

## Overview of Criminal Sexual Conduct Crimes

### *What is “criminal sexual conduct?”*

Minnesota law classifies the crime of criminal sexual conduct into five categories: first- through fifth-degree criminal sexual conduct, with first-degree carrying the most severe penalties and fifth-degree the least. [Minn. Stat. §§ 609.342 to 609.3451](#). Generally speaking, the first-degree and third-degree crimes apply to sexual conduct involving sexual **penetration** of the victim; the second-, fourth-, and fifth-degree crimes apply to sexual conduct involving sexual **contact** with the victim without sexual penetration.

Criminal sexual conduct in the first and second degree typically apply to conduct involving personal injury to the victim; the use or threatened use of force, violence, or a dangerous weapon; or victims who are extremely young. Criminal sexual conduct in the third, fourth, and fifth degree typically address less aggravated conduct and apply to other situations in which the victim either did not consent to the sexual conduct, was relatively young, or was incapable of voluntarily consenting to the sexual conduct due to a particular vulnerability or due to the special relationship between the offender and the victim.

### Penalties Applying to Criminal Sexual Conduct

Name of crime	Type of activity	Maximum penalty provided by statute	Presumptive Sentencing Guidelines Sex Offender Grid sentence (no criminal history)
<b>1<sup>st</sup> degree</b> criminal sexual conduct	Sexual penetration; certain sexual contact with victim under 13 years old	30 years; \$40,000 fine	144 months in prison. Statutory law presumes an executed sentence of 144 months for all violations.
<b>2<sup>nd</sup> degree</b> criminal sexual conduct	Sexual contact	25 years; \$35,000 fine	90 months in prison; 36 months stayed sentence for “statutory rape.”* Statutory law presumes an executed sentence of 90 months for crimes where the perpetrator uses or threatens to use force or violence, causes injury, uses a dangerous weapon, or creates significant fear on the part of the victim of imminent great bodily harm.
<b>3<sup>rd</sup> degree</b> criminal sexual conduct	Sexual penetration	15 years; \$30,000 fine	48 months in prison; 36 months stayed sentence for “statutory rape”*
<b>4<sup>th</sup> degree</b> criminal sexual conduct	Sexual contact	10 years; \$20,000 fine	24 months stayed sentence; 18 months stayed sentence for “statutory rape”*
<b>5<sup>th</sup> degree</b> criminal sexual conduct	Sexual contact; certain lewd conduct	1 year; \$3,000 fine (gross misdemeanor). Certain repeat violations punishable by 5 years; \$10,000 fine	15 months stayed sentence. Sentencing guidelines do not apply to gross misdemeanor violations.

\* As used in this chart, “statutory rape” means a criminal sexual conduct crime that has the following elements: (1) sexual conduct; (2) a victim of a certain age; and, for certain crimes, either (3) a familial relationship between the actor and the victim; or (4) use of a position of authority by the actor. The term “statutory rape” is not defined or otherwise used in statute.

***What other mandatory sentencing provisions apply?***

Convicted predatory offenders also are subject to certain mandatory sentencing laws that are designed to minimize their recidivism risk.

**Repeat or Violent Predatory Offenders.** Certain dangerous sex offenders may be sentenced to life-without-release or indeterminate life sentences if aggravating factors are found. Such factors include conviction of certain clauses of first- or second-degree criminal sexual conduct involving force or violence, the existence of heinous elements, and previous sex offense convictions.

**Minimum Conditional Release Term.** If a court sentences a felony-level sex offender to prison, the court must also sentence the offender to serve a minimum period of “conditional release” after release from prison. The mandatory conditional release period is ten years, except for offenders who were sentenced to indeterminate life sentences due to aggravating factors and certain repeat offenders, who are both subject to lifetime conditional release.

**Mandatory Predatory Offender Assessment and Treatment.** The court must order a predatory offender treatment assessment for any person convicted of criminal sexual conduct (any degree), surreptitious intrusion, obscene phone calls, or indecent exposure. The court may waive the assessment if the offender is eligible for a presumptive prison sentence or has already been assessed. If the assessment indicates the offender is in need of and amenable to treatment, the court must order the offender to undergo treatment if it places the offender on probation.

***What other laws are predatory offenders subject to?***

Predatory offenders are subject to a number of laws. The purpose of these laws is to aid law enforcement in detecting crime and furthering public safety.

**DNA Analysis.** The court must order persons convicted of or adjudicated delinquent for a sex offense to provide a biological sample for DNA analysis, unless the offender has already done so. This requirement also applies to persons convicted of other violent crimes listed in the law. If an individual was not ordered to provide this specimen at the time of sentencing, the offender must provide the specimen before release.

**Predatory Offender Registration.** The Predatory Offender Registration (POR) law is a system under which an individual convicted of predatory offenses (i.e., sex offenses) is required to register with the Bureau of Criminal Apprehension (BCA) for a period of time, usually ten years. The law applies both to adults and juveniles.

**Community Notification.** The Community Notification law requires assignment of a risk level to predatory offenders (i.e., sex offenders) who are released from prison and required to register under the Predatory Offender Registration law. Based upon the offender’s risk level, law enforcement must share certain information and may share other information about the offender with certain individuals and entities in the area where the offender lives, works, or attends school.

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