



Statutory Rape:

What You Should Know

Why Do You Need To Read This?

Many teens are concerned about the laws regarding something commonly called “*statutory rape*.” This brochure will explain what statutory rape is and how the laws could affect you.

What Is Statutory Rape?

California law makes it a crime for an adult to have sexual intercourse with a minor (anyone under 18) or for two minors of any age to have sexual intercourse, unless the minors are married. This crime is commonly called *statutory rape*.

What is the Difference Between Statutory Rape and Forcible Rape?

Forcible rape is a crime in which someone is forced to have sex against their will. Statutory rape is *consensual* — meaning that both people agree to have sex, and there is no force, threats or violence involved. *This pamphlet only discusses statutory rape. If you are in a relationship where you feel unsafe or someone is hurting you or your child, or if you have been forced to have sex, you should talk to someone and get help.* In Los Angeles you can call:

Rape Crisis Line: 800/656-4673

or

Peace Over Violence Crisis Line 213/626-3393

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Who Prosecutes Statutory Rape in Los Angeles?

The Sex Crimes Division of the Los Angeles District Attorney's office handles felonies - more serious statutory rape crimes, such as sex between a person under 14 and an adult. The Los Angeles City Attorney's office handles misdemeanors - less serious statutory rape cases. Statutory rape crimes between two minors are handled by the Juvenile Division of the District Attorney's office.

Even though the law says that any sexual act involving anyone under 18 (even, for example, consensual sex between two 17-year-olds) is a crime, the police do not make arrests in every situation, and the District Attorney and City Attorney do not prosecute every case. Law enforcement and prosecutors focus on cases they consider more serious.

It is more likely that law enforcement will make an arrest, and a statutory rape case will be prosecuted, if:

- The age difference was more than five years.
- The minor was using drugs or alcohol, or had a disability, or was otherwise less able to say no to sex.
- The adult was in a position of trust (such as a teacher, counselor or coach) in relation to the minor.
- The adult was a 'repeat offender' who had sex with more than one minor.
- The relationship involved a lot of control, violence or exploitation.

What Happens To The Accused?

After a report is made, the police will investigate. The District Attorney reviews the investigation and decides whether to drop the case or take the case to court. If the case is going to go to court, an arrest must be made. The accused may then be released or remain in jail until trial. If someone is prosecuted for statutory rape and pleads guilty or is found guilty after trial, several things could happen:

- Depending on how serious the facts are, the person could be placed on probation, pay a fine, and/or get jail time, or, if the crime is a felony, go to prison for up to 8 years.
- If the minor is pregnant, the father may be ordered to pay child support and go to parenting classes.
- The person will have to take an AIDS test within 180 days of a statutory rape conviction.

Statutory Rape And Child Abuse Reporting

If you are under 18 and need to get a pregnancy test, prenatal care, or testing or treatment for sexually-transmitted infections, or you want to talk to a teacher or counselor about your situation, you may be worried that you or your partner could get in trouble with the law if you seek health care or counseling. This booklet will help you understand the law and make decisions about getting the care you need.

Certain people are “mandated child abuse reporters” and must report some kinds of statutory rape to the Child Abuse hotline. Mandated reporters include doctors, nurses, and other health care providers; social workers; teachers and other school staff; child care workers; and other people who work with children and families. The kinds of cases they must report include:

- Someone *under age 16* has sexual intercourse with someone *21 or older*.
- Someone *14 or 15 years old* has any kind of sexual contact with someone *10 or more years older*.
- Someone *under age 14* has any sexual contact with someone *14 years of age or older*.
- Someone who is related to a minor, lives in the same home or has authority over him/her (such as a teacher or coach) has any sexual contact with the minor.

Mandated reporters must also report to the hotline other kinds of abuse, like sexual abuse, physical abuse or neglect by a minor's parents.

Also, mandated reporters and anyone else may, but are not required to, report any other cases of statutory rape to the hotline or to the police.

See Chart on Page 8 for more information.

What If I'm Scared To Get Health Care Because My Partner Could Get In Trouble?

Even though they are required to report some cases of statutory rape, health care providers are not required to ask you how old your partner is. You are not required to tell them his name or age. Also, the fact that you are pregnant does not mean that health care providers must make a report.

It is very important, especially if you are pregnant, to get the health care services you need, even if that means a report might be made. If you are a patient at a clinic where the staff knows you have a relationship with someone older, discuss your concerns with

The information on this page can also be found in the Child Abuse and Neglect Reporting Act. Cal Per. Code §11164-11174.3

the clinic staff. If your health care provider says she must make a report, you can ask her to do it while you're there, so you can hear what's happening and possibly talk to the hotline yourself to explain your situation.

Nobody can promise you there won't be a statutory rape report, or that your partner definitely won't get in trouble. But you need to take care of yourself, and your baby if you are pregnant. **Don't stay away from the doctor just because of this law!**

What Happens When There's A Report Of Statutory Rape?

The hotline must forward reports of statutory rape to both the police and the district attorney's office. Depending on the facts, the police and district attorney may do nothing. They may do a brief investigation, and, if they find out there is nothing wrong except the age difference, they may close the case. Or, they may do a full investigation that leads to prosecution.

Other Ways That Statutory Rape Is Reported

If you have a baby and apply for child support, you have to tell the child support worker the name of your baby's father. In Los Angeles, the child support office may turn this information over to the prosecutor.

If you apply for cash aid (welfare or "CalWORKs"), you must identify the father, unless that would put you or your child in danger. The Child Support office will give the father's name to the prosecutor for a statutory rape investigation. If you are afraid your boyfriend will hurt you or your baby if you "turn him in," you can tell the worker that and refuse to give his name and other information.

(See Public Counsel's brochure on domestic violence for referrals.)
If you run into problems, call Public Counsel.

For More Information

If you have questions about statutory rape, you can call Public Counsel's Children's Rights Project at 213/385-2977 extension 500 or 800/870-8090.



STATUTORY RAPE CHART

Age difference	What kind of sex?	Must it be reported?	What could happen if prosecuted?
Less than 3 years Cal. Pen. Code § 261.5(b)	Intercourse	No, but it can be	Probation or jail
More than 3 years Cal. Pen. Code § 261.5(c)	Intercourse	No, unless it fits one of the circumstances below	Probation jail, or prison
One partner is under 16, the other is 21 years old or older Cal. Pen. Code §261.5(d)	Intercourse	Yes	Probation jail, or prison
One partner is 14 or 15, the other is 10 years older Cal. Pen. Code § 288(c)	Any kind of sexual contact	Yes	Jail or prison
One partner is under 14, the other is 14 years old or older Cal. Pen. Code § 288(a)	Any kind of sexual contact	Yes	Jail or prison, or probation in very limited situations

Notes:

Public Counsel, the public interest law office of the Los Angeles County and Beverly Hills Bar Associations, is the largest pro bono law firm in the U.S., and also is the Southern California affiliate of the Lawyers' Committee for Civil Rights Under Law. Public Counsel coordinates the contributions of thousands of volunteer lawyers each year. Public Counsel serves those in need — such as children and the elderly, literacy projects and low income housing providers, refugees and the homeless — by providing legal representation and matching financially eligible clients with volunteer attorneys.

While this publication is designed to provide accurate and current information about the law, readers should contact an attorney or other expert for advice in particular cases, and should also consult the relevant statutes and court decisions when relying on cited materials.

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You may find this booklet and other Public Counsel booklets at www.publiccounsel.org (First click on “Practice Area” Second click on “Children’s Right Project” Third click on “Publications.”)



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