

Table Two: Descriptions of Sexual Offenses Involving Children

Activity	Age of Child	Found in Criminal Code¹	Report
Non-consensual sexual intercourse ²	Anyone under 18	Rape (§3121); ³ involuntary deviate sexual intercourse (§3123); sexual assault (§3124.1)	YES
“Consensual” sexual intercourse ⁴	One of the participants is less than 13 years old	Rape; statutory sexual assault (§3122.1); involuntary deviate sexual intercourse; aggravated indecent assault (§3125)	YES
“Consensual” sexual intercourse	One of the participants is 14 or older and the other is 4 or more years older and they are not married	Involuntary deviate sexual intercourse; statutory sexual assault	YES
“Consensual” sexual intercourse with resident of juvenile justice or MH/MR facility by employee or agent	Anyone under 18	Institutional sexual assault (§3124.2)	YES
“Consensual” touching of sexual parts for the purpose of sexual gratification	Anyone less than the age of 13 is incapable of giving consent; anyone who is 13, 14, or 15 and the other party is four or more years older than they are and they are not married	Indecent assault (§3126)	YES

¹ Many of the activities qualify for prosecution under more than one definition. For example, certain behaviors could be prosecuted as rape, aggravated sexual assault, or sexual abuse of children. The determination of the level of prosecution depends on many factors including the context of the crime or mitigating circumstances.

² Rape occurs when there is sexual intercourse by force or threat of force; when the person is unconscious; when the person’s ability to control their conduct has been compromised because with unknowingly ingested drugs or intoxicants designed to prevent resistance; when the person suffers from a mental incapacity; or when the person is less than 13 years of age. The same standard applies if the genitals or anus are penetrated with a foreign object.

³ Refers to the section found in Chapter 18 (Crimes Code) of Pennsylvania statutes.

⁴ An activity may be consensual to the extent that the participant engages in it without coercion. However, the law defines certain activities as non-consensual based only on the age (and presumed capacity to consent) of the participant.

“Consensual” sexual intercourse between relative and child ⁵	Anyone under 18	Incest (§4302)	YES
Victim of indecent exposure ⁶	Anyone under 18	Indecent Exposure (§3127)	YES
Engaging in or being solicited to engage in prostitution ⁷	Anyone under 18	Prostitution (§5902)	YES
Any unlawful contact with a minor ⁸ associated with open lewdness, prostitution, obscenity, sexual abuse, or sexual exploitation	Anyone under 18	Unlawful contact with minor (§6318); Open lewdness (§5901); prostitution (§5902), obscenity (§5903); sexual abuse (§6312), and sexual exploitation (§6320)	YES
Being procured for pornography or disseminating or knowingly possessing child pornography ⁹	Anyone under 18 being used for pornographic purposes	Sexual exploitation; sexual abuse	YES
Deliberately exposed to alarming sexual activities ¹⁰	Anyone under 18	Open lewdness (§5901)	YES
Deliberately sold pornography or admitted to pornographic event	Anyone under 18	Obscenity (§5903)	YES

⁵ Incest occurs when a person knowingly engages in sexual intercourse with an ancestor or descendant, brother or sister (including half-brother or half-sister), or blood relations who are uncle, aunt, nephew or niece. It can occur even if the relationship is by adoption.

⁶ Person exposes his or her genitals in public place or in any place where there are present other persons under circumstances in which he or she knows or should know that this conduct is likely to offend, affront or alarm (18 Pa. C. S. A. §3127 (a)).

⁷ Prostitution involves procuring prostitutes, encouraging prostitution, procuring a patron for a prostitute, transporting a person for prostitution, leasing a premise to be used for prostitution, or living off the earnings of prostitutes (18 Pa. C. S. A. §5902).

⁸ These activities overlap with other child abuse reporting requirements.

⁹ Procuring a child for “actual or simulated activity or nudity arranged for the purpose of sexual stimulation or gratification of any person” (18 Pa. C. S. A. §6320); dealing with intentionally possessing or viewing child pornography (18 Pa. C. S. A. 6312 (d)).

¹⁰ Open lewdness means “any lewd act which he knows is likely to be observed by others who would be affronted or alarmed” (18 Pa. C. S. A. §5901).

Sample Questions to Test Your Understanding

Would you be a mandated reporter if, in your professional capacity, you learned that:

1. A 13 year old child reported having sexual intercourse with a person who was 18?
2. An adult took pictures of a child under the age of 18 for the purposes of distributing it to gratify the sexual impulses of another adult?
3. A 9 year old girl opened the bedroom door of her parents without knocking and walked in on her father who was naked at the time?
4. A 24 year old man reported that he transported a 17 year old girl for purposes of having sexual relationships for pay with a friend of his?
5. A 19 year old boy reported that he was making out with his 13 year old girlfriend and inserted his finger into her vagina?
6. A 15 year old girl had consensual sexual relations with a 14 year old boy?
7. A 16 year old boy reported that he had sexual relations with a 21 year old woman who works in the school?
8. A 12 year old girl reported making out with her boyfriend who accidentally brushed up against her breasts?
9. A 16 year old girl reported having sexual relations with a 21 year old man who was the brother of her stepfather?
10. A 35 year old man reports that he watches child pornography?
11. A 28 year old man deliberately revealed his genitals to a 16 year old girl with the intention of creating surprise or shock.
12. A 16 year old girl reported having sexual relationships with her 19 year old half-brother.

ANSWERS: Yes for questions 1, 2, 4, 5, 7, 9, 10, 11, 12