

**§125.55 Self-abortion in the first degree.**

A female is guilty of self-abortion in the first degree when, being pregnant for more than twenty-four weeks, she commits or submits to an abortifacient act upon herself which causes her miscarriage, unless such abortifacient act is justifiable pursuant to subdivision three of section 125.05.

Self-abortion in the first degree is a class A misdemeanor.

**§125.60 Issuing abortifacient articles.**

A person is guilty of issuing abortifacient articles when he manufactures, sells or delivers any instrument, article, medicine, drug or substance with intent that the same be used in unlawfully procuring the miscarriage of a female.

Issuing abortifacient articles is a class B misdemeanor.

**ARTICLE 130 - SEX OFFENSES**

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Section	Sex offenses; definitions of terms.
130.00	Sex offenses; lack of consent.
130.05	Sex offenses; defense.
130.10	Sex offenses; corroboration.
130.16	Sexual misconduct.
130.20	Rape in the third degree.
130.25	Rape in the second degree.
130.30	Rape in the first degree.
130.35	Consensual sodomy.
130.38	Sodomy in the third degree.
130.40	Sodomy in the second degree.
130.45	Sodomy in the first degree.
130.50	Sexual abuse in the third degree.
130.55	Sexual abuse in the second degree.
130.60	Sexual abuse in the first degree.
130.65	Aggravated sexual abuse in the second degree.
130.67	Aggravated sexual abuse in the first degree.
130.70	

**§130.00 Sex offenses; definitions of terms.**

The following definitions are applicable to this article:

1. "Sexual intercourse" has its ordinary meaning and occurs upon any penetration, however slight.
2. "Deviate sexual intercourse" means sexual conduct between persons not married to each other consisting of contact between the penis and the anus, the mouth and penis, or the mouth and the vulva.
3. "Sexual contact" means any touching of the sexual or other intimate parts of a person not married to the actor for the purpose of gratifying sexual desire of either party. It includes the touching of the actor by the victim, as well as the touching of the victim by the actor, whether directly or through clothing.
4. "Female" means any female person who is not married to the actor. For the purposes of this article "not married" means:
  - (a) the lack of an existing relationship of husband and wife between the female and the actor which is recognized by law, or
  - (b) the existence of the relationship of husband and wife between the actor and the female which is recognized by law at the time the actor commits an offense proscribed by this article by means of forcible compulsion against the female, and the female and actor are living apart at such time pursuant to a valid and effective:
    - (i) order issued by a court of competent jurisdiction which by its terms or in its effect requires such living apart, or

(ii) decree or judgment of separation, or

(iii) written agreement of separation subscribed by them and acknowledged in the form required to entitle a deed to be recorded which contains provisions specifically indicating that the actor may be guilty of the commission of a crime for engaging in conduct which constitutes an offense proscribed by this article against and without the consent of the female. (Eff. 9/1/78, Ch. 735, L. 1978)

5. "Mentally defective" means that a person suffers from a mental disease or defect which renders him incapable of appraising the nature of his conduct.

6. "Mentally incapacitated" means that a person is rendered temporarily incapable of appraising or controlling his conduct owing to the influence of a narcotic or intoxicating substance administered to him without his consent, or to any other act committed upon him without his consent.

7. "Physically helpless" means that a person is unconscious or for any other reason is physically unable to communicate unwillingness to an act.

8. "Forcible compulsion" means to compel by either:

- a. use of physical force; or
- b. a threat, express or implied, which places a person in fear of immediate death or physical injury to himself, herself or another person, or in fear that he, she or another person will immediately be kidnaped. (Eff. 7/15/83, Ch. 449, L. 1983)

9. "Foreign object" means any instrument or article which, when inserted in the vagina, urethra, penis or rectum, is capable of causing physical injury. (Eff. 7/21/81, Ch. 696, L. 1981)

**§130.05 Sex offenses; lack of consent.**

1. Whether or not specifically stated, it is an element of every offense defined in this article, except the offense of consensual sodomy, that the sexual act was committed without consent of the victim.

2. Lack of consent results from:

- (a) Forcible compulsion; or
- (b) Incapacity to consent; or
- (c) Where the offense charged is sexual abuse, any circumstances, in addition to forcible compulsion or incapacity to consent, in which the victim does not expressly or impliedly acquiesce in the actor's conduct.

3. A person is deemed incapable of consent when he is:

- (a) less than seventeen years old; or
- (b) mentally defective; or
- (c) mentally incapacitated; or
- (d) physically helpless.

**§130.10 Sex offenses; defense.**

In any prosecution under this article in which the victim's lack of consent is based solely upon his incapacity to consent because he was mentally defective, mentally incapacitated or physically helpless, it is an affirmative defense that the defendant, at the time

he engaged in the conduct constituting the offense, did not know of the facts or conditions responsible for such incapacity to consent.

§130.16 Sex offenses; corroboration.

A person shall not be convicted of consensual sodomy, or an attempt to commit the same, or of any offense defined in this article of which lack of consent is an element but results solely from incapacity to consent because of the victim's mental defect, or mental incapacity, or an attempt to commit the same, solely on the testimony of the victim, unsupported by other evidence tending to: (a) Establish that an attempt was made to engage the victim in sexual intercourse, deviate sexual intercourse, or sexual contact, as the case may be, at the time of the occurrence; and (b) Connect the defendant with the commission of the offense or attempted offense.

§130.20 Sexual misconduct.

A person is guilty of sexual misconduct when:

1. Being a male, he engages in sexual intercourse with a female without her consent; or
  2. He engages in deviate sexual intercourse with another person without the latter's consent; or
  3. He engages in sexual conduct with an animal or a dead human body.
- Sexual misconduct is a class A misdemeanor.

§130.25 Rape in the third degree.

A person is guilty of rape in the third degree when:

1. He or she engages in sexual intercourse with another person to whom the actor is not married who is incapable of consent by reason of some factor other than being less than seventeen years old; or
  2. Being twenty-one years old or more, he or she engages in sexual intercourse with another person to whom the actor is not married less than seventeen years old. (Eff.11/1/87,Ch.510,L.1987)
- Rape in the third degree is a class E felony.

§130.30 Rape in the second degree.

A person is guilty of rape in the second degree when, being eighteen years old or more, he or she engages in sexual intercourse with another person to whom the actor is not married less than fourteen years old. (Eff.11/1/87,Ch.510,L.1987)

Rape in the second degree is a class D felony.

§130.35 Rape in the first degree.

A male is guilty of rape in the first degree when he engages in sexual intercourse with a female: 1. By forcible compulsion; or

2. Who is incapable of consent by reason of being physically helpless; or
  3. Who is less than eleven years old.
- Rape in the first degree is a class B felony.

§130.38 Consensual sodomy.

A person is guilty of consensual sodomy when he engages in deviate sexual intercourse with another person. Consensual sodomy is a class B misdemeanor.

§130.40 Sodomy in the third degree.

A person is guilty of sodomy in the third degree when: 1. He engages in deviate sexual intercourse with a person who is incapable of consent by reason of some factor other than being less than seventeen years old; or 2. Being twenty-one years old or more, he engages in deviate sexual intercourse with a person less than seventeen years old. Sodomy in the third degree is a class E felony.

§130.45 Sodomy in the second degree.

A person is guilty of sodomy in the second degree when, being eighteen years old or more, he engages in deviate sexual intercourse with another person less than fourteen years old. Sodomy in the second degree is a class D felony.

§130.50 Sodomy in the first degree.

A person is guilty of sodomy in the first degree when he engages in deviate sexual intercourse with another person: 1. By forcible compulsion; or 2. Who is incapable of consent by reason of being physically helpless; or 3. Who is less than eleven years old. Sodomy in the first degree is a class B felony.

§130.55 Sexual abuse in the third degree.

A person is guilty of sexual abuse in the third degree when he subjects another person to sexual contact without the latter's consent; except that in any prosecution under this section, it is an affirmative defense that (a) such other person's lack of consent was due solely to incapacity to consent by reason of being less than seventeen years old, and (b) such other person was more than fourteen years old, and (c) the defendant was less than five years older than such other person. Sexual abuse in the third degree is a class B misdemeanor.

§130.60 Sexual abuse in the second degree.

A person is guilty of sexual abuse in the second degree when he subjects another person to sexual contact and when such other person is: 1. Incapable of consent by reason of some factor other than being less than seventeen years old; or 2. Less than fourteen years old. Sexual abuse in the second degree is a class A misdemeanor.

§130.65 Sexual abuse in the first degree.

A person is guilty of sexual abuse in the first degree when he subjects another person to sexual contact: 1. By forcible compulsion; or 2. When the other person is incapable of consent by reason of being physically helpless; or

STRICTLY RAPE

3. When the other person is less than eleven years old. Sexual abuse in the first degree is a class D felony.

§130.67 Aggravated sexual abuse in the second degree.

1. A person is guilty of aggravated sexual abuse in the second degree when he inserts a finger in the vagina, urethra, penis, or rectum of another person causing physical injury to such person: (a) By forcible compulsion; or (b) When the other person is incapable of consent by reason of being physically helpless; or (c) When the other person is less than eleven years old. 2. Conduct performed for a valid medical purpose does not violate the provisions of this section. Aggravated sexual abuse in the second degree is a class C felony. (Eff.11/1/88, Ch.450, L.1988)

§130.70 Aggravated sexual abuse in the first degree.

1. A person is guilty of aggravated sexual abuse in the first degree when he inserts a foreign object in the vagina, urethra, penis or rectum of another person causing physical injury to such person: (a) By forcible compulsion; or (b) When the other person is incapable of consent by reason of being physically helpless; or (c) When the other person is less than eleven years old. 2. Conduct performed for a valid medical purpose does not violate the provisions of this section. Aggravated sexual abuse in the first degree is a class B felony. (Eff.11/1/88, Ch.450, L.1988)

ARTICLE 135 - KIDNAPPING, COERCION AND RELATED OFFENSES

Section 135.00 Unlawful imprisonment, kidnapping and custodial interference; definitions of terms. 135.05 Unlawful imprisonment in the second degree. 135.10 Unlawful imprisonment in the first degree. 135.15 Unlawful imprisonment; defense. 135.20 Kidnapping in the second degree. 135.25 Kidnapping in the first degree. 135.30 Kidnapping; defense. 135.35 Custodial interference in the second degree. 135.40 Custodial interference in the first degree. 135.45 Substitution of children. 135.50 Coercion in the second degree. 135.55 Coercion in the first degree. 135.60 Coercion; no defense. 135.65 Coercion; defense. 135.70

§135.00 Unlawful imprisonment, kidnapping and custodial interference; definitions of terms.

The following definitions are applicable to this article: 1. "Restrain" means to restrict a person's movements intentionally and unlawfully in such manner as to interfere substantially with his liberty by moving him from one place to another, or by confining him either in the place where the restriction commences or in a place to which he has been moved, without consent and with knowledge that the restriction is unlawful. A person is so moved or confined "without consent" when such is accomplished by (a) physical force, intimidation or deception, or (b) any means whatever, including acquiescence of the victim, if he is a child less than sixteen years old or an incompetent person and the parent, guardian or other person or institution having lawful control or custody of him has not acquiesced in the movement or confinement.

2. "Abduct" means to restrain a person with his liberation by either (a) secreting or holding him in a place where he is not likely to be found, or (b) using or threatening to use deadly physical force. 3. "Relative" means a parent, ancestor, brother or sister.

§135.05 Unlawful imprisonment in the second degree

A person is guilty of unlawful imprisonment in the second degree when he restrains another person. Unlawful imprisonment in the second degree is a class A misdemeanor.

§135.10 Unlawful imprisonment in the first degree

A person is guilty of unlawful imprisonment in the first degree when he restrains another person under circumstances which pose the latter to a risk of serious physical injury to himself or another person. Unlawful imprisonment in the first degree is a class E felony.

§135.15 Unlawful imprisonment; defense.

In any prosecution for unlawful imprisonment in the first or second degree, it is a defense that (a) the person restrained was less than sixteen years old, and (b) the defendant was a parent, guardian or other person or institution having lawful control or custody of the child, and (c) his sole purpose was to assume control of the child.

§135.20 Kidnapping in the second degree.

A person is guilty of kidnapping in the second degree if he unlawfully abducts another person. Kidnapping in the second degree is a class B felony.

§135.25 Kidnapping in the first degree.

A person is guilty of kidnapping in the first degree if he unlawfully abducts another person and when: 1. His intent is to compel a third person to do an act which is illegal or to engage in other conduct which is illegal or to refrain from engaging in particular conduct; or 2. He restrains the person abducted for a period of more than twelve hours with intent to: (a) Inflict physical injury upon him or his property; or (b) Accomplish or advance the commission of a crime; or (c) Terrorize him or a third person; or (d) Interfere with the performance of a governmental or political function; or 3. The person abducted dies during the abduction.

3. The person abducted dies during the abduction. A person is able to return or to be returned to safety. Safety is presumed, in a case where such person was less than sixteen years old or an incompetent person and the parent, guardian or other person or institution having lawful control or custody of him has not acquiesced in the movement or confinement.