



UNDERSTANDING STATUTORY RAPE IN DELAWARE

what it is
why it happens
what to do about it

This information is presented in collaboration with The Life Center and the Delaware Coalition Against Domestic Violence; and was developed through a contract with the Delaware Division of Social Services as a TANF initiative. It is designed as an educational tool for law enforcement, counseling, educational communities, and anyone working with adolescents and men throughout the state. For more information on how to schedule an educational opportunity for your group, refer to the back panel.

what is

STATUTORY RAPE?

In Delaware, statutory rape is a crime. Delaware law states that there are times that having sex or sexual contact is illegal, even though both people agree to it. When a person is able to legally agree to have sex or sexual contact, it is called **consent**.

Delaware's law identifies who is able to give consent. When a person **is not** able to give legal consent, but agrees to having sex or sexual contact, it is illegal and commonly called **Statutory Rape**.

what's the difference between

STATUTORY RAPE & RAPE?

Delaware law defines the crime of Rape as a crime of violence, and it generally includes acts where someone is forced to have sex against their will. This includes sex with someone who can't give consent.

Statutory Rape is when both people agree to have sex, but one of the people can't give consent legally. There may not be any force, threat, or violence apparent. It is more that there is an imbalance in the relationship that causes concern for harm.

let's talk about

CONSENT

When someone freely and voluntarily agrees to any type of sexual contact, they are giving consent.

Things like age, cognitive abilities, and **substance use** can make it impossible for a person to legally consent to sexual activity.

what is **SEXUAL COERCION?**

Creating a feeling, situation or atmosphere where emotional and physical control lead to sexual abuse or rape; or a victim feeling that they have no choice but to submit to sexual activity with the perpetrator

Sexual coercion includes a range of behaviors that a partner may use related to sexual decision making to pressure or coerce a person to have sex without physical force such as:

- Repeatedly pressuring a partner to have sex when he or she does not want to
- Threatening to end a relationship if a person does not have sex
- Not allowing the use of condoms or other prophylaxis
- Intentionally exposing a partner to an STI or HIV
- Threatening retaliation if notified of a positive STI result

FACTS AND FIGURES

From October 2015 through March 2016, there were **1,201** total reports of sexual abuse.

76% of reports involved an alleged female victim

618 reports involved victims between the ages of 10-17.

- **277** alleged victims were ages 10-13.
- **341** alleged victims were ages 14-17.
- **203** involved an offender who was not related to but known to the victim.
 - *One can speculate that of these 203 reports, a portion of these cases included teens involved with sexual partners with whom consent could not legally be given.*

STATUTORY RAPE IS WHEN BOTH PEOPLE AGREE TO HAVE SEX, BUT ONE OF THE PEOPLE CAN'T GIVE CONSENT LEGALLY. ONE OF THE REASONS THEY MAY NOT BE ABLE TO GIVE CONSENT IS THEIR AGE.



If one person is 12-15 years old:

Is their partner more than 4 years older?

Yes

STOP. Consent cannot be given

No

Is their partner in a position of authority (family member, babysitter, coach, teacher, doctor, clergy, etc.)?

Yes

STOP. Consent cannot be given.

No

Consent for sexual contact can be given between someone between 12-15 years old and a partner who is no more than 4 years older, and who is not in a position of authority.

Flowchart summarizes Delaware Code Title 11, Chapter 5 (Specific Criminal Offenses) and Title 16, Chapter 9 (Abuse of Children).

When there is suspected or confirmed non-consensual sexual contact involving an individual under the age of 18, a report must be made to the Division of Family Services at 1-800-292-9582. Making a report is one step in ensuring healthy, safe relationships for our children and adolescents!

If one person is
16-17 years old:

Is their partner in a position of authority (family member, babysitter, coach, teacher, doctor, clergy, etc.)?

Yes

STOP. Consent cannot be given

No

Is their partner under 30 years of age?

Yes

Consent for sexual contact can be given between someone between 16-17 years old and a partner who is under the age of 30 and not in a position of authority.

No

STOP. Consent cannot be given.

what if they're

18 OR OLDER?

Consent for sexual contact can be given between adults age 18 or older **UNLESS** your partner has a **cognitive disability**, mental illness, or other condition rendering them incapable of legal consent.

LAWS AND REPORTING

In Delaware, Statutory Rape is considered a crime and an act of child abuse. The adult/older person is considered the alleged offender, and may face civil and/or criminal consequences. Those who fail to make a report to authorities may also face civil consequences.

Legal Consequences to Statutory Rape	
<p>Civil Consequences</p> <p>Mandatory Report to the Division of Family Services</p> <p>Substantiation of Abuse and/or Neglect</p> <p>Placement on the Child Protection Registry.</p>	<p>Under DE law Del C. 16 Ch 9, all suspected child abuse requires a report to the Division of Family Services for investigation. For additional information about reporting suspected child abuse or neglect, go to http://kids.delaware.gov</p> <p>If Substantiated for Child Abuse or Neglect, the Offender is placed on the state Child Protection Registry. The primary purpose of the Child Protection Registry is to protect children and to ensure the safety of children in child care, health care and public educational facilities. Current and future employment in these fields may also be impacted based on require child abuse background checks to be completed</p>
<p>Criminal Consequences</p> <p>Mandatory criminal investigation by police. Followed by arrest and prosecution.</p> <p>If convicted, Offenders are sentenced *, categorized a Sex Offender, & assigned to the DE Sex Offender Central Registry.</p>	<p>Sexual Assault Crimes are defined in Del. C. 11 Ch 5 and include both Misdemeanor and Felony Level crimes. A complete list of Sex Offenses can be found at http://delcode.delaware.gov/</p> <p>Misdemeanor Crimes include:</p> <ul style="list-style-type: none"> • Sexual Harassment, Unclassified Misdemeanor • Unlawful Sexual Contact in the 3rd Degree, Class A Misdemeanor, <p>Felony Sexual Assault Crimes include</p> <ul style="list-style-type: none"> • Unlawful Sexual Contact 1st & 2nd Degree, Class D & Class F Felony • Rape 1st,2nd, 3rd, and 4th Degree, Class A, B & C Felony <p>* The Court is responsible for ordering the Sentence of a convicted Sex Offender. The Court follows guidelines established through the DE Sentencing Accountability Commission (SENTAC). For more information go to : http://cjc.delaware.gov/sentac/</p> <p>Sentences range given the level of the crime, nature of the case, and other factors. Unclassified and Class A Misdemeanors have a presumptive sentence of a period of supervision by the Department of Corrections Office of Probation. All Felony Level Sexual Assaults have a presumed sentence of incarceration. The range in time can be from as little as 9 months or 15 years to Life.</p>

HOW IS THE **VICTIM** AFFECTED?

There are often long-term and short-term psychological, physical, and emotional effects for victims of any kind of sexual abuse or assault.

Some of the most common reactions include:

- guilt
- shame
- fear
- shock
- feeling of isolation
- experiencing a loss of trust
- increase in risk taking behaviors (substance use/abuse, self-injury)

In some cases, teens who are voluntarily involved in relationships where they cannot legally give consent to sexual contact do not self-identify as victims or feel their experiences constitute sexual abuse. Regardless, statutory rape and sexual coercion are forms of sexual violence.

Support is available to victims, family, and community members who are affected by sexual or domestic violence. Advocates are available 24 hours a day, 7 days a week through our statewide and national hotlines.

confidential 24/7
SUPPORT

New Castle County

Rape Crisis: 1-800-773-8570

Domestic Violence: 302-762-6110

Kent County

Rape Crisis: 1-800-262-9800

Domestic Violence: 302-678-3886

Sussex County

Rape Crisis: 1-800-773-8570

Domestic Violence: 302-422-8058

En Español: 302-745-9874

National Domestic Violence Hotline

1-800-799-SAFE (7233)

Online chat: www.thehotline.org

National Sexual Assault Hotline

1-800-656-HOPE (4673)

Online chat: online.rainn.org

To report child abuse in Delaware

1-800-292-9582

To request further information or training, please contact Delaware Coalition Against Domestic Violence at training@dcadv.org or 302-658-2958.