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Sexual Assault Overview

All states prohibit sexual assault, but the exact definitions of the crimes that fall within the category of sexual assault differ from state to state. The laws share some basic elements, but the structures, wording and scope of sexual assault offenses vary considerably, so always check your local statutes for specific questions.

In general, sexual assault is involuntary sexual contact that occurs through the actors use of force, coercion or the victims incapacity. The law will consider the victim incapacitated if they do not have the mental ability to understand the nature of the sexual acts, or if they are physically incapable of indicating their unwillingness to participate in the sexual conduct.

Modern sexual assault laws cover nonconsensual sexual contact that occurs between any sex and between people of any age. For example, most sexual assault laws cover involuntary sexual contact occurring between two men, two women or two children, etc., not just an adult man and woman.

Most states have made sexual assault the umbrella term for other crimes such as rape and unwanted sexual contact. Some states distinguish between crimes involving penetration and crimes involving coerced or involuntary touching, making the former an aggravated or first-degree sexual assault and the latter a base-level sexual assault.

Most states have also extended sexual assault laws to cover spousal sexual assault. States typically accomplished this in one of three ways: by removing the specific exemption for spousal assaults that existed in many sexual assault laws; by removing marriage as a defense to the sexual assault charge; or by creating a separate law prohibiting sexual assault on a spouse.

The [federal statute](#) outlawing sexual assault tracks the general principles of sexual assault and prohibits any sexual act that occurs as a result of the actor threatening or placing the victim in fear. It also prohibits sexual acts occurring when the victim is incapacitated.

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