

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 43

53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017

AN ACT

RELATING TO SEXUAL OFFENSES; EXPANDING THE SCOPE OF CRIMINAL
SEXUAL PENETRATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 30-9-11 NMSA 1978 (being Laws 1975,
Chapter 109, Section 2, as amended) is amended to read:

"30-9-11. CRIMINAL SEXUAL PENETRATION.--

A. Criminal sexual penetration is the unlawful and
intentional causing of a person to engage in sexual
intercourse, cunnilingus, fellatio or anal intercourse or the
causing of penetration, to any extent and with any object, of
the genital or anal openings of another, whether or not there
is any emission.

B. Criminal sexual penetration does not include
medically indicated procedures.

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underscored material = new
[bracketed material] = delete

1 C. Aggravated criminal sexual penetration consists
2 of all criminal sexual penetration perpetrated on a child
3 [~~under~~] younger than thirteen years of age with an intent to
4 kill or with a depraved mind regardless of human life. Whoever
5 commits aggravated criminal sexual penetration is guilty of a
6 first degree felony for aggravated criminal sexual penetration.

7 D. Criminal sexual penetration in the first degree
8 consists of all criminal sexual penetration perpetrated:

9 (1) on a child [~~under~~] younger than thirteen
10 years of age; or

11 (2) by the use of force or coercion that
12 results in great bodily harm or great mental anguish to the
13 victim.

14 Whoever commits criminal sexual penetration in the first
15 degree is guilty of a first degree felony.

16 E. Criminal sexual penetration in the second degree
17 consists of all criminal sexual penetration perpetrated:

18 (1) by the use of force or coercion on a child
19 thirteen to eighteen years of age;

20 (2) on a child thirteen to eighteen years of
21 age when the perpetrator is in a position of authority over the
22 child and uses that authority to coerce the child to submit;

23 [~~(2)~~] (3) on an inmate confined in a
24 correctional facility or jail when the perpetrator is in a
25 position of authority over the inmate;

1 [~~(3)~~] (4) by the use of force or coercion that
2 results in personal injury to the victim;

3 [~~(4)~~] (5) by the use of force or coercion when
4 the perpetrator is aided or abetted by one or more persons;

5 [~~(5)~~] (6) in the commission of any other
6 felony; or

7 [~~(6)~~] (7) when the perpetrator is armed with a
8 deadly weapon.

9 Whoever commits criminal sexual penetration in the second
10 degree is guilty of a second degree felony. Whoever commits
11 criminal sexual penetration in the second degree when the
12 victim is a child who is thirteen to eighteen years of age is
13 guilty of a second degree felony for a sexual offense against a
14 child and, notwithstanding the provisions of Section 31-18-15
15 NMSA 1978, shall be sentenced to a minimum term of imprisonment
16 of three years, which shall not be suspended or deferred. The
17 imposition of a minimum, mandatory term of imprisonment
18 pursuant to the provisions of this subsection shall not be
19 interpreted to preclude the imposition of sentencing
20 enhancements pursuant to the provisions of the Criminal
21 Sentencing Act.

22 F. Criminal sexual penetration in the third degree
23 consists of all criminal sexual penetration perpetrated through
24 the use of force or coercion not otherwise specified in this
25 section.

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