



WYOMING LEGISLATIVE SERVICE OFFICE

Research Memo

10 RM 009

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Re: Mandatory Minimum Sentences for Sexual Abuse of a Minor

QUESTIONS

1. What is the brief history of mandatory minimum sentences for sexual abuse of a minor?
2. Which states have adopted 25 year mandatory minimum sentences for sexual abuse of a minor?
3. What provisions do other states have related to sentencing for sexual abuse of a minor?

ANSWERS

1. In 2005, Florida enacted House Bill 1877 in response to the rape and murder of a nine-year old girl named Jessica Lunsford. The act, frequently referred to as "Jessica's Law," created harsher penalties and increased monitoring of offenders convicted of sexual abuse of a child. One component of the law is a mandatory minimum sentence of 25 years in prison for first-time offenders convicted of sex crimes against children.
2. The National Conference of State Legislatures (NCSL) compiled information on state laws related to sentencing for child sex offenders as of August 2008. This memo divides these states into two categories: those that have enacted the 25 year mandatory minimum sentencing as is in Jessica's Law (Table 1), and those states that have some other sentencing provision (Table 2). As shown in Table 1, below, 26 states have enacted laws with 25 year mandatory minimum sentences for first-time offenders convicted of sex crimes against children. While the length of sentence is generally the same among these states, the definition of sex crime varies. The victim is generally defined as being younger than 12-14 years of age.

Table 1. States with 25 Year Mandatory Minimum Sentencing for First-Time Offenders.

State	Statute	Summary of Sentencing Provisions
Arkansas	§5-14-103	25 year mandatory minimum sentence for rape of a child under 14 years of age.
California	Penal Code: §269; 288.7	25 years to life mandatory minimum sentence for intercourse or sodomy with child 10 years or younger and 15 years to life for oral copulation or sexual penetration w/ child 10 years or younger. 15 years to life with consecutive sentencing for additional sex acts with a child 14 years or younger.

Table 1. States with 25 Year Mandatory Minimum Sentencing for First-Time Offenders.

State	Statute	Summary of Sentencing Provisions
Connecticut	§53a-70c; §53a-90a; §53-21	25 year mandatory minimum for aggravated sexual assault of a minor younger than 13 years. Also provides restrictions on sentence reduction or suspension, requiring specified periods of imprisonment ranging from 2-10 years for crimes including sexual assault of a minor, impairing morals of a child, child pornography, enticing a minor, etc.
Delaware	Chapter 11: §4205A	25 years to life mandatory minimum sentence when victim is younger than 14 years and the crime is rape, continuous sexual abuse of a child, or a dangerous crime against a child.
Florida	§800.04; §775.082	25 years to life mandatory minimum sentence for lewd or lascivious molestation against a victim less than 12 years of age.
Georgia	§16-5-21; §17-10-6.2; §16-6-4	25 year mandatory minimum sentence for crimes of sexual assault, aggravated assault with intent to rape, incest, kidnapping against a child less than 14 years old; aggravated child molestation, aggravated sodomy with child 13-15 years old; rape; aggravated sexual battery
Kansas	§21-4642; §21-4643	25 years to life mandatory minimum sentence for certain child (under 14) sex offenses including rape, sexual exploitation, sodomy, prostitution, trafficking, etc, with specific exceptions. Provides 40 year minimum for repeat offenders of certain sex offenses. Requires life imprisonment without the possibility of parole for repeat offenders classified as aggravated habitual sex offenders.
Louisiana	§14:78.1; §14.81.2; §14.81.1; §14.43.1	25-99 years at hard labor mandatory minimum sentence for sex crimes against a child under 13 years old including: aggravated incest, molestation of a juvenile, sexual battery, pornography involving juveniles, etc.
Maryland	Crime Code: §3-303; §3-305	25 years to life mandatory minimum sentence for 1 st degree sex offense and rape with a child under age 13.
Michigan	§750.520b	25 years to life mandatory minimum sentence for 1 st degree sexual conduct with a child under age 13.
Missouri	§566.030; §566.060; §566.213	Mandatory minimum 25 years for sexual trafficking of a child under age 12. Mandatory minimum 30 years to life for forcible rape or sodomy of a child under age 12.
Montana	§45-5-625; §45-5-503; §45-5-507; §46-18-222	Mandatory minimum 25 years to life, with some exceptions, for sex related crimes with a child 12 years or younger including: sexual intercourse without consent, sexual abuse of children, incest, etc.
Nevada	§200.366	Mandatory life imprisonment with eligibility for parole only after 25 years has been served for sexual assault of a child under age 16 and substantial bodily harm did not occur; mandatory life imprisonment without parole if substantial bodily injury did occur. Mandatory life imprisonment with eligibility for parole only after 35 years has been served for sexual assault against a child under age 14 and substantial bodily harm did not occur.
North Carolina	§14-27.2A; §14-27.4A	Mandatory 25 years to life for sex related offenses against a child under 13 years of age including rape of a child, sexual offense with a child.

Table 1. States with 25 Year Mandatory Minimum Sentencing for First-Time Offenders.

State	Statute	Summary of Sentencing Provisions
Oklahoma	22 §991a; 21 §843.5; 21 §1021	25 years to life mandatory minimum sentence for sex related crimes against a child under 12 including sexual abuse & exploitation by a parent, child pornography, and sexual battery and lewd acts with a child under 16.
Oregon	§137.700; §163.235	25 year mandatory minimum sentences for 1 st degree sex related offenses against a child under 12 including rape, sodomy, kidnapping, sexual penetration.
Rhode Island	§11-37-8.2.1; §11-37-8.2	25 years to life mandatory minimum sentence for 1 st degree child molestation sexual assault against a child 14 years and under.
South Carolina	§16-3-655;	25 years to life mandatory minimum sentence for criminal sexual conduct with a minor under 11 years old. Mandatory life imprisonment or death for subsequent offenders.
Tennessee	§39-13-522	25 years to life mandatory minimum sentence for rape of a child under age 13.
Texas	Penal Code: §21.02	25 years to life mandatory minimum sentence for continuous Sexual Abuse of a child under age 14.
Utah	§76-5-402.1; §76-1-301; §76-5-403.1; §76-5-402.3	25 years to life mandatory minimum sentence for sex related crimes against a child under age 14 including rape of a child, object rape of a child, sodomy of a child.
Vermont	13, §3253; 13, §3253A	25 years to life mandatory minimum sentence and maximum \$50,000 fine for aggravated sexual assault on a child under age 16 and the offender is at least 18. Sentence must not be deferred, suspended, or served as a supervised sentence. State also provides presumptive sentencing minimum of 10 years, mandatory minimum 5 years, and mandatory maximum of life for sexual assault on a child under 13 years old.
Virginia	§ 18.2-61; § 18.2-67.1; § 18.2-67.2	25 year mandatory minimum sentence for rape, forcible sodomy, object sexual penetration against a child under 13 years old when committed in commission of or part of the same course of conduct as kidnapping, abduction, burglary, aggravated malicious wounding, etc. Provides for an additional suspended sentence of 40 years.
Washington	§9.94A.507	25 year mandatory minimum sentence for predatory offenses of 1 st & 2 nd degree rape of a child and 1 st degree child molestation. Also provides 25 year minimum when victim is less than 15 years of age for 1 st & 2 nd degree rape, indecent liberties by forcible compulsion, 1 st degree kidnapping w/ sexual motivation. 25 year minimum also provided relating to sex crimes involving a person developmentally disabled, mentally disordered, a frail elder, or a vulnerable adult.
West Virginia	§61-8B-3; §61-8B-7	25-100 year mandatory minimum sentence for 1 st degree sexual assault or sexual abuse against a child less than 12 years of age.
Wisconsin	§939.616	25 year mandatory minimum prison sentence for sexual assault against a child under age 13 and repeated acts of sexual assault of the same child.

Source: LSO Research summary of information compiled by the National Conference of State Legislatures in August 2008 with additional information from state statutes.

3. As shown in Table 2, below, 21 states have enacted laws with sentencing requirements other than the 25 year mandatory minimum in Jessica's Law. Some of these states have lower ranges of sentences. Others provide more judicial discretion for sentencing. In general, these states illustrate a wider range of variation in sentencing and crimes included than the states shown in Table 1.

Table 2. Other State Sentencing Provisions.

State	Statute	Summary of Sentencing Provisions
Alabama	§13A-5-6; §15-20-21	20 year minimum sentence for Class A and 10 years for a Class B or C felony sex offenses involving a child under age 12 while using a deadly weapon. Numerous criminal sex offenses enumerated in §15-20-21 including sexual abuse, kidnap, enticement.
Alaska	§12.55.125	SB 218 raised presumptive sentencing ranges for sex related crimes against minors including 1 st , 2 nd , 3 rd degree sex assault, sex abuse with a minor, prostitution, etc.
Arizona	§13-604.01; §13-1423	Life sentence for 1 st degree dangerous crimes against children including sexual assault or sexual conduct with a minor 12 years or younger & violent sex assault. Provides presumptive sentences ranging from 20-30 years for other sex related crimes.
Colorado	§18-1.3-406; §18-1.3-401	Presumptive sentencing with mandatory ranges provided for sex offenses constituting violent crimes.
Illinois	§720 ILCS 5/12-14.1	Provides for extended sentencing periods of 15 and 20 years or minimum 50 years for predatory criminal sexual assault of a child; depending on use of firearm or resulting bodily injury.
Indiana	§35-50-2-2; §35-50-2-4	Provides fixed felony class A sentencing ranges of 20-50 years for specified sex crimes involving deadly force, including sexual misconduct with a minor and child molestation. Also limits suspension of class A child molestation sentence only to that in excess of 30 years.
Iowa	§901A.2; §903B.1; §903B.2; §902.14	Provides enhanced and special sentences up to life imprisonment for certain repeat sex offenders.
Kentucky	§532.080; §532.060	Certain sex related crimes classified as class A felonies are subject to indeterminate sentencing ranges from 20-50 years. 25 years to life for a 1 st degree persistent repeat felony sex offender.
Maine	17-A §253; 17-A §1252	Provides definite minimum sentence of 20 years for gross sexual assault of a child under age 12.
Massachusetts	265, §23	Provides for a minimum 10 years for rape of a child under 16 using a weapon.
Minnesota	§609.3455	Provides for mandatory life sentence for egregious first-time offenders convicted of sexual conduct when the factfinder determines that a heinous element exists
Mississippi	§97-3-101	Minimum 20 years to life for sexual battery of a child under 14 years old.
Nebraska	§28-319.01	Provides for minimum 15 year sentence for 1 st offense of 1 st degree sexual assault of a child under 12 years of age; repeat offenders subject to 25 year minimum.

Table 2. Other State Sentencing Provisions.

State	Statute	Summary of Sentencing Provisions
New Hampshire	§651:6; §632-A:2	Authorizes but does not mandate extended sentencing of 25 years to life for 1 st degree sexual assault or aggravated felonious sexual assault against a child under age 13.
New Mexico	§31-18-23; §31-18-25	Provides mandatory life imprisonment for repeat violent sexual offenders, not 1 st time offenders.
New York	Penal Code: §130.95; §130.96; §70.08; §70.00; §70.06	10 years to life minimum sentence for sex related crimes classified as predatory sexual assault & predatory sexual assault against a child less than 13 years old. 25 years to life minimum for persistent violent felony offenders.
North Dakota	§12.1-20-03	20 year mandatory minimum sentence for gross sexual imposition against a child under 15 but provides that the court may deviate from the minimum when it would impose manifest injustice, in which case a 5 year minimum must be observed.
Ohio	§2929.13; §2971.03	25 years to life <i>indefinite</i> minimum sentence for rape of a child under age 13.
Pennsylvania	42 §9718.2	Provides 10 year minimum sentence for sexual assault of a child under 16; 25 year minimum for 2 nd offenders and life imprisonment for 3 rd time offenders.
South Dakota	§22-22-1.2	Provides for minimum 15 year sentence for rape of a child under age 13.
Wyoming	§6-2-306	Provides for mandatory life imprisonment for repeat, not 1 st time, sex offenders convicted of sexual abuse of a minor.

Source: LSO Research summary of information compiled by the National Conference of State Legislatures in August 2008 with additional information from state statutes.

Based on information compiled by the National Conference of State Legislatures, it does not appear that Hawaii, Idaho, and New Jersey have separate statutory provisions mandating minimum sentences for offenders convicted of sex offenses against minors.

If you need anything further, please contact LSO Research at 777-7881.