

WORKING DRAFT

SENATE FILE NO. _____

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

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;

10

11 (ii) Being eighteen (18) years of age or older,
12 the actor inflicts sexual intrusion on a victim who is less
13 than eighteen (18) years of age, and the actor is the
14 victim's legal guardian or an individual specified in W.S.
15 6-4-402;

16

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

21

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

1 (50) years, unless the person convicted qualifies under
2 subsection (c) or (d) of this section, 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) Ten (10) years, if the offense is a second
15 or subsequent felony offense and does not involve
16 circumstances specified in subsection (c) of this section;

17

18 (c) A person convicted under subsection (a) of this
19 section is subject to imprisonment for not less than
20 twenty-five (25) years or for life, if the offense is a
21 second or subsequent felony offense and the person
22 convicted has a prior conviction which resulted from a
23 charge 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 (d) A person convicted under subsection (a) of this
6 section who qualifies for sentencing under W.S. 6-2-306(d)
7 shall be sentenced in accordance with W.S. 6-2-306(d) and
8 not under the provisions of this section.

9

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

12

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

17

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

22

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 subsection (c) of this section, not less than two (2)
20 years, if the offense is a second or subsequent felony
21 offense and does not involve circumstances specified in
22 subsection (c) of this section.

23

1 (c) a person convicted under subsection (a) of this
2 section is subject to imprisonment for not less than five
3 (5) years or for life, if the offense is a second felony
4 offense and the person convicted has a prior conviction
5 which resulted from a charge separately brought and which
6 arose out of a separate occurrence in this state or
7 elsewhere under W.S. 6-2-302 through 6-2-304, 6-2-314 or
8 6-2-315, or a criminal statute containing the same or
9 similar elements as a crime defined in W.S. 6-2-302 through
10 6-2-304, 6-2-314 or 6-2-315.

11

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

16

17 **6-2-316. Sexual abuse of a minor in the third degree.**

18

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

23

1 (i) Being seventeen (17) years of age or older,
2 the actor engages in sexual contact with a victim who is
3 thirteen (13) through fifteen (15) years of age, and the
4 victim is at least four (4) years younger than the actor;

5

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

12

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

17

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

23

1 (b) A person convicted under subsection (a) of this
2 section is subject to imprisonment for not more than
3 fifteen (15) years and, if the offense is a second or
4 subsequent felony offense, not less than one (1) year.

5

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

11

12 **6-2-317. Sexual abuse of a minor in the fourth**
13 **degree.**

14

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

20

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

1

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

8

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

13

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

19

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

22

23 Except under circumstance constituting sexual assault in
24 the first, second or third degree as defined by W.S.

1 6-2-302 through 6-2-304, or sexual assault of a minor in
2 the first, second, third or fourth degree as defined by
3 W.S. 6-2-314 through 6-2-317, anyone who solicits, procures
4 or knowingly encourages anyone less than the age of sixteen
5 (16) years to engage in sexual intrusion as defined in W.S.
6 6-2-301 is guilty of a felony, and upon conviction shall be
7 imprisoned for a term of not more than five (5) years.

8
9 **6-2-319. Names not to be released; restrictions on**
10 **disclosures or publication of information; violations;**
11 **penalties.**

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

23

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

12

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

18

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

24

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 6-2-301(a)(ix), 6-2-306(a)(intro), (i) through (iii), (b),
6 (c)(intro), (i) and (ii), (d)(intro), (i) and (ii),
7 6-2-313(a), 6-4-303(c), 7-1-109(g)(ii), 7-19-301(a)(ii),
8 (iv)(F) and (xiii) and 9-1-636(d)(vii) are amended to read:

9

10 **1-40-119. Surcharge to be assessed in certain**
11 **criminal cases; paid to account.**

12

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

21

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

24

*****Staff Comment*****

1 The motion made at the August meeting was simply
2 to replace the \$50.00 fine on what is now page
3 12, line 17, but in reading the subsection, I
4 made a more extensive revision which I believe
5 would be consistent with the intent of the
6 amendment while eliminating what would otherwise
7 be redundant language.
8

9 **6-1-104. Definitions.**

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

13
14 (xii) "Violent felony" means murder,
15 manslaughter, kidnapping, sexual assault in the first or
16 second degree, robbery, aggravated assault, aircraft
17 hijacking, arson in the first or second degree or
18 aggravated burglary or a violation of W.S. 6-2-314(a)(i) or
19 6-2-315(a)(ii);

20
21 **6-2-301. Definitions.**

22
23 (a) As used in this article:

24
25 (ix) "This article" means W.S. 6-2-301 through
26 ~~6-2-313~~ 6-2-319.

1 **6-2-306. Penalties for sexual assault.**

2

3 (a) An actor convicted of sexual assault under W.S.
4 6-2-302 through 6-2-304 who does not qualify under the
5 criteria of subsection (b) or (d) of this section shall be
6 punished as follows:

7

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

11

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

15

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

19

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

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

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

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

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

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

*****Staff Comment*****

1 **Language in (b)(i) and (c)(i) relating to**
2 **sentencing for sexual abuse of a minor has been**
3 **deleted because it confuses the issues with**
4 **respect to sentencing provided in W.S. 6-2-314**
5 **and 6-2-315**
6

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

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

19
20 (iii) A conviction under W.S. ~~14-3-105(a)~~
21 6-2-314 or 6-2-315, or a criminal statute containing the
22 same or similar elements as the crime defined by W.S. ~~14-3-~~
23 ~~105(a), if the circumstances of the crime involved a victim~~
24 ~~who was under the age of sixteen (16) at the time of the~~
25 ~~offense and an actor who was at least four (4) years older~~
26 ~~than the victim~~ 6-2-314 or 6-2-315.

1

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

3

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

9

10 **6-4-303. Sexual exploitation of children; penalties;**
11 **definitions.**

12

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

18

19 **7-1-109. Examination for sexually transmitted**
20 **diseases required in certain cases; health officers to**
21 **notify crime victims; results confidential.**

22

23 (g) As used in this section:

24

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

6
7 **7-19-301. Definitions.**

8
9 (a) Unless otherwise provided, for the purposes of
10 this act:

11
12 (ii) "Aggravated sex offense" means sexual
13 assault under W.S. 6-2-302 regardless of the age of the
14 victim, W.S. 6-2-303 regardless of the age of the victim,
15 ~~W.S. 6-2-304(a)(ii),~~ or an offense under W.S.
16 6-2-304(a)(iii) if the victim was ~~under~~ less than the age
17 of sixteen (16), incest under W.S. 6-4-402, or an offense
18 under W.S. ~~14-3-105 provided the victim was under the age~~
19 ~~of sixteen (16) and the offender was at least four (4)~~
20 ~~years older than the victim~~ 6-2-314, or an attempt to
21 commit an offense enumerated in this paragraph. "Aggravated
22 sex offense" includes an offense committed in another
23 jurisdiction, including a federal court or courts martial,

1 which, if committed in this state, would constitute an
2 "aggravated sex offense" as defined in this paragraph;

3

4 (iv) "Criminal offense against a minor" means
5 the offenses specified in this paragraph in which the
6 victim is less than eighteen (18) years of age. "Criminal
7 offense against a minor" includes an offense committed in
8 another jurisdiction, including a federal court or courts
9 martial, which, if committed in this state, would
10 constitute a "criminal offense against a minor" as defined
11 in this paragraph. "Criminal offense against a minor"
12 includes:

13

14 (F) Soliciting sexual conduct under W.S.
15 ~~14-3-104~~ 6-2-318;

16

17 (xiii) "Sex offense" means the offenses of
18 sexual assault under W.S. ~~6-2-304(a)(i) or 6-2-304(a)(iii)~~
19 if the victim is sixteen (16) years of age or older,
20 conspiracy to commit sexual assault as defined by W.S.
21 6-2-301(a)(v), ~~indecent liberties~~ sexual abuse of a minor
22 under W.S. ~~14-3-105 provided the victim was at least~~
23 ~~sixteen (16) and less than eighteen (18) years of age and~~
24 ~~the offender was at least four (4) years older than the~~

1 ~~victim~~ 6-2-315 through 6-2-317, or an attempt to commit an
2 offense enumerated in this paragraph. "Sex offense"
3 includes an offense committed in another jurisdiction
4 regardless of classification as a misdemeanor or felony,
5 including a federal court or courts martial, which, if
6 committed in this state, would constitute a "sex offense"
7 as defined in this paragraph;

8

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

12

13 (d) As used in this act:

14

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

18

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

21

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

23

24

(END)