

**§253. Gross sexual assault**

1. A person is guilty of gross sexual assault if that person engages in a sexual act with another person and:

A. The other person submits as a result of compulsion, as defined in section 251, subsection 1, paragraph E. Violation of this paragraph is a Class A crime; [PL 2003, c. 711, Pt. B, §2 (AMD).]

B. The other person, not the actor's spouse, has not in fact attained the age of 14 years. Violation of this paragraph is a Class A crime; or [PL 2003, c. 711, Pt. B, §2 (AMD).]

C. The other person, not the actor's spouse, has not in fact attained 12 years of age. Violation of this paragraph is a Class A crime. [PL 2003, c. 711, Pt. B, §2 (NEW).]

[PL 2003, c. 711, Pt. B, §2 (AMD).]

2. A person is guilty of gross sexual assault if that person engages in a sexual act with another person and:

A. The actor has substantially impaired the other person's power to appraise or control the other person's sexual acts by furnishing, as defined in section 1101, subsection 18, paragraph A, administering or employing drugs, intoxicants or other similar means. Violation of this paragraph is a Class B crime; [PL 2007, c. 474, §1 (AMD).]

B. The actor compels or induces the other person to engage in the sexual act by any threat. Violation of this paragraph is a Class B crime; [PL 2001, c. 383, §15 (AMD); PL 2001, c. 383, §156 (AFF).]

C. The other person suffers from mental disability that is reasonably apparent or known to the actor, and which in fact renders the other person substantially incapable of appraising the nature of the contact involved or of understanding that the person has the right to deny or withdraw consent. Violation of this paragraph is a Class B crime; [PL 2001, c. 383, §15 (AMD); PL 2001, c. 383, §156 (AFF).]

D. The other person is unconscious or otherwise physically incapable of resisting and has not consented to the sexual act. Violation of this paragraph is a Class B crime; [PL 2001, c. 383, §15 (AMD); PL 2001, c. 383, §156 (AFF).]

E. The other person, not the actor's spouse, is under official supervision as a probationer, a parolee, a sex offender on supervised release, a prisoner on supervised community confinement status or a juvenile on community reintegration status or is detained in a hospital, prison or other institution, and the actor has supervisory or disciplinary authority over the other person. Violation of this paragraph is a Class B crime; [PL 2007, c. 102, §1 (AMD).]

F. The other person, not the actor's spouse, is a student enrolled in a private or public elementary, secondary or special education school, facility or institution and the actor is a teacher, employee or other official having instructional, supervisory or disciplinary authority over the student or the actor was a substitute teacher who had instructional, supervisory or disciplinary authority over the student at any time during the 12 months prior to the sexual act. Violation of this paragraph is a Class C crime; [PL 2021, c. 360, §1 (AMD).]

G. The other person, not the actor's spouse, has not attained the age of 18 years and is a resident in or attending a children's home, child care facility, facility operated by a family child care provider, children's residential care facility, drug treatment center, youth camp licensed under Title 22, section 2495 or similar school, facility or institution regularly providing care or services for children, and the actor is a teacher, employee or other person having instructional, supervisory or disciplinary authority over the other person or the actor was a substitute teacher who had instructional, supervisory or disciplinary authority over the student at any time during the 12

months prior to the sexual act. Violation of this paragraph is a Class C crime; [PL 2021, c. 360, §2 (AMD).]

H. The other person has not in fact attained the age of 18 years and the actor is a parent, stepparent, foster parent, guardian or other similar person responsible for the long-term care and welfare of that other person. Violation of this paragraph is a Class B crime; [PL 2001, c. 383, §16 (AMD); PL 2001, c. 383, §156 (AFF).]

I. The actor is a psychiatrist, a psychologist or licensed as a social worker or counseling professional or purports to be a psychiatrist, a psychologist or licensed as a social worker or counseling professional to the other person and the other person, not the actor's spouse, is a current patient or client of the actor. Violation of this paragraph is a Class C crime; [PL 2019, c. 494, §1 (AMD).]

J. The actor owns, operates or is an employee of an organization, program or residence that is operated, administered, licensed or funded by the Department of Health and Human Services and the other person, not the actor's spouse, receives services from the organization, program or residence and the organization, program or residence recognizes the other person as a person with an intellectual disability or autism. It is an affirmative defense to prosecution under this paragraph that the actor receives services for an intellectual disability or autism or is a person with an intellectual disability, as defined in Title 34-B, section 5001, subsection 3, or autism, as defined in Title 34-B, section 6002. Violation of this paragraph is a Class C crime; [PL 2011, c. 542, Pt. A, §11 (AMD).]

K. The actor owns, operates or is an employee of an organization, program or residence that is operated, administered, licensed or funded by the Department of Health and Human Services and the other person, not the actor's spouse, receives services from the organization, program or residence and suffers from a mental disability that is reasonably apparent or known to the actor. Violation of this paragraph is a Class C crime; [PL 2017, c. 300, §1 (AMD).]

L. The actor is employed to provide care to a dependent person, who is not the actor's spouse or domestic partner and who is unable to perform self-care because of advanced age or physical or mental disease, disorder or defect. For the purposes of this paragraph, "domestic partners" means 2 unmarried adults who are domiciled together under a long-term arrangement that evidences a commitment to remain responsible indefinitely for each other's welfare. Violation of this paragraph is a Class C crime; [PL 2019, c. 438, §1 (AMD).]

M. The other person has not expressly or impliedly acquiesced to the sexual act. Violation of this paragraph is a Class C crime; or [PL 2019, c. 438, §2 (AMD).]

N. The actor is a law enforcement officer acting in performance of official duties and the other person, not the actor's spouse, is under arrest, in custody or being interrogated or temporarily detained, including during a traffic stop or questioning pursuant to an investigation of a crime. For the purposes of this paragraph, "law enforcement officer" has the same meaning as in Title 25, section 2801-A, subsection 5. Violation of this paragraph is a Class B crime. [PL 2019, c. 438, §3 (NEW).]

[PL 2021, c. 360, §§1, 2 (AMD).]

3.

[PL 2017, c. 300, §3 (RP).]

4.

[PL 2001, c. 383, §18 (RP); PL 2001, c. 383, §156 (AFF).]

5.

[PL 2001, c. 383, §19 (RP); PL 2001, c. 383, §156 (AFF).]

## 6.

[PL 2019, c. 113, Pt. B, §12 (RP).]

## 7.

[PL 2019, c. 113, Pt. B, §13 (RP).]

## SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1975, c. 740, §§48,49 (AMD). PL 1979, c. 701, §21 (AMD). PL 1981, c. 252, §3 (AMD). PL 1983, c. 326, §§1-4 (AMD). PL 1985, c. 247, §2 (AMD). PL 1985, c. 414, §§2,3 (AMD). PL 1985, c. 495, §§7,8 (AMD). PL 1985, c. 544 (AMD). PL 1985, c. 737, §A41 (AMD). PL 1987, c. 255, §2 (AMD). PL 1989, c. 401, §A4 (RPR). PL 1991, c. 569 (AMD). PL 1993, c. 432, §1 (AMD). PL 1993, c. 687, §§1-3 (AMD). PL 1995, c. 429, §1 (AMD). PL 1995, c. 560, §K82 (AMD). PL 1995, c. 560, §K83 (AFF). PL 1997, c. 768, §2 (AMD). PL 2001, c. 354, §3 (AMD). PL 2001, c. 383, §§14-20 (AMD). PL 2001, c. 383, §156 (AFF). RR 2003, c. 2, §25 (COR). PL 2003, c. 711, §B2 (AMD). PL 2007, c. 102, §1 (AMD). PL 2007, c. 474, §§1, 2 (AMD). PL 2009, c. 211, Pt. B, §15 (AMD). PL 2011, c. 423, §§1-3 (AMD). PL 2011, c. 464, §5 (AMD). PL 2011, c. 542, Pt. A, §11 (AMD). PL 2011, c. 691, Pt. A, §13 (AMD). PL 2013, c. 179, §2 (AMD). PL 2015, c. 509, §1 (AMD). PL 2017, c. 300, §§1-3 (AMD). PL 2019, c. 113, Pt. B, §§12, 13 (AMD). PL 2019, c. 438, §§1-3 (AMD). PL 2019, c. 494, §1 (AMD). PL 2021, c. 360, §§1, 2 (AMD).

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