

# SEXUAL OFFENSES AGAINST CHILDREN\*\*\*

By ASA Dennis Nicewander, 17<sup>th</sup> Judicial Circuit - Web Site- <http://www.locatethelaw.org>

Offense	Statute	Age of Victim.	Age of Def.	Degree	Stat. of Lim.	ACT
<a href="#">Sexual Battery on Child</a>	794.011(2)(a)	Less than 12	18 or older	Capital	None	Sexual Battery
<a href="#">Sexual Battery on Child</a>	794.011(2)(b)	Less than 12	Less than 18	Life	None	Sexual Battery
<a href="#">Sexual Battery Familial or Custodial</a>	794.011(8)(b) L9	12 or older and less than 18	18 or older	1st	4 years**	Sexual Battery
<a href="#">Lewd or Lascivious Battery</a>	800.04(4)(a) L8	12 or older but less than 16	Any age	2nd	3 years**	Sexual Activity
<a href="#">Lewd or Lascivious Battery</a>	800.04(4)(b) L8	Less than 16	Any Age	2nd	3 years**	Encourage, force or entice to engage in sadomasochistic abuse, bestiality, prostitution or any other act involving sexual activity.
<a href="#">Lewd or Lascivious Molestation</a>	800.04(5)(b) L9 800.04(5)(c)(1) L7 800.04(5)(c)(2) L7 800.04(5)(d) L6	Less than 12 Less than 12 12 or older but less than 16 12 or older but less than 16	18 or older Less than 18 18 or older Less than 18	1 <sup>st</sup> or life* 2nd 2nd 3rd	4 or None** 3 years** 3 years** 3 years**	Intentionally touches breasts, genitals, genital area or buttocks, or clothing covering them, in a lewd or lascivious manner or forces or entices child to so touch perpetrator.
<a href="#">Lewd or Lascivious Conduct</a>	800.04(6)(b) L6 800.04(6)(c) L5	Less than 16 Less than 16	18 or older Less than 18	2nd 3rd	3 years** 3 years**	Intentionally touches child in a lewd or lascivious manner or solicits child to commit a lewd or lascivious act.
<a href="#">Lewd or Lascivious Exhibition</a>	800.04(7)(c) L5 800.04(7)(d) L4	Less than 16 Less than 16	18 or older Less than 18	2 <sup>nd</sup> 3 <sup>rd</sup>	3 years** 3 years**	Intentionally masturbates, exposes the genitals in a lewd manner or intentionally commits any other sexual act that does not involve actual physical or sexual contact with the victim, including, but not limited to, sadomasochistic abuse, sexual bestiality, or the simulation of an act involving sexual activity in the presence of the victim. Includes acts done live over the Internet.
<a href="#">Unlawful Sexual Activity with Certain Minors</a>	794.05 L6	16 or 17	24 or older	2nd	3 years**	Sexual Activity means oral, anal or vaginal penetration by, or union with sexual organ of another. Digital penetration does not apply.
<a href="#">Impregnating a Minor</a>	827.04(3) L7	Less than 16	21 or older	3rd	3 years**	Getting a girl pregnant.

(A Child Abuse Offense)						
-------------------------	--	--	--	--	--	--

What is Sexual Battery? (sexual battery and sexual activity under 800.04 have same definition)

- Suspect’s penis penetrates or unites with victim’s vagina.
- Suspect’s penis penetrates or unites with victim’s anus.
- Suspect’s penis penetrates or unites with victim’s mouth.
- Suspect’s mouth penetrates or unites with victim’s vagina.
- Suspect penetrates victim’s vagina with finger or other object. Penetration of hymen required.
- Suspect penetrates victim’s anus with finger or other object. Penetration of anal cavity required.
- Victim’s penis penetrates or unites with suspect’s vagina.
- Victim’s penis penetrates or unites with suspect’s anus.
- Victim’s penis penetrates or unites with suspect’s mouth.

\*Effective 9/1/05, lewd molestation of a child less than 12 is a life felony with a 25 year mandatory minimum.

**\*\*The statute of limitations** does not start running until the offense is first reported to authorities or the child’s 18th birthday, whichever occurs first. Prior to October 1, 2001, the statute started running on the victim’s 16th birthday.

Effective October 1, 2003, if the felony was a 1<sup>st</sup> degree under 794.011 and the victim was less than 18, no statute of limitations.

**Defenses:** Neither consent, ignorance of age or misrepresentation of age are defenses to any of these statutes.

**Sexual Activity** under F.S. 794.05 does not include digital penetration, but F.S. 800.04 does.

\*\*\*Florida Statute 800.04 was rewritten effective 10/1/1999. If your offense was committed prior to that date, you need to charge under the old statute.

Other sex offenses that may apply:

794.011(3): Life, Level 10	794.011(4): 1 <sup>st</sup> Degree, Level 9	794.011(5), 2 <sup>nd</sup> Degree, Level 8
----------------------------	---------------------------------------------	---------------------------------------------