodian from providing reasonable discipline to a child.
CREDIT(S)
Acts 1988, c. 42; Acts 1992, c. 51; Acts 1996, c. 106, eff. 90 days after March 9, 1996; Acts 2014, c. 36, eff. June 6, 2014. Current with laws of the 2014 Second Extraordinary Session.

WISCONSIN

Wis. Stat. .Ann. § 948.03 (2014). Physical abuse of a child

(1) Definitions. In this section, "recklessly" means conduct which creates a situation of unreasonable risk of harm to and demonstrates a conscious disregard for the safety of the child.

(2) Intentional causation of bodily harm. (a) Whoever intentionally causes great bodily harm to a child is guilty of a Class C felony.

(b) Whoever intentionally causes bodily harm to a child is guilty of a Class H felony.

(c) Whoever intentionally causes bodily harm to a child by conduct which creates a high probability of great bodily harm is guilty of a Class F felony.

(3) Reckless causation of bodily harm. (a) Whoever recklessly causes great bodily harm to a child is guilty of a Class E felony.

(b) Whoever recklessly causes bodily harm to a child is guilty of a Class I felony.

(c) Whoever recklessly causes bodily harm to a child by conduct which creates a high probability of great bodily harm is guilty of a Class H felony.

(4) Failing to act to prevent bodily harm. (a) A person responsible for the child's welfare is guilty of a Class F felony if that person has knowledge that another person intends to cause, is causing or has intentionally or recklessly caused great bodily harm to the child and is physically and emotionally capable of taking action which will prevent the bodily harm from occurring or being repeated, fails to take that action and the failure to act exposes the child to an unreasonable risk of great bodily harm by the other person or facilitates the great bodily harm to the child that is caused by the other person.

(b) A person responsible for the child's welfare is guilty of a Class H felony if that person has knowledge that another person intends to cause, is causing or has intentionally or recklessly caused bodily harm to the child and is physically and emotionally capable of taking action which will prevent the bodily harm from occurring or being repeated, fails to take that action and the failure to act exposes the child to an unreasonable risk of bodily harm by the other person or facilitates the bodily harm to the child that is caused by the other person.

(6) Treatment through prayer. A person is not guilty of an offense under this section solely because he or she provides a child with treatment by spiritual means through prayer alone for healing in accordance with the religious method of healing permitted under s. 48.981(3)(c)4. or 448.03(6) in lieu of medical or surgical treatment.

Credit(s)

1987 Act 332, § 55, eff. July 1, 1989.

2001 Act 109, §§ 887 to 895, eff. Feb. 1, 2003.

Current through 2014 Act 380, published 4/25/2014

Wis. Stat. .Ann. § 939.50 (2014). Classification of felonies

(1) Felonies in the statutes are classified as follows:

(a) Class A felony.

(b) Class B felony.

(c) Class C felony.

(d) Class D felony.

(e) Class E felony.

(f) Class F felony.

(g) Class G felony.

(h) Class H felony.

(i) Class I felony.

(2) A felony is a Class A, B, C, D, E, F, G, H, or I felony when it is so specified in the statutes.

(3) Penalties for felonies are as follows:

(a) For a Class A felony, life imprisonment.

(b) For a Class B felony, imprisonment not to exceed 60 years.

(c) For a Class C felony, a fine not to exceed $ 100,000 or imprisonment not to exceed 40 years, or both.

(d) For a Class D felony, a fine not to exceed $ 100,000 or imprisonment not to exceed 25 years, or both.

(e) For a Class E felony, a fine not to exceed $ 50,000 or imprisonment not to exceed 15 years, or both.

(f) For a Class F felony, a fine not to exceed $25,000 or imprisonment not to exceed 12 years and 6 months, or both.

(g) For a Class G felony, a fine not to exceed $25,000 or imprisonment not to exceed 10 years, or both.

(h) For a Class H felony, a fine not to exceed $10,000 or imprisonment not to exceed 6 years, or both.

(i) For a Class I felony, a fine not to exceed $10,000 or imprisonment not to exceed 3 years and 6 months, or both.

Credit(s)
2001 Act 109, §§ 545 to 559, eff. Feb. 1, 2003. Current through 2014 Act 380, published 4/25/2014

WYOMING

Wyo. Stat. Ann. § 6-2-503 (2014). Child abuse; penalty

(a) A person who is not responsible for a child's welfare as defined by W.S. 14-3-202(a)(i), is guilty of child abuse, a felony punishable by imprisonment for not more than five (5) years, if:

(i) The actor is an adult or is at least six (6) years older than the victim; and

(ii) The actor intentionally or recklessly inflicts upon a child under the age of sixteen (16) years:

(A) Physical injury as defined in W.S. 14-3-202(a)(ii)(B); or

(B) Mental injury as defined in W.S. 14-3-202(a)(ii)(A).

(b) A person is guilty of child abuse, a felony punishable by imprisonment for not more than five (5) years, if a person responsible for a child's welfare as defined in W.S. 14-3-202(a)(i) intentionally or recklessly inflicts upon a child under the age of eighteen (18) years:

(i) Physical injury as defined in W.S. 14-3-202(a)(ii)(B), excluding reasonable corporal punishment; or

(ii) Mental injury as defined in W.S. 14-3-202(a)(ii)(A).

(c) Aggravated child abuse is a felony punishable by imprisonment for not more than twenty-five (25) years if in the course of committing the crime of child abuse, as defined in subsection (a) or (b) of this section, the person intentionally or recklessly inflicts serious bodily injury upon the victim.

CREDIT(S)
Laws 1982, ch. 75, § 3; Laws 1983, ch. 171, § 1; Laws 1984, ch. 44, § 2; Laws 1998, Sp. & Bud. Sess., ch. 93, § 1, eff. July 1, 1998; Laws 2009, ch. 41, § 1, eff. July 1, 2009. Current though the 2014 Budget Session

Wyo. Stat. Ann. § 14-3-202 (2014). Definitions

(a) As used in W.S. 14-3-201 through 14-3-216:

(i) "A person responsible for a child's welfare" includes the child's parent, noncustodial parent, guardian, custodian, stepparent, foster parent or other person, institution or agency having the physical custody or control of the child;

(ii) "Abuse" means inflicting or causing physical or mental injury, harm or imminent danger to the physical or mental health or welfare of a child other than by accidental means, including abandonment, unless the abandonment is a relinquishment substantially in accordance with W.S. 14-11-101 through 14-11-109, excessive or unreasonable corporal punishment, malnutrition or substantial risk thereof by reason of intentional or unintentional neglect, and the commission or allowing the commission of a sexual offense against a child as defined by law:

(A) "Mental injury" means an injury to the psychological capacity or emotional stability of a child as evidenced by an observable or substantial impairment in his ability to function within a normal range of performance and behavior with due regard to his culture;

(B) "Physical injury" means any harm to a child including but not limited to disfigurement, impairment of any bodily organ, skin bruising if greater in magnitude than minor bruising associated with reasonable corporal punishment, bleeding, burns, fracture of any bone, subdural hematoma or substantial malnutrition;

(C) "Substantial risk" means a strong possibility as contrasted with a remote or insignificant possibility;

(D) "Imminent danger" includes threatened harm and means a statement, overt act, condition or status which represents an immediate and substantial risk of sexual abuse or physical or mental injury. "Imminent danger" includes violation of W.S. 31-5-233(m).

(iii) "Child" means any person under the age of eighteen (18);

(iv) "Child protective agency" means the field or regional offices of the department of family services;

(v) "Court proceedings" means child protective proceedings which have as their purpose the protection of a child through an adjudication of whether the child is abused or neglected, and the making of an appropriate order of disposition;

(vi) “Institutional child abuse and neglect” means situations of child abuse or neglect where a foster home or other public or private residential home, institution or agency is responsible for the child's welfare;

(vii) “Neglect” means a failure or refusal by those responsible for the child's welfare to provide adequate care, maintenance, supervision, education or medical, surgical or any other care necessary for the child's well being. Treatment given in good faith by spiritual means alone, through prayer, by a duly accredited practitioner in accordance with the tenets and practices of a recognized church or religious denomination is not child neglect for that reason alone;

(viii) “State agency” means the state department of family services;

(ix) “Subject of the report” means any child reported under W.S. 14-3-201 through 14-3-216 or the child's parent, guardian or other person responsible for the child's welfare;

(x) “Unsubstantiated report” means any report made pursuant to W.S. 14-3-201 through 14-3-216 that, upon investigation, is not supported by a preponderance of the evidence;

(xi) “Substantiated report” means any report of child abuse or neglect made pursuant to W.S. 14-3-201 through 14-3-216 that, upon investigation, is supported by a preponderance of the evidence;

(xii) to (xiv) Repealed by Laws 2002, Sp. & Bud. Sess., Ch. 86, § 3.

(xv) “Collaborative” means the interagency children's collaborative created by W.S. 14-3-215;

(xvi) “Department” means the state department of family services and its local offices;

(xvii) “Transportation” means the provision of a means to convey the child from one place to another by the custodian or someone acting on his behalf in the performance of required duties, but does not require the state to provide incidental travel or to purchase a motor vehicle for the child's own use to travel.

CREDIT(S)

Laws 1971, ch. 181, § 1; Laws 1977, ch. 110, § 2; Laws 1978, ch. 25, § 1; Laws 1983, ch. 146, § 1; Laws 1991, ch. 161, § 3; Laws 1993, ch. 1, § 1; Laws 1993, ch. 44, § 1; Laws 1994, ch. 39, § 1; Laws 1995, ch. 136, § 1, eff. July 1, 1995; Laws 2002, Sp. & Bud. Sess., ch. 86, §§ 2, 3 eff. July 1, 2002; Laws 2002, Sp. & Bud. Sess., ch. 89, § 1, eff. July 1, 2002; Laws 2003, ch. 167, § 2, eff. July 1, 2003; Laws 2005, ch. 23, § 1, eff. July

1, 2005; Laws 2005, ch. 236, § 2, eff. July 1, 2005; Laws 2006, ch. 114, § 1, eff. March 24, 2006; Laws 2007, ch. 72, § 1, eff. July 1, 2007.
Current through P.L. 113-185 approved 10-6-14

Federal

18 U.S.C. §113 (2014). Assaults within maritime and territorial jurisdiction

(a) Whoever, within the special maritime and territorial jurisdiction of the United States, is guilty of an assault shall be punished as follows:

(1) Assault with intent to commit murder or a violation of section 2241 or 2242, by a fine under this title, imprisonment for not more than 20 years, or both.

(2) Assault with intent to commit any felony, except murder or a violation of section 2241 or 2242, by a fine under this title or imprisonment for not more than ten years, or both.

(3) Assault with a dangerous weapon, with intent to do bodily harm, by a fine under this title or imprisonment for not more than ten years, or both.

(4) Assault by striking, beating, or wounding, by a fine under this title or imprisonment for not more than 1 year, or both.

(5) Simple assault, by a fine under this title or imprisonment for not more than six months, or both, or if the victim of the assault is an individual who has not attained the age of 16 years, by fine under this title or imprisonment for not more than 1 year, or both.

(6) Assault resulting in serious bodily injury, by a fine under this title or imprisonment for not more than ten years, or both.

(7) Assault resulting in substantial bodily injury to a spouse or intimate partner, a dating partner, or an individual who has not attained the age of 16 years, by a fine under this title or imprisonment for not more than 5 years, or both.

(8) Assault of a spouse, intimate partner, or dating partner by strangling, suffocating, or attempting to strangle or suffocate, by a fine under this title, imprisonment for not more than 10 years, or both.

(b) Definitions.--In this section--

(1) the term "substantial bodily injury" means bodily injury which involves--

(A) a temporary but substantial disfigurement; or

(B) a temporary but substantial loss or impairment of the function of any bodily member, organ, or mental faculty;

(2) the term "serious bodily injury" has the meaning given that term in section 1365 of this title;

(3) the terms "dating partner" and "spouse or intimate partner" have the meanings [FN1] given those terms in section 2266;

(4) the term "strangling" means intentionally, knowingly, or recklessly impeding the normal breathing or circulation of the blood of a person by applying pressure to the throat or neck, regardless of whether that conduct results in any visible injury or whether there is any intent to kill or protractedly injure the victim; and

(5) the term "suffocating" means intentionally, knowingly, or recklessly impeding the normal breathing of a person by covering the mouth of the person, the nose of the person, or both, regardless of whether that conduct results in any visible injury or whether there is any intent to kill or protractedly injure the victim.

CREDIT(S)

(June 25, 1948, c. 645, 62 Stat. 689; May 29, 1976, Pub.L. 94-297, § 3, 90 Stat. 585; Nov. 10, 1986, Pub.L. 99-646, § 87(c)(2), (3), 100 Stat. 3623; Nov. 14, 1986, Pub.L. 99-654, § 3(a)(2), (3), 100 Stat. 3663; Sept. 13, 1994, Pub.L. 103-322, Title XVII, § 170201(a)-(d), Title XXXII, § 320101(c), Title XXXIII, § 330016(2)(B), 108 Stat. 2042, 2043, 2108, 2148; Oct. 11, 1996, Pub.L. 104-294, Title VI, § 604(b)(7), (12)(B), 110 Stat. 3507; Pub.L. 113-4, Title IX, § 906(a), Mar. 7, 2014, 127 Stat. 124.)

AMERICAN SAMOA

Am. Samoa Code § 46.3810 (2014) Endangering the welfare of a child.

(a) A person commits the crime of endangering the welfare of a child if:

(1) he knowingly acts in a manner that creates a substantial risk to the life, body, or health of a child less than 18 years old;

(2) he knowingly encourages, aids or causes a child less than 18 years old to engage in any conduct which causes or tends to cause a substantial risk to the life, body, or health of the child; or

(3) being a parent, guardian, or other person legally charged with the care or custody of a child less than 18 years old, he recklessly fails or refuses to exercise reasonable diligence in the care or control of the child to prevent a substantial risk to the life, body, or health of the child.

(b) Endangering the welfare of a child is a class A misdemeanor.

Credits: N/A

Am. Samoa Code § 6.3811 (2014) Abuse of a child.

(a) Abuse of a child has the meaning specified in subsection (a) 45.2001.[2]

(b) Abuse of a child is a class D felony.

Credits: N/A

Am. Samoa Code § 46.1907 Classification of offenses outside this title.

[2] **Am. Samoa Code Code §45.2001(a)(1)** *Abuse* or *child abuse or neglect* means an act or omission that can include:

- Serious bruising, bleeding, malnutrition, failure to thrive, burns, fracture of a bone, subdural hematoma, soft tissue swelling, or death
- A condition or death that is not justifiably explained, or where the history given concerning the condition or death is at variance with the degree or type of condition or death, or circumstances indicate that the

(a) Any offense defined outside this title which is declared to be a misdemeanor without specification its penalty is a class A misdemeanor.

(b) Any offense defined outside this title which is declared to be a felony without specification its penalty is a class D felony.

(c) For the purpose of applying the extended term provisions of 46.2305, and for determining the penalty for attempts and conspiracies, offenses defined outside of this title are classified as follows.

(1) If the offense is a felony:

(A) it is a class A felony if the authorized penalty includes death, life imprisonment, or imprisonment for a minimum term of 10 years or more;

(B) it is a class B felony if the term of imprisonment authorized exceeds 5 years but is less than 15 years;

(C) it is a class C felony if the maximum term of imprisonment authorized is 7 years;

(D) it is a class D felony if the maximum term if imprisonment is less than 5 years;

(2) If the offense is a misdemeanor:

(A) it is a class A misdemeanor if the authorized imprisonment exceeds 6 months in jail;

(B) it is a class B misdemeanor if the authorized imprisonment exceeds 15 days but is not more than 6 months;

(C) it is a class C misdemeanor if the authorized imprisonment is 15 days or less;

(D) it is an infraction if there is no authorized imprisonment.

Credits: N/A

GUAM

Guam Code Ann. Tit. 9, §31.30 (2014). Child Abuse; Defined & Punished.

(a) A person is guilty of child abuse when:

(1) he subjects a child to cruel mistreatment; or

(2) having a child in his care or custody or under his control, he:

(A) deserts that child with intent to abandon him;

(B) subjects that child to cruel mistreatment; or

(C) unreasonably causes or permits the physical or, emotional health of that child to be endangered.

(b) Child abuse is a felony of the third degree when it is committed under circumstances likely to result in death or serious bodily injury. Otherwise, it is a misdemeanor.

SOURCE: M.P.C. § 230.4; *Cal. § 980 (1971); Mass. ch. 273, §§ 1, 4; N.J. § 2C:24-4.
Current through Public Law 31-285

PUERTO RICO

P.R. Laws Ann. tit. §33, § 4749 (2014). Simple battery

Any person who illegally through any means or form inflicts injury to the bodily integrity of another shall incur a misdemeanor

-- June 18, 2004, No. 149, § 121, eff. May 1, 2005.
33 L.P.R.A. § 4749, PR ST T. 33 § 4749
The statutes and Constitution are current through December 2011,
except for Act No. 136 of the 2010 Regular Session.

P.R. Laws Ann. tit. §33, § 4749 (2014). Simple battery

If the battery described in § 4749 of this title causes an injury that does not leave permanent harm, but requires medical attention, specialized professional outpatient treatment, shall incur a fourth degree felony.

If the battery causes an injury that requires hospitalization or extended treatment, or

causes permanent harm, the perpetrator shall incur a third degree felony. This modality also includes mayhem, those that transmit an illness, syndrome or condition requiring prolonged physical treatment, or those that require prolonged psycho-emotional treatment

-- June 18, 2004, No. 149, § 121, eff. May 1, 2005.

33 L.P.R.A. § 4749, PR ST T. 33 § 4749
The statutes and Constitution are current through December 2011,
except for Act No. 136 of the 2010 Regular Session.

VIRGIN ISLANDS

Vi. Code. Ann. tit. §14 § 506 (2014). Aggravated child abuse and neglect

A person perpetrates an act of aggravated child abuse or neglect when:

(1) the child suffers serious physical injury; or

(2) the child suffers serious mental or emotional injury; or

(3) the child dies from such abuse or neglect. A person who is convicted of aggravated child abuse or neglect shall be punished by imprisonment of not less than 5 years but not more than 30 years.

Added Oct. 20, 1992, No. 5818, § 1, Sess. L. 1992, p. 157.
Current through Act 7578 of the 2014 Regular Session