

HOUSE BILL NO. HB0140

Sex offenses.

Sponsored by: Representative(s) Gingery and Hammons and
Senator(s) Jennings

A BILL

for

1 AN ACT relating to crimes and offenses; amending penalties
2 for specified sexual offenses; establishing crimes for
3 sexual abuse of minors as specified; providing penalties;
4 amending definitions; conforming provisions; amending
5 hearing requirements to determine the level of risk for sex
6 offenders; repealing the moderate risk category for sex
7 offender registration; repealing specified sexual offenses
8 committed against minors; and providing for an effective
9 date.

10

11 *Be It Enacted by the Legislature of the State of Wyoming:*

12

13 **Section 1.** W.S. 6-2-314 through 6-2-319 are created
14 to read:

15

1 **6-2-314. Sexual abuse of a minor in the first degree;**
2 **penalties.**

3

4 (a) An actor commits the crime of sexual abuse of a
5 minor in the first degree if:

6

7 (i) Being sixteen (16) years of age or older,
8 the actor inflicts sexual intrusion on a victim who is less
9 than thirteen (13) years of age, or aids, induces, causes
10 or encourages a person who is less than thirteen (13) years
11 of age to engage in sexual intrusion with another person;

12

13 (ii) Being eighteen (18) years of age or older,
14 the actor inflicts sexual intrusion on a victim who is less
15 than eighteen (18) years of age, and the actor is the
16 victim's natural parent, stepparent, adopted parent or
17 legal guardian;

18

19 (iii) Being eighteen (18) years of age or older,
20 the actor inflicts sexual intrusion on a victim who is less
21 than sixteen (16) years of age and the actor occupies a
22 position of authority in relation to the victim.

23

1 (b) A person convicted under subsection (a) of this
2 section is subject to imprisonment for not more than forty
3 (40) years, unless the person convicted qualifies under
4 paragraph (iv) of this subsection, and not less than:

5

6 (i) Ten (10) years, if the offense is a first
7 felony offense and does not involve circumstances specified
8 in paragraph (ii) of this subsection;

9

10 (ii) Twelve (12) years, if the offense is a
11 first felony offense and the person convicted possessed a
12 firearm, used a deadly weapon or a simulated deadly weapon,
13 or caused serious bodily injury during the commission of
14 the offense;

15

16 (iii) Fifteen (15) years, if the offense is a
17 second felony offense and does not involve circumstances
18 specified in paragraph (iv) of this subsection;

19

20 (iv) Twenty-five (25) years or for life, if the
21 offense is a second felony offense and the person convicted
22 has a prior conviction which resulted from a charge
23 separately brought and which arose out of a separate
24 occurrence in this state or elsewhere under W.S. 6-2-302

1 through 6-2-304, 6-2-314 or 6-2-315, or a criminal statute
2 containing the same or similar elements as a crime defined
3 in W.S. 6-2-302 through 6-2-304, 6-2-314 or 6-2-315.

4
5 **6-2-315. Sexual abuse of a minor in the second**
6 **degree; penalties.**

7
8 (a) An actor commits the crime of sexual abuse of a
9 minor in the second degree if:

10
11 (i) Being seventeen (17) years of age or older,
12 the actor inflicts sexual intrusion on a victim who is
13 thirteen (13) through fifteen (15) years of age, and the
14 victim is at least three (3) years younger than the actor,
15 or aids, induces, causes or encourages a person who is
16 thirteen (13) through fifteen (15) years of age, and the
17 victim is at least three (3) years younger than the actor,
18 to engage in sexual intrusion with another person;

19
20 (ii) Being sixteen (16) years of age or older,
21 the actor engages in sexual contact of a victim who is less
22 than thirteen (13) years of age, or aids, induces, causes
23 or encourages a person who is less than thirteen (13) years
24 of age to engage in sexual contact with another person;

1

2 (iii) Being eighteen (18) years of age or older,
3 the actor engages in sexual contact with a victim who is
4 less than eighteen (18) years of age and the actor is the
5 victim's natural parent, stepparent, adopted parent or
6 legal guardian;

7

8 (iv) Being sixteen (16) years of age or older,
9 the actor aids, induces, causes or encourages a person who
10 is less than sixteen (16) years of age to engage in conduct
11 described in W.S. 6-4-303; or

12

13 (v) Being eighteen (18) years of age or older,
14 the actor engages in sexual contact with a victim who is
15 less than sixteen (16) years of age and the actor occupies
16 a position of authority in relation to the victim.

17

18 (b) A person convicted under subsection (a) of this
19 section is subject to imprisonment for not more than twenty
20 (20) years and, unless the person convicted qualifies under
21 paragraph (ii) of this subsection, not less than:

22

1 (i) Five (5) years, if the offense is a second
2 felony offense and does not involve circumstances specified
3 in paragraph (ii) of this subsection;

4
5 (ii) Eight (8) years or for life, if the offense
6 is a second felony offense and the person convicted has a
7 prior conviction which resulted from a charge separately
8 brought and which arose out of a separate occurrence in
9 this state or elsewhere under W.S. 6-2-302 through 6-2-304,
10 6-2-314 or 6-2-315, or a criminal statute containing the
11 same or similar elements as a crime defined in W.S. 6-2-302
12 through 6-2-304, 6-2-314 or 6-2-315.

13
14 **6-2-316. Sexual abuse of a minor in the third degree.**

15
16 (a) An actor commits the crime of sexual abuse of a
17 minor in the third degree if:

18
19 (i) Being sixteen (16) years of age or older,
20 the actor engages in sexual contact with a victim who is
21 thirteen (13) through fifteen (15) years of age, and the
22 victim is at least three (3) years younger than the actor;

1 (ii) Being nineteen (19) years of age or older,
2 the actor engages in sexual intrusion with a victim who is
3 sixteen (16) or seventeen (17) years of age, and the victim
4 is at least three (3) years younger than the actor, and the
5 actor occupies a position of authority in relation to the
6 victim; or

7
8 (iii) Being less than sixteen (16) years of age,
9 the actor inflicts sexual intrusion on a victim who is less
10 than thirteen (13) years of age, and the victim is at least
11 three (3) years younger than the actor.

12
13 (b) A person convicted under subsection (a) of this
14 section is subject to imprisonment for not more than ten
15 (10) years and, if the offense is a second or subsequent
16 felony offense, not less than two (2) years.

17
18 (c) A person charged with violating the provisions of
19 paragraph (a)(iii) of this section shall be subject to the
20 original jurisdiction of the juvenile court, except the
21 matter may be transferred to the district court having
22 jurisdiction of the offense as provided in W.S. 14-6-237.

23

1 **6-2-317. Sexual abuse of a minor in the fourth**
2 **degree.**

3
4 (a) An actor commits the crime of sexual abuse of a
5 minor in the fourth degree if:

6
7 (i) Being less than sixteen (16) years of age,
8 the actor engages in sexual contact with a victim who is
9 less than thirteen (13) years of age, and the victim is at
10 least three (3) years younger than the actor; or

11
12 (ii) Being nineteen (19) years of age or older,
13 the actor engages in sexual contact with a victim who is
14 sixteen (16) or seventeen (17) years of age, and the victim
15 is at least three (3) years younger than the actor, and the
16 actor occupies a position of authority in relation to the
17 victim.

18
19 (b) A person convicted under subsection (a) of this
20 section is subject to imprisonment for not more than five
21 (5) years and, if the offense is a second or subsequent
22 felony offense, not less than two (2) years.

1 (c) A person charged with violating the provisions of
2 paragraph (a)(i) of this section shall be subject to the
3 original jurisdiction of the juvenile court, except the
4 matter may be transferred to the district court having
5 jurisdiction of the offense as provided in W.S. 14-6-237.

6
7 **6-2-318. Soliciting to engage in illicit sexual**
8 **relations; penalty.**

9
10 Except under circumstance constituting sexual assault in
11 the first, second or third degree as defined by W.S.
12 6-2-302 through 6-2-304, or sexual assault of a minor in
13 the first, second, third or fourth degree as defined by
14 W.S. 6-2-314 through 6-2-317, anyone who solicits, procures
15 or knowingly encourages anyone less than the age of sixteen
16 (16) years to engage in illicit sexual penetration or
17 sexual intrusion as defined in W.S. 6-2-301 is guilty of a
18 felony, and upon conviction shall be imprisoned for a term
19 of not more than five (5) years.

20
21 **6-2-319. Names not to be released; restrictions on**
22 **disclosures or publication of information; violations;**
23 **penalties.**

1 (a) Prior to the filing of an information or
2 indictment charging a violation of W.S. 6-2-314 through
3 6-2-318, neither the names of the person accused or the
4 victim nor any other information reasonably likely to
5 disclose the identity of the victim shall be released or
6 negligently allowed to be released to the public by any
7 public employee except as authorized by the judge with
8 jurisdiction over the criminal charges. The name of the
9 person accused may be released to the public to aid or
10 facilitate an arrest.

11

12 (b) After the filing of an information or indictment
13 and upon the request of a minor victim or another acting on
14 behalf of a minor victim, the trial court may, to the
15 extent necessary to protect the welfare of the minor
16 victim, restrict the disclosure or publication of
17 information reasonably likely to identify the minor victim.

18

19 (c) Any person who willfully violates this section or
20 who willfully neglects or refuses to obey any court order
21 made pursuant thereto is guilty of contempt and upon
22 conviction shall be fined not more than one thousand
23 dollars (\$1,000.00) or be imprisoned in the county jail not
24 more than ninety (90) days, or both.

1

2 (d) A release of a name or other information to the
3 public in violation of the proscriptions of this section
4 shall not stand as a bar to the prosecution of a defendant
5 nor be grounds for dismissal of any charges against a
6 defendant.

7

8 (e) As used in this section "minor victim" means a
9 person less than the age of eighteen (18) years.

10

11 **Section 2.** W.S. 1-40-119(a)(iv), 6-2-301(a)(ix),
12 6-2-306(a)(intro), (i) through (iii), (b), (c)(intro), (i),
13 (ii), (d)(intro), (i) and (iii), 6-2-313(a), 6-4-303(c),
14 7-1-109(g)(ii), 7-19-301(a)(ii), (iv)(F) and (xiii),
15 7-19-303(c)(intro) and 9-1-636(d)(vii) are amended to read:

16

17 **1-40-119. Surcharge to be assessed in certain**
18 **criminal cases; paid to account.**

19

20 (a) In addition to any fine or other penalty
21 prescribed by law, a defendant who pleads guilty or nolo
22 contendere to, or is convicted of, the following criminal
23 offenses shall be assessed a surcharge of not less than
24 fifty dollars (\$50.00) for the offenses specified in

1 paragraph (v) of this subsection and not less than one
2 hundred dollars (\$100.00) for the offenses specified in
3 paragraphs (i) through (iv) of this subsection:

4
5 (iv) Any violation of W.S. ~~14-3-104 or 14-3-105~~
6 6-2-314 through 6-2-318;

7
8 **6-2-301. Definitions.**

9
10 (a) As used in this article:

11
12 (ix) "This article" means W.S. 6-2-301 through
13 ~~6-2-313~~ 6-2-319.

14
15 **6-2-306. Penalties for sexual assault.**

16
17 (a) An actor convicted of sexual assault under W.S.
18 6-2-302 through 6-2-304 who does not qualify under the
19 criteria of subsection (b) or (d) of this section shall be
20 punished as follows:

21
22 (i) Sexual assault in the first degree under
23 W.S. 6-2-302 is a felony punishable by imprisonment for not

1 less than ~~five (5)~~ ten (10) years nor more than fifty (50)
2 years;

3

4 (ii) Sexual assault in the second degree under
5 W.S. 6-2-303 is a felony punishable by imprisonment for not
6 less than five (5) years nor more than twenty (20) years;

7

8 (iii) Sexual assault in the third degree under
9 W.S. 6-2-304 is a felony punishable by imprisonment for not
10 more than fifteen (15) years;

11

12 (b) An actor who is convicted of sexual assault under
13 W.S. 6-2-302 through 6-2-304 and who does not qualify under
14 the criteria of subsection (d) of this section shall be
15 punished by the extended terms of subsection (c) of this
16 section if:

17

18 (i) He is being sentenced for two (2) or more
19 separate acts of sexual assault ~~in the first or second~~
20 ~~degree~~ under W.S. 6-2-302 or 6-2-303, or convicted of
21 sexual abuse of a minor under W.S. 6-2-314 or 6-2-315; or

22

1 (ii) He previously has been convicted of any
2 crime containing the same or similar elements as the crimes
3 defined in W.S. 6-2-302, ~~or 6-2-303~~, 6-2-314 or 6-2-315.

4
5 (c) An actor convicted of sexual assault under W.S.
6 6-2-302 or 6-2-304 who qualifies under the criteria of
7 subsection (b) of this section shall be punished as
8 follows:

9
10 (i) Sexual assault in the first or second degree
11 under W.S. 6-2-302 or 6-2-303, or sexual abuse of a minor
12 under W.S. 6-2-314 or 6-2-315 is a felony punishable by
13 imprisonment for not less than ~~five (5)~~ twenty-five (25)
14 years or for life;

15
16 (ii) Sexual assault in the third degree under
17 W.S. 6-2-304 is a felony punishable by imprisonment for not
18 more than twenty (20) years;

19
20 (d) An actor who is convicted of sexual assault, or
21 sexual abuse of a minor under this article shall be
22 punished by life imprisonment without parole if the actor
23 has two (2) or more previous convictions for any of the
24 following designated offenses, which convictions resulted

1 from charges separately brought and which arose out of
2 separate occurrences in this state or elsewhere:

3
4 (i) A crime defined in W.S. 6-2-302 through
5 6-2-304 or a criminal statute from another jurisdiction
6 containing the same or similar elements as a crime defined
7 by W.S. 6-2-302 through 6-2-304;

8
9 (iii) A conviction under W.S. ~~14-3-105(a)~~
10 6-2-314 or 6-2-315, or a criminal statute containing the
11 same or similar elements as the crime defined by W.S.
12 ~~14-3-105(a), if the circumstances of the crime involved a~~
13 ~~victim who was under the age of sixteen (16) at the time of~~
14 ~~the offense and an actor who was at least four (4) years~~
15 ~~older than the victim~~ 6-2-314 or 6-2-315.

16
17 **6-2-313. Sexual battery.**

18
19 (a) Except under circumstances constituting a
20 violation of W.S. 6-2-302 through 6-2-304, 6-2-314 through
21 6-2-317 or 6-2-502, ~~or 14-3-105~~, an actor who unlawfully
22 subjects another person to any sexual contact is guilty of
23 sexual battery.

1 **6-4-303. Sexual exploitation of children; penalties;**
2 **definitions.**

3
4 (c) The sexual exploitation of a child pursuant to
5 paragraphs (b)(i) through (iii) of this section is a felony
6 punishable by imprisonment for not less than five (5) years
7 nor more than twelve (12) years, a fine of not more than
8 ten thousand dollars (\$10,000.00), or both.

9
10 **7-1-109. Examination for sexually transmitted**
11 **diseases required in certain cases; health officers to**
12 **notify crime victims; results confidential.**

13
14 (g) As used in this section:

15
16 (ii) "Sex offense" means sexual assault under
17 W.S. 6-2-302 through 6-2-304, attempted sexual assault,
18 conspiracy to commit sexual assault, incest under W.S.
19 6-4-402 or ~~indecent liberties~~ sexual abuse of a minor under
20 W.S. ~~14-3-105~~ 6-2-314 through 6-2-317.

21
22 **7-19-301. Definitions.**

1 (a) Unless otherwise provided, for the purposes of
2 this act:

3
4 (ii) "Aggravated sex offense" means sexual
5 assault under W.S. 6-2-302 regardless of the age of the
6 victim, W.S. 6-2-303 regardless of the age of the victim,
7 ~~W.S. 6-2-304(a)(ii),~~ or an offense under W.S.
8 6-2-304(a)(iii) if the victim was ~~under~~ less than the age
9 of sixteen (16), incest under W.S. 6-4-402, or an offense
10 under W.S. ~~14-3-105~~ 6-2-314 through 6-2-317 provided the
11 victim was ~~under~~ less than the age of sixteen (16) and the
12 offender was at least ~~four (4)~~ three (3) years older than
13 the victim, or an attempt to commit an offense enumerated
14 in this paragraph. "Aggravated sex offense" includes an
15 offense committed in another jurisdiction, including a
16 federal court or courts martial, which, if committed in
17 this state, would constitute an "aggravated sex offense" as
18 defined in this paragraph;

19
20 (iv) "Criminal offense against a minor" means
21 the offenses specified in this paragraph in which the
22 victim is less than eighteen (18) years of age. "Criminal
23 offense against a minor" includes an offense committed in
24 another jurisdiction, including a federal court or courts

1 martial, which, if committed in this state, would
2 constitute a "criminal offense against a minor" as defined
3 in this paragraph. "Criminal offense against a minor"
4 includes:

5
6 (F) Soliciting sexual conduct under W.S.
7 ~~14-3-104-6-2-318~~;

8
9 (xiii) "Sex offense" means the offenses of
10 sexual assault under W.S. ~~6-2-304(a)(i) or 6-2-304(a)(iii)~~
11 if the victim is sixteen (16) years of age or older,
12 conspiracy to commit sexual assault as defined by W.S.
13 6-2-301(a)(v), ~~indecent liberties~~ sexual abuse of a minor
14 under W.S. ~~14-3-105-6-2-314 through 6-2-317~~ provided the
15 victim was at least sixteen (16) and less than eighteen
16 (18) years of age and the offender was at least ~~four (4)~~
17 three (3) years older than the victim, or an attempt to
18 commit an offense enumerated in this paragraph. "Sex
19 offense" includes an offense committed in another
20 jurisdiction regardless of classification as a misdemeanor
21 or felony, including a federal court or courts martial,
22 which, if committed in this state, would constitute a "sex
23 offense" as defined in this paragraph;

24

1 **7-19-303. Offenders central registry; dissemination**
2 **of information.**

3
4 (c) The division shall provide notification of
5 registration under this act, including all registration
6 information, to the district attorney of the county where
7 the registered offender is residing at the time of
8 registration or to which the offender moves. Upon receipt

9 of notification, if the offender is an aggravated sex
10 offender, the district attorney shall not be required to
11 file application for hearing under this subsection and
12 notification shall proceed as provided in paragraph (iii)
13 of this subsection. Upon receipt of notification, the

14 district attorney shall file an application for hearing
15 under this subsection if the offender is not an aggravated
16 sex offender ~~or~~ and the offender is not a recidivist. ~~For~~

17 ~~other offenders registered under this act, the district~~
18 ~~attorney shall file an application for hearing under this~~
19 ~~section if, based upon a review of the risk of reoffense~~
20 ~~factors specified in W.S. 7-19-303(d), utilizing a~~
21 ~~preponderance of the evidence standard, it appears that~~
22 ~~public protection requires notification be provided to~~
23 ~~persons in addition to those authorized to receive criminal~~
24 ~~history record information under W.S. 7-19-106.~~ Prior to

1 any application for hearing under this subsection, the
2 district attorney may apply to the court, with notice to
3 the offender, for an order requiring the offender to obtain
4 a psychological or other evaluation report at the
5 offender's expense. The court may enter any order it deems
6 appropriate after an in-camera hearing unless waived by the
7 offender. Upon application of the district attorney, and
8 following notice to the offender and an in-camera hearing,
9 the district court shall make a finding by a preponderance
10 of the evidence of the risk of reoffense by the offender,
11 and based on that finding authorize the county sheriff,
12 police chief or their designee to release information
13 regarding an offender who has been convicted of an offense
14 that requires registration under this act, as follows:

15

16 **9-1-636. Division of victim services; created;**
17 **appointment of director and deputy director; administrative**
18 **and clerical employees; definitions.**

19

20 (d) As used in this act:

21

1 (vii) "Sexual assault" means any act made
2 criminal under W.S. 6-2-302 through 6-2-304, 6-2-314
3 through 6-2-317 and 6-4-402; ~~and 14-3-105;~~

5 **Section 3.** W.S. 6-2-303(a)(v), 6-2-304(a)(i) and
6 (ii), 7-19-303(c)(ii) and 14-3-104 through 14-3-106 are
7 repealed.

9 **Section 4.** This act is effective July 1, 2006.

11 (END)