

SENATE FILE NO. SF0104

Sex offenses.

Sponsored by: Joint Judiciary Interim Committee

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 definition of violent felony and other
5 definitions; conforming provisions; repealing specified
6 sexual offenses committed against minors; specifying
7 requirements for disclosure of identity of minor victims;
8 and providing for an effective date.

9

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

11

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

14

15 **6-2-314. Sexual abuse of a minor in the first degree;**
16 **penalties.**

1

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

4

5 (i) Being sixteen (16) years of age or older,
6 the actor inflicts sexual intrusion on a victim who is less
7 than thirteen (13) years of age;

8

9 (ii) Being eighteen (18) years of age or older,
10 the actor inflicts sexual intrusion on a victim who is less
11 than eighteen (18) years of age, and the actor is the
12 victim's legal guardian or an individual specified in W.S.
13 6-4-402;

14

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

19

20 (b) A person convicted under subsection (a) of this
21 section is subject to imprisonment for not more than fifty
22 (50) years, unless the person convicted qualifies under
23 W.S. 6-2-306(e), and not less than:

24

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

4
5 (ii) Seven (7) years, if the offense is a first
6 felony offense and the person convicted possessed a
7 firearm, used a deadly weapon or a simulated deadly weapon,
8 or caused serious bodily injury during the commission of
9 the offense.

10
11 **6-2-315. Sexual abuse of a minor in the second**
12 **degree; penalties.**

13
14 (a) Except under circumstance constituting sexual
15 abuse of a minor in the first degree as defined by W.S.
16 6-2-314, an actor commits the crime of sexual abuse of a
17 minor in the second degree if:

18
19 (i) Being seventeen (17) years of age or older,
20 the actor inflicts sexual intrusion on a victim who is
21 thirteen (13) through fifteen (15) years of age, and the
22 victim is at least four (4) years younger than the actor;

23

1 (ii) Being sixteen (16) years of age or older,
2 the actor engages in sexual contact of a victim who is less
3 than thirteen (13) years of age;

4
5 (iii) Being eighteen (18) years of age or older,
6 the actor engages in sexual contact with a victim who is
7 less than eighteen (18) years of age and the actor is the
8 victim's legal guardian or an individual specified in W.S.
9 6-4-402; or

10

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

15

16 (b) A person convicted under subsection (a) of this
17 section is subject to imprisonment for not more than twenty
18 (20) years and, unless the person convicted qualifies under
19 W.S. 6-2-306(e), not less than two (2) years, if the
20 offense is a second or subsequent felony offense and does
21 not involve circumstances specified in W.S. 6-2-306(e).

22

23 (c) A person convicted under subsection (a) of this
24 section is subject to imprisonment for not less than five

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

9
10 (d) A person convicted under subsection (a) of this
11 section who qualifies for sentencing under W.S. 6-2-306(d)
12 shall be sentenced in accordance with W.S. 6-2-306(d) and
13 not under the provisions of this section.

14
15 **6-2-316. Sexual abuse of a minor in the third degree.**

16
17 (a) Except under circumstance constituting sexual
18 abuse of a minor in the first or second degree as defined
19 by W.S. 6-2-314 and 6-2-315, an actor commits the crime of
20 sexual abuse of a minor in the third degree if:

21
22 (i) Being seventeen (17) years of age or older,
23 the actor engages in sexual contact with a victim who is

1 thirteen (13) through fifteen (15) years of age, and the
2 victim is at least four (4) years younger than the actor;

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

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

15
16 (iv) Being seventeen (17) years of age or older,
17 the actor knowingly takes immodest, immoral or indecent
18 liberties with a victim who is less than seventeen (17)
19 years of age and the victim is at least four (4) years
20 younger than the actor.

21
22 (b) A person convicted under subsection (a) of this
23 section is subject to imprisonment for not more than

1 fifteen (15) years and, if the offense is a second or
2 subsequent felony offense, not less than one (1) year.

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

9
10 **6-2-317. Sexual abuse of a minor in the fourth**
11 **degree.**

12
13 (a) Except under circumstance constituting sexual
14 abuse of a minor in the first, second or third degree as
15 defined by W.S. 6-2-314 through 6-2-316, an actor commits
16 the crime of sexual abuse of a minor in the fourth degree
17 if:

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

23

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

7
8 (b) A person convicted under subsection (a) of this
9 section is subject to imprisonment for not more than five
10 (5) years and, if the offense is a second or subsequent
11 felony offense, not less than one (1) year.

12
13 (c) A person charged with violating the provisions of
14 paragraph (a)(i) of this section shall be subject to the
15 original jurisdiction of the juvenile court, except the
16 matter may be transferred to the district court having
17 jurisdiction of the offense as provided in W.S. 14-6-237.

18
19 **6-2-318. Soliciting to engage in illicit sexual**
20 **relations; penalty.**

21
22 Except under circumstance constituting sexual assault in
23 the first, second or third degree as defined by W.S.
24 6-2-302 through 6-2-304, or sexual abuse of a minor in the

1 first, second, third or fourth degree as defined by W.S.
2 6-2-314 through 6-2-317, anyone who has reached the age of
3 majority and who solicits, procures or knowingly encourages
4 anyone less than the age of sixteen (16) years, or a person
5 purported to be less than the age of sixteen (16) years, to
6 engage in sexual intrusion as defined in W.S. 6-2-301 is
7 guilty of a felony, and upon conviction shall be imprisoned
8 for a term of not more than five (5) years.

9
10 **6-2-319. Names not to be released; restrictions on**
11 **disclosures or publication of information; violations;**
12 **penalties.**

13
14 (a) Prior to the filing of an information or
15 indictment in district court charging a violation of W.S.
16 6-2-314 through 6-2-318, neither the names of the person
17 accused or the victim nor any other information reasonably
18 likely to disclose the identity of the victim shall be
19 released or negligently allowed to be released to the
20 public by any public employee except as authorized by the
21 judge with jurisdiction over the criminal charges. The name
22 of the person accused may be released to the public to aid
23 or facilitate an arrest.

1 (b) After the filing of an information or indictment
2 in district court, the trial court shall, to the extent
3 necessary to protect the welfare of the minor victim,
4 restrict the disclosure of the name of the minor victim,
5 unless the name has been publicly disclosed by the parent
6 or legal guardian of the minor or by law enforcement in an
7 effort to find the victim. The trial court may, to the
8 extent necessary to protect the welfare of the minor
9 victim, restrict disclosure of the information reasonably
10 likely to identify the minor victim.

11

12 (c) Any person who willfully violates subsection (a)
13 of this section is guilty of a misdemeanor and upon
14 conviction shall be fined not more than seven hundred fifty
15 dollars (\$750.00) or be imprisoned in the county jail not
16 more than ninety (90) days, or both.

17

18 (d) A release of a name or other information to the
19 public in violation of the proscriptions of this section
20 shall not stand as a bar to the prosecution of a defendant
21 nor be grounds for dismissal of any charges against a
22 defendant.

23

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

3

4 **Section 2.** W.S. 1-40-119(a)(iv), 6-1-104(a)(xii),
5 6-2-101(a), 6-2-301(a)(ix), 6-2-306(a)(intro), (i) through
6 (iii), (b), (c)(intro), (i), (ii), (d)(intro), (i) and by
7 creating a new subsection (e), 6-2-312(a)(intro),
8 6-2-313(a), 6-4-303(c), 7-1-109(g)(ii), 7-19-301(a)(ii),
9 (iv)(F) and (xiii) and 9-1-636(d)(vii) are amended to read:

10

11 **1-40-119. Surcharge to be assessed in certain**
12 **criminal cases; paid to account.**

13

14 (a) In addition to any fine or other penalty
15 prescribed by law, a defendant who pleads guilty or nolo
16 contendere to, or is convicted of, the following criminal
17 offenses shall be assessed a surcharge of not less than
18 fifty dollars (\$50.00) for the offenses specified in
19 paragraph (v) of this subsection and not less than one
20 hundred dollars (\$100.00) for the offenses specified in
21 paragraphs (i) through (iv) of this subsection:

22

23 (iv) Any violation of W.S. ~~14-3-104 or 14-3-105~~
24 6-2-314 through 6-2-318;

1

2 **6-1-104. Definitions.**

3

4 (a) As used in W.S. 6-1-101 through 6-10-203 unless
5 otherwise defined:

6

7 (xii) "Violent felony" means murder,
8 manslaughter, kidnapping, sexual assault in the first or
9 second degree, robbery, aggravated assault, aircraft
10 hijacking, arson in the first or second degree or
11 aggravated burglary or a violation of W.S. 6-2-314(a)(i) or
12 6-2-315(a)(ii);

13

14 **6-2-101. Murder in the first degree; penalty.**

15

16 (a) Whoever purposely and with premeditated malice,
17 or in the perpetration of, or attempt to perpetrate, any
18 sexual assault, sexual abuse of a minor, arson, robbery,
19 burglary, escape, resisting arrest, kidnapping or abuse of
20 a child under the age of sixteen (16) years, kills any
21 human being is guilty of murder in the first degree.

22

23 **6-2-301. Definitions.**

24

1 (a) As used in this article:

2

3 (ix) "This article" means W.S. 6-2-301 through
4 ~~6-2-313~~ 6-2-319.

5

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

7

8 (a) An actor convicted of sexual assault under W.S.
9 6-2-302 through 6-2-304 who does not qualify under the
10 criteria of subsection (b) or (d) of this section shall be
11 punished as follows:

12

13 (i) Sexual assault in the first degree under
14 W.S. 6-2-302 is a felony punishable by imprisonment for not
15 less than five (5) years nor more than fifty (50) years;

16

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

20

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

24

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

6
7 (i) He is being sentenced for two (2) or more
8 separate acts of sexual assault ~~in the first or second~~
9 ~~degree~~ under W.S. 6-2-302 or 6-2-303; or

10
11 (ii) He previously has been convicted of any
12 crime containing the same or similar elements as the crimes
13 defined in W.S. 6-2-302, ~~or~~ 6-2-303, 6-2-314 or 6-2-315.

14
15 (c) An actor convicted of sexual assault under W.S.
16 6-2-302 through 6-2-304 who qualifies under the criteria of
17 subsection (b) of this section shall be punished as
18 follows:

19
20 (i) Sexual assault in the first or second degree
21 under W.S. 6-2-302 or 6-2-303 is a felony punishable by
22 imprisonment for not less than ~~five (5)~~ twenty-five (25)
23 years or for life;

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

4
5 (d) An actor who is convicted of sexual assault, or
6 sexual abuse of a minor under W.S. 6-2-316 through 6-2-318,
7 shall be punished by life imprisonment without parole if
8 the actor has two (2) or more previous convictions for any
9 of the following designated offenses, which convictions
10 resulted from charges separately brought and which arose
11 out of separate occurrences in this state or elsewhere:

12
13 (i) A crime defined in W.S. 6-2-302 through
14 6-2-304 or a criminal statute from another jurisdiction
15 containing the same or similar elements as a crime defined
16 by W.S. 6-2-302 through 6-2-304. +

17
18 (e) An actor who is convicted of sexual abuse of a
19 minor under W.S. 6-2-314 or 6-2-315, or a criminal statute
20 containing the same or similar elements as the crime
21 defined by W.S. 6-2-314 or 6-2-315, shall be punished by
22 life imprisonment without parole if the actor has one (1)
23 or more previous convictions for a violation of W.S.
24 6-2-302 through 6-2-304, 6-2-314 or 6-2-315, which

1 convictions resulted from charges separately brought and
2 which arose out of separate occurrences in this state or
3 elsewhere.

4
5 **6-2-312. Evidence of victim's prior sexual conduct or**
6 **reputation; procedure for introduction.**

7
8 (a) In any prosecution under ~~W.S. 6-2-302 through~~
9 ~~6-2-304~~ this article or for any lesser included offense, if
10 evidence of the prior sexual conduct of the victim,
11 reputation evidence or opinion evidence as to the character
12 of the victim is to be offered the following procedure
13 shall be used:

14
15 **6-2-313. Sexual battery.**

16
17 (a) Except under circumstances constituting a
18 violation of W.S. 6-2-302 through 6-2-304, 6-2-314 through
19 6-2-317 or 6-2-502, ~~or 14-3-105,~~ an actor who unlawfully
20 subjects another person to any sexual contact is guilty of
21 sexual battery.

22
23 **6-4-303. Sexual exploitation of children; penalties;**
24 **definitions.**

1

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

7

8 **7-1-109. Examination for sexually transmitted**
9 **diseases required in certain cases; health officers to**
10 **notify crime victims; results confidential.**

11

12 (g) As used in this section:

13

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

19

20 **7-19-301. Definitions.**

21

22 (a) Unless otherwise provided, for the purposes of
23 this act:

24

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

15

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

1

2 (F) Soliciting sexual conduct under W.S.

3 ~~14-3-104-6-2-318~~;

4

5 (xiii) "Sex offense" means the offenses of

6 sexual assault under W.S. ~~6-2-304(a)(i) or 6-2-304(a)(iii)~~

7 if the victim is sixteen (16) years of age or older,

8 conspiracy to commit sexual assault as defined by W.S.

9 6-2-301(a)(v), ~~indecent liberties~~ sexual abuse of a minor10 under W.S. ~~14-3-105 provided the victim was at least~~11 ~~sixteen (16) and less than eighteen (18) years of age and~~12 ~~the offender was at least four (4) years older than the~~13 ~~victim~~ 6-2-315 through 6-2-317, or an attempt to commit an

14 offense enumerated in this paragraph. "Sex offense"

15 includes an offense committed in another jurisdiction

16 regardless of classification as a misdemeanor or felony,

17 including a federal court or courts martial, which, if

18 committed in this state, would constitute a "sex offense"

19 as defined in this paragraph;

20

21 **9-1-636. Division of victim services; created;**22 **appointment of director and deputy director; administrative**23 **and clerical employees; definitions.**

24

1 (d) As used in this act:

2

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

6

7 **Section 3.** W.S. 6-2-303(a)(v), 6-2-304(a)(i) and
8 (ii), 6-2-306(d)(iii) and 14-3-104 through 14-3-106 are
9 repealed.

10

11 **Section 4.** This act is effective July 1, 2007.

12

13 (END)