

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 definition of violent felony and other
5 definitions; conforming provisions; amending hearing
6 requirements to determine the level of risk for sex
7 offenders; repealing the moderate risk category for sex
8 offender registration; repealing specified sexual offenses
9 committed against minors; specifying requirements for
10 disclosure of identity of minor victims; and providing for
11 an effective date.

12

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

14

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

1

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

4

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

7

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

11

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

17

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

22

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

1 (50) years, unless the person convicted qualifies under
2 paragraph (iv) of this subsection, and not less than:

3

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

7

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

13

14 (iii) Five (5) years, if the offense is a second
15 felony offense and does not involve circumstances specified
16 in paragraph (iv) of this subsection;

17

18 (iv) Twenty-five (25) years or for life, if the
19 offense is a second felony offense and the person convicted
20 has a prior conviction which resulted from a charge
21 separately brought and which arose out of a separate
22 occurrence in this state or elsewhere under W.S. 6-2-302
23 through 6-2-304, 6-2-314 or 6-2-315, or a criminal statute

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

3

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

6

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

9

10 (i) Being seventeen (17) years of age or older,
11 the actor inflicts sexual intrusion on a victim who is
12 thirteen (13) through fifteen (15) years of age, and the
13 victim is at least three (3) years younger than the actor;

14

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

18

19 (iii) Being eighteen (18) years of age or older,
20 the actor engages in sexual contact with a victim who is
21 less than eighteen (18) years of age and the actor is the
22 victim's natural parent, stepparent, adopted parent or
23 legal guardian; or

24

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

5

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

10

11 (i) Two (2) years, if the offense is a second
12 felony offense and does not involve circumstances specified
13 in paragraph (ii) of this subsection;

14

15 (ii) Five (5) years or for life, if the offense
16 is a second felony offense and the person convicted has a
17 prior conviction which resulted from a charge separately
18 brought and which arose out of a separate occurrence in
19 this state or elsewhere under W.S. 6-2-302 through 6-2-304,
20 6-2-314 or 6-2-315, or a criminal statute containing the
21 same or similar elements as a crime defined in W.S. 6-2-302
22 through 6-2-304, 6-2-314 or 6-2-315.

23

24 **6-2-316. Sexual abuse of a minor in the third degree.**

1

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

4

5 (i) Being seventeen (17) years of age or older,
6 the actor engages in sexual contact with a victim who is
7 thirteen (13) through fifteen (15) years of age, and the
8 victim is at least three (3) years younger than the actor;

9

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

16

17 (iii) Being less than sixteen (16) years of age,
18 the actor inflicts sexual intrusion on a victim who is less
19 than thirteen (13) years of age, and the victim is at least
20 three (3) years 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) An actor commits the crime of sexual abuse of a
14 minor in the fourth degree if:

15

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

20

21 (ii) Being nineteen (19) years of age or older,
22 the actor engages in sexual contact with a victim who is
23 sixteen (16) or seventeen (17) years of age, and the victim
24 is at least three (3) years younger than the actor, and the

1 actor occupies a position of authority in relation to the
2 victim.

3

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

8

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

14

15 **6-2-318. Soliciting to engage in illicit sexual**
16 **relations; penalty.**

17

18 Except under circumstance constituting sexual assault in
19 the first, second or third degree as defined by W.S.
20 6-2-302 through 6-2-304, or sexual assault of a minor in
21 the first, second, third or fourth degree as defined by
22 W.S. 6-2-314 through 6-2-317, anyone who solicits, procures
23 or knowingly encourages anyone less than the age of sixteen
24 (16) years to engage in illicit sexual penetration or

1 sexual intrusion as defined in W.S. 6-2-301 is guilty of a
2 felony, and upon conviction shall be imprisoned for a term
3 of not more than five (5) years.

4

5 **6-2-319. Names not to be released; restrictions on**
6 **disclosures or publication of information; violations;**
7 **penalties.**

8

9 (a) Prior to the filing of an information or
10 indictment charging a violation of W.S. 6-2-314 through
11 6-2-318, neither the names of the person accused or the
12 victim nor any other information reasonably likely to
13 disclose the identity of the victim shall be released or
14 negligently allowed to be released to the public by any
15 public employee except as authorized by the judge with
16 jurisdiction over the criminal charges. The name of the
17 person accused may be released to the public to aid or
18 facilitate an arrest.

19

20 (b) After the filing of an information or indictment
21 and upon the request of a minor victim or another acting on
22 behalf of a minor victim, the trial court may, to the
23 extent necessary to protect the welfare of the minor
24 victim, restrict the disclosure of the name of the minor

1 victim, unless the name has been publicly disclosed by the
2 parent or legal guardian of the minor or by law enforcement
3 in an effort to find the victim. The trial court may, to
4 the extent necessary to protect the welfare of the minor
5 victim, restrict disclosure of the information reasonably
6 likely to identify the minor victim.

7

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

14

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

20

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

23

1 **Section 2.** W.S. 1-40-119(a)(iv), 6-1-204(a)(xii),
2 6-2-301(a)(ix), 6-2-306(a)(intro), (i) through (iii), (b),
3 (c)(intro), (i), (ii), (d)(intro), (i) and (iii),
4 6-2-313(a), 6-4-303(c), 7-1-109(g)(ii), 7-19-301(a)(ii),
5 (iv)(F) and (xiii), 7-19-303(c)(intro) and 9-1-636(d)(vii)
6 are amended to read:

7

8 **1-40-119. Surcharge to be assessed in certain**
9 **criminal cases; paid to account.**

10

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

19

20 (iv) Any violation of W.S. ~~14-3-104 or 14-3-105~~
21 6-2-314 through 6-2-318;

22

23 **6-1-104. Definitions.**

24

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

3

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

10

11 **6-2-301. Definitions.**

12

13 (a) As used in this article:

14

15 (ix) "This article" means W.S. 6-2-301 through
16 ~~6-2-313~~ 6-2-319.

17

18 **6-2-306. Penalties for sexual assault.**

19

20 (a) An actor convicted of sexual assault under W.S.
21 6-2-302 through 6-2-304 who does not qualify under the
22 criteria of subsection (b) or (d) of this section shall be
23 punished as follows:

24

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

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

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

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

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

23

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.

24

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~~ 6-2-314 through 6-2-317.

21

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

23

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 provided the victim was under the age~~
11 ~~of sixteen (16) and the offender was at least four (4)~~
12 ~~years older than the victim~~ 6-2-314, or an attempt to
13 commit an offense enumerated in this paragraph. "Aggravated
14 sex offense" includes an offense committed in another
15 jurisdiction, including a federal court or courts martial,
16 which, if committed in this state, would constitute an
17 "aggravated sex offense" as defined in this paragraph;

18

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

1 constitute a "criminal offense against a minor" as defined
2 in this paragraph. "Criminal offense against a minor"
3 includes:

4
5 (F) Soliciting sexual conduct under W.S.
6 ~~14-3-104-6-2-318~~;

7
8 (xiii) "Sex offense" means the offenses of
9 sexual assault under W.S. ~~6-2-304(a)(i) or 6-2-304(a)(iii)~~
10 if the victim is sixteen (16) years of age or older,
11 conspiracy to commit sexual assault as defined by W.S.
12 6-2-301(a)(v), ~~indecent liberties~~ sexual abuse of a minor
13 under W.S. ~~14-3-105 provided the victim was at least~~
14 ~~sixteen (16) and less than eighteen (18) years of age and~~
15 ~~the offender was at least four (4) years older than the~~
16 ~~victim~~ 6-2-315 through 6-2-317, or an attempt to commit an
17 offense enumerated in this paragraph. "Sex offense"
18 includes an offense committed in another jurisdiction
19 regardless of classification as a misdemeanor or felony,
20 including a federal court or courts martial, which, if
21 committed in this state, would constitute a "sex offense"
22 as defined in this paragraph;

23

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;~~

4

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.

8

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

10

11

(END)