

Public Law 99-654
99th Congress

An Act

Nov. 14, 1986
[H.R. 4745]

To amend title 18, United States Code, with respect to sexual abuse.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Sexual Abuse
Act of 1986.
18 USC 2241
note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Sexual Abuse Act of 1986".

SEC. 2. DEFINITION OF SEXUAL ABUSE OFFENSES.

Title 18, United States Code, is amended by inserting after chapter 109 the following new chapter:

"CHAPTER 109A—SEXUAL ABUSE

"Sec.

"2241. Aggravated sexual abuse.

"2242. Sexual abuse.

"2243. Sexual abuse of a minor or ward.

"2244. Abusive sexual contact.

"2245. Definitions for chapter.

18 USC 2241.

"§ 2241. Aggravated sexual abuse

"(a) BY FORCE OR THREAT.—Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, knowingly causes another person to engage in a sexual act—

"(1) by using force against that other person; or

"(2) by threatening or placing that other person in fear that any person will be subjected to death, serious bodily injury, or kidnaping;

or attempts to do so, shall be fined under this title, imprisoned for any term of years or life, or both.

"(b) BY OTHER MEANS.—Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, knowingly—

"(1) renders another person unconscious and thereby engages in a sexual act with that other person; or

"(2) administers to another person by force or threat of force, or without the knowledge or permission of that person, a drug, intoxicant, or other similar substance and thereby—

"(A) substantially impairs the ability of that other person to appraise or control conduct; and

"(B) engages in a sexual act with that other person; or attempts to do so, shall be fined under this title, imprisoned for any term of years or life, or both.

"(c) WITH CHILDREN.—Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, knowingly engages in a sexual act with another person who has not attained the age of 12 years, or attempts to do so, shall be fined under this title, imprisoned for any term of years or life, or both.

Drugs and drug
abuse.
Alcohol and
alcoholic
beverages.

“(d) STATE OF MIND PROOF REQUIREMENT.—In a prosecution under subsection (c) of this section, the Government need not prove that the defendant knew that the other person engaging in the sexual act had not attained the age of 12 years.

“§ 2242. Sexual abuse

18 USC 2242.

“Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, knowingly—

“(1) causes another person to engage in a sexual act by threatening or placing that other person in fear (other than by threatening or placing that other person in fear that any person will be subjected to death, serious bodily injury, or kidnaping); or

“(2) engages in a sexual act with another person if that other person is—

“(A) incapable of appraising the nature of the conduct; or

“(B) physically incapable of declining participation in, or communicating unwillingness to engage in, that sexual act; or attempts to do so, shall be fined under this title, imprisoned not more than 20 years, or both.

“§ 2243. Sexual abuse of a minor or ward

18 USC 2243.

“(a) OF A MINOR.—Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, knowingly engages in a sexual act with another person who—

“(1) has attained the age of 12 years but has not attained the age of 16 years; and

“(2) is at least four years younger than the person so engaging;

or attempts to do so, shall be fined under this title, imprisoned not more than five years, or both.

“(b) OF A WARD.—Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, knowingly engages in a sexual act with another person who is—

“(1) in official detention; and

“(2) under the custodial, supervisory, or disciplinary authority of the person so engaging;

or attempts to do so, shall be fined under this title, imprisoned not more than one year, or both.

“(c) DEFENSES.—(1) In a prosecution under subsection (a) of this section, it is a defense, which the defendant must establish by a preponderance of the evidence, that the defendant reasonably believed that the other person had attained the age of 16 years.

“(2) In a prosecution under this section, it is a defense, which the defendant must establish by a preponderance of the evidence, that the persons engaging in the sexual act were at that time married to each other.

“(d) STATE OF MIND PROOF REQUIREMENT.—In a prosecution under subsection (a) of this section, the Government need not prove that the defendant knew—

“(1) the age of the other person engaging in the sexual act; or

“(2) that the requisite age difference existed between the persons so engaging.

“§ 2244. Abusive sexual contact

18 USC 2244.

“(a) SEXUAL CONDUCT IN CIRCUMSTANCES WHERE SEXUAL ACTS ARE PUNISHED BY THIS CHAPTER.—Whoever, in the special maritime and

territorial jurisdiction of the United States or in a Federal prison, knowingly engages in or causes sexual contact with or by another person, if so to do would violate—

“(1) section 2241 of this title had the sexual contact been a sexual act, shall be fined under this title, imprisoned not more than five years, or both;

“(2) section 2242 of this title had the sexual contact been a sexual act, shall be fined under this title, imprisoned not more than three years, or both;

“(3) subsection (a) of section 2243 of this title had the sexual contact been a sexual act, shall be fined under this title, imprisoned not more than one year, or both; or

“(4) subsection (b) of section 2243 of this title had the sexual contact been a sexual act, shall be fined not more than \$5,000, imprisoned not more than six months, or both.

“(b) IN OTHER CIRCUMSTANCES.—Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, knowingly engages in sexual contact with another person without that other person's permission shall be fined not more than \$5,000, imprisoned not more than six months, or both.

18 USC 2245.

“§ 2245. Definitions for chapter

“As used in this chapter—

“(1) the term ‘prison’ means a correctional, detention, or penal facility;

“(2) the term ‘sexual act’ means—

“(A) contact between the penis and the vulva or the penis and the anus, and for purposes of this subparagraph contact involving the penis occurs upon penetration, however slight;

“(B) contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus; or

“(C) the penetration, however slight, of the anal or genital opening of another by a hand or finger or by any object, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person; and

“(3) the term ‘sexual contact’ means the intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person;

“(4) the term ‘serious bodily injury’ means bodily injury that involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

“(5) the term ‘official detention’ means—

“(A) detention by a Federal officer or employee, or under the direction of a Federal officer or employee, following arrest for an offense; following surrender in lieu of arrest for an offense; following a charge or conviction of an offense, or an allegation or finding of juvenile delinquency; following commitment as a material witness; following civil commitment in lieu of criminal proceedings or pending resumption of criminal proceedings that are being held in abeyance, or pending extradition, deportation, or exclusion; or

“(B) custody by a Federal officer or employee, or under the direction of a Federal officer or employee, for purposes incident to any detention described in subparagraph (A) of this paragraph, including transportation, medical diagnosis or treatment, court appearance, work, and recreation; but does not include supervision or other control (other than custody during specified hours or days) after release on bail, probation, or parole, or after release following a finding of juvenile delinquency.”.

SEC. 3. CONFORMING AND RELATED AMENDMENTS.

(a) **OTHER TITLE 18 AMENDMENTS.**—Title 18, United States Code, is amended—

(1) by striking out chapter 99;

18 USC 2031,
2032.

(2) in subsection (a) of section 113 by striking out “or rape”;

(3) in subsection (b) of section 113 by striking out “rape” and inserting in lieu thereof “a felony under chapter 109A”;

(4) in subsection (a) of section 1111 by striking out “, rape” and inserting in lieu thereof “aggravated sexual abuse or sexual abuse”;

(5) in section 1153—

Ante, p. 438.

(A) in the first paragraph, by striking out “rape, involuntary sodomy, carnal knowledge of any female, not his wife, who has not attained the age of sixteen years, assault with intent to commit rape,” and inserting in lieu thereof “a felony under chapter 109A,”; and

Ante, p. 3660.

(B) in each of the second and third paragraphs, by striking out “, involuntary sodomy,”;

(6) in paragraph (12) of section 3185 by striking out “Rape;” and inserting in lieu thereof “A felony under chapter 109A of this title;” and

(7) in the table of chapters at the beginning of part I—

(A) by striking out the item relating to chapter 99; and

(B) by inserting after the item relating to chapter 109 the following new item:

“109A. Sexual Abuse..... 2241”.

(b) **NON-TITLE 18 PROVISIONS.**—(1) The Public Health Service Act is amended—

(A) in section 1904(a)(1)(G) (42 U.S.C. 300w-3(a)(1)(G)) by striking out “rape victims and for rape prevention” and inserting in lieu thereof “victims of sex offenses and for prevention of sex offenses”; and

(B) in section 1905(c)(6) (42 U.S.C. 300w-4(c)(6)) by striking out “rape” and inserting “sex offense” in lieu thereof.

(2) The heading of title VI of the Mental Health Systems Act is amended by striking out “RAPE” and inserting “SEX OFFENSE” in lieu thereof.

94 Stat. 1602.

(3) The heading for section 601 of the Mental Health Systems Act (42 U.S.C. 9511) is amended by striking out “RAPE” and inserting “SEX OFFENSE” in lieu thereof.

(4) Section 601(a) of the Mental Health Systems Act (42 U.S.C. 9511(a)) is amended by striking out “Rape” and inserting “Sex Offenses” in lieu thereof.

(5) Section 601(a)(1) of the Mental Health Systems Act (42 U.S.C. 9511(a)(1)) is amended—

(A) in subparagraph (B), by striking out "the act of rape" and inserting "sex offenses" in lieu thereof;

(B) in subparagraph (E), by striking out "rape" and inserting "a sex offense" in lieu thereof; and

(C) by striking out "rape" each place it appears other than in subparagraphs (B) and (E) and inserting "sex offenses" in lieu thereof.

(6) Section 601(a)(3) of the Mental Health Systems Act (42 U.S.C. 9511(a)(3)) is amended by striking out "rape" each place it appears and inserting "sex offenses" in lieu thereof.

(7) Section 601(e) of the Mental Health Systems Act (42 U.S.C. 9511(e)) is amended by striking out "rape" the first place it appears and inserting "sex offense" in lieu thereof.

(8) Section 902(k)(1) of the Federal Aviation Act of 1958, as amended (49 U.S.C. App. 1472(k)(1)), is amended by striking out "2031, 2032" and inserting in lieu thereof "chapter 109A".

SEC. 4. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect 30 days after the date of the enactment of this Act.

Approved November 14, 1986.

18 USC 2241 note.

LEGISLATIVE HISTORY—H.R. 4745:

HOUSE REPORTS: No. 99-594 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 132 (1986):

May 12, considered and passed House.

Oct. 18, considered and passed Senate.