

Department: Student Services  
Owner & Title: Melanie Scheet, National Director of SS

Effective Date:  
Last Revised Date: 10/3/2017

## **Purpose**

The purpose of this policy is to ensure compliance with the *Violence Against Women Act* (VAWA) amendments to the *Jeanne Clery Disclosure of Campus Security Policy and Campus Crimes Statistics Act* (Clery Act), and the accompanying regulations which became effective on July 1, 2015 (collectively referred to as VAWA). VAWA imposes additional duties on universities and colleges to investigate and respond to reports of dating violence, domestic violence, sexual assault, and stalking and to publish policies and procedures related to the way these reports are handled. Universal Technical Institute (“UTI”) has directed its Title IX Coordinator, with assistance of the Student Services Directors who are Deputy Title Coordinators, to coordinate UTI’s compliance with VAWA and Clery reporting related VAWA requirements and to respond to reports of alleged violations.

## **Scope**

UTI does not tolerate sex discrimination, sexual harassment, sexual misconduct, or retaliation in its programs and activities. UTI’s policies specifically prohibit dating violence, domestic violence, sexual assault, and stalking, consistent with VAWA. Entrance requirements prohibit any prospective student convicted of, or pleading guilty or no contest to, felony sexual assault or other sexually related crimes, including but not limited to child pornography or any non-consensual, involuntary sexual act from attending a UTI campus. Additionally, employees are subject to a pre-employment background check. Applicants with any felony or major misdemeanor sexual assault conviction are subject to a review process where pertinent facts are considered and discussed. The committee will make a determination of employment based on all facts while keeping campus safety and security at the forefront of decision-making.

This policy applies to all students, employees, and third parties across all UTI campuses and programs, including Marine Mechanics Institute, Motorcycle Mechanics Institute, and NASCAR Technical Institute, regardless of sex, sexual orientation, or gender identity or expression.

## **Policy Information**

As part of its commitment to provide a safe and secure environment, UTI is dedicated to maintaining campus and work environments free from sexual violence and sexual misconduct in accordance with the *Violence Against Women Act* (VAWA) of the Clery Act. UTI prohibits the crimes of dating violence, domestic violence, sexual assault, and stalking as defined by the Clery Act. This policy provides information regarding UTI’s process once the institution is made aware of sexual misconduct, including dating violence, domestic violence, sexual assault, and stalking. UTI’s Title IX policy addresses VAWA covered conduct but includes sexual discrimination more broadly as well. UTI’s Title IX policy is located at [www.uti.edu/titleix](http://www.uti.edu/titleix). The process for reporting and resolving allegations is the same under UTI’s Title IX and Sexual Misconduct policies.

UTI utilizes prompt, fair, impartial processes to address allegations of sexual misconduct. If UTI finds that a violation of this policy has occurred, it promptly imposes disciplinary measures and provides remedies to affected parties, as appropriate. UTI strongly prohibits retaliation against individuals who report sexual misconduct, participate in investigations, or otherwise assert rights protected by this policy.

Department: Student Services

Effective Date:

Owner & Title: Melanie Scheet, National Director of SS

Last Revised Date: 10/3/2017

Victims of dating violence, domestic violence, sexual assault, and stalking are encouraged to make a report to local law enforcement authorities by calling 911 or to a UTI employee as soon as possible, so that a timely and complete response can occur. UTI will provide victims with assistance in reporting all crimes to proper law enforcement authorities when the victim of a crime elects to, or is unable to, make sure a report. Local law enforcement can be reached at the following numbers:

<b>Avondale</b> Avondale Police Department 11485 Civic Center Drive Avondale, AZ 85323 (623) 333-7001	<b>Exton</b> Upper Uwchlan Police Department 140 Pottstown Pike Chester Springs, PA 19425 (610) 692-5100	<b>MMI Phoenix</b> Phoenix Police Department 620 West Washington Street Phoenix, AZ 85003 (602) 262-6151
<b>Houston</b> Harris County Sheriff's Office 1200 Baker Street Houston, TX 77002 (713) 221-6000	<b>Sacramento</b> Sacramento Police Department 5770 Freeport Blvd., Suite 100 Sacramento, CA 95822 (916) 264-5471	<b>Orlando</b> Orlando Police Department 400 South Orange Avenue Orlando, FL 32802 (321) 235-5300
<b>Lisle</b> Lisle Police Department 5040 Lincoln Avenue Lisle, IL 60532 (630) 271-4200	<b>NASCAR Tech ( Mooresville)</b> Mooresville Police Department 750 W Iredell Avenue Mooresville, NC 28115 (704) 664-3311	<b>Dallas</b> Irving Police Department 305 North O'Connor Road Irving, TX 75061 (972) 273-1010
<b>Rancho Cucamonga</b> Rancho Cucamonga Police Department 10500 Civic Center Drive Rancho Cucamonga, CA 91730 (909) 941-1488	<b>Norwood</b> Norwood Police Department 137 Nahatan Street Norwood, MA 02062 (781) 440-5100	<b>Long Beach</b> Long Beach Police Department 400 West Broadway Long Beach, CA 90802 (562) 435-6711

## Confidentiality

UTI encourages survivors of sexual violence, including dating violence, domestic violence, sexual assault, and stalking, to talk to someone about what happened in order to get the support they need and so that UTI can respond appropriately. Different employees on campus have different abilities to maintain a victim's and other parties' confidentiality.

Some employees may talk to a victim privately and generally only report to UTI that an incident occurred without revealing personally identifying information. Disclosure to these employees generally will not trigger an investigation into the incident against the victim's wishes unless there is an ongoing threat to the victim or campus community. If a victim requests that UTI handle a complaint on a confidential basis, UTI will honor that request where possible but cannot always guarantee confidentiality. It is the policy of UTI to handle such reports as privately as possible, consistent with applicable federal and state laws.

Under the Clery Act, any reports made to a Campus Security Authority of dating violence, domestic violence, sexual assault, or stalking must be tracked on a Daily Crime Log and included in the campus crime statistics that are reported each year in the Annual

Department: Student Services

Effective Date:

Owner & Title: Melanie Scheet, National Director of SS

Last Revised Date: 10/3/2017

Security Report. The Daily Crime Log is available for review by students, employees, or other parties by contacting the Student Services department. Requests to review portions of the crime log that are older than 60 days may take up to two business days to process. Personally identifying information, including the names of any victims, is not included on the log available to the public. Crime statistics include the crime, number of reports, and the location of the crime (on campus, non-campus property or public property); no personally identifying information is included in the crime statistics.

Some employees are required to report all details on an incident, including identities of the victim and respondent, to the Title IX coordinator or Deputy Title IX Coordinator. These employees are called “Responsible Employees,” and any report to them obligates UTI to investigate the incident and take appropriate steps to address the situation. UTI has designated the following individuals as Responsible Employees: Student Services Directors, Student Services Supervisors, Senior Student Affairs Advisors, Student Affairs Advisors, Education Directors, Education Managers, and People Services employees. Responsible Employees will notify the complainant of this reporting requirement and will attempt to do so before the complainant reveals any information.

UTI does not employ practicing licensed counselors or pastoral counselors, and therefore, does not have procedures for said individuals to inform students/staff of any procedures to report crimes on a voluntary, confidential basis.

### **Assistance Following an Incident of Sexual Misconduct**

A Student Services team member (Student Services Director, Student Services Supervisor, Senior Student Affairs Advisor, or Student Affairs Advisor) is available to meet with victims following an incident of sexual misconduct. The People Services department is available for employees. UTI does not offer on campus medical services. The team member can provide referrals to outside agencies for immediate assistance. Individuals who wish to speak with someone in confidence about an experience of sexual misconduct may contact one of the following off-campus resources:

Campus	Resource
All campuses	<ul style="list-style-type: none"> <li>Rape, Abuse, and Incest National Network: <a href="http://www.rainn.org">www.rainn.org</a></li> <li>National Sexual Assault Hotline: 800-656-HOPE</li> <li>The National Domestic Violence Hotline: 800-799-7233</li> <li>Love is Respect: 866-331-9474; text “loveis” to 22522</li> </ul>
Avondale	<ul style="list-style-type: none"> <li>Crisis Response Network: 602-222-9444, <a href="http://www.crisisnetwork.org">www.crisisnetwork.org</a></li> <li>Community Bridges: 877-931-9142; <a href="http://www.communitybridgesaz.org">www.communitybridgesaz.org</a></li> <li>West Valley Advocacy Center: 623-930-3720; <a href="http://www.glendaleaz.com/police/wvac/index.cfm">www.glendaleaz.com/police/wvac/index.cfm</a></li> <li>AZ Coalition Against Domestic Violence: 800-782-6400</li> </ul>
Houston	<ul style="list-style-type: none"> <li>Houston Area Women’s Center: 713-528-2121; <a href="http://www.hawc.org">www.hawc.org</a></li> <li>Family Time Crisis &amp; Counseling Center: 281-446-2615</li> <li>TX Council on Family Violence: 512-794-1133</li> </ul>
Lisle	<ul style="list-style-type: none"> <li>YWCA, Rape Crisis Hotline: 630-971-3927</li> <li>Guardian Angel Community Services Sexual Assault Hotline: 815-730-8984</li> <li>Chicago Rape Crisis Hotline: 888-293-2080</li> <li>IL Coalition Against Domestic Violence: 877-863-6338</li> </ul>

Department: Student Services

Effective Date:

Owner & Title: Melanie Scheet, National Director of SS

Last Revised Date: 10/3/2017

Rancho Cucamonga	<ul style="list-style-type: none"> <li>• Cucamonga Counseling: 909-962-7323</li> <li>• CA Partnership to End Domestic Violence: 916-444-7163</li> </ul>
Exton	<ul style="list-style-type: none"> <li>• The Crime Victims' Center of Chester County, Inc: 610-692-7273; <a href="http://www.cvcofcc.org/">http://www.cvcofcc.org/</a></li> <li>• Victim Services Center of Montgomery County: 610-277-0932; <a href="http://www.victimservicescenter.org/">http://www.victimservicescenter.org/</a></li> <li>• PA Coalition Against Domestic Violence: 717-545-6400</li> <li>• Domestic Violence Center of Chester County: 610-431-1430</li> </ul>
Sacramento	<ul style="list-style-type: none"> <li>• WEAVE, Inc.: 916-920-2952; <a href="http://www.weaveinc.org/">http://www.weaveinc.org/</a></li> <li>• CA Partnership to End Domestic Violence: 916-444-7163</li> </ul>
NASCAR Tech ( Mooresville)	<ul style="list-style-type: none"> <li>• Loving Hand Counseling: 704-662-6118</li> <li>• Fifth Street Ministries: 704-872-4045; <a href="http://www.fifthstreetministries.com/">http://www.fifthstreetministries.com/</a></li> <li>• NC Coalition Against Domestic Violence: 888-997-9124</li> </ul>
Norwood	<ul style="list-style-type: none"> <li>• Sexual Assault Prevention &amp; Survivor Services: 617-624-5457; <a href="http://www.mass.gov/dph/sexualassaultservices">www.mass.gov/dph/sexualassaultservices</a></li> <li>• <a href="http://mgcmtraining.mass.gov/eohhs/consumer/physical-health-treatment/health-care-facilities/rape-crisis-centers.html">http://mgcmtraining.mass.gov/eohhs/consumer/physical-health-treatment/health-care-facilities/rape-crisis-centers.html</a></li> <li>• Jane Doe, Inc: 877-785-2020</li> </ul>
MMI Phoenix	<ul style="list-style-type: none"> <li>• West Valley Advocacy Center: 623-930-3720; <a href="http://www.glendaleaz.com/police/wvac/index.cfm">www.glendaleaz.com/police/wvac/index.cfm</a></li> <li>• Crisis Response Network: 602-222-9444; <a href="http://www.crisisnetwork.org">www.crisisnetwork.org</a></li> <li>• Community Bridges: 877-931-9142; <a href="http://www.communitybridgesaz.org">www.communitybridgesaz.org</a></li> </ul>
UTI/MMI Orlando	<ul style="list-style-type: none"> <li>• Devereux Florida: 800-338-3738</li> <li>• Victim Service Center of Central Florida: 407-497-6701 or 407-254-9415; <a href="http://www.victimservicecenter.com/">http://www.victimservicecenter.com/</a></li> <li>• FL Coalition Against Domestic Violence: 800-500-1119</li> </ul>
Dallas	<ul style="list-style-type: none"> <li>• Dallas Area Rape Crisis Center (DARCC): 972-641-7273</li> <li>• The Turning Point Rape Crisis Center: 1-800-886-7273</li> <li>• Parkland Victim Intervention Program/Rape Crisis Center: 214- 590-2926 or 214-590-0430 (24 hour hotline)</li> <li>• Victims Outreach: 214-358-5173</li> <li>• Brighter Tomorrows: 972-262-8383</li> <li>• TX Council on Family Violence: 512-794-1133</li> </ul>
Long Beach	<ul style="list-style-type: none"> <li>• YWCA of Greater Los Angeles County: 877-943-5778</li> <li>• Peace Over Violence: 213-626-3393</li> <li>• Women Shelter of Long Beach: 562-437-7233 or 562-437-4663 (hotline)</li> <li>• 1736 Family Crisis Center: 562-388-7652; <a href="http://www.1736familycrisiscenter.org/">http://www.1736familycrisiscenter.org/</a></li> <li>• CA Partnership to End Domestic Violence: 916-444-7163</li> </ul>

Victims are encouraged to secure a place of safety, obtain necessary medical treatment, report the incident in a timely manner and provide an opportunity for timely collection of evidence. The preservation of evidence is crucial in sexual misconduct cases.

Regardless of whether the individual chooses to report the incident, UTI encourages survivors of any form of violence to seek medical attention as soon as possible, even if they feel no injury was sustained. Medical assistance providers can treat injuries, test for and treat sexually transmitted diseases, test for pregnancy, and provide emergency contraception (if requested). In addition,

Department: Student Services      Effective Date:  
 Owner & Title: Melanie Scheet, National Director of SS      Last Revised Date: 10/3/2017

hospitals can also test for the presence of alcohol or drugs and perform a rape evidence collection procedure or coordinate these services with another provider if needed.

Interim or protective measures are available to individuals who report alleged sexual misconduct, as appropriate. Protective measures may include no contact orders, changes to academic situations for students, leave for employees, housing transfer for students who are participating in Collegiate Housing Services shared housing, if available, changes in working situations, transportation, or other actions. UTI is obligated to provide reasonable changes to a victim’s academic situation upon request regardless of whether the victim chooses to report the crime to local law enforcement. Protective measures will be administered in a manner that reduces the burden on the complainant while preserving the fundamental fairness of the process. Accommodations will be kept confidential to the extent that maintaining such confidentiality would not impair the ability of UTI to provide the accommodations or protective measures. Student requests for protective measures should be made to the Student Services Director or designee. Employee requests should be made through People Services. Victims who need assistance enforcing protective measures put in place by UTI should contact the Deputy Title IX Coordinator.

Victims of dating violence, domestic violence, sexual assault, and stalking will receive written notice regarding how to request changes/obtain assistance with academic, living, and protective/interim measures when a report is made. The written notice also lists a variety of community support resources as well as information on preserving evidence.

## **Title IX/Deputy Title IX Coordinator**

UTI has designated the National Director of Student Services as its Title IX Coordinator. Questions or comments about discrimination or harassment can be directed to: National Director of Student Services, Title IX Coordinator, 16220 N. Scottsdale Road, Suite 100, Scottsdale, AZ 85254, 800-859-7249, 321-281-9755, or [mscheet@uti.edu](mailto:mscheet@uti.edu).

UTI has designated the Student Services Director at each campus as a Deputy Title IX Coordinator for student related complaints. They can be contacted as follows:

<b>Campus</b>	<b>Campus Address</b>	<b>Toll Free</b>	<b>Email Address</b>
Avondale	10695 W. Pierce Street, Avondale, AZ 85323	800-859-1202	<a href="mailto:likingsley@uti.edu">likingsley@uti.edu</a>
Houston	721 Lockhaven Drive, Houston, TX 77073	800-325-0354	<a href="mailto:mcode@uti.edu">mcode@uti.edu</a>
Lisle	2611 Corporate West Drive, Lisle, IL 60532	800-441-4248	<a href="mailto:kstamp@uti.edu">kstamp@uti.edu</a>
Rancho Cucamonga	9494 Haven Avenue, Rancho Cucamonga, CA 91730	888-692-7800	<a href="mailto:jdismukes@uti.edu">jdismukes@uti.edu</a>
Exton	750 Pennsylvania Drive, Exton, PA 19341	877-884-3986	<a href="mailto:rtrickett@uti.edu">rtrickett@uti.edu</a>
Sacramento	4100 Duckhorn Drive, Sacramento, CA 95834	877-884-2254	<a href="mailto:jgillming@uti.edu">jgillming@uti.edu</a>
NASCAR Tech (Mooresville)	220 Byers Creek Road, Mooresville, NC 28117	866-316-2722	<a href="mailto:amazon@uti.edu">amazon@uti.edu</a>
Norwood	1 Upland Road, Building 200, Norwood, MA 02062	866-753-6553	<a href="mailto:icorreia@uti.edu">icorreia@uti.edu</a>
MMI Phoenix	2844 W. Deer Valley Road, Phoenix, AZ 85027	800-528-7995	<a href="mailto:tchakos@uti.edu">tchakos@uti.edu</a>
UTI/MMI Orlando	9751 Delegates Drive, Orlando, FL 32837 or 2202 Taft Vineland Road, Orlando, FL 32837	800-342-9253	<a href="mailto:tjohnson@uti.edu">tjohnson@uti.edu</a>

Department: Student Services

Effective Date:

Owner & Title: Melanie Scheet, National Director of SS

Last Revised Date: 10/3/2017

Dallas	5151 Regent Boulevard, Irving, TX 75063	877-873-1083	<a href="mailto:rdoyal@uti.edu">rdoyal@uti.edu</a>
Long Beach	4175 E. Conant Street, Long Beach, CA 90808	844-308-8838	<a href="mailto:jramirez@uti.edu">jramirez@uti.edu</a>

The Title IX/Deputy Title IX Coordinator receives any reports made in regards to sexual harassment and sexual misconduct, including dating violence, domestic violence, sexual assault, and stalking in any of UTI's programs or activities. Individuals identified as Responsible Employees are required to report incidents of possible sexual violence to the Title IX/Deputy Title IX Coordinator within 24 hours of becoming aware of such conduct. Students or employees may also make reports directly to the Title IX Coordinator, or in instances where there could be a conflict of interest, reports should be made to the Vice President of Student Support Services, 16220 N. Scottsdale Road, Suite 100, Scottsdale, AZ 85254, 800-859-7249, [ednajohnson@uti.edu](mailto:ednajohnson@uti.edu).

Once a report has been made, the Title IX/Deputy Title IX Coordinator is then responsible for several aspects of the school's response to reports of sexual misconduct. The Coordinator will first review and then investigate all aspects of the report. Upon completion of the investigation, the Title IX/Deputy Title IX Coordinator will prepare a report which will outline factual findings, make a determination whether any sexual misconduct has occurred, and will impose any appropriate sanctions. Once the investigation has been completed, the Title IX/Deputy Title IX Coordinator will ensure both the complainant and respondent receive written notice of the outcome simultaneously.

More detailed information regarding the investigation process can be found in this policy under "Investigation Procedures and Protocols."

## Definitions

In an effort to ensure clarity and understanding, UTI has included definitions for all forms of conduct prohibited by this policy as well as other relevant definitions. Appendix A provides criminal law terms and definitions for Arizona, California, Florida, Illinois, Massachusetts, Pennsylvania, North Carolina, and Texas. The definitions are as follows:

**Awareness Programs:** Community-wide or audience-specific programming, initiatives, and strategies that increase audience knowledge and share information and resources to prevent violence, promote safety, and reduce perpetration.

**Bystander Intervention:** Safe and positive options that may be carried out by an individual or individuals to prevent harm or intervene when there is a risk of dating violence, domestic violence, sexual assault, or stalking.

**Complainant:** The individual who experienced the alleged sexual misconduct or harassment. In certain instances, such as where there is a danger to the UTI community and the individual who experienced the alleged conduct is unable or unwilling to file a complaint, UTI may serve as the complainant.

**Consent:** Affirmative, conscious, and voluntary agreement to engage in sexual activity. Neither the lack of protest or resistance nor silence constitutes consent. Consent may be withdrawn at any time. Affirmative consent must be given by all parties to sexual activity. A person who is incapacitated cannot consent (see definition of incapacitation below). Past consent does not imply future

Department: Student Services  
Owner & Title: Melanie Scheet, National Director of SS

Effective Date:  
Last Revised Date: 10/3/2017

consent. Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another. Coercion, force, or threat of either invalidates consent.

*For cases involving California campuses, the following will not excuse a failure to obtain consent: a respondent's own intoxication or recklessness and a respondent's failure to take reasonable steps to ascertain whether the complainant affirmatively consented.*

**Dating Violence:** Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the complainant. The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.

**Domestic Violence:** A felony or misdemeanor crime of violence committed— (A) By a current or former spouse or intimate partner of the complainant; (B) By a person with whom the complainant shares a child in common; (C) By a person who is cohabitating with, or has cohabitated with, the complainant as a spouse or intimate partner; (D) By a person similarly situated to a spouse of the complainant under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred, or (E) By any other person against an adult or youth complainant who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

**Hostile Environment Caused by Sexual Harassment:** A hostile work environment is a form of harassment. It is demonstrated by such severe and pervasive conduct of a sexual nature that it permeates the work environment and interferes with an employee's ability to perform his or her job.

Sexual harassment that creates a hostile or abusive work environment can include behavior of supervisors, coworkers, and non-employees at a work site or work related site. In addition, the victim of the harassment need not necessarily have been the direct target of the behavior.

**Incapacitation:** A person may be unable to give consent due to incapacitation as a result of drug or alcohol use, use of medication, or disability status (for example, a person may be unable to communicate due to a mental or physical condition). A person who is passed out, asleep or unconscious is incapacitated and cannot consent to sexual activity. In evaluating whether a complainant was incapacitated due to the consumption of alcohol, UTI will consider the totality of the circumstances; including factors such as the presence of slurred speech, an unsteady gait/stumbling, unfocused eyes, and impaired memory.

**Intimidation:** To unlawfully place another person in reasonable fear of bodily harm through the use of threatening words and/or other conduct but without displaying a weapon or subjecting the victim to actual physical attack.

**Ongoing Prevention and Awareness Campaigns:** Programming, initiatives, and strategies that are sustained over time and focus on increasing understanding of topics relevant to and skills for addressing dating violence, domestic violence, sexual assault, and stalking, using a range of strategies with audiences through the institution.

Department: Student Services

Effective Date:

Owner & Title: Melanie Scheet, National Director of SS

Last Revised Date: 10/3/2017

**Primary Prevention Programs:** Programming, initiatives, and strategies informed by research or assessed for value, effectiveness, or outcome that are intended to stop dating violence, domestic violence, sexual assault, and stalking before they occur through the promotion of positive and healthy behaviors that foster healthy, mutually respectful relationships and sexuality, encourage safe bystander intervention, and seek to change behavior and social norms in healthy and safe direction.

**Proceeding:** All activities related to a non-criminal resolution of an institutional disciplinary complaint, including, but not limited to, fact finding investigations, formal or informal meetings, and hearings. Proceeding does not include communications and meetings between officials and victims concerning accommodations or protective measures to be provided to a victim.

**Respondent:** The individual accused of the alleged sexual misconduct or harassment.

**Result:** Any initial, interim, and final decision by any official or entity authorized to resolve disciplinary matters within the institution. The result includes any sanctions imposed by UTI.

**Retaliation:** Adverse conduct of which the institution is aware, where there is evidence of a causal connection between the conduct and a protected activity such as filing a sexual assault complaint, participating in a sexual assault investigation, or otherwise asserting rights under this policy. Retaliation includes, but is not limited to, ostracizing the person, pressuring the person to drop or not support the complaint or to provide false or misleading information, engaging in conduct that may reasonably be perceived to affect adversely that person's educational, living or work environment, threatening, intimidating or coercing the person, or otherwise discriminating against any person for exercising their rights or responsibilities under this policy.

**Risk Reduction:** Options designed to decrease perpetration and bystander inaction, and to increase empowerment for victims in order to promote safety and to help individuals and communities address conditions that facilitate violence.

**Sexual Assault:** Non-consensual physical contact of a sexual nature. This includes penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without consent. Examples: sexual intercourse with a person who is asleep or unconscious; digital penetration of a person without consent.

**Non-consensual sexual contact:** Any intentional sexual touching, however slight, with any object, by an individual that is without consent or by force.

Sexual Contact includes intentional contact with the breasts, buttocks, groin, or genitals, or touching another with any of these body parts, or making another touch you or themselves with or on any of these body parts; any intentional bodily contact in a sexual manner, though not involving contact with/of/by breasts, buttocks, groin, genitals, mouth, or other orifice.

**Non-consensual sexual intercourse:** Any intentional sexual touching, however slight, with any object, by an individual that is without consent or by force.

Department: Student Services  
Owner & Title: Melanie Scheet, National Director of SS

Effective Date:  
Last Revised Date: 10/3/2017

Intercourse includes vaginal penetration by a penis, object, tongue or finger, anal penetration by a penis, object, tongue, or finger, and oral copulation (mouth to genital contact or genital to mouth contact), no matter how slight the penetration or contact.

**Sexual Exploitation:** When a person takes non-consensual or abusive sexual advantage of another for his/her own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of other sexual misconduct offenses.

**Sexual Harassment:** Unwelcome conduct of a sexual nature that unreasonably interferes with an individual's work or educational performance; limits a student's ability to participate in or benefit from UTI's programs, activities, or opportunities; or creates an intimidating, hostile or offensive work or educational environment. A single or isolated incident of sexual harassment may create a hostile environment if the conduct is sufficiently severe.

**Stalking:** (i) Engaging in a course of conduct directed at a specific person that would cause a reasonable person to— (A) Fear for the person's safety or the safety of others; or (B) Suffer substantial emotional distress. (ii) For the purposes of this definition— (A) Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property. (B) reasonable person means a reasonable person under similar circumstances and with similar identities to the victim. (C) Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling. All forms of stalking that meet this definition, regardless of whether the conduct is based on sex, are covered by this policy.

## **Reporting Policies and Protocols**

Victims of sexual misconduct have several reporting options following an incident of sexual assault, dating violence, domestic violence, or stalking.

### **Reporting Options**

1. Report to UTI through Student Services, Title IX Coordinator/Deputy Title IX Coordinator, or other Responsible Employee: Reports can be made in person, or by sending a written complaint to the Title IX/Deputy Title IX Coordinator via email or regular mail using the contact information set forth above. A complaint form is available online at [www.uti.edu/titleix](http://www.uti.edu/titleix). UTI can help facilitate reporting to police, provide a no contact directive or other protective measures, investigate the incident, and provide discipline or remedies, if appropriate. UTI will also provide written information about resources and reporting options.
2. Report to Local Law Enforcement: Victims are encouraged to report sexual misconduct, including dating violence, domestic violence, sexual assault, and stalking, to the police. Law enforcement can assist with a criminal investigation/response and restraining/protection from abuse orders. For immediate assistance following an incident of sexual misconduct, dial 911 to make a report to local law enforcement.
3. Report to a Confidential Resource: Confidential reporting options may be available off-campus. A list of off-campus resources is provided above and in the written notification provided to victims.

Department: Student Services

Effective Date:

Owner & Title: Melanie Scheet, National Director of SS

Last Revised Date: 10/3/2017

4. File an Anonymous Report: Victims have the option to file an anonymous report by printing the complaint form online at [www.uti.edu/titleix](http://www.uti.edu/titleix), completing it, and sending it to the Title IX/Deputy Title IX Coordinator. UTI's ability to respond to an anonymous report may be limited.

Victims may pursue simultaneous complaints with UTI and local law enforcement. Victims have the option to decline to notify law enforcement. UTI complies with restraining orders and protection from abuse orders obtained through law enforcement. If an order is violated, victims should reach out to local law enforcement for assistance. *In cases involving California campuses, reports of certain sexual misconduct made to campus security authorities will be disclosed to local law enforcement.*

### Written Notification of Resources

Student Services will provide victims with assistance in reporting the assault to proper law enforcement authorities, if requested. Victims have the right to decline to notify law enforcement authorities. Victims can consider making a report with the Title IX Coordinator/Deputy Title IX Coordinator and ask for a "no contact" directive from UTI to prevent future contact. Victims can also consider getting a protection from abuse order or no contact order from a local judge or magisterial justice. A complainant may pursue simultaneous complaints with UTI and local law enforcement.

UTI will provide written notification to victims, which will include an explanation of their rights, outside resources, information on preserving evidence, as well as how to request protective measures. In addition, the notification has information about existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services available for victims, both within UTI and in the community whether the offense occurred on or off campus.

### Confidentiality

UTI respects the privacy of students, employees, and third parties and shares reports of sexual misconduct on a limited, "need-to-know" basis. If a complainant requests that UTI handle a complaint on a confidential basis, UTI will honor that request where possible. UTI's Title IX/Deputy Title IX Coordinator, or designee, reviews requests for confidentiality and determines whether such requests can be honored in light of factors such as the safety of the campus and the number of complaints against a respondent. UTI will promptly notify the complainant of its determination regarding a request for confidentiality.

In accordance with the *Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act* ("Clery Act"), UTI publishes an Annual Security Report and specific crime statistics for each campus and maintains a Daily Crime Log. Under the Clery Act, any reports made to a Campus Security Authority of sexual assault, dating violence, domestic violence, or stalking must be included in the campus crime statistics if the incident occurs in Clery Geography. The Daily Crime Log is available for review by students, employees, or other parties by contacting the Student Services department. Personally identifying information, including the names of any victims, is not included on the log available to the public. Crime statistics include the crime, number of reports, and the location of the crime (on campus, non-campus property or public property). UTI completes publicly available recordkeeping, including Clery Act reporting and disclosures, without the inclusion of personally identifying information about the victim, as defined in section 40002(a)(20) of the Violence Against Women Act of 1994. Campus Security Authorities include Campus President, the Student Services Director or Supervisor, the Facilities Director, the Education/Operations Director, Education Director, Education Managers, Student Affairs Advisors, Receptionists, Learning Resource Center Staff, People Services Coordinators, the Operations Shared Services Manager overseeing the VA team, and security staff. UTI is also required to issue timely warnings under the Clery

Department: Student Services

Effective Date:

Owner & Title: Melanie Scheet, National Director of SS

Last Revised Date: 10/3/2017

Act if there is an ongoing threat to the campus community. UTI will withhold as confidential the names and other identifying information of victims when issuing timely warnings.

Retaliation in any form (including acts of intimidation or harassment) against any person who makes a sexual misconduct report, witnesses or experiences harassment, or asserts rights under this policy will also not be tolerated. Reports of retaliatory conduct should be made to the Title IX/Deputy Title IX Coordinator using the contact information set forth above.

Amnesty: UTI encourages the reporting of incidents of sexual violence and recognizes that some students may be reluctant to make such reports as a result of their personal consumption of drugs or alcohol at the time of the incident. UTI generally will not discipline complainants, respondents, or witnesses for personal consumption of drugs or alcohol in violation of UTI's policies where such conduct occurred at the time of the incident and did not endanger the health or safety of others. Educational responses to the conduct may be implemented, as appropriate.

*In California, complainants and witnesses are protected from sanctions for violations of student conduct policies that occurred around the time of the reported incidents, unless UTI finds the violations egregious.*

## **Investigation Procedures and Protocols**

Dating violence, domestic violence, sexual assault, and stalking violate the Student Code of Conduct (found in the Course Catalog at <http://www.uti.edu/catalogs>), and may violate federal and state law. Title IX and VAWA covered offenses are outlined in separate policies but ultimately fall under Student Code of Conduct standards. Alleged violations of this policy are addressed using the disciplinary procedure described below. The same disciplinary process is used for dating violence, domestic violence, sexual assault, and stalking.

UTI's disciplinary process and criminal proceedings can occur simultaneously. UTI uses a prompt, fair, impartial process from initial investigation to final result in resolving incidents of dating violence, domestic violence, sexual assault, and stalking. UTI will ensure that those involved in the process have been appropriately trained and do not have a conflict of interest or bias against either the Complainant or Respondent. If either party feels a conflict exists, they should contact the Title IX Coordinator at [mscheet@uti.edu](mailto:mscheet@uti.edu). If a conflict exists with the Title IX Coordinator, then the Vice President of Student Support Services should be contacted at [ednajohnson@uti.edu](mailto:ednajohnson@uti.edu).

Both parties have equal opportunities to have others present, including an advisor of choice, during the process. UTI provides timely and equal access to the complainant, respondent, and appropriate administrators to any information that will be used during the disciplinary process. The complainant and respondent receive simultaneous notification, in writing, of the result and available appeal procedures. In addition, UTI ensures the proceeding is completed in a reasonably prompt time frame and meeting notices are provided timely. If delays occur, both parties will be notified accordingly.

## **Filing a Complaint**

The Title IX/Deputy Title IX Coordinator receives any reports made in regards to sexual misconduct or sexual harassment (including sexual violence) in any of UTI's programs or activities. Individuals identified as Responsible Employees are required to report

Department: Student Services

Effective Date:

Owner & Title: Melanie Scheet, National Director of SS

Last Revised Date: 10/3/2017

incidents of possible sexual violence to the Title IX/Deputy Title IX Coordinator within 24 hours of becoming aware of such conduct. If the complainant requests that no investigation occur, the Title IX/Deputy Title IX Coordinator will review to determine if an ongoing threat exists. If the complainant does not pursue an investigation through UTI or law enforcement, protective measures may still be available as appropriate.

UTI uses the preponderance of the evidence or “more likely than not” standard of review during the investigation and resolution of complaints. UTI uses an investigation resolution model for conduct proceedings for dating violence, domestic violence, sexual assault, and stalking for cases involving students or employees.

Evaluation: The Title IX/Deputy Title IX Coordinator or designee will review all reports of sexual misconduct within 7 calendar days of receipt and will determine the appropriate response. If there are jurisdictional considerations that preclude Title IX consideration, the complainant will be notified of such limitations. If the complaint is dismissed at this stage, the complainant will receive written notice of the outcome and has the opportunity to appeal the determination using the appeal procedure below.

Investigation: Within 10 calendar days of receiving the report, the Title IX/Deputy Title IX Coordinator or designee will commence an investigation of the allegation(s), if appropriate. The investigation may include contacting the complainant, respondent, and witnesses to obtain additional information about the allegation(s). UTI has developed trauma-informed protocols for interviewing complainants that include follow-up and support, as appropriate. Similarly, UTI ensures that respondents receive a fundamentally fair process that is sensitive to the possibility that a respondent may be facing simultaneous criminal charges.

The complainant and respondent will have an equal opportunity to provide witnesses and evidence throughout the process; the Title IX/Deputy Title IX Coordinator will assist the parties in locating and identifying witnesses, as appropriate. The investigation will implement procedures for considering allegations that drugs or alcohol were used during the alleged incident.

The Title IX/Deputy Title IX Coordinator generally will conclude the investigation within 30 calendar days. This timeframe may be extended in extenuating circumstances (e.g., school breaks). The Title IX/Deputy Title IX Coordinator will notify the parties of any delays and the reasons for the delays.

Investigatory report: At the conclusion of the investigation, the Title IX/Deputy Title IX Coordinator or designee will prepare an investigatory report that makes factual findings and determines whether sexual misconduct has occurred. The Title IX/Deputy Title IX Coordinator or designee may find the respondent responsible or not responsible for the alleged violation, or may find that there is insufficient evidence to make such a finding. If the Title IX/Deputy Title IX Coordinator or designee finds the respondent responsible, the Title IX/Deputy Title IX Coordinator or designee will impose an appropriate sanction and determine whether any remedies should be provided to the complainant and/or campus community.

Notice of the outcome: Within 15 calendar days of the conclusion of the investigation, the complainant and respondent will receive concurrent written notice of the outcome, including any sanction imposed, consistent with applicable state and federal privacy laws, including the Family Educational Rights and Privacy Act (FERPA). For allegations of dating violence, domestic violence, sexual assault, or stalking, written notice of the outcome is provided simultaneously to the complainant and respondent and includes the final

Department: Student Services

Effective Date:

Owner & Title: Melanie Scheet, National Director of SS

Last Revised Date: 10/3/2017

result and information about the procedures for appealing the result. The parties also receive simultaneous written notification of any changes to the result and when the results become final.

**Advisor of choice:** In cases of sexual misconduct, including dating violence, domestic violence, sexual assault, and stalking, the complainant and respondent may choose to have an advisor of their choice present during meetings or disciplinary proceedings. Advisors may include advocates and support persons. If a party selects an advisor who is an attorney, the party must notify the Title IX/Deputy Title IX Coordinator at least 24 hours prior to the first meeting or disciplinary proceeding in which the advisor will participate. The complainant and respondent have the same opportunity to have an advisor present during meetings and other aspects of the disciplinary proceeding. Advisors are present to support their advisees and must refrain from interrupting or disrupting interviews or other meetings with campus officials or their designees. Advisors may not speak during interviews or meetings unless invited to do so by a campus official or designee. One warning will be given if an advisor steps out of their role. If the behavior continues, the advisor will be asked to leave the meeting or interview. Meetings or interviews generally will not be re-scheduled because an advisor is unavailable to attend.

**Timeframes:** The investigation and resolution of the complaint generally will be completed within 60 calendar days, absent extenuating circumstances. The Title IX/Deputy Title IX Coordinator or designee will provide regular status updates to the parties.

**Mediation:** UTI does not use mediation in cases where sexual assault has been alleged, even on a voluntary basis.

**Sanctions for students** include sexual assault or other related training, no contact directives, bans from specific areas of campus, professionalism infractions, removal from a course, requirement to change sessions, suspension, or termination from school. If a student is terminated from school, the notification will outline any requirements that must be met for reinstatement as well as the minimum timeframe required for requesting reinstatement. For employees, sanctions may include a final warning with sexual assault training or termination. As to third parties, UTI will implement available sanctions, such as bans from campus, as appropriate. UTI will also abide by and support any sanctions imposed by law enforcement. UTI will also provide remedies to the complainant and campus community, as appropriate, such as educational programming, policy review and revision, and counseling.

**Protective measures:** Protective, interim measures are available to individuals who report alleged sexual misconduct, as appropriate. Protective measures may include no contact directives, changes to academic situations for students, leaves for employees, housing transfer for students who are participating in Collegiate Housing Services shared housing, if available, changes in working situations, transportation or other actions. UTI is obligated to provide reasonable changes to a victim's academic situation upon request regardless of whether the victim chooses to report the crime to local law enforcement. Protective measures will be administered in a manner that reduces the burden on the complainant while preserving the fundamental fairness of the process. Requests for protective measures should be made to the Title IX/Deputy Title IX Coordinator, or designee, using the contact information provided above.

**Appeals:** The complainant and respondent have an equal right to appeal outcome decisions made by the Title IX/Deputy Title IX Coordinator or designee. Appeals may be made on the following bases: (1) a party obtains new relevant evidence that was unavailable at the time of the investigation and could change the outcome of the investigation; (2) there is evidence of procedural error that could change the outcome of the investigation; or (3) the sanction was substantially disproportionate to the findings.

Department: Student Services

Effective Date:

Owner & Title: Melanie Scheet, National Director of SS

Last Revised Date: 10/3/2017

Appeals must be made to Rhonda Turner, SVP People Services, at 16220 N. Scottsdale Road, Suite 100, Scottsdale, AZ 85254, 800-859-7249, [rturner@uti.edu](mailto:rturner@uti.edu). Appeals must be filed within 7 calendar days of the date that written notice of the outcome was provided. Appeal requests after this timeframe may be eligible for a discretionary waiver. The SVP of People Services will decide the appeal promptly but generally within 30 calendar days and provide the respondent and complainant within written notice of the final determination.

## **Prevention and Education**

UTI is committed to having sexual misconduct, including dating violence, domestic violence, sexual assault, and stalking, prevention and awareness programs for students and employees. UTI implements prevention and awareness programming during new student and new employee orientation through the *Not Anymore* program. *Not Anymore* is an interactive online program offering information on sexual assault, dating violence, domestic violence, stalking, bystander intervention, consent, risk reduction, and other important information. New students are encouraged to complete the program and are notified of its availability at enrollment and also during new student orientation. Employees are notified of the training upon starting employment and are required to complete the program on an annual basis. Informational prevention and awareness materials are also available on an on-going basis in the Student Services department at each campus. Campuses also partner with community resources to provide educational materials and/or programming opportunities.

## **Training**

The Title IX, Deputy Title IX Coordinators, and Responsible Employees receive training, including trauma-informed training, on an annual basis at minimum. Employees with responsibilities under this policy receive annual training on issues related to dating violence, domestic violence, sexual assault, and stalking, as well as training on how to conduct an investigation and resolution process that protects the safety of victims and promotes accountability. Training also addresses, as appropriate, relevant evidence and how it should be used during a proceeding, techniques for questioning witnesses, applicable policies and procedures, and avoiding actual and perceived conflict of interest. All employees receive sexual harassment training on an ongoing basis.

## **Notice of Non-Discrimination**

Universal Technical Institute is dedicated to maintaining safe learning and working environments for students, employees, and third parties. UTI prohibits discrimination and harassment on the basis of race, color, national origin, sex, religion, disability, age, veteran status, sexual orientation, gender identity or expression, genetic information, and any other legally protected status in the provision of its courses, programs, services or activities.

UTI has designated the National Director of Student Services to coordinate its compliance with Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex. Questions or comments about discrimination or harassment can be directed to: National Director of Student Services, Title IX Coordinator, 16220 N. Scottsdale Road, Suite 100, Scottsdale, AZ 85254, 800-859-7249, 321-281-9755, or [mscheet@uti.edu](mailto:mscheet@uti.edu).

Department: Student Services      Effective Date:  
 Owner & Title: Melanie Scheet, National Director of SS      Last Revised Date: 10/3/2017

Inquiries concerning Title IX also may be made to the Office for Civil Rights at:

U.S. Department of Education  
 Office for Civil Rights  
 Lyndon Baines Johnson Department of Education Bldg.  
 400 Maryland Ave., SW  
 Washington, DC 20202-1100  
 Telephone: 800-421-3481  
 FAX: 202-453-6012  
 TDD: 877-521-2172  
 Email: OCR@ed.gov

UTI has identified the Student Services Director at each campus as a Deputy Title IX Coordinator for student related complaints. They can be contacted as follows:

Campus	Campus Address	Toll Free	Email Address
Avondale	10695 W. Pierce Street, Avondale, AZ 85323	800-859-1202	<a href="mailto:likingsley@uti.edu">likingsley@uti.edu</a>
Houston	721 Lockhaven Drive, Houston, TX 77073	800-325-0354	<a href="mailto:mcode@uti.edu">mcode@uti.edu</a>
Lisle	2611 Corporate West Drive, Lisle, IL 60532	800-441-4248	<a href="mailto:kstamp@uti.edu">kstamp@uti.edu</a>
Rancho Cucamonga	9494 Haven Avenue, Rancho Cucamonga, CA 91730	888-692-7800	<a href="mailto:jdismukes@uti.edu">jdismukes@uti.edu</a>
Exton	750 Pennsylvania Drive, Exton, PA 19341	877-884-3986	<a href="mailto:rtrickett@uti.edu">rtrickett@uti.edu</a>
Sacramento	4100 Duckhorn Drive, Sacramento, CA 95834	877-884-2254	<a href="mailto:jgillming@uti.edu">jgillming@uti.edu</a>
NASCAR Tech ( Mooresville)	220 Byers Creek Road, Mooresville, NC 28117	866-316-2722	<a href="mailto:amason@uti.edu">amason@uti.edu</a>
Norwood	1 Upland Road, Building 200, Norwood, MA 02062	866-753-6553	<a href="mailto:jcorreia@uti.edu">jcorreia@uti.edu</a>
MMI Phoenix	2844 W. Deer Valley Road, Phoenix, AZ 85027	800-528-7995	<a href="mailto:tchakos@uti.edu">tchakos@uti.edu</a>
UTI/MMI Orlando	9751 Delegates Drive, Orlando, FL 32837 or 2202 Taft Vineland Road, Orlando, FL 32837	800-342-9253	<a href="mailto:tjohnson@uti.edu">tjohnson@uti.edu</a>
Dallas	5151 Regent Boulevard, Irving, TX 75063	877-873-1083	<a href="mailto:rdoyal@uti.edu">rdoyal@uti.edu</a>
Long Beach	4175 E. Conant Street, Long Beach, CA 90808	844-308-8838	<a href="mailto:jramirez@uti.edu">jramirez@uti.edu</a>

Department: Student Services  
Owner & Title: Melanie Scheet, National Director of SS

Effective Date:  
Last Revised Date: 10/3/2017

**APPENDIX A**

**ARIZONA CRIMINAL CODE**

**13-1401. Definitions**

In this chapter, unless the context otherwise requires:

1. **“Oral sexual contact”** means oral contact with the penis, vulva or anus.

**“Sexual contact”** means any direct or indirect touching, fondling or manipulating of any part of the genitals, anus or female breast by any part of the body or by any object or causing a person to engage in such contact.

**“Sexual intercourse”** means penetration into the penis, vulva or anus by any part of the body or by any object or masturbatory contact with the penis or vulva.

**“Spouse”** means a person who is legally married and cohabiting.

**“Without consent”** includes any of the following:

The victim is coerced by the immediate use or threatened use of force against a person or property.

The victim is incapable of consent by reason of mental disorder, mental defect, drugs, alcohol, sleep or any other similar impairment of cognition and such condition is known or should have reasonably been known to the defendant. For purposes of this subdivision, “mental defect” means the victim is unable to comprehend the distinctively sexual nature of the conduct or is incapable of understanding or exercising the right to refuse to engage in the conduct with another.

The victim is intentionally deceived as to the nature of the act.

The victim is intentionally deceived to erroneously believe that the person is the victim’s spouse.

**13-1406. Sexual assault; classification; increased punishment**

B. A person commits sexual assault by intentionally or knowingly engaging in sexual intercourse or oral sexual contact with any person without consent of such person.

\* \* \*

**13-2923. Stalking; classification; definitions**

C. A person commits stalking if the person intentionally or knowingly engages in a course of conduct that is directed toward another person and if that conduct either:

Would cause a reasonable person to fear for the person’s safety or the safety of that person’s immediate family member and that person in fact fears for the person’s safety or the safety of that person’s immediate family member.

Would cause a reasonable person to fear death of that person or that person’s immediate family member and that person in fact fears death of that person or that person’s immediate family member.

Department: Student Services  
Owner & Title: Melanie Scheet, National Director of SS

Effective Date:  
Last Revised Date: 10/3/2017

Stalking under subsection A, paragraph 1 of this section is a class 5 felony. Stalking under subsection A, paragraph 2 of this section is a class 3 felony.

For the purposes of this section:

**“Course of conduct”:**

Means any of the following:

Maintaining visual or physical proximity to a specific person or directing verbal, written or other threats, whether express or implied, to a specific person on two or more occasions over a period of time, however short.

Using any electronic, digital or global positioning system device to surveil a specific person or a specific person’s internet or wireless activity continuously for twelve hours or more or on two or more occasions over a period of time, however short, without authorization.

Does not include constitutionally protected activity or other activity authorized by law, the other person, the other person’s authorized representative or if the other person is a minor, the minor’s parent or guardian.

**“Immediate family member”** means a spouse, parent, child or sibling or any other person who regularly resides in a person’s household or resided in a person’s household within the past six months.

**13-3601. Domestic violence; definition; classification; sentencing option; arrest and procedure for violation; weapon seizure**

D. **“Domestic violence”** means any act that is a dangerous crime against children as defined in section 13-705 or an offense prescribed in section 13-1102, 13-1103, 13-1104, 13-1105, 13-1201, 13-1202, 13-1203, 13-1204, 13-1302, 13-1303, 13-1304, 13-1406, 13-1425, 13-1502, 13-1503, 13-1504, 13-1602 or 13-2810, section 13-2904, subsection A, paragraph 1, 2, 3 or 6, section 13-2910, subsection A, paragraph 8 or 9, section 13-2915, subsection A, paragraph 3 or section 13-2916, 13-2921, 13-2921.01, 13-2923, 13-3019, 13-3601.02 or 13-3623, if any of the following applies:

The relationship between the victim and the defendant is one of marriage or former marriage or of persons residing or having resided in the same household.

The victim and the defendant have a child in common.

The victim or the defendant is pregnant by the other party.

The victim is related to the defendant or the defendant’s spouse by blood or court order as a parent, grandparent, child, grandchild, brother or sister or by marriage as a parent-in-law, grandparent-in-law, stepparent, step-grandparent, stepchild, step-grandchild, brother-in-law or sister-in-law.

The victim is a child who resides or has resided in the same household as the defendant and is related by blood to a former spouse of the defendant or to a person who resides or who has resided in the same household as the defendant.

The relationship between the victim and the defendant is currently or was previously a romantic or sexual relationship. The following factors may be considered in determining whether the relationship between the victim and the defendant is currently or was previously a romantic or sexual relationship:

Department: Student Services  
Owner & Title: Melanie Scheet, National Director of SS

Effective Date:  
Last Revised Date: 10/3/2017

The type of relationship.

The length of the relationship.

The frequency of the interaction between the victim and the defendant.

If the relationship has terminated, the length of time since the termination.

\* \* \*

Department: Student Services  
Owner & Title: Melanie Scheet, National Director of SS

Effective Date:  
Last Revised Date: 10/3/2017

## CALIFORNIA PENAL CODE

- 261.** (a) **Rape** is an act of sexual intercourse accomplished with a person not the spouse of the perpetrator, under any of the following circumstances:

Where a person is incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act. Notwithstanding the existence of a conservatorship pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving consent.

Where it is accomplished against a person's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the person or another.

Where a person is prevented from resisting by any intoxicating or anesthetic substance, or any controlled substance, and this condition was known, or reasonably should have been known by the accused.

Where a person is at the time unconscious of the nature of the act, and this is known to the accused. As used in this paragraph, "unconscious of the nature of the act" means incapable of resisting because the victim meets any one of the following conditions:

Was unconscious or asleep.

Was not aware, knowing, perceiving, or cognizant that the act occurred.

Was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator's fraud in fact.

Was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator's fraudulent representation that the sexual penetration served a professional purpose when it served no professional purpose.

Where a person submits under the belief that the person committing the act is someone known to the victim other than the accused, and this belief is induced by any artifice, pretense, or concealment practiced by the accused, with intent to induce the belief.

Where the act is accomplished against the victim's will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat. As used in this paragraph, "threatening to retaliate" means a threat to kidnap or falsely imprison, or to inflict extreme pain, serious bodily injury, or death.

Department: Student Services  
Owner & Title: Melanie Scheet, National Director of SS

Effective Date:  
Last Revised Date: 10/3/2017

Where the act is accomplished against the victim's will by threatening to use the authority of a public official to incarcerate, arrest, or deport the victim or another, and the victim has a reasonable belief that the perpetrator is a public official. As used in this paragraph, "public official" means a person employed by a governmental agency who has the authority, as part of that position, to incarcerate, arrest, or deport another. The perpetrator does not actually have to be a public official.

(b) As used in this section, "duress" means a direct or implied threat of force, violence, danger, or retribution sufficient to coerce a reasonable person of ordinary susceptibilities to perform an act which otherwise would not have been performed, or acquiesce in an act to which one otherwise would not have submitted. The total circumstances, including the age of the victim, and his or her relationship to the defendant, are factors to consider in appraising the existence of duress.

(c) As used in this section, "menace" means any threat, declaration, or act which shows an intention to inflict an injury upon another.

**261.5** (a) **Unlawful sexual intercourse** is an act of sexual intercourse accomplished with a person who is not the spouse of the perpetrator, if the person is a minor. For the purposes of this section, a "minor" is a person under the age of 18 years and an "adult" is a person who is at least 18 years of age.

(b) Any person who engages in an act of unlawful sexual intercourse with a minor who is not more than three years older or three years younger than the perpetrator, is guilty of a misdemeanor.

(c) Any person who engages in an act of unlawful sexual intercourse with a minor who is more than three years younger than the perpetrator is guilty of either a misdemeanor or a felony, and shall be punished by imprisonment in a county jail not exceeding one year, or by imprisonment pursuant to subdivision (h) of Section 1170.

(d) Any person 21 years of age or older who engages in an act of unlawful sexual intercourse with a minor who is under 16 years of age is guilty of either a misdemeanor or a felony, and shall be punished by imprisonment in a county jail not exceeding one year, or by imprisonment pursuant to subdivision (h) of Section 1170 for two, three, or four years.

\* \* \*

**261.6.** In prosecutions under Section 261, 262, 286, 288a, or 289, in which consent is at issue, "**consent**" shall be defined to mean positive cooperation in act or attitude pursuant to an exercise of free will. The person must act freely and voluntarily and have knowledge of the nature of the act or transaction involved.

A current or previous dating or marital relationship shall not be sufficient to constitute consent where consent is at issue in a prosecution under Section 261, 262, 286, 288a, or 289.

Department: Student Services  
Owner & Title: Melanie Scheet, National Director of SS

Effective Date:  
Last Revised Date: 10/3/2017

Nothing in this section shall affect the admissibility of evidence or the burden of proof on the issue of consent.

**261.7.** In prosecutions under Section 261, 262, 286, 288a, or 289, in which consent is at issue, evidence that the victim suggested, requested, or otherwise communicated to the defendant that the defendant use a condom or other birth control device, without additional evidence of consent, is not sufficient to constitute consent.

**262.** (a) Rape of a person who is the spouse of the perpetrator is an act of sexual intercourse accomplished under any of the following circumstances:

(1) Where it is accomplished against a person's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the person or another.

Where a person is prevented from resisting by any intoxicating or anesthetic substance, or any controlled substance, and this condition was known, or reasonably should have been known, by the accused.

Where a person is at the time unconscious of the nature of the act, and this is known to the accused. As used in this paragraph, "unconscious of the nature of the act" means incapable of resisting because the victim meets one of the following conditions:

(A) Was unconscious or asleep.

Was not aware, knowing, perceiving, or cognizant that the act occurred.

Was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator's fraud in fact.

Where the act is accomplished against the victim's will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat. As used in this paragraph, "threatening to retaliate" means a threat to kidnap or falsely imprison, or to inflict extreme pain, serious bodily injury, or death.

Where the act is accomplished against the victim's will by threatening to use the authority of a public official to incarcerate, arrest, or deport the victim or another, and the victim has a reasonable belief that the perpetrator is a public official. As used in this paragraph, "public official" means a person employed by a governmental agency who has the authority, as part of that position, to incarcerate, arrest, or deport another. The perpetrator does not actually have to be a public official.

(b) As used in this section, "duress" means a direct or implied threat of force, violence, danger, or retribution sufficient to coerce a reasonable person of ordinary susceptibilities to perform an act which otherwise would not have been performed, or acquiesce in an act to which one otherwise

Department: Student Services  
Owner & Title: Melanie Scheet, National Director of SS

Effective Date:  
Last Revised Date: 10/3/2017

would not have submitted. The total circumstances, including the age of the victim, and his or her relationship to the defendant, are factors to consider in apprising the existence of duress.

(c) As used in this section, “menace” means any threat, declaration, or act that shows an intention to inflict an injury upon another.

\* \* \*

**263.** The essential guilt of rape consists in the outrage to the person and feelings of the victim of the rape. Any sexual penetration, however slight, is sufficient to complete the crime.

**269.** (a) Any person who commits any of the following acts upon a child who is under 14 years of age and seven or more years younger than the person is guilty of aggravated sexual assault of a child:

(2) Rape, in violation of paragraph (2) or (6) of subdivision (a) of Section 261.

Rape or sexual penetration, in concert, in violation of Section 264.1.

Sodomy, in violation of paragraph (2) or (3) of subdivision (c), or subdivision (d), of Section 286.

Oral copulation, in violation of paragraph (2) or (3) of subdivision (c), or subdivision (d), of Section 288a.

Sexual penetration, in violation of subdivision (a) of Section 289.

(b) Any person who violates this section is guilty of a felony and shall be punished by imprisonment in the state prison for 15 years to life.

(c) The court shall impose a consecutive sentence for each offense that results in a conviction under this section if the crimes involve separate victims or involve the same victim on separate occasions as defined in subdivision (d) of Section 667.6.

**242 Battery Defined:**

A battery is any willful and unlawful use of force or violence upon the person of another.

**243 Battery: Domestic & Dating Violence**

Department: Student Services  
Owner & Title: Melanie Scheet, National Director of SS

Effective Date:  
Last Revised Date: 10/3/2017

(e)(1) When a battery is committed against a spouse, a person with whom the defendant is cohabiting, a person who is the parent of the defendant's child, former spouse, fiancé, or fiancée, or a person with whom the defendant currently has, or has previously had, a dating or engagement relationship

#### **243.4 Sexual Battery:**

(a) Any person who touches an intimate part of another person while that person is unlawfully restrained by the accused or an accomplice, and if the touching is against the will of the person touched and is for the purpose of sexual arousal, sexual gratification, or sexual abuse, is guilty of sexual battery.

(b) Any person who touches an intimate part of another person who is institutionalized for medical treatment and who is seriously disabled or medically incapacitated, if the touching is against the will of the person touched, and if the touching is for the purpose of sexual arousal, sexual gratification, or sexual abuse, is guilty of sexual battery.

(c) Any person who touches an intimate part of another person for the purpose of sexual arousal, sexual gratification, or sexual abuse, and the victim is at the time unconscious of the nature of the act because the perpetrator fraudulently represented that the touching served a professional purpose, is guilty of sexual battery.

(d) Any person who, for the purpose of sexual arousal, sexual gratification, or sexual abuse, causes another, against that person's will while that person is unlawfully restrained either by the accused or an accomplice, or is institutionalized for medical treatment and is seriously disabled or medically incapacitated, to masturbate or touch an intimate part of either of those persons or a third person, is guilty of sexual battery.

(e)(1) Any person who touches an intimate part of another person, if the touching is against the will of the person touched, and is for the specific purpose of sexual arousal, sexual gratification, or sexual abuse, is guilty of misdemeanor sexual battery.

#### **646.9 Stalking**

(a) Any person who willfully, maliciously, and repeatedly follows or willfully and maliciously harasses another person and who makes a credible threat with the intent to place that person in reasonable fear for his or her safety, or the safety of his or her immediate family is guilty of the crime of stalking.

(e) For the purposes of this section, "harasses" means engages in a knowing and willful course of conduct directed at a specific person that seriously alarms, annoys, torments, or terrorizes the person, and that serves no legitimate purpose.

(f) For the purposes of this section, "course of conduct" means two or more acts occurring over a period of time, however short, evidencing a continuity of purpose. Constitutionally protected activity is not included within the meaning of "course of conduct."

(g) For the purposes of this section, "credible threat" means a verbal or written threat, including that performed through the use of an electronic communication device, or a threat implied by a pattern of conduct or a

Department: Student Services

Owner & Title: Melanie Scheet, National Director of SS

Effective Date:

Last Revised Date: 10/3/2017

combination of verbal, written, or electronically communicated statements and conduct, made with the intent to place the person that is the target of the threat in reasonable fear for his or her safety or the safety of his or her family, and made with the apparent ability to carry out the threat so as to cause the person who is the target of the threat to reasonably fear for his or her safety or the safety of his or her family. It is not necessary to prove that the defendant had the intent to actually carry out the threat. The present incarceration of a person making the threat shall not be a bar to prosecution under this section. Constitutionally protected activity is not included within the meaning of "credible threat."

Department: Student Services  
Owner & Title: Melanie Scheet, National Director of SS

Effective Date:  
Last Revised Date: 10/3/2017

#### FLORIDA CRIMINAL CODE

**Sexual assault** is not specifically defined by Florida statute, but instead defines the term “sexual battery” by statute as provided below.

#### CHAPTER 794

#### Sexual Battery

#### **794.011 Sexual battery. —**

(1) As used in this chapter:

(a) **“Consent”** means intelligent, knowing, and voluntary consent and does not include coerced submission. “Consent” shall not be deemed or construed to mean the failure by the alleged victim to offer physical resistance to the offender.

(b) **“Mentally defective”** means a mental disease or defect which renders a person temporarily or permanently incapable of appraising the nature of his or her conduct.

(c) **“Mentally incapacitated”** means temporarily incapable of appraising or controlling a person’s own conduct due to the influence of a narcotic, anesthetic, or intoxicating substance administered without his or her consent or due to any other act committed upon that person without his or her consent.

(d) **“Offender”** means a person accused of a sexual offense in violation of a provision of this chapter.

(e) **“Physically helpless”** means unconscious, asleep, or for any other reason physically unable to communicate unwillingness to an act.

(f) **“Retaliation”** includes, but is not limited to, threats of future physical punishment, kidnapping, false imprisonment or forcible confinement, or extortion.

(g) **“Serious personal injury”** means great bodily harm or pain, permanent disability, or permanent disfigurement.

(h) **“Sexual battery”** means oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object; however, sexual battery does not include an act done for a bona fide medical purpose.

(i) **“Victim”** means a person who has been the object of a sexual offense.

(j) **“Physically incapacitated”** means bodily impaired or handicapped and substantially limited in ability to resist or flee.

Department: Student Services  
Owner & Title: Melanie Scheet, National Director of SS

Effective Date:  
Last Revised Date: 10/3/2017

(2) (a) A person 18 years of age or older who commits sexual battery upon, or in an attempt to commit sexual battery injures the sexual organs of, a person less than 12 years of age commits a capital felony, punishable as provided in ss. 775.082 and 921.141.

(b) A person less than 18 years of age who commits sexual battery upon, or in an attempt to commit sexual battery injures the sexual organs of, a person less than 12 years of age commits a life felony, punishable as provided in s. 775.082, s. 775.083, s. 775.084, or s. 794.0115.

(3) A person who commits sexual battery upon a person 12 years of age or older, without that person's consent, and in the process thereof uses or threatens to use a deadly weapon or uses actual physical force likely to cause serious personal injury commits a life felony, punishable as provided in s. 775.082, s. 775.083, s. 775.084, or s. 794.0115.

(4) (a) A person 18 years of age or older who commits sexual battery upon a person 12 years of age or older but younger than 18 years of age without that person's consent, under any of the circumstances listed in paragraph (e), commits a felony of the first degree, punishable by a term of years not exceeding life or as provided in s. 775.082, s. 775.083, s. 775.084, or s. 794.0115.

(b) A person 18 years of age or older who commits sexual battery upon a person 18 years of age or older without that person's consent, under any of the circumstances listed in paragraph (e), commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, s. 775.084, or s. 794.0115.

(c) A person younger than 18 years of age who commits sexual battery upon a person 12 years of age or older without that person's consent, under any of the circumstances listed in paragraph (e), commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, s. 775.084, or s. 794.0115.

(d) A person commits a felony of the first degree, punishable by a term of years not exceeding life or as provided in s. 775.082, s. 775.083, s. 775.084, or s. 794.0115 if the person commits sexual battery upon a person 12 years of age or older without that person's consent, under any of the circumstances listed in paragraph (e), and such person was previously convicted of a violation of:

1. Section 787.01(2) or s. 787.02(2) when the violation involved a victim who was a minor and, in the course of committing that violation, the defendant committed against the minor a sexual battery under this chapter or a lewd act under s. 800.04 or s. 847.0135(5);
2. Section 787.01(3)(a)2. or 3.;
3. Section 787.02(3)(a)2. or 3.;
4. Section 800.04;
5. Section 825.1025;

Department: Student Services  
Owner & Title: Melanie Scheet, National Director of SS

Effective Date:  
Last Revised Date: 10/3/2017

6. Section 847.0135(5); or
  7. This chapter, excluding subsection (10) of this section.
- (e) The following circumstances apply to paragraphs (a)-(d):
1. The victim is physically helpless to resist.
  2. The offender coerces the victim to submit by threatening to use force or violence likely to cause serious personal injury on the victim, and the victim reasonably believes that the offender has the present ability to execute the threat.
  3. The offender coerces the victim to submit by threatening to retaliate against the victim, or any other person, and the victim reasonably believes that the offender has the ability to execute the threat in the future.
  4. The offender, without the prior knowledge or consent of the victim, administers or has knowledge of someone else administering to the victim any narcotic, anesthetic, or other intoxicating substance that mentally or physically incapacitates the victim.
  5. The victim is mentally defective, and the offender has reason to believe this or has actual knowledge of this fact.
  6. The victim is physically incapacitated.
  7. The offender is a law enforcement officer, correctional officer, or correctional probation officer as defined in s. 943.10(1), (2), (3), (6), (7), (8), or (9), who is certified under s. 943.1395 or is an elected official exempt from such certification by virtue of s. 943.253, or any other person in a position of control or authority in a probation, community control, controlled release, detention, custodial, or similar setting, and such officer, official, or person is acting in such a manner as to lead the victim to reasonably believe that the offender is in a position of control or authority as an agent or employee of government.
- (5) (a) A person 18 years of age or older who commits sexual battery upon a person 12 years of age or older but younger than 18 years of age, without that person's consent, and in the process does not use physical force and violence likely to cause serious personal injury commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, s. 775.084, or s. 794.0115.
- (b) A person 18 years of age or older who commits sexual battery upon a person 18 years of age or older, without that person's consent, and in the process does not use physical force and violence likely to cause serious personal injury commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, s. 775.084, or s. 794.0115.

Department: Student Services  
Owner & Title: Melanie Scheet, National Director of SS

Effective Date:  
Last Revised Date: 10/3/2017

(c) A person younger than 18 years of age who commits sexual battery upon a person 12 years of age or older, without that person's consent, and in the process does not use physical force and violence likely to cause serious personal injury commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, s. 775.084, or s. 794.0115.

(d) A person commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, s. 775.084, or s. 794.0115 if the person commits sexual battery upon a person 12 years of age or older, without that person's consent, and in the process does not use physical force and violence likely to cause serious personal injury and the person was previously convicted of a violation of:

1. Section 787.01(2) or s. 787.02(2) when the violation involved a victim who was a minor and, in the course of committing that violation, the defendant committed against the minor a sexual battery under this chapter or a lewd act under s. 800.04 or s. 847.0135(5);
2. Section 787.01(3)(a)2. or 3.;
3. Section 787.02(3)(a)2. or 3.;
4. Section 800.04;
5. Section 825.1025;
6. Section 847.0135(5); or
7. This chapter, excluding subsection (10) of this section.

\* \* \*

**794.027 Duty to report sexual battery; penalties.** — A person who observes the commission of the crime of sexual battery and who:

- (1) Has reasonable grounds to believe that he or she has observed the commission of a sexual battery;
- (2) Has the present ability to seek assistance for the victim or victims by immediately reporting such offense to a law enforcement officer;
- (3) Fails to seek such assistance;
- (4) Would not be exposed to any threat of physical violence for seeking such assistance;
- (5) Is not the husband, wife, parent, grandparent, child, grandchild, brother, or sister of the offender or victim, by consanguinity or affinity; and

Department: Student Services  
Owner & Title: Melanie Scheet, National Director of SS

Effective Date:  
Last Revised Date: 10/3/2017

(6) Is not the victim of such sexual battery

is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

**794.05 Unlawful sexual activity with certain minors. —**

(1) A person 24 years of age or older who engages in sexual activity with a person 16 or 17 years of age commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. As used in this section, “sexual activity” means oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object; however, sexual activity does not include an act done for a bona fide medical purpose.

(2) The provisions of this section do not apply to a person 16 or 17 years of age who has had the disabilities of nonage removed under chapter 743.

(3) The victim’s prior sexual conduct is not a relevant issue in a prosecution under this section.

(4) If an offense under this section directly results in the victim giving birth to a child, paternity of that child shall be established as described in chapter 742. If it is determined that the offender is the father of the child, the offender must pay child support pursuant to the child support guidelines described in chapter 61.

**741.28 Domestic violence; definitions. —** As used in ss. 741.28-741.31:

(1) “**Department**” means the Florida Department of Law Enforcement.

(2) “**Domestic violence**” means any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal offense resulting in physical injury or death of one family or household member by another family or household member.

(3) “**Family or household member**” means spouses, former spouses, persons related by blood or marriage, persons who are presently residing together as if a family or who have resided together in the past as if a family, and persons who are parents of a child in common regardless of whether they have been married. With the exception of persons who have a child in common, the family or household members must be currently residing or have in the past resided together in the same single dwelling unit.

(4) “**Law enforcement officer**” means any person who is elected, appointed, or employed by any municipality or the state or any political subdivision thereof who meets the minimum qualifications established in s. 943.13 and is certified as a law enforcement officer under s. 943.1395.

**784.046 Dating Violence**

Department: Student Services  
Owner & Title: Melanie Scheet, National Director of SS

Effective Date:  
Last Revised Date: 10/3/2017

(d) "Dating violence" means violence between individuals who have or have had a continuing and significant relationship of a romantic or intimate nature. The existence of such a relationship shall be determined based on the consideration of the following factors:

1. A dating relationship must have existed within the past 6 months;
2. The nature of the relationship must have been characterized by the expectation of affection or sexual involvement between the parties; and
3. The frequency and type of interaction between the persons involved in the relationship must have included that the persons have been involved over time and on a continuous basis during the course of the relationship.

The term does not include violence in a casual acquaintanceship or violence between individuals who only have engaged in ordinary fraternization in a business or social context.

**784.048 Stalking; definitions; penalties. —**

(1) As used in this section, the term:

(a) "**Harass**" means to engage in a course of conduct directed at a specific person which causes substantial emotional distress to that person and serves no legitimate purpose.

(b) "**Course of conduct**" means a pattern of conduct composed of a series of acts over a period of time, however short, which evidences a continuity of purpose. The term does not include constitutionally protected activity such as picketing or other organized protests.

(c) "**Credible threat**" means a verbal or nonverbal threat, or a combination of the two, including threats delivered by electronic communication or implied by a pattern of conduct, which places the person who is the target of the threat in reasonable fear for his or her safety or the safety of his or her family members or individuals closely associated with the person, and which is made with the apparent ability to carry out the threat to cause such harm. It is not necessary to prove that the person making the threat had the intent to actually carry out the threat. The present incarceration of the person making the threat is not a bar to prosecution under this section.

(d) "**Cyberstalk**" means to engage in a course of conduct to communicate, or to cause to be communicated, words, images, or language by or through the use of electronic mail or electronic communication, directed at a specific person, causing substantial emotional distress to that person and serving no legitimate purpose.

(2) A person who willfully, maliciously, and repeatedly follows, harasses, or cyberstalks another person commits the offense of stalking, a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Department: Student Services

Effective Date:

Owner & Title: Melanie Scheet, National Director of SS

Last Revised Date: 10/3/2017

(3) A person who willfully, maliciously, and repeatedly follows, harasses, or cyberstalks another person and makes a credible threat to that person commits the offense of aggravated stalking, a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) A person who, after an injunction for protection against repeat violence, sexual violence, or dating violence pursuant to s. 784.046, or an injunction for protection against domestic violence pursuant to s. 741.30, or after any other court-imposed prohibition of conduct toward the subject person or that person's property, knowingly, willfully, maliciously, and repeatedly follows, harasses, or cyberstalks another person commits the offense of aggravated stalking, a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(5) A person who willfully, maliciously, and repeatedly follows, harasses, or cyberstalks a child under 16 years of age commits the offense of aggravated stalking, a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(6) A law enforcement officer may arrest, without a warrant, any person that he or she has probable cause to believe has violated this section.

(7) A person who, after having been sentenced for a violation of s. 794.011, s. 800.04, or s. 847.0135(5) and prohibited from contacting the victim of the offense under s. 921.244, willfully, maliciously, and repeatedly follows, harasses, or cyberstalks the victim commits the offense of aggravated stalking, a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(8) The punishment imposed under this section shall run consecutive to any former sentence imposed for a conviction for any offense under s. 794.011, s. 800.04, or s. 847.0135(5).

(9) (a) The sentencing court shall consider, as a part of any sentence, issuing an order restraining the defendant from any contact with the victim, which may be valid for up to 10 years, as determined by the court. It is the intent of the Legislature that the length of any such order be based upon the seriousness of the facts before the court, the probability of future violations by the perpetrator, and the safety of the victim and his or her family members or individuals closely associated with the victim.

(b) The order may be issued by the court even if the defendant is sentenced to a state prison or a county jail or even if the imposition of the sentence is suspended and the defendant is placed on probation.

Department: Student Services  
Owner & Title: Melanie Scheet, National Director of SS

Effective Date:  
Last Revised Date: 10/3/2017

### ILLINOIS CRIMINAL CODE

#### **Section 5/11-1.20: Criminal Sexual Assault:**

- (a) A person commits criminal sexual assault if that person commits an act of sexual penetration and:
- (1) uses force or threat of force;
  - (2) knows that the victim is unable to understand the nature of the act or is unable to give knowing consent;
  - (3) is a family member of the victim, and the victim is under 18 years of age; or
  - (4) is 17 years of age or over and holds a position of trust, authority, or supervision in relation to the victim, and the victim is at least 13 years of age but under 18 years of age.
- (b) Sentence.
- (1) Criminal sexual assault is a Class 1 felony, except that:
    - (A) A person who is convicted of the offense of criminal sexual assault as defined in paragraph (a)(1) or (a)(2) after having previously been convicted of the offense of criminal sexual assault or the offense of exploitation of a child, or who is convicted of the offense of criminal sexual assault as defined in paragraph (a)(1) or (a)(2) after having previously been convicted under the laws of this State or any other state of an offense that is substantially equivalent to the offense of criminal sexual assault or to the offense of exploitation of a child, commits a Class X felony for which the person shall be sentenced to a term of imprisonment of not less than 30 years and not more than 60 years, except that if the person is under the age of 18 years at the time of the offense, he or she shall be sentenced under Section 5-4.5-105 of the Unified Code of Corrections. The commission of the second or subsequent offense is required to have been after the initial conviction for this paragraph (A) to apply.
    - (B) A person who has attained the age of 18 years at the time of the commission of the offense and who is convicted of the offense of criminal sexual assault as defined in paragraph (a)(1) or (a)(2) after having previously been convicted of the offense of aggravated criminal sexual assault or the offense of predatory criminal sexual assault of a child, or who is convicted of the offense of criminal sexual assault as defined in paragraph (a)(1) or (a)(2) after having previously been convicted under the laws of this State or any other state of an offense that is substantially equivalent to the offense of aggravated criminal sexual assault or the offense of predatory criminal sexual assault of a child shall be sentenced to a term of natural life imprisonment. The commission of the second or subsequent offense is required to have been after the initial conviction for this paragraph (B) to apply. An offender under the age of 18 years at the time of the commission of the offense covered by this subparagraph (B) shall be sentenced under Section 5-4.5-105 of the Unified Code of Corrections.<sup>1</sup>
    - (C) A second or subsequent conviction for a violation of paragraph (a)(3) or (a)(4) or under any similar statute of this State or any other state for any offense involving criminal sexual assault that is substantially equivalent to or more serious than the sexual assault prohibited under paragraph (a)(3) or (a)(4) is a Class X felony.

#### **Section 5/11-1.30. Aggravated Criminal Sexual Assault:**

Department: Student Services  
Owner & Title: Melanie Scheet, National Director of SS

Effective Date:  
Last Revised Date: 10/3/2017

(a) A person commits aggravated criminal sexual assault if that person commits criminal sexual assault and any of the following aggravating circumstances exist during the commission of the offense or, for purposes of paragraph (7), occur as part of the same course of conduct as the commission of the offense:

- (1) the person displays, threatens to use, or uses a dangerous weapon, other than a firearm, or any other object fashioned or used in a manner that leads the victim, under the circumstances, reasonably to believe that the object is a dangerous weapon;
- (2) the person causes bodily harm to the victim, except as provided in paragraph (10);
- (3) the person acts in a manner that threatens or endangers the life of the victim or any other person;
- (4) the person commits the criminal sexual assault during the course of committing or attempting to commit any other felony;
- (5) the victim is 60 years of age or older;
- (6) the victim is a person with a physical disability;
- (7) the person delivers (by injection, inhalation, ingestion, transfer of possession, or any other means) any controlled substance to the victim without the victim's consent or by threat or deception for other than medical purposes;
- (8) the person is armed with a firearm;
- (9) the person personally discharges a firearm during the commission of the offense; or
- (10) the person personally discharges a firearm during the commission of the offense, and that discharge proximately causes great bodily harm, permanent disability, permanent disfigurement, or death to another person.

(b) A person commits aggravated criminal sexual assault if that person is under 17 years of age and: (i) commits an act of sexual penetration with a victim who is under 9 years of age; or (ii) commits an act of sexual penetration with a victim who is at least 9 years of age but under 13 years of age and the person uses force or threat of force to commit the act.

(c) A person commits aggravated criminal sexual assault if that person commits an act of sexual penetration with a victim who is a person with a severe or profound intellectual disability.

(d) Sentence.

(1) Aggravated criminal sexual assault in violation of paragraph (2), (3), (4), (5), (6), or (7) of subsection (a) or in violation of subsection (b) or (c) is a Class X felony. A violation of subsection (a)(1) is a Class X felony for which 10 years shall be added to the term of imprisonment imposed by the court. A violation of subsection (a)(8) is a Class X felony for which 15 years shall be added to the term of imprisonment imposed by the court. A violation of subsection (a)(9) is a Class X felony for which 20 years shall be added to the term of imprisonment imposed by the court. A violation of subsection (a)(10) is a Class X felony for which 25 years or up to a term of natural life imprisonment shall be added to the term of imprisonment imposed by the court. An offender under the age of 18 years at the time of the commission of aggravated criminal sexual assault in violation of paragraphs (1) through (10) of subsection (a) shall be sentenced under Section 5-4.5-105 of the Unified Code of Corrections.<sup>1</sup>

(2) A person who has attained the age of 18 years at the time of the commission of the offense and who is convicted of a second or subsequent offense of aggravated criminal sexual assault, or who is convicted of the offense of aggravated criminal sexual assault after having previously been convicted of the offense of

Department: Student Services  
Owner & Title: Melanie Scheet, National Director of SS

Effective Date:  
Last Revised Date: 10/3/2017

criminal sexual assault or the offense of predatory criminal sexual assault of a child, or who is convicted of the offense of aggravated criminal sexual assault after having previously been convicted under the laws of this or any other state of an offense that is substantially equivalent to the offense of criminal sexual assault, the offense of aggravated criminal sexual assault or the offense of predatory criminal sexual assault of a child, shall be sentenced to a term of natural life imprisonment. The commission of the second or subsequent offense is required to have been after the initial conviction for this paragraph (2) to apply. An offender under the age of 18 years at the time of the commission of the offense covered by this paragraph (2) shall be sentenced under Section 5-4.5-105 of the Unified Code of Corrections.

### **Section 5/11-1.70. Defenses with Respect to Offenses Described in Sections 11-1.20 through 11-1.60**

(a) It shall be a defense to any offense under Section 11-1.20, 11-1.30, 11-1.40, 11-1.50, or 11-1.60 of this Code where force or threat of force is an element of the offense that the victim consented. "Consent" means a freely given agreement to the act of sexual penetration or sexual conduct in question. Lack of verbal or physical resistance or submission by the victim resulting from the use of force or threat of force by the accused shall not constitute consent. The manner of dress of the victim at the time of the offense shall not constitute consent.

(b) It shall be a defense under subsection (b) and subsection (c) of Section 11-1.50 and subsection (d) of Section 11-1.60 of this Code that the accused reasonably believed the person to be 17 years of age or over.

(c) A person who initially consents to sexual penetration or sexual conduct is not deemed to have consented to any sexual penetration or sexual conduct that occurs after he or she withdraws consent during the course of that sexual penetration or sexual conduct.

### **Section 5/12-0.1. Definition of "Family or Household Members" for Bodily Harm Offenses:**

\* \* \*

"Family or household members" include spouses, former spouses, parents, children, stepchildren, and other persons related by blood or by present or prior marriage, persons who share or formerly shared a common dwelling, persons who have or allegedly have a child in common, persons who share or allegedly share a blood relationship through a child, persons who have or have had a dating or engagement relationship, persons with disabilities and their personal assistants, and caregivers as defined in Section 12-4.4a of this Code. For purposes of this Article, neither a casual acquaintanceship nor ordinary fraternization between 2 individuals in business or social contexts shall be deemed to constitute a dating relationship.

### **Section 5/12-3.2. Domestic battery:**

- (a) A person commits domestic battery if he or she knowingly without legal justification by any means:
- (1) Causes bodily harm to any family or household member;
  - (2) Makes physical contact of an insulting or provoking nature with any family or household member.

Department: Student Services  
Owner & Title: Melanie Scheet, National Director of SS

Effective Date:  
Last Revised Date: 10/3/2017

(b) Sentence. Domestic battery is a Class A misdemeanor. Domestic battery is a Class 4 felony if the defendant has any prior conviction under this Code for violation of an order of protection (Section 12-3.4 or 12-30), or any prior conviction under the law of another jurisdiction for an offense which is substantially similar. Domestic battery is a Class 4 felony if the defendant has any prior conviction under this Code for first degree murder (Section 9-1), attempt to commit first degree murder (Section 8-4), aggravated domestic battery (Section 12-3.3), aggravated battery (Section 12-3.05 or 12-4), heinous battery (Section 12-4.1), aggravated battery with a firearm (Section 12-4.2), aggravated battery with a machine gun or a firearm equipped with a silencer (Section 12-4.2-5), aggravated battery of a child (Section 12-4.3), aggravated battery of an unborn child (subsection (a-5) of Section 12-3.1, or Section 12-4.4), aggravated battery of a senior citizen (Section 12-4.6), stalking (Section 12-7.3), aggravated stalking (Section 12-7.4), criminal sexual assault (Section 11-1.20 or 12-13), aggravated criminal sexual assault (Section 11-1.30 or 12-14), kidnapping (Section 10-1), aggravated kidnapping (Section 10-2), predatory criminal sexual assault of a child (Section 11-1.40 or 12-14.1), aggravated criminal sexual abuse (Section 11-1.60 or 12-16), unlawful restraint (Section 10-3), aggravated unlawful restraint (Section 10-3.1), aggravated arson (Section 20-1.1), or aggravated discharge of a firearm (Section 24-1.2), or any prior conviction under the law of another jurisdiction for any offense that is substantially similar to the offenses listed in this Section, when any of these offenses have been committed against a family or household member. Domestic battery is a Class 4 felony if the defendant has one or 2 prior convictions under this Code for domestic battery (Section 12-3.2), or one or 2 prior convictions under the law of another jurisdiction for any offense which is substantially similar. Domestic battery is a Class 3 felony if the defendant had 3 prior convictions under this Code for domestic battery (Section 12-3.2), or 3 prior convictions under the law of another jurisdiction for any offense which is substantially similar. Domestic battery is a Class 2 felony if the defendant had 4 or more prior convictions under this Code for domestic battery (Section 12-3.2), or 4 or more prior convictions under the law of another jurisdiction for any offense which is substantially similar. In addition to any other sentencing alternatives, for any second or subsequent conviction of violating this Section, the offender shall be mandatorily sentenced to a minimum of 72 consecutive hours of imprisonment. The imprisonment shall not be subject to suspension, nor shall the person be eligible for probation in order to reduce the sentence.

(c) Domestic battery committed in the presence of a child. In addition to any other sentencing alternatives, a defendant who commits, in the presence of a child, a felony domestic battery (enhanced under subsection (b)), aggravated domestic battery (Section 12-3.3), aggravated battery (Section 12-3.05 or 12-4), unlawful restraint (Section 10-3), or aggravated unlawful restraint (Section 10-3.1) against a family or household member shall be required to serve a mandatory minimum imprisonment of 10 days or perform 300 hours of community service, or both. The defendant shall further be liable for the cost of any counseling required for the child at the discretion of the court in accordance with subsection (b) of Section 5-5-6 of the Unified Code of Corrections.<sup>1</sup> For purposes of this Section, "child" means a person under 18 years of age who is the defendant's or victim's child or step-child or who is a minor child residing within or visiting the household of the defendant or victim.

(d) Upon conviction of domestic battery, the court shall advise the defendant orally or in writing, substantially as follows: "An individual convicted of domestic battery may be subject to federal criminal penalties for possessing, transporting, shipping, or receiving any firearm or ammunition in violation of the federal Gun

Department: Student Services  
Owner & Title: Melanie Scheet, National Director of SS

Effective Date:  
Last Revised Date: 10/3/2017

Control Act of 1968 (18 U.S.C. 922(g)(8) and (9)).” A notation shall be made in the court file that the admonition was given.

### **Section 5/12-3.3. Aggravated domestic battery:**

(a) A person who, in committing a domestic battery, knowingly causes great bodily harm, or permanent disability or disfigurement commits aggravated domestic battery.

(a-5) A person who, in committing a domestic battery, strangles another individual commits aggravated domestic battery. For the purposes of this subsection (a-5), “strangle” means intentionally impeding the normal breathing or circulation of the blood of an individual by applying pressure on the throat or neck of that individual or by blocking the nose or mouth of that individual.

(b) Sentence. Aggravated domestic battery is a Class 2 felony. Any order of probation or conditional discharge entered following a conviction for an offense under this Section must include, in addition to any other condition of probation or conditional discharge, a condition that the offender serve a mandatory term of imprisonment of not less than 60 consecutive days. A person convicted of a second or subsequent violation of this Section must be sentenced to a mandatory term of imprisonment of not less than 3 years and not more than 7 years or an extended term of imprisonment of not less than 7 years and not more than 14 years.

(c) Upon conviction of aggravated domestic battery, the court shall advise the defendant orally or in writing, substantially as follows: “An individual convicted of aggravated domestic battery may be subject to federal criminal penalties for possessing, transporting, shipping, or receiving any firearm or ammunition in violation of the federal Gun Control Act of 1968 (18 U.S.C. 922(g)(8) and (9)).” A notation shall be made in the court file that the admonition was given.

### **Section 5/12-7.3. Stalking.**

(a) A person commits stalking when he or she knowingly engages in a course of conduct directed at a specific person, and he or she knows or should know that this course of conduct would cause a reasonable person to:

- (1) fear for his or her safety or the safety of a third person; or
- (2) suffer other emotional distress.

(a-3) A person commits stalking when he or she, knowingly and without lawful justification, on at least 2 separate occasions follows another person or places the person under surveillance or any combination thereof and:

- (1) at any time transmits a threat of immediate or future bodily harm, sexual assault, confinement or restraint and the threat is directed towards that person or a family member of that person; or
- (2) places that person in reasonable apprehension of immediate or future bodily harm, sexual assault, confinement or restraint to or of that person or a family member of that person.

Department: Student Services  
Owner & Title: Melanie Scheet, National Director of SS

Effective Date:  
Last Revised Date: 10/3/2017

(a-5) A person commits stalking when he or she has previously been convicted of stalking another person and knowingly and without lawful justification on one occasion:

- (1) follows that same person or places that same person under surveillance; and
- (2) transmits a threat of immediate or future bodily harm, sexual assault, confinement or restraint to that person or a family member of that person.

(b) Sentence. Stalking is a Class 4 felony; a second or subsequent conviction is a Class 3 felony.

(c) Definitions. For purposes of this Section:

- (1) "Course of conduct" means 2 or more acts, including but not limited to acts in which a defendant directly, indirectly, or through third parties, by any action, method, device, or means follows, monitors, observes, surveils, threatens, or communicates to or about, a person, engages in other non-consensual contact, or interferes with or damages a person's property or pet. A course of conduct may include contact via electronic communications.
- (2) "Electronic communication" means any transfer of signs, signals, writings, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectric, or photo-optical system. "Electronic communication" includes transmissions by a computer through the Internet to another computer.
- (3) "Emotional distress" means significant mental suffering, anxiety or alarm.
- (4) "Family member" means a parent, grandparent, brother, sister, or child, whether by whole blood, half-blood, or adoption and includes a step-grandparent, step-parent, step-brother, step-sister or step-child. "Family member" also means any other person who regularly resides in the household, or who, within the prior 6 months, regularly resided in the household.
- (5) "Follows another person" means (i) to move in relative proximity to a person as that person moves from place to place or (ii) to remain in relative proximity to a person who is stationary or whose movements are confined to a small area. "Follows another person" does not include a following within the residence of the defendant.
- (6) "Non-consensual contact" means any contact with the victim that is initiated or continued without the victim's consent, including but not limited to being in the physical presence of the victim; appearing within the sight of the victim; approaching or confronting the victim in a public place or on private property; appearing at the workplace or residence of the victim; entering onto or remaining on property owned, leased, or occupied by the victim; or placing an object on, or delivering an object to, property owned, leased, or occupied by the victim.
- (7) "Places a person under surveillance" means: (1) remaining present outside the person's school, place of employment, vehicle, other place occupied by the person, or residence other than the residence of the defendant; or (2) placing an electronic tracking device on the person or the person's property.
- (8) "Reasonable person" means a person in the victim's situation.
- (9) "Transmits a threat" means a verbal or written threat or a threat implied by a pattern of conduct or a combination of verbal or written statements or conduct.

(d) Exemptions.

Department: Student Services  
Owner & Title: Melanie Scheet, National Director of SS

Effective Date:  
Last Revised Date: 10/3/2017

(1) This Section does not apply to any individual or organization (i) monitoring or attentive to compliance with public or worker safety laws, wage and hour requirements, or other statutory requirements, or (ii) picketing occurring at the workplace that is otherwise lawful and arises out of a bona fide labor dispute, including any controversy concerning wages, salaries, hours, working conditions or benefits, including health and welfare, sick leave, insurance, and pension or retirement provisions, the making or maintaining of collective bargaining agreements, and the terms to be included in those agreements.

(2) This Section does not apply to an exercise of the right to free speech or assembly that is otherwise lawful.

(3) Telecommunications carriers, commercial mobile service providers, and providers of information services, including, but not limited to, Internet service providers and hosting service providers, are not liable under this Section, except for willful and wanton misconduct, by virtue of the transmission, storage, or caching of electronic communications or messages of others or by virtue of the provision of other related telecommunications, commercial mobile services, or information services used by others in violation of this Section.

(d-5) The incarceration of a person in a penal institution who commits the course of conduct or transmits a threat is not a bar to prosecution under this Section.

(d-10) A defendant who directed the actions of a third party to violate this Section, under the principles of accountability set forth in Article 5 of this Code, is guilty of violating this Section as if the same had been personally done by the defendant, without regard to the mental state of the third party acting at the direction of the defendant.

Department: Student Services  
Owner & Title: Melanie Scheet, National Director of SS

Effective Date:  
Last Revised Date: 10/3/2017

## MASSACHUSETTS CRIMINAL CODE

### **Section 22 Rape, generally; weapons; punishment; eligibility for furlough, education, training or employment programs**

**Section 22** (a) Whoever has sexual intercourse or unnatural sexual intercourse with a person, and compels such person to submit by force and against his will, or compels such person to submit by threat of bodily injury and if either such sexual intercourse or unnatural sexual intercourse results in or is committed with acts resulting in serious bodily injury, or is committed by a joint enterprise, or is committed during the commission or attempted commission of an offense defined in section fifteen A, fifteen B, seventeen, nineteen or twenty-six of this chapter, section fourteen, fifteen, sixteen, seventeen or eighteen of chapter two hundred and sixty-six or section ten of chapter two hundred and sixty-nine shall be punished by imprisonment in the state prison for life or for any term of years.

No person serving a sentence for a second or subsequent such offense shall be eligible for furlough, temporary release, or education, training or employment programs established outside a correctional facility until such person shall have served two-thirds of such minimum sentence or if such person has two or more sentences to be served otherwise than concurrently, two-thirds of the aggregate of the minimum terms of such several sentences.

(b) Whoever has sexual intercourse or unnatural sexual intercourse with a person and compels such person to submit by force and against his will, or compels such person to submit by threat of bodily injury, shall be punished by imprisonment in the state prison for not more than twenty years; and whoever commits a second or subsequent such offense shall be punished by imprisonment in the state prison for life or for any term or years.

Whoever commits any offense described in this section while being armed with a firearm, rifle, shotgun, machine-gun or assault weapon, shall be punished by imprisonment in the state prison for not less than ten years. Whoever commits a second or subsequent such offense shall be punished by imprisonment in the state prison for life or for any term of years, but not less than 15 years.

No person serving a sentence for a second or subsequent such offense shall be eligible for furlough, temporary release, or education, training or employment programs established outside a correctional facility until such person shall have served two-thirds of such minimum sentence or if such person has two or more sentences to be served otherwise than concurrently, two-thirds of the aggregate of the minimum terms of such several sentences.

For the purposes of prosecution, the offense described in subsection (b) shall be a lesser included offense to that described in subsection (a).

### **Sexual Assault**

Massachusetts law does not define the term "sexual assault," but instead uses the below definitions of "assault with intent to commit rape" and "indecent assault."

Department: Student Services  
Owner & Title: Melanie Scheet, National Director of SS

Effective Date:  
Last Revised Date: 10/3/2017

**Section 24 Assault with intent to commit rape; weapons; punishment; eligibility for furloughs, education, training or employment programs**

**Section 24.** Whoever assaults a person with intent to commit a rape shall be punished by imprisonment in the state prison for not more than twenty years or by imprisonment in a jail or house of correction for not more than two and one-half years; and whoever commits a second or subsequent such offense shall be punished by imprisonment in the state prison for life or for any term of years. Whoever commits any offense described in this section while armed with a firearm, rifle, shotgun, machine gun or assault weapon shall be punished by imprisonment in the state prison for not less than five years. Whoever commits a second or subsequent such offense shall be punished by imprisonment in the state prison for life or for any term of years, but not less than 20 years.

No person serving a sentence for a second or subsequent such offense shall be eligible for furlough, temporary release, or education, training or employment programs established outside a correctional facility until such person shall have served two-thirds of such minimum sentence or if such person has two or more sentences to be served otherwise than concurrently, two-thirds of the aggregate of the minimum terms of such several sentences.

**Section 13H: Indecent assault and battery on person fourteen or older**

Whoever commits an indecent assault and battery on a person who has attained age fourteen shall be punished by imprisonment in the state prison for not more than five years, or by imprisonment for not more than two and one-half years in a jail or house of correction.

**Section 13M: Assault or assault and battery on a family or household member**

(a) Whoever commits an assault or assault and battery on a family or household member shall be punished by imprisonment in the house of correction for not more than 2 ½ years or by a fine of not more than \$5,000, or both such fine and imprisonment.

(c) For the purposes of this section, “family or household member” shall mean persons who (i) are or were married to one another, (ii) have a child in common regardless of whether they have ever married or lived together or (iii) are or have been in a substantive dating or engagement relationship; provided, that the trier of fact shall determine whether a relationship is substantive by considering the following factors: the length of time of the relationship; the type of relationship; the frequency of interaction between the parties; whether the relationship was terminated by either person; and the length of time elapsed since the termination of the relationship.

**Section 43 Stalking; punishment**

**Section 43** (a) Whoever (1) willfully and maliciously engages in a knowing pattern of conduct or series of acts over a period of time directed at a specific person which seriously alarms or annoys that person and would cause a reasonable person to suffer substantial emotional distress, and (2) makes a threat with the intent to place the person in imminent fear of death or bodily injury, shall be guilty of the crime of stalking and shall be punished

Department: Student Services  
Owner & Title: Melanie Scheet, National Director of SS

Effective Date:  
Last Revised Date: 10/3/2017

by imprisonment in the state prison for not more than 5 years or by a fine of not more than \$1,000, or imprisonment in the house of correction for not more than 21/2 years or by both such fine and imprisonment. The conduct, acts or threats described in this subsection shall include, but not be limited to, conduct, acts or threats conducted by mail or by use of a telephonic or telecommunication device or electronic communication device including, but not limited to, any device that transfers signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photo-electronic or photo-optical system, including, but not limited to, electronic mail, internet communications, instant messages or facsimile communications.

(b) Whoever commits the crime of stalking in violation of a temporary or permanent vacate, restraining, or no-contact order or judgment issued pursuant to sections eighteen, thirty-four B, or thirty-four C of chapter two hundred and eight; or section thirty-two of chapter two hundred and nine; or sections three, four, or five of chapter two hundred and nine A; or sections fifteen or twenty of chapter two hundred and nine C or a protection order issued by another jurisdiction; or a temporary restraining order or preliminary or permanent injunction issued by the superior court, shall be punished by imprisonment in a jail or the state prison for not less than one year and not more than five years. No sentence imposed under the provisions of this subsection shall be less than a mandatory minimum term of imprisonment of one year.

A prosecution commenced hereunder shall not be placed on file or continued without a finding, and the sentence imposed upon a person convicted of violating any provision of this subsection shall not be reduced to less than the mandatory minimum term of imprisonment as established herein, nor shall said sentence of imprisonment imposed upon any person be suspended or reduced until such person shall have served said mandatory term of imprisonment.

A person convicted of violating any provision of this subsection shall not, until he shall have served the mandatory minimum term of imprisonment established herein, be eligible for probation, parole, furlough, work release or receive any deduction from his sentence for good conduct under sections one hundred and twenty-nine, one hundred and twenty-nine C and one hundred and twenty-nine D of chapter one hundred and twenty-seven; provided, however, that the commissioner of correction may, on the recommendation of the warden, superintendent, or other person in charge of a correctional institution, grant to said offender a temporary release in the custody of an officer of such institution for the following purposes only: to attend the funeral of next of kin or spouse; to visit a critically ill close relative or spouse; or to obtain emergency medical services unavailable at said institution. The provisions of section eighty-seven of chapter two hundred and seventy-six relating to the power of the court to place certain offenders on probation shall not apply to any person seventeen years of age or over charged with a violation of this subsection. The provisions of section thirty-one of chapter two hundred and seventy-nine shall not apply to any person convicted of violating any provision of this subsection.

(c) Whoever, after having been convicted of the crime of stalking, commits a second or subsequent such crime shall be punished by imprisonment in a jail or the state prison for not less than two years and not more than ten years. No sentence imposed under the provisions of this subsection shall be less than a mandatory minimum term of imprisonment of two years.

Department: Student Services  
Owner & Title: Melanie Scheet, National Director of SS

Effective Date:  
Last Revised Date: 10/3/2017

A prosecution commenced hereunder shall not be placed on file or continued without a finding, and the sentence imposed upon a person convicted of violating any provision of this subsection shall not be reduced to less than the mandatory minimum term of imprisonment as established herein, nor shall said sentence of imprisonment imposed upon any person be suspended or reduced until such person shall have served said mandatory term of imprisonment.

A person convicted of violating any provision of this subsection shall not, until he shall have served the mandatory minimum term of imprisonment established herein, be eligible for probation, parole, furlough, work release or receive any deduction from his sentence for good conduct under sections one hundred and twenty-nine, one hundred and twenty-nine C and one hundred and twenty-nine D of chapter one hundred and twenty-seven; provided, however, that the commissioner of correction may, on the recommendation of the warden, superintendent, or other person in charge of a correctional institution, grant to said offender a temporary release in the custody of an officer of such institution for the following purposes only: to attend the funeral of next of kin or spouse; to visit a critically ill close relative or spouse; or to obtain emergency medical services unavailable at said institution. The provisions of section eighty-seven of chapter two hundred and seventy-six relating to the power of the court to place certain offenders on probation shall not apply to any person seventeen years of age or over charged with a violation of this subsection. The provisions of section thirty-one of chapter two hundred and seventy-nine shall not apply to any person convicted of violating any provision of this section.

## **Consent**

The term "consent" is not specifically defined by Massachusetts law.

Department: Student Services  
Owner & Title: Melanie Scheet, National Director of SS

Effective Date:  
Last Revised Date: 10/3/2017

**PENNSYLVANIA CRIMINAL CODE**

**SECTION 3121. Rape**

(a) Offense defined.--A person commits a felony of the first degree when the person engages in sexual intercourse with a complainant:

- (1) By forcible compulsion.
- (2) By threat of forcible compulsion that would prevent resistance by a person of reasonable resolution.
- (3) Who is unconscious or where the person knows that the complainant is unaware that the sexual intercourse is occurring.
- (4) Where the person has substantially impaired the complainant's power to appraise or control his or her conduct by administering or employing, without the knowledge of the complainant, drugs, intoxicants or other means for the purpose of preventing resistance.
- (5) Who suffers from a mental disability which renders the complainant incapable of consent.

(b) Additional penalties.--In addition to the penalty provided for by subsection (a), a person may be sentenced to an additional term not to exceed ten years' confinement and an additional amount not to exceed \$100,000 where the person engages in sexual intercourse with a complainant and has substantially impaired the complainant's power to appraise or control his or her conduct by administering or employing, without the knowledge of the complainant, any substance for the purpose of preventing resistance through the inducement of euphoria, memory loss and any other effect of this substance.

(c) Rape of a child.--A person commits the offense of rape of a child, a felony of the first degree, when the person engages in sexual intercourse with a complainant who is less than 13 years of age.

(d) Rape of a child with serious bodily injury.--A person commits the offense of rape of a child resulting in serious bodily injury, a felony of the first degree, when the person violates this section and the complainant is under 13 years of age and suffers serious bodily injury in the course of the offense.

(e) Sentences.--Notwithstanding the provisions of section 1103 (relating to sentence of imprisonment for felony), a person convicted of an offense under:

- (1) Subsection (c) shall be sentenced to a term of imprisonment which shall be fixed by the court at not more than 40 years.
- (2) Subsection (d) shall be sentenced up to a maximum term of life imprisonment.

**Section 3122.1. Statutory Sexual Assault:**

(a) Felony of the second degree.--Except as provided in section 3121 (relating to rape), a person commits a felony of the second degree when that person engages in sexual intercourse with a complainant to whom the person is not married who is under the age of 16 years and that person is either:

- (1) four years older but less than eight years older than the complainant; or
- (2) eight years older but less than 11 years older than the complainant.

Department: Student Services  
Owner & Title: Melanie Scheet, National Director of SS

Effective Date:  
Last Revised Date: 10/3/2017

(b) Felony of the first degree.--A person commits a felony of the first degree when that person engages in sexual intercourse with a complainant under the age of 16 years and that person is 11 or more years older than the complainant and the complainant and the person are not married to each other.

### **Section 3124.1. Sexual Assault:**

Except as provided in section 3121 (relating to rape) or 3123 (relating to involuntary deviate sexual intercourse), a person commits a felony of the second degree when that person engages in sexual intercourse or deviate sexual intercourse with a complainant without the complainant's consent.

### **Section 3124.2. Institutional Sexual Assault:**

(a) General rule.--Except as provided under subsection (a.1) and in sections 3121 (relating to rape), 3122.1 (relating to statutory sexual assault), 3123 (relating to involuntary deviate sexual intercourse), 3124.1 (relating to sexual assault) and 3125 (relating to aggravated indecent assault), a person who is an employee or agent of the Department of Corrections or a county correctional authority, youth development center, youth forestry camp, State or county juvenile detention facility, other licensed residential facility serving children and youth, or mental health or mental retardation facility or institution commits a felony of the third degree when that person engages in sexual intercourse, deviate sexual intercourse or indecent contact with an inmate, detainee, patient or resident.

(a.1) Institutional sexual assault of a minor.--A person who is an employee or agent of the Department of Corrections or a county correctional authority, youth development center, youth forestry camp, State or county juvenile detention facility, other licensed residential facility serving children and youth or mental health or mental retardation facility or institution commits a felony of the third degree when that person engages in sexual intercourse, deviate sexual intercourse or indecent contact with an inmate, detainee, patient or resident who is under 18 years of age.

(a.2) Schools.--

(1) Except as provided in sections 3121, 3122.1, 3123, 3124.1 and 3125, a person who is a volunteer or an employee of a school or any other person who has direct contact with a student at a school commits a felony of the third degree when he engages in sexual intercourse, deviate sexual intercourse or indecent contact with a student of the school.

(2) As used in this subsection, the following terms shall have the meanings given to them in this paragraph:

(i) "Direct contact." Care, supervision, guidance or control.

(ii) "Employee."

(A) Includes:

(I) A teacher, a supervisor, a supervising principal, a principal, an assistant principal, a vice principal, a director of vocational education, a dental hygienist, a visiting teacher, a home and school visitor, a school counselor, a child nutrition program specialist, a school librarian, a school secretary the selection of whom is on the basis of merit as determined by eligibility lists, a school nurse, a substitute teacher, a janitor, a cafeteria

Department: Student Services  
Owner & Title: Melanie Scheet, National Director of SS

Effective Date:  
Last Revised Date: 10/3/2017

worker, a bus driver, a teacher aide and any other employee who has direct contact with school students.

(II) An independent contractor who has a contract with a school for the purpose of performing a service for the school, a coach, an athletic trainer, a coach hired as an independent contractor by the Pennsylvania Interscholastic Athletic Association or an athletic trainer hired as an independent contractor by the Pennsylvania Interscholastic Athletic Association.

(B) The term does not include:

(I) A student employed at the school.

(II) An independent contractor or any employee of an independent contractor who has no direct contact with school students.

(iii) "School." A public or private school, intermediate unit or area vocational-technical school.

(iv) "Volunteer." The term does not include a school student.

(a.3) Child care.--Except as provided in sections 3121, 3122.1, 3123, 3124.1 and 3125, a person who is a volunteer or an employee of a center for children commits a felony of the third degree when he engages in sexual intercourse, deviate sexual intercourse or indecent contact with a child who is receiving services at the center.

(b) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Agent." A person who is assigned to work in a State or county correctional or juvenile detention facility, a youth development center, youth forestry camp, other licensed residential facility serving children and youth or mental health or mental retardation facility or institution, who is employed by any State or county agency or any person employed by an entity providing contract services to the agency.

"Center for children." Includes a child day-care center, group and family day-care home, boarding home for children, a center providing early intervention and drug and alcohol services for children or other facility which provides child-care services which are subject to approval, licensure, registration or certification by the Department of Public Welfare<sup>1</sup> or a county social services agency or which are provided pursuant to a contract with the department or a county social services agency. The term does not include a youth development center, youth forestry camp, State or county juvenile detention facility and other licensed residential facility serving children and youth.

### **Section 2134.3. Sexual Assault by Sports Official, Volunteer or Employee of Nonprofit Association**

(a) Sports official.--Except as provided in sections 3121 (relating to rape), 3122.1 (relating to statutory sexual assault), 3123 (relating to involuntary deviate sexual intercourse), 3124.1 (relating to sexual assault) and 3125 (relating to aggravated indecent assault), a person who serves as a sports official in a sports program of a nonprofit association or a for-profit association commits a felony of the third degree when that person engages in sexual intercourse, deviate sexual intercourse or indecent contact with a child under 18 years of age who is participating in a sports program of the nonprofit association or for-profit association.

Department: Student Services  
Owner & Title: Melanie Scheet, National Director of SS

Effective Date:  
Last Revised Date: 10/3/2017

(b) Volunteer or employee of nonprofit association.--Except as provided in sections 3121, 3122.1, 3123, 3124.1 and 3125, a volunteer or an employee of a nonprofit association having direct contact with a child under 18 years of age who participates in a program or activity of the nonprofit association commits a felony of the third degree if the volunteer or employee engages in sexual intercourse, deviate sexual intercourse or indecent contact with that child.

(c) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

“Direct contact.” Care, supervision, guidance or control.

“Nonprofit association.” As defined in 42 Pa.C.S. § 8332.1 (relating to manager, coach, umpire or referee and nonprofit association negligence standard).

“Sports official.” A person who supervises children participating in a sports program of a nonprofit association or a for-profit association, including, but not limited to, a coach, assistant coach, athletic trainer, team attendant, game manager, instructor or a person at a sports program who enforces the rules of a sporting event sponsored by a sports program of a nonprofit association or a for-profit association, including, but not limited to, an umpire or referee, whether receiving remuneration or holding the position as a volunteer.

“Sports program.” As defined in 42 Pa.C.S. § 8332.1.

### **Section 311. Consent:**

(a) General rule.--The consent of the victim to conduct charged to constitute an offense or to the result thereof is a defense if such consent negatives an element of the offense or precludes the infliction of the harm or evil sought to be prevented by the law defining the offense.

(b) Consent to bodily injury.--When conduct is charged to constitute an offense because it causes or threatens bodily injury, consent to such conduct or to the infliction of such injury is a defense if:

- (1) the conduct and the injury are reasonably foreseeable hazards of joint participation in a lawful athletic contest or competitive sport; or
- (2) the consent establishes a justification for the conduct under Chapter 5 of this title (relating to general principles of justification).

(c) Ineffective consent.--Unless otherwise provided by this title or by the law defining the offense, assent does not constitute consent if:

- (1) it is given by a person who is legally incapacitated to authorize the conduct charged to constitute the offense;
- (2) it is given by a person who by reason of youth, mental disease or defect or intoxication is manifestly unable or known by the actor to be unable to make a reasonable judgment as to the nature or harmfulness of the conduct charged to constitute the offense;
- (3) it is given by a person whose improvident consent is sought to be prevented by the law defining the offense; or
- (4) it is induced by force, duress or deception of a kind sought to be prevented by the law defining the offense.

Department: Student Services  
Owner & Title: Melanie Scheet, National Director of SS

Effective Date:  
Last Revised Date: 10/3/2017

## Section 2709.1. Stalking:

- (a) Offense defined.--A person commits the crime of stalking when the person either:
- (1) engages in a course of conduct or repeatedly commits acts toward another person, including following the person without proper authority, under circumstances which demonstrate either an intent to place such other person in reasonable fear of bodily injury or to cause substantial emotional distress to such other person; or
  - (2) engages in a course of conduct or repeatedly communicates to another person under circumstances which demonstrate or communicate either an intent to place such other person in reasonable fear of bodily injury or to cause substantial emotional distress to such other person.
- (b) Venue.--
- (1) An offense committed under this section may be deemed to have been committed at either the place at which the communication or communications were made or at the place where the communication or communications were received.
  - (2) Acts indicating a course of conduct which occur in more than one jurisdiction may be used by any other jurisdiction in which an act occurred as evidence of a continuing pattern of conduct or a course of conduct.
- (c) Grading.--
- (1) Except as otherwise provided for in paragraph (2), a first offense under this section shall constitute a misdemeanor of the first degree.
  - (2) A second or subsequent offense under this section or a first offense under subsection (a) if the person has been previously convicted of a crime of violence involving the same victim, family or household member, including, but not limited to, a violation of section 2701 (relating to simple assault), 2702 (relating to aggravated assault), 2705 (relating to recklessly endangering another person), 2901 (relating to kidnapping), 3121 (relating to rape) or 3123 (relating to involuntary deviate sexual intercourse), an order issued under section 4954 (relating to protective orders) or an order issued under 23 Pa.C.S. § 6108 (relating to relief) shall constitute a felony of the third degree.
- (d) False reports.--A person who knowingly gives false information to any law enforcement officer with the intent to implicate another under this section commits an offense under section 4906 (relating to false reports to law enforcement authorities).
- (e) Application of section.--This section shall not apply to constitutionally protected activity.
- (f) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:
- “Communicates.” To convey a message without intent of legitimate communication or address by oral, nonverbal, written or electronic means, including telephone, electronic mail, Internet, facsimile, telex, wireless communication or similar transmission.

Department: Student Services  
Owner & Title: Melanie Scheet, National Director of SS

Effective Date:  
Last Revised Date: 10/3/2017

“Course of conduct.” A pattern of actions composed of more than one act over a period of time, however short, evidencing a continuity of conduct. The term includes lewd, lascivious, threatening or obscene words, language, drawings, caricatures or actions, either in person or anonymously. Acts indicating a course of conduct which occur in more than one jurisdiction may be used by any other jurisdiction in which an act occurred as evidence of a continuing pattern of conduct or a course of conduct.

“Emotional distress.” A temporary or permanent state of mental anguish.

“Family or household member.” Spouses or persons who have been spouses, persons living as spouses or who lived as spouses, parents and children, other persons related by consanguinity or affinity, current or former sexual or intimate partners or persons who share biological parenthood.

### **Section 2711. Probable Cause Arrests in Domestic Violence Cases**

(a) General rule.--A police officer shall have the same right of arrest without a warrant as in a felony whenever he has probable cause to believe the defendant has violated section 2504 (relating to involuntary manslaughter), 2701 (relating to simple assault), 2702(a)(3), (4) and (5) (relating to aggravated assault), 2705 (relating to recklessly endangering another person), 2706 (relating to terroristic threats) or 2709.1 (relating to stalking) against a family or household member although the offense did not take place in the presence of the police officer. A police officer may not arrest a person pursuant to this section without first observing recent physical injury to the victim or other corroborative evidence. For the purposes of this subsection, the term “family or household member” has the meaning given that term in 23 Pa.C.S. § 6102 (relating to definitions).

(b) Seizure of weapons.--The arresting police officer shall seize all weapons used by the defendant in the commission of the alleged offense.

(c) Bail.--

(1) A defendant arrested pursuant to this section shall be afforded a preliminary arraignment by the proper issuing authority without unnecessary delay. In no case shall the arresting officer release the defendant from custody rather than taking the defendant before the issuing authority.

(2) In determining whether to admit the defendant to bail, the issuing authority shall consider whether the defendant poses a threat of danger to the victim. If the issuing authority makes such a determination, it shall require as a condition of bail that the defendant shall refrain from entering the residence or household of the victim and the victim's place of employment and shall refrain from committing any further criminal conduct against the victim and shall so notify the defendant thereof at the time the defendant is admitted to bail. Such condition shall expire at the time of the preliminary hearing or upon the entry or the denial of the protection of abuse order by the court, whichever occurs first. A violation of this condition may be punishable by the revocation of any form of pretrial release or the forfeiture of bail and the issuance of a bench warrant for the defendant's arrest or remanding him to custody or a modification of the terms of the bail. The defendant shall be provided a hearing on this matter.

(d) Notice of rights.--Upon responding to a domestic violence case, the police officer shall, orally or in writing, notify the victim of the availability of a shelter, including its telephone number, or other services in the community. Said notice shall include the following statement: “If you are the victim of domestic violence, you

Department: Student Services  
Owner & Title: Melanie Scheet, National Director of SS

Effective Date:  
Last Revised Date: 10/3/2017

have the right to go to court and file a petition requesting an order for protection from domestic abuse pursuant to 23 Pa.C.S. Ch. 61 (relating to protection from abuse) which could include the following:

- (1) An order restraining the abuser from further acts of abuse.
- (2) An order directing the abuser to leave your household.
- (3) An order preventing the abuser from entering your residence, school, business or place of employment.
- (4) An order awarding you or the other parent temporary custody of or temporary visitation with your child or children.
- (5) An order directing the abuser to pay support to you and the minor children if the abuser has a legal obligation to do so.”

### **Section 6102. Definitions – Abuse of Family**

(a) General rule.--The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Abuse.” The occurrence of one or more of the following acts between family or household members, sexual or intimate partners or persons who share biological parenthood:

- (1) Attempting to cause or intentionally, knowingly or recklessly causing bodily injury, serious bodily injury, rape, involuntary deviate sexual intercourse, sexual assault, statutory sexual assault, aggravated indecent assault, indecent assault or incest with or without a deadly weapon.
- (2) Placing another in reasonable fear of imminent serious bodily injury.
- (3) The infliction of false imprisonment pursuant to 18 Pa.C.S. § 2903 (relating to false imprisonment).
- (4) Physically or sexually abusing minor children, including such terms as defined in Chapter 63 (relating to child protective services).
- (5) Knowingly engaging in a course of conduct or repeatedly committing acts toward another person, including following the person, without proper authority, under circumstances which place the person in reasonable fear of bodily injury. The definition of this paragraph applies only to proceedings commenced under this title and is inapplicable to any criminal prosecutions commenced under Title 18 (relating to crimes and offenses).

\* \* \*

“Family or household members.” Spouses or persons who have been spouses, persons living as spouses or who lived as spouses, parents and children, other persons related by consanguinity or affinity, current or former sexual or intimate partners or persons who share biological parenthood.

Department: Student Services  
Owner & Title: Melanie Scheet, National Director of SS

Effective Date:  
Last Revised Date: 10/3/2017

## NORTH CAROLINA CRIMINAL CODE

### ARTICLE 7A.

#### Rape And Other Sex Offenses

##### **§ 14-27.1. Definitions.**

As used in this Article, unless the context requires otherwise:

(1) **“Mentally disabled”** means (i) a victim who suffers from mental retardation, or (ii) a victim who suffers from a mental disorder, either of which temporarily or permanently renders the victim substantially incapable of appraising the nature of his or her conduct, or of resisting the act of vaginal intercourse or a sexual act, or of communicating unwillingness to submit to the act of vaginal intercourse or a sexual act.

(2) **“Mentally incapacitated”** means a victim who due to any act committed upon the victim is rendered substantially incapable of either appraising the nature of his or her conduct, or resisting the act of vaginal intercourse or a sexual act.

(3) **“Physically helpless”** means (i) a victim who is unconscious; or (ii) a victim who is physically unable to resist an act of vaginal intercourse or a sexual act or communicate unwillingness to submit to an act of vaginal intercourse or a sexual act.

(4) **“Sexual act”** means cunnilingus, fellatio, anilingus, or anal intercourse, but does not include vaginal intercourse. Sexual act also means the penetration, however slight, by any object into the genital or anal opening of another person’s body: provided, that it shall be an affirmative defense that the penetration was for accepted medical purposes.

(5) **“Sexual contact”** means (i) touching the sexual organ, anus, breast, groin, or buttocks of any person, (ii) a person touching another person with their own sexual organ, anus, breast, groin, or buttocks, or (iii) a person ejaculating, emitting, or placing semen, urine, or feces upon any part of another person.

(6) **“Touching”** as used in subdivision (5) of this section, means physical contact with another person, whether accomplished directly, through the clothing of the person committing the offense, or through the clothing of the victim. (1979, c. 682, s. 1; 2002-159, s. 2(a); 2003-252, s. 1; 2006-247, s. 12(a).)

##### **§ 14-27.2. First-degree rape.**

(a) A person is guilty of rape in the first degree if the person engages in vaginal intercourse:

With a victim who is a child under the age of 13 years and the defendant is at least 12 years old and is at least four years older than the victim; or

Department: Student Services  
Owner & Title: Melanie Scheet, National Director of SS

Effective Date:  
Last Revised Date: 10/3/2017

With another person by force and against the will of the other person, and:

- a. Employs or displays a dangerous or deadly weapon or an article which the other person reasonably believes to be a dangerous or deadly weapon; or
- b. Inflicts serious personal injury upon the victim or another person; or
- c. The person commits the offense aided and abetted by one or more other persons.

(b) Any person who commits an offense defined in this section is guilty of a Class B1 felony.

(c) Upon conviction, a person convicted under this section has no rights to custody of or rights of inheritance from any child born as a result of the commission of the rape, nor shall the person have any rights related to the child under Chapter 48 or Subchapter 1 of Chapter 7B of the General Statutes. (1979, c. 682, s. 1; 1979, 2nd Sess., c. 1316, s. 4; 1981, c. 63; c. 106, ss. 1, 2; c. 179, s. 14; 1983, c. 175, ss. 4, 10; c. 720, s. 4; 1994, Ex. Sess., c. 22, s. 2; 2004-128, s. 7.)

**§ 14-27.2A. Rape of a child; adult offender.**

(a) A person is guilty of rape of a child if the person is at least 18 years of age and engages in vaginal intercourse with a victim who is a child under the age of 13 years.

(b) A person convicted of violating this section is guilty of a Class B1 felony and shall be sentenced pursuant to Article 81B of Chapter 15A of the General Statutes, except that in no case shall the person receive an active punishment of less than 300 months, and except as provided in subsection (c) of this section. Following the termination of active punishment, the person shall be enrolled in satellite-based monitoring for life pursuant to Part 5 of Article 27A of Chapter 14 of the General Statutes.

\* \* \*

**§ 14-27.3. Second-degree rape.**

(a) A person is guilty of rape in the second degree if the person engages in vaginal intercourse with another person:

- (1) By force and against the will of the other person; or
- (2) Who is mentally disabled, mentally incapacitated, or physically helpless, and the person performing the act knows or should reasonably know the other person is mentally disabled, mentally incapacitated, or physically helpless.

(b) Any person who commits the offense defined in this section is guilty of a Class C felony.

Department: Student Services  
Owner & Title: Melanie Scheet, National Director of SS

Effective Date:  
Last Revised Date: 10/3/2017

\* \* \*

**§ 14-27.4. First-degree sexual offense.**

(a) A person is guilty of a sexual offense in the first degree if the person engages in a sexual act:

(1) With a victim who is a child under the age of 13 years and the defendant is at least 12 years old and is at least four years older than the victim; or

(2) With another person by force and against the will of the other person, and:

a. Employs or displays a dangerous or deadly weapon or an article which the other person reasonably believes to be a dangerous or deadly weapon; or

b. Inflicts serious personal injury upon the victim or another person; or

c. The person commits the offense aided and abetted by one or more other persons.

(b) Any person who commits an offense defined in this section is guilty of a Class B1 felony. (1979, c. 682, s. 1; 1979, 2nd Sess., c. 1316, s. 6; 1981, c. 106, ss. 3, 4; 1983, c. 175, ss. 5, 10; c. 720, s. 4; 1994, Ex. Sess., c. 22, s. 3.)

**§ 14-27.4A. Sexual offense with a child; adult offender.**

(a) A person is guilty of sexual offense with a child if the person is at least 18 years of age and engages in a sexual act with a victim who is a child under the age of 13 years.

(b) A person convicted of violating this section is guilty of a Class B1 felony and shall be sentenced pursuant to Article 81B of Chapter 15A of the General Statutes, except that in no case shall the person receive an active punishment of less than 300 months, and except as provided in subsection (c) of this section. Following the termination of active punishment, the person shall be enrolled in satellite-based monitoring for life pursuant to Part 5 of Article 27A of Chapter 14 of the General Statutes.

(c) Notwithstanding the provisions of Article 81B of Chapter 15A of the General Statutes, the court may sentence the defendant to active punishment for a term of months greater than that authorized pursuant to G.S. 15A-1340.17, up to and including life imprisonment without parole, if the court finds that the nature of the offense and the harm inflicted are of such brutality, duration, severity, degree, or scope beyond that normally committed in such crimes, or considered in basic aggravation of these crimes, so as to require a sentence to active punishment in excess of that authorized pursuant to G.S. 15A-1340.17. If the court sentences the defendant pursuant to this subsection, it shall make findings of fact supporting its decision, to include matters it considered as egregious aggravation. Egregious aggravation can include further consideration of existing aggravating factors where the conduct of the defendant falls outside the heartland of cases even the aggravating factors were

Department: Student Services  
Owner & Title: Melanie Scheet, National Director of SS

Effective Date:  
Last Revised Date: 10/3/2017

designed to cover. Egregious aggravation may also be considered based on the extraordinarily young age of the victim, or the depraved torture or mutilation of the victim, or extraordinary physical pain inflicted on the victim.

(d) The offense under G.S. 14-27.4(a)(1) is a lesser included offense of the offense in this section. (2008-117, s. 2.)

**§ 14-27.5. Second-degree sexual offense.**

(a) A person is guilty of a sexual offense in the second degree if the person engages in a sexual act with another person:

(1) By force and against the will of the other person; or

(2) Who is mentally disabled, mentally incapacitated, or physically helpless, and the person performing the act knows or should reasonably know that the other person is mentally disabled, mentally incapacitated, or physically helpless.

(b) Any person who commits the offense defined in this section is guilty of a Class C felony. (1979, c. 682, s. 1; 1979, 2nd Sess., c. 1316, s. 7; 1981, c. 63; c. 179, s. 14; 1993, c. 539, s. 1131; 1994, Ex. Sess., c. 24, s. 14(c); 2002-159, s. 2(c).)

**§ 14-27.5A. Sexual battery.**

(a) A person is guilty of sexual battery if the person, for the purpose of sexual arousal, sexual gratification, or sexual abuse, engages in sexual contact with another person:

(1) By force and against the will of the other person; or

(2) Who is mentally disabled, mentally incapacitated, or physically helpless, and the person performing the act knows or should reasonably know that the other person is mentally disabled, mentally incapacitated, or physically helpless.

(b) Any person who commits the offense defined in this section is guilty of a Class A1 misdemeanor. (2003-252, s. 2.)

**§ 14-27.7. Intercourse and sexual offenses with certain victims; consent no defense.**

(a) If a defendant who has assumed the position of a parent in the home of a minor victim engages in vaginal intercourse or a sexual act with a victim who is a minor residing in the home, or if a person having custody of a victim of any age or a person who is an agent or employee of any person, or institution, whether such institution is private, charitable, or governmental, having custody of a victim of any age engages in vaginal intercourse or a sexual act with such victim, the defendant is guilty of a Class E felony. Consent is not a defense to a charge under this section.

Department: Student Services  
Owner & Title: Melanie Scheet, National Director of SS

Effective Date:  
Last Revised Date: 10/3/2017

(b) If a defendant, who is a teacher, school administrator, student teacher, school safety officer, or coach, at any age, or who is other school personnel, and who is at least four years older than the victim engages in vaginal intercourse or a sexual act with a victim who is a student, at any time during or after the time the defendant and victim were present together in the same school, but before the victim ceases to be a student, the defendant is guilty of a Class G felony, except when the defendant is lawfully married to the student. The term "same school" means a school at which the student is enrolled and the defendant is employed, assigned, or volunteers. A defendant who is school personnel, other than a teacher, school administrator, student teacher, school safety officer, or coach, and is less than four years older than the victim and engages in vaginal intercourse or a sexual act with a victim who is a student, is guilty of a Class A1 misdemeanor. This subsection shall apply unless the conduct is covered under some other provision of law providing for greater punishment. Consent is not a defense to a charge under this section. For purposes of this subsection, the terms "school", "school personnel", and "student" shall have the same meaning as in G.S. 14-202.4(d). For purposes of this subsection, the term "school safety officer" shall include a school resource officer or any other person who is regularly present in a school for the purpose of promoting and maintaining safe and orderly schools. (1979, c. 682, s. 1; 1979, 2nd Sess., c. 1316, s. 9; 1981, c. 63; c. 179, s. 14; 1993, c. 539, s. 1132; 1994, Ex. Sess., c. 24, s. 14(c); 1999-300, s. 2; 2003-98, s. 1.)

**§ 14-27.7A. Statutory rape or sexual offense of person who is 13, 14, or 15 years old.**

(a) A defendant is guilty of a Class B1 felony if the defendant engages in vaginal intercourse or a sexual act with another person who is 13, 14, or 15 years old and the defendant is at least six years older than the person, except when the defendant is lawfully married to the person.

(b) A defendant is guilty of a Class C felony if the defendant engages in vaginal intercourse or a sexual act with another person who is 13, 14, or 15 years old and the defendant is more than four but less than six years older than the person, except when the defendant is lawfully married to the person. (1995, c. 281, s. 1.)

**§ 14-27.8. No defense that victim is spouse of person committing act.**

A person may be prosecuted under this Article whether or not the victim is the person's legal spouse at the time of the commission of the alleged rape or sexual offense. (1979, c. 682, s. 1; 1987, c. 742; 1993, c. 274.)

**§ 14-27.9. No presumption as to incapacity.**

In prosecutions under this Article, there shall be no presumption that any person under the age of 14 years is physically incapable of committing a sex offense of any degree or physically incapable of committing rape, or that a male child under the age of 14 years is incapable of engaging in sexual intercourse. (1979, c. 682, s. 1.)

**§ 14-277.3A. Stalking.**

\* \* \*

(b) **Definitions.** The following definitions apply in this section:

Department: Student Services  
Owner & Title: Melanie Scheet, National Director of SS

Effective Date:  
Last Revised Date: 10/3/2017

(1) **Course of conduct** - Two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, is in the presence of, or follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.

(2) **Harasses or harassment** - Knowing conduct, including written or printed communication or transmission, telephone, cellular, or other wireless telephonic communication, facsimile transmission, pager messages or transmissions, answering machine or voice mail messages or transmissions, and electronic mail messages or other computerized or electronic transmissions directed at a specific person that torments, terrorizes, or terrifies that person and that serves no legitimate purpose.

(3) **Reasonable person** - A reasonable person in the victim's circumstances.

(4) **Substantial emotional distress** - Significant mental suffering or distress that may, but does not necessarily, require medical or other professional treatment or counseling.

(c) **Offense.** A defendant is guilty of stalking if the defendant willfully on more than one occasion harasses another person without legal purpose or willfully engages in a course of conduct directed at a specific person without legal purpose and the defendant knows or should know that the harassment or the course of conduct would cause a reasonable person to do any of the following:

(1) Fear for the person's safety or the safety of the person's immediate family or close personal associates.

(2) Suffer substantial emotional distress by placing that person in fear of death, bodily injury, or continued harassment.

(d) **Classification.** A violation of this section is a Class A1 misdemeanor. A defendant convicted of a Class A1 misdemeanor under this section, who is sentenced to a community punishment, shall be placed on supervised probation in addition to any other punishment imposed by the court. A defendant who commits the offense of stalking after having been previously convicted of a stalking offense is guilty of a Class F felony. A defendant who commits the offense of stalking when there is a court order in effect prohibiting the conduct described under this section by the defendant against the victim is guilty of a Class H felony.

(e) **Jurisdiction.** Pursuant to G.S. 15A-134, if any part of the offense occurred within North Carolina, including the defendant's course of conduct or the effect on the victim, then the defendant may be prosecuted in this State. (2008-167, s. 2.)

## §50B-1 Domestic violence; definition

(a) Domestic violence means the commission of one or more of the following acts upon an aggrieved party or upon a minor child residing with or in the custody of the aggrieved party by a person with whom the aggrieved party has or has had a personal relationship, but does not include acts of self-defense:

Department: Student Services  
Owner & Title: Melanie Scheet, National Director of SS

Effective Date:  
Last Revised Date: 10/3/2017

- (1) Attempting to cause bodily injury, or intentionally causing bodily injury; or
- (2) Placing the aggrieved party or a member of the aggrieved party's family or household in fear of imminent serious bodily injury or continued harassment, as defined in G.S. 14-277.3A, that rises to such a level as to inflict substantial emotional distress; or
- (3) Committing any act defined in G.S. 14-27.21 through G.S. 14-27.33.

(b) For purposes of this section, the term "personal relationship" means a relationship wherein the parties involved:

- (1) Are current or former spouses;
- (2) Are persons of opposite sex who live together or have lived together;
- (3) Are related as parents and children, including others acting in loco parentis to a minor child, or as grandparents and grandchildren. For purposes of this subdivision, an aggrieved party may not obtain an order of protection against a child or grandchild under the age of 16;
- (4) Have a child in common;
- (5) Are current or former household members;
- (6) Are persons of the opposite sex who are in a dating relationship or have been in a dating relationship. For purposes of this subdivision, a dating relationship is one wherein the parties are romantically involved over time and on a continuous basis during the course of the relationship. A casual acquaintance or ordinary fraternization between persons in a business or social context is not a dating relationship.

(c) As used in this Chapter, the term "protective order" includes any order entered pursuant to this Chapter upon hearing by the court or consent of the parties.

### **Consent**

North Carolina does not have a state statute specifically defining consent.

Department: Student Services  
Owner & Title: Melanie Scheet, National Director of SS

Effective Date:  
Last Revised Date: 10/3/2017

## TEXAS PENAL CODE

### **Sec. 22.011. SEXUAL ASSAULT.**

(a) A person commits an offense if the person:

(1) intentionally or knowingly:

causes the penetration of the anus or sexual organ of another person by any means, without that person's consent;

causes the penetration of the mouth of another person by the sexual organ of the actor, without that person's consent; or

causes the sexual organ of another person, without that person's consent, to contact or penetrate the mouth, anus, or sexual organ of another person, including the actor; or

(2) intentionally or knowingly:

(A) causes the penetration of the anus or sexual organ of a child by any means;

causes the penetration of the mouth of a child by the sexual organ of the actor;

causes the sexual organ of a child to contact or penetrate the mouth, anus, or sexual organ of another person, including the actor;

causes the anus of a child to contact the mouth, anus, or sexual organ of another person, including the actor; or

causes the mouth of a child to contact the anus or sexual organ of another person, including the actor.

(b) A sexual assault under Subsection (a)(1) is without the consent of the other person if:

(1) the actor compels the other person to submit or participate by the use of physical force or violence;

(2) the actor compels the other person to submit or participate by threatening to use force or violence against the other person, and the other person believes that the actor has the present ability to execute the threat;

(3) the other person has not consented and the actor knows the other person is unconscious or physically unable to resist;

Department: Student Services  
Owner & Title: Melanie Scheet, National Director of SS

Effective Date:  
Last Revised Date: 10/3/2017

(4) the actor knows that as a result of mental disease or defect the other person is at the time of the sexual assault incapable either of appraising the nature of the act or of resisting it;

(5) the other person has not consented and the actor knows the other person is unaware that the sexual assault is occurring;

(6) the actor has intentionally impaired the other person's power to appraise or control the other person's conduct by administering any substance without the other person's knowledge;

(7) the actor compels the other person to submit or participate by threatening to use force or violence against any person, and the other person believes that the actor has the ability to execute the threat;

(8) the actor is a public servant who coerces the other person to submit or participate;

(9) the actor is a mental health services provider or a health care services provider who causes the other person, who is a patient or former patient of the actor, to submit or participate by exploiting the other person's emotional dependency on the actor;

(10) the actor is a clergyman who causes the other person to submit or participate by exploiting the other person's emotional dependency on the clergyman in the clergyman's professional character as spiritual adviser; or

(11) the actor is an employee of a facility where the other person is a resident, unless the employee and resident are formally or informally married to each other under Chapter 2, Family Code.

(c) In this section:

(1) **"Child"** means a person younger than 17 years of age.

(2) **"Spouse"** means a person who is legally married to another.

(3) **"Health care services provider"** means:

(A) a physician licensed under Subtitle B, Title 3, Occupations Code;

(B) a chiropractor licensed under Chapter 201, Occupations Code;

(C) a physical therapist licensed under Chapter 453, Occupations Code;

(D) a physician assistant licensed under Chapter 204, Occupations Code; or

(E) a registered nurse, a vocational nurse, or an advanced practice nurse licensed under Chapter 301, Occupations Code.

Department: Student Services  
Owner & Title: Melanie Scheet, National Director of SS

Effective Date:  
Last Revised Date: 10/3/2017

(4) **“Mental health services provider”** means an individual, licensed or unlicensed, who performs or purports to perform mental health services, including a:

- (A) licensed social worker as defined by Section 505.002, Occupations Code;
- (B) chemical dependency counselor as defined by Section 504.001, Occupations Code;
- (C) licensed professional counselor as defined by Section 503.002, Occupations Code;
- (D) licensed marriage and family therapist as defined by Section 502.002, Occupations Code;
- (E) member of the clergy;
- (F) psychologist offering psychological services as defined by Section 501.003, Occupations Code; or
- (G) special officer for mental health assignment certified under Section 1701.404, Occupations Code.

(5) **“Employee of a facility”** means a person who is an employee of a facility defined by Section 250.001, Health and Safety Code, or any other person who provides services for a facility for compensation, including a contract laborer.

(d) It is a defense to prosecution under Subsection (a)(2) that the conduct consisted of medical care for the child and did not include any contact between the anus or sexual organ of the child and the mouth, anus, or sexual organ of the actor or a third party.

(e) It is an affirmative defense to prosecution under Subsection (a)(2):

- (1) that the actor was the spouse of the child at the time of the offense; or
- (2) that:
  - (A) the actor was not more than three years older than the victim and at the time of the offense:
    - (ii) was not required under Chapter 62, Code of Criminal Procedure, to register for life as a sex offender; or
    - was not a person who under Chapter 62, Code of Criminal Procedure, had a reportable conviction or adjudication for an offense under this section; and

Department: Student Services  
Owner & Title: Melanie Scheet, National Director of SS

Effective Date:  
Last Revised Date: 10/3/2017

(B) the victim:

(iii) was a child of 14 years of age or older; and

was not a person whom the actor was prohibited from marrying or purporting to marry or with whom the actor was prohibited from living under the appearance of being married under Section 25.01.

(f) An offense under this section is a felony of the second degree, except that an offense under this section is a felony of the first degree if the victim was a person whom the actor was prohibited from marrying or purporting to marry or with whom the actor was prohibited from living under the appearance of being married under Section 25.01.

**Sec. 22.021. AGGRAVATED SEXUAL ASSAULT.**

(a) A person commits an offense:

(1) if the person:

intentionally or knowingly:

(iv) causes the penetration of the anus or sexual organ of another person by any means, without that person's consent;

causes the penetration of the mouth of another person by the sexual organ of the actor, without that person's consent; or

causes the sexual organ of another person, without that person's consent, to contact or penetrate the mouth, anus, or sexual organ of another person, including the actor; or

(B) intentionally or knowingly:

(v) causes the penetration of the anus or sexual organ of a child by any means;

causes the penetration of the mouth of a child by the sexual organ of the actor;

causes the sexual organ of a child to contact or penetrate the mouth, anus, or sexual organ of another person, including the actor;

causes the anus of a child to contact the mouth, anus, or sexual organ of another person, including the actor; or

Department: Student Services  
Owner & Title: Melanie Scheet, National Director of SS

Effective Date:  
Last Revised Date: 10/3/2017

causes the mouth of a child to contact the anus or sexual organ of another person, including the actor; and

(2) if:

the person:

(vi) causes serious bodily injury or attempts to cause the death of the victim or another person in the course of the same criminal episode;

by acts or words places the victim in fear that any person will become the victim of an offense under Section 20A.02(a)(3), (4), (7), or (8) or that death, serious bodily injury, or kidnapping will be imminently inflicted on any person;

by acts or words occurring in the presence of the victim threatens to cause any person to become the victim of an offense under Section 20A.02(a)(3), (4), (7), or (8) or to cause the death, serious bodily injury, or kidnapping of any person;

uses or exhibits a deadly weapon in the course of the same criminal episode;

acts in concert with another who engages in conduct described by Subdivision (1) directed toward the same victim and occurring during the course of the same criminal episode; or

administers or provides flunitrazepam, otherwise known as rohypnol, gamma hydroxybutyrate, or ketamine to the victim of the offense with the intent of facilitating the commission of the offense;

(B) the victim is younger than 14 years of age; or

the victim is an elderly individual or a disabled individual.

(3) In this section:

(C) “**Child**” has the meaning assigned by Section 22.011(c).

“**Elderly individual**” and “**disabled individual**” have the meanings assigned by Section 22.04(c).

An aggravated sexual assault under this section is without the consent of the other person if the aggravated sexual assault occurs under the same circumstances listed in Section 22.011(b).

The defense provided by Section 22.011(d) applies to this section.

An offense under this section is a felony of the first degree.

Department: Student Services  
Owner & Title: Melanie Scheet, National Director of SS

Effective Date:  
Last Revised Date: 10/3/2017

The minimum term of imprisonment for an offense under this section is increased to 25 years if:

(vii) the victim of the offense is younger than six years of age at the time the offense is committed; or

the victim of the offense is younger than 14 years of age at the time the offense is committed and the actor commits the offense in a manner described by Subsection (a)(2)(A).

**Sec. 25.11. CONTINUOUS VIOLENCE AGAINST THE FAMILY.**

(a) A person commits an offense if, during a period that is 12 months or less in duration, the person two or more times engages in conduct that constitutes an offense under Section 22.01(a)(1) [*assault*] against another person or persons whose relationship to or association with the defendant is described by Section 71.0021(b), 71.003, or 71.005, Family Code.

(b) If the jury is the trier of fact, members of the jury are not required to agree unanimously on the specific conduct in which the defendant engaged that constituted an offense under Section 22.01(a)(1) against the person or persons described by Subsection (a) or the exact date when that conduct occurred. The jury must agree unanimously that the defendant, during a period that is 12 months or less in duration, two or more times engaged in conduct that constituted an offense under Section 22.01(a)(1) against the person or persons described by Subsection (a).

(c) A defendant may not be convicted in the same criminal action of another offense the victim of which is an alleged victim of the offense under Subsection (a) and an element of which is any conduct that is alleged as an element of the offense under Subsection (a) unless the other offense:

- (1) is charged in the alternative;
- (2) occurred outside the period in which the offense alleged under Subsection (a) was committed; or
- (3) is considered by the trier of fact to be a lesser included offense of the offense alleged under Subsection (a).

(d) A defendant may not be charged with more than one count under Subsection (a) if all of the specific conduct that is alleged to have been engaged in is alleged to have been committed against a single victim or members of the same household, as defined by Section 71.005, Family Code.

(e) An offense under this section is a felony of the third degree.

**Sec. 42.072. STALKING.**

(a) A person commits an offense if the person, on more than one occasion and pursuant to the same scheme or course of conduct that is directed specifically at another person, knowingly engages in conduct that:

Department: Student Services  
Owner & Title: Melanie Scheet, National Director of SS

Effective Date:  
Last Revised Date: 10/3/2017

(1) constitutes an offense under Section 42.07, or that the actor knows or reasonably should know the other person will regard as threatening:

(A) bodily injury or death for the other person;

(B) bodily injury or death for a member of the other person's family or household or for an individual with whom the other person has a dating relationship; or

(C) that an offense will be committed against the other person's property;

(2) causes the other person, a member of the other person's family or household, or an individual with whom the other person has PENAL CODE Statute text rendered on: 3/4/2015 - 293 - a dating relationship to be placed in fear of bodily injury or death or in fear that an offense will be committed against the other person's property, or to feel harassed, annoyed, alarmed, abused, tormented, embarrassed, or offended; and

(3) would cause a reasonable person to:

(A) fear bodily injury or death for himself or herself;

(B) fear bodily injury or death for a member of the person's family or household or for an individual with whom the person has a dating relationship;

(C) fear that an offense will be committed against the person's property; or

(D) feel harassed, annoyed, alarmed, abused, tormented, embarrassed, or offended.

(b) An offense under this section is a felony of the third degree, except that the offense is a felony of the second degree if the actor has previously been convicted of an offense under this section or of an offense under any of the following laws that contains elements that are substantially similar to the elements of an offense under this section:

(1) the laws of another state;

(2) the laws of a federally recognized Indian tribe;

(3) the laws of a territory of the United States; or

(4) federal law.

(c) For purposes of this section, a trier of fact may find that different types of conduct described by Subsection (a), if engaged in on more than one occasion, constitute conduct that is engaged in pursuant to the same scheme or course of conduct.

Department: Student Services  
Owner & Title: Melanie Scheet, National Director of SS

Effective Date:  
Last Revised Date: 10/3/2017

(d) In this section:

(1) "Dating relationship," "family," "household," and "member of a household" have the meanings assigned by Chapter 71, Family Code.

(2) "Property" includes a pet, companion animal, or assistance animal, as defined by Section 121.002, Human Resources Code.

Department: Student Services  
 Owner & Title: Melanie Scheet, National Director of SS

Effective Date:  
 Last Revised Date: 10/3/2017

## Revision History

Document Revision History				
Date	Version	Change	Author	Approver
8/9/2016	1.0		Annalise Manginelli, Ops Specialist Melanie Scheet, NSSD	Edna Johnson, VP of SS/FA
6/9/2017	1.1	Added CA language regarding notification of law enforcement in certain instances, updated contact information, minor edits	Melanie Scheet, NSSD	Edna Johnson, VP of Support Services
10/2/17	1.2	Added Illinois and Pennsylvania criminal code to Appendix A. Updated contact list and other policy language.	Melanie Scheet, NSSD	Edna Johnson, VP of Support Services