



LEAGUE OF WOMEN VOTERS®
OF NEW JERSEY

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The League of Women Voters of New Jersey Sexual Assault Factsheet **Comparing Sexual Assault Policies Between States: What Works and What Doesn't**

Introduction

While sexual assault prevention is widely considered a valence issue, controversy arises as policymakers debate the most effective legislation to combat forms of interpersonal sexual violation. The purpose of this factsheet is *not* to make policy suggestions or voting directives for League members. In line with the non-partisan nature of this organization this factsheet aims to provide relevant information regarding the topic of sexual assault and through education empower readers to form knowledgeable conclusions before claiming a position.

With the intention of nonpartisanship in mind, the information below reviews two states with the highest percentages reported rape and the two states with the lowest percentages of reported rape (including New Jersey). Specifically, this report will cover their various definitions of sexual assault, rape, and consent, laws surrounding mandated reporters and confidentiality, how these acts are punished by each state's legal system, and statute of limitations on prosecution.

Section 1: Understanding Rape as a Crime

To properly analyze information regarding sexual assault policy, a reader must first be acquainted with current patterns of rape culture in the United States. To dissuade the influence of preconceived stereotypes surrounding sexual assault, the statistics below are intended to introduce the citizens most regularly affected by and responsible for this crime, and the current legal processes associated with sexual assault.

It is important to note that these statistics reflect *patterns* in research and behavior, and in no way propose the norm. Anybody can be affected by sexual assault at any point in their life, and anybody can commit this injustice. It is similarly important to keep in mind how difficult of a crime sexual assault can be to prosecute, often due to lack of evidence, unwilling witnesses, and victims uncomfortable with pursuing legal actions. For these reasons lawyers may be hesitant to lead a rape case.

About the Victims:

-1 in 5 women. A 2011 Center for Disease Control national survey on intimate partner and sexual violence found that “nearly **1 in 5 women** (18.3%) and **1 in 71 men** (1.4%) in the United

States have been raped at some time in their lives, including completed forced penetration, attempted forced penetration, or alcohol/drug facilitated completed penetration.”

-According to a study by the Bureau of Justice Statistics that tracked sexual assault and rape statistics from 1994 to 2010, “females who were age 34 or younger, **who lived in lower income households**, and **who lived in rural areas** experienced some of the highest rates of sexual violence.”

-**Male victims.** The same BJS study reported that approximately **9 percent** of all rape and sexual assault victims were male. This includes straight and gay men. Recent statistics from sexual crisis centers match this figure. Based on an ABC news report from April of this year, it is estimated over **200,000 men behind bars** are raped each year.

-**Incarcerated victims.** Given a national prison population of 1,570,861, a study by the Bureau of Justice Statistics found that in one year **over 70,000 prisoners** were sexually abused.

-**The majority of female victims suffer injuries.** Between 2005-10, “58 percent of female victims of sexual violence suffered a physical injury during the victimization, such as cuts, bruises, internal injuries, broken bones, gunshot wounds, or rape injuries,” according to the 1994-2010 BJS study.

-**The vast majority of victims do not receive help from a victim service agency.** Less than one-fourth of victims “received help or advice from a victim service agency” between 2005-10, according to the 1994-2010 BJS study.

-Certain communities, including **people with disabilities, the LGBTQIA community, especially trans* people**, and **people of color**, are at a **higher risk** of being sexually assaulted than the rest of the population, according to the 2011 CDC national survey.

-**Seldom reported.** An estimated 64 percent to 96 percent of all rapes are never reported to criminal justice authorities, according to statistics collected by the study, “Repeat Rape and Multiple Offending Among Undetected Rapists” by professors David Lisak and Paul M. Miller.

-**Impact on victim.** Numerous physical and mental health problems may occur among sexual assault victims, including **depression, anxiety, chronic pain, sexually transmitted diseases, eating disorders, and post-traumatic stress disorder**, according to the study, “Rape and Sexual Assault: A Renewed Call to Action” by the White House Council on Women and Girls. The study also reported that **alcohol/substance abuse** and **suicide attempts/contemplation** are more common among sexual assault victims than non-victims.

About the Offender:

-**The vast majority of perpetrators are male.** 98 percent of female sexual assault victims and 93 percent of all sexual assault victims report that their assailants were male, according to the 2011 CDC national survey.

-**A small percentage of the population.** Studies on unreported rape examined by the Lisak and Miller study indicate that approximately “6 percent to 14.9 percent of men report acts that meet the legal definitions for rape or attempted rape.”

-**Rarely a stranger.** According to the 2011 CDC national survey, “51 percent of female victims were sexually assaulted by a current or former intimate partner, and 41 percent were sexually assaulted by an acquaintance. Assault by strangers, in contrast, accounts for **only 14**

percent of the total. Of men and boys, 52 percent report being sexually assaulted by an acquaintance and **15 percent** by a stranger.”

-**Age.** According to RAINN (Rape, Abuse and Incest National Network), the average age of a rapist is **31 years old**.

- **Race.** In the same RAINN report it is stated that 52 percent of sexual offenders are white, estimates showing that between **5 to 6 out of every 10 rapists are white**. The 1994-2010 a Bureau of Justice Statistics study showed that whites males committed between 57 and 70 percent of all sexual assaults. Roughly **15 percent of sexual offenders are black**.

-**Serial offenders.** The Bureau of Justice Statistics also estimated that repeat offenders commit around **90 percent of rapes**, roughly 9 out of every 10 reported cases.

About the Legal Process:

-**False reports.** While there is much controversy around false rape reports and the methodology for determining what constitutes a false report, with non-prosecuted cases being conflated as “unfounded,” most recent studies indicate that false sexual assault reports make up **between 2 and 8 percent of allegations**. In 2008, one of the largest studies to date on false rape, involving 8 police departments, found that about **6.8 percent of rape reports were false**.

- A major national study (“Extent, Nature and Consequences of Rape Victimization: Findings from the National Violence Against Women Survey”) estimates that **37 percent of reported rapes are prosecuted**.

-Research studies by the Journal of Community Psychology estimate that **14-18 percent of reported sexual assaults of any kind lead to prosecution**.

-The estimated **conviction rate among reported rape cases is 18 percent** based on national numbers of reported rape.

Sources:

http://www.cdc.gov/violenceprevention/pdf/nisvs_report2010-a.pdf

<http://www.bjs.gov/content/pub/pdf/fvsv9410.pdf>

<http://www.davidlisak.com/wp-content/uploads/pdf/RepeatRapeinUndetectedRapists.pdf>

<http://www.aequitasresource.org/beyond-conviction-rates.pdf>

<https://www.hrw.org/news/2007/12/15/us-federal-statistics-show-widespread-prison-rape>

<http://abcnews.go.com/WNT/story?id=131113>

<http://america.aljazeera.com/watch/shows/america-tonight/america-tonight-blog/2013/10/28/serial-rapists-commit9of10campussexualassaultsresearchfinds.html>

<http://www.vox.com/2015/6/1/8687479/lie-rape-statistics>

https://www.whitehouse.gov/sites/default/files/docs/sexual_assault_report_1-21-14.pdf

Section 2: States with the Highest and Lowest Rates of Reported Rape

In reviewing the following information, it is important to note that statistics are currently available only for *reported* cases of *rape*. Firstly, according to RAINN (Rape Assault & Incest National Network), almost 70 percent of sexual assaults and rapes are never reported, for reasons such as self-blame, fear of judgement/incredulity, fear of repercussions from the offender, and distrust of the legal system. Therefore, the information provided cannot accurately represent all cases of rape in the state. Secondly, the only statistics available cover just one form of sexual assault--rape--but do not reflect the total number of cases of sexual assault in the state (a number

which would be presumably larger).

Highest rates of reported rape:

- 1) Alaska, 79.7 reported forcible rapes per 100,000 people
- 2) South Dakota, 70.2 reported forcible rapes per 100,000 people

Lowest rates of reported rape:

- 1) New Jersey, 11.7 reported forcible rapes per 100,000 people
- 2) New York, 14.6 reported forcible rapes per 100,000 people

Sources:

<http://www.cnn.com/2014/02/03/opinion/sutter-alaska-rape-list/>

<https://www.rainn.org/statistics>

Section 3: Definitions of sexual assault vs. definitions of rape

_____ There are a vast number of laws concerning sexual assault and rape for each state because separate policies must be written for specific circumstances. For the purpose of brevity and pertinence, the broadest policies that best represent the larger theme of state laws are featured here. Those members interested in finding more specialized information concerning these laws are encouraged to visit the provided resources, *especially* relieffundforsexualassaultvictims.org/resources/sexualassaultchart. To provide context, the federal definitions of sexual assault and rape are also provided.

	Federal; The United States of America
Definition of Sexual Assault	A wide range of victimizations, separate from rape or attempted rape. These crimes include attacks or attempted attacks generally involving unwanted sexual contact between victim and offender. Sexual assaults may or may not involve force and include such things as grabbing or fondling. It also includes verbal threats. Source: http://www.bjs.gov/index.cfm?ty=tp&tid=317
Definition of Rape	Forced sexual intercourse including both psychological coercion as well as physical force. Forced sexual intercourse means penetration by the offender(s). Includes attempted rapes, male as well as female victims, and both heterosexual and homosexual rape. Attempted rape includes verbal threats of rape. Source: http://www.bjs.gov/index.cfm?ty=tp&tid=317 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 the consent of the victim. Source: http://www.justice.gov/opa/blog/updated-definition-rape

	Alaska
Definition of Sexual Assault	<p>1) the offender engages in sexual penetration/contact with another person without consent;</p> <p>2) the offender engages in sexual penetration/contact with another person (a) the offender knows the person is mentally incapable (b) and the person is in the offender's care by authority of law or in a facility or program that is required to be licensed by the state;</p> <p>3) the offender engages in sexual penetration/act with a person who the offender knows is unaware that a sexual act is being committed.</p> <p>Sexual contact is defined as the defendant's knowingly touching, directly or through clothing, the victim's genitals, anus, or female breast; or knowingly causing the victim to touch, directly or through clothing, the defendant's or victim's genitals, anus, or female breast;</p> <p>Source: http://apps.rainn.org/policy-crime-definitions/index.cfm?state=Alaska&group=3</p>
Definition of Rape	<p>Rape is currently defined under first degree sexual assault, which is “engaging] in sexual penetration with another person without consent...[or] the offender knows the person is mentally incapable and the person is in the offender's care...[or] the offender engages in sexual penetration with a person who the offender knows is unaware that a sexual act is being committed,”.</p> <p>Source: http://apps.rainn.org/policy-crime-definitions/index.cfm?state=Alaska&group=3</p>

	South Dakota
Definition of Sexual Assault	<p>Sexual contact defined as any touching, not amounting to rape, whether or not through clothing or other covering, of the breasts of a female or the genitalia or anus of any person with the intent to arouse or gratify the sexual desire of either party.</p> <p>Source: www.lclark.edu/org/ncvli/clpps.html</p> <p>Knowingly engaging in sexual contact with a person who is 16 or older who is incapable because of physical or mental incapacity of consenting to sexual contact, where the actor is 15 or older.</p> <p>Source: http://apps.rainn.org/policy-crime-definitions/index.cfm?state=South%20Dakota&group=3</p>

Definition of Rape	<p>Sexual penetration means an act, however slight, of sexual intercourse, cunnilingus, fellatio, anal intercourse, or any intrusion, however slight, of any part of the body or of any object into the genital or anal openings of another person's body. All of the foregoing acts of sexual penetration, except sexual intercourse, are also defined as sodomy.</p> <p>1) <u>First Degree</u>: An act of sexual penetration if the victim is under 13 years old.</p> <p>2) <u>Second Degree</u>: An act of sexual penetration through the use of force, coercion, or threats of immediate and great bodily harm against the victim or other persons within the victim's presence, accompanied by apparent power of execution.</p> <p>3) <u>Third degree</u>: An act of sexual penetration if the victim is incapable, because of physical or mental incapacity, of giving consent to such act; or because of any intoxicating, narcotic, or anesthetic agent or hypnosis.</p> <p>Source: http://apps.rainn.org/policy-crime-definitions/index.cfm?state=South%20Dakota&group=3</p>
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	New Jersey
Definition of Sexual Assault	<p>Criminal Sexual Contact is defined as "intentional, non-consensual touching by the victim or actor, either directly or through clothing, of a victim's or actor's sexual organs, genital area, anal area, inner thigh, groin, buttock or breast, for the purpose of degrading or humiliating the victim or sexually arousing or sexually gratifying the actor," (NJSA 2C:14-3)</p> <p>Lower-degree sexual is assault is where sexual conduct occurs and</p> <p>1) The actor is armed with a weapon or any object fashioned in such a manner as to lead the victim to reasonably believe it to be a weapon and threatens by word or gesture to use the weapon or object;</p> <p>2) The actor is aided or abetted by one or more other persons [and the actor uses physical force or coercion;</p> <p>3) The victim is one whom the actor knew or should have known was physically helpless, mentally incapacitated, or had a mental disease or defect which rendered the victim temporarily or permanently incapable of understanding the nature of his conduct, including, but not limited to, being incapable of providing consent.</p> <p>Source: http://www.njsp.org/divorg/operations/sexual-violence-info.html</p>
Definition of Rape	<p>In New Jersey, sexual assault is the legal term for rape, wherein penetration occurs. By New Jersey standards, this is further defined as "the penetration, no matter how slight, in which physical force or coercion is used or in which the victim is physically or mentally incapacitated".</p>

	Source: http://statelaws.findlaw.com/new-jersey-law/new-jersey-sexual-assault-laws.html
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	New York
Definition of Sexual Assault	<p>No explicit sexual assault definition; however the following terms are similarly punishable:</p> <p>Sexual contact means any touching of the sexual or other intimate parts of a person <u>not married</u> (legally recognized union) to the actor for the purpose of gratifying sexual desire of either party. It includes the touching of the actor by the victim, as well as the touching of the victim by the actor, whether directly or through clothing.</p> <p>A person is guilty of sexual misconduct when:</p> <ol style="list-style-type: none"> 1) He or she engages in sexual intercourse with another person without such person's consent; 2) He or she engages in oral sexual conduct or anal sexual conduct with another person without such person's consent <p>Source: https://www.sarahlawrence.edu/offices-services/security/assault/Penal_Law.html</p>
Definition of Rape	<p>Engaging in oral and/or anal sexual intercourse of any slight penetration with another person:</p> <ol style="list-style-type: none"> 1) By forcible compulsion (physical force and a threat, express or implied, which places a person in fear of immediate death or physical injury to himself, herself or another person, or in fear that he, she or another person will immediately be kidnapped.) 2) Who is incapable of consent by reason of being physically helpless (a person is unconscious or for any other reason is physically unable to communicate unwillingness to an act.) <p>Source: http://apps.rainn.org/policy-crime-definitions/index.cfm?state=New%20York&group=3</p>

Section 4: Definitions of consent by state

_____ In court cases regarding sexual assault, the central legal questions are generally related to consent- was the situation consensual? Were any illegal forces used to obtain consent? Could the consent, if given, be considered reliable? Does this consent need to be verbal, or do other forms

of physical compliance suffice? To best approach and understand the topic of sexual assault, one must first grapple with what constitutes as a consensual sexual interaction.

Note: As a reader, be aware that many inconsistencies that exist in the table below are a result of states lacking legislative/legal precedent. For instance, cases have been tried in New Jersey that consider the validity of physical consent, while other states have not had action on this topic yet.

	Definition of Consent
Alaska	<p>The state of Alaska recognizes that a person is unable to give consent if they are incapacitated because of drugs, medication or alcohol. Source: http://www.law.alaska.gov/departments/criminal/victims_assistSA.html</p> <p>A person cannot give consent if they are mentally incapable; incapacitated; or unaware that a sexual act is being committed.</p> <p>The following defenses can be made in some assault cases if a question of consent arises: the offender is mentally incapable; or married to the person and neither party has filed with the court for a separation, divorce, or dissolution of the marriage.*</p> <p>* It should be noted that the Alaska Supreme Court has recently ruled against this defense in criminal cases, though the law remains on the books.</p> <p>Sources: http://www.womenslawproject.org/resources/Rape%20and%20Sexual%20Assault%20Analyses%20and%20Laws%20%2011%2013.pdf http://cashiongilmore.com/marriage-is-not-a-defense-to-sexual-assault/</p>
South Dakota	<p>A person is unable to give consent if it is procured through the use of force, coercion, or threats of immediate and great bodily harm against the victim or other persons within the victim's presence, accompanied by apparent power of execution;</p> <p>or if the victim is incapable, because of physical or mental incapacity, of giving consent to such act;</p> <p>or if the victim is incapable of giving consent because of any intoxicating, narcotic, or anesthetic agent or hypnosis.</p> <p>Source: http://www.womenslawproject.org/resources/Rape%20and%20Sexual%20Assault%20Analyses%20and%20Laws%20%2011%2013.pdf</p>
New York	<p>Includes a long, detailed definition of <i>lack</i> of consent. Including,</p> <p><i>Forcible Compulsion:</i></p> <p>actual physical force.</p> <ol style="list-style-type: none"> 1) the threat of physical force, expressed or implied, that puts the victim in fear of being physically harmed or of another person being physically harmed (e.g. one's child). 2) the threat to kidnap the victim or a third person.

	<p><i>Physically helpless:</i> 1) physically unable to indicate a lack of consent (e.g. because victim is unconscious or because of a physical disability that makes one unable to physically or verbally communicate lack of consent).</p> <p><i>Mentally Incapacitated:</i> when the victim is made temporarily incapable of understanding or controlling his or her conduct because a drug or other intoxicating substance (e.g. alcohol) <u>was given to them without their consent</u>. ← does not account for willing drug use.</p> <p><i>Some Factor Other Than Incapacity to Consent:</i> Rape 3 and Criminal Sexual Act 3 have recently been modified with a "no means no" clause. In cases of intercourse only, if the victim expressed that he or she did not consent to the sex act in such a way that a reasonable person would have understood those words or acts as expressing lack of consent, this would be prosecutable as Rape in the third degree or Criminal Sexual Act in the third degree. This makes a case easier for the District Attorney to prosecute because it is based on a reasonable person standard, and not on the specific interpretation of a defendant. Source: http://www.svfreenyc.org/survivors_legal.html#A1</p> <p>As of 7/2015, Governor Cuomo has signed into law the "affirmative consent" bill referring to "knowing, voluntary and mutual decision among all participants to engage in sexual activity." Now, all college campuses in NY state must uphold this standard of consent. (The presence of a "yes", not the absence of a "no"). Source: http://www.huffingtonpost.com/2015/07/07/cuomo-affirmative-consent_n_7746174.html</p>
New Jersey	<p>An individual who is physically or mentally impaired, generally, cannot give consent to sexual activity. Physical or mental impairment includes: visual, speech or hearing impaired, a person with a cognitive impairment; a person who is unconscious or sleeping; or a person who is voluntarily or involuntarily under the influence of alcohol or other substance(s). Source: http://www.njsp.org/divorg/operations/sexual-violence-info.html</p> <p>In 1992 NJ Supreme Court case upheld that consent can be given verbally/physically so long as it could be reasonable interpreted.</p> <p>Two bills regarding active/ affirmative consent have been proposed S2478 Requires institutions of higher education to adopt affirmative consent standard and other policies regarding sexual assault, domestic violence, dating violence, and stalking. (Beach) A3947 Requires institutions of higher education to adopt affirmative consent standard</p>

	and other policies regarding sexual assault, domestic violence, dating violence, and stalking. (Garcia, Wimberly, Vainieri Huttle, Sumter) Source: http://affirmativeconsent.com/affirmative-consent-laws-state-by-state/?hvid=1OxCVj
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****For the purpose of clarity, neither Alaska nor South Dakota have introduced bills regarding affirmative consent to their state houses. Alaska is also the only state mentioned above with marital rape defense in the books (though it is not often upheld in the court of law).**

Section 3: Mandated Reporting/ Confidentiality Laws

_____ One of the more contentious issues between advocates for the prevention of sexual assault is the issue of survivor confidentiality. The definition of a victim-centered approach to sexual assault proceedings becomes more gray as involved authorities must decide if it is best to maintain the confidentiality of a victim, or to use their evidence and testimony to convict a perpetrator.

A mandated reporter is a person whose position requires them by law to alert the authorities if they have reasonable suspicion of abuse. This means that if a survivor of sexual assault confides in a mandated reporter, their case will be brought to the police with or without the approval of the survivor. Such regulations may exist for doctors treating signs of potential abuse or counseling victims, and in some cases counselors may be required to report or testify regarding information given to them by survivors. Some legislators hold that this practice will empower hesitant or discouraged victims of sexual assault to come forward seek justice against their perpetrator, while others believe this policy undermines the victim-centered nature of the sexual assault process.

	Confidentiality/ Mandated Reporter Laws
Alaska	<p><i>Specific requirements to report sexual assault?</i> No. <i>Requirement to report all non-accidental or intentional injuries?</i> No. <i>Requirement to report all injuries caused by criminal conduct?</i> No. <i>Additional statutes that may impact competent adult victims of sexual assault?</i> Gunshot wounds, stab wounds; certain burns and injuries likely to cause death must be reported. Source: http://www.sapr.mil/public/docs/laws/alaska.pdf</p> <p>Health care professionals in Alaska must report if they find the following injuries with a patient: (1) second or third degree burns to five percent or more of a patient's body; (2) an injury apparently caused by a knife, axe, or other sharp or pointed instrument, unless the injury was clearly accidental; and (3) an injury that is likely to cause the death of the patient, unless the injury was clearly accidental. Source: dhss.alaska.gov/dph/.../mandatory_%20reporting_FAQs.doc</p> <p>Alaska maintains strict confidentiality between victim and victim counselor*, except in cases of:</p>

	<p>1) Evidence victim is about to commit a crime. 2) Proceeding occurs after victim’s death. 3) Communication is relevant to an issue of breach by the victim or counselor of a duty arising out of the victim-counselor relationship. 4) Communication is admissible under the excited utterance hearsay exception in the Alaska Rules of Evidence. 5) Services of the victim counselor were sought in order to enable anyone to commit a crime or escape detection or apprehension after the commission of the crime. 6) Victim is charged with a crime against a minor. 7) Victim is charged with a crime and the physical, mental, or emotional condition of the victim is raised as a defense.</p> <p>*A victim counselor is an employee or supervised volunteer of a victim counseling center that provides counseling to victims of sexual assault. They have undergone a minimum of 40 hours of training in sexual assault, crisis intervention, victim support, treatment, and other related areas; or their duties include victim counseling. Source: http://apps.rainn.org/policy-state-laws-db/index2.cfm?state=Alaska&group=6</p> <p>A person who, in good faith, makes a report under this section, or who participates in judicial proceedings related to a report under this section, is immune from any civil or criminal liability that might otherwise be incurred as a result of making such a report or participating in the judicial proceedings.</p> <p>A victim, if wishing to maintain confidentiality in court proceedings, may request to be referred to in court by only their initials. Source: http://www.sapr.mil/public/docs/laws/alaska.pdf</p>
<p>South Dakota</p>	<p><i>Specific requirement to report sexual assault?</i> No. <i>Requirement to report non-accidental or intentional injuries?</i> No. <i>Requirement to report injuries caused by criminal conduct?</i> No. <i>Additional statutes that may impact competent adult victims of sexual assault?</i> It is mandatory to report bullet wounds, gunshot wounds and injuries arising from the discharge of a firearm. Source: http://www.sapr.mil/public/docs/laws/southdakota.pdf</p> <p>If a physician, hospital, or clinic examines the victim of an alleged rape or sexual offense to gather information or evidence about the alleged crime, the examination shall be provided without cost to the victim if the alleged offense is reported to the state. The physician, hospital, or clinic shall be paid for the cost of the examination by the county where the alleged rape or sexual offense occurred, which shall be reimbursed by any defendant if convicted. Source:</p>

	<p>http://www.ncdsv.org/images/Rape%20and%20SA%20Reporting%20Requirements%20%20-%20Scalzo%206.15.06.pdf</p> <p>No laws allowing statutory privilege or advocate privilege exists for communications between victims and confidants unless it is a local domestic abuse programs receiving domestic abuse grants and services that include but are not limited to the following: emergency shelter for victims of domestic abuse and their minor children; information and referral services for victims of domestic abuse and other family or household members; and education and training for members of the community on matters which relate to domestic abuse.</p> <p>Source: http://www.americanbar.org/content/dam/aba/migrated/domviol/docs/AdvocateConfidentialityChart.authcheckdam.pdf</p> <p>However, there is a privilege for communications with a licensed professional counselor under S.D. Codified Laws § 36-32-27, except in cases of:</p> <ol style="list-style-type: none"> 1) if written consent is obtained from the person or the person’s personal representative; 2) If it involves information that reveals the contemplation of a commission of a crime or harmful act; 3) If the person is a minor and the information indicates that the minor was a victim or subject of a crime (then the licensed professional counselor may be required to testify in a proceeding in which the commission of such crime is the subject of the inquiry); 4) If the person waives the privilege by bringing charges against the licensed professional counselor. <p>In addition, a law regarding domestic violence or sexual assault shelters and service programs that states that such programs “shall include” confidentiality of identity, location, records, and information pertaining to any person to whom services are or were provided.</p> <p>Source: https://rainn.org/public-policy/legal-resources/southdakota/confidentiality</p>
New York	<p><i>Specific requirement to report sexual assault?</i> No. <i>Requirement to report all non-accidental or intentional injuries?</i> No. <i>Requirement to report all injuries caused by criminal conduct?</i> No. <i>Additional statutes that may impact competent adult victims of sexual assault?</i> There is a requirement to report wounds caused by a gun, knife, ice pick or other sharp instrument as well as certain burn injuries.</p> <p>Source: http://www.sapr.mil/public/docs/laws/newyork.pdf</p> <p>Bullet wounds, gunshot wounds, burns, and injuries seemingly caused by force or weapon must immediately be reported to the authorities by the working physician or supervising manager.</p> <p>Source: http://www.health.ny.gov/professionals/protocols_and_guidelines/sexual_assault/docs/protocol_appe</p>

	<p>ndix_j.pdf</p> <p>The sexual offense evidence shall be collected and kept in a locked separate and secure area for not less than thirty days unless:</p> <ol style="list-style-type: none"> 1) such evidence is not privileged and the police request its surrender before that time, which request shall be complied with; 2) such evidence is privileged and 3) the alleged sexual offense victim nevertheless gives permission to turn such privileged evidence over to the police before that time, or 4) the alleged sexual offense victim signs a statement directing the hospital to not collect and keep such privileged evidence, which direction shall be complied with. <p>Source: http://www.sapr.mil/public/docs/laws/newyork.pdf</p> <p>A rape crisis counselor shall not be required to disclose a communication made by his or her client to him or her in the course of his or her services nor shall any clerk, stenographer or other person working for the same program as the rape crisis counselor or for the rape crisis counselor be allowed to disclose any such communication or advice given.</p> <p>Source: http://www.americanbar.org/content/dam/aba/migrated/domviol/docs/AdvocateConfidentialityChart.authcheckdam.pdf</p> <p>Exceptions to counselor-patient confidentiality exist if:</p> <ol style="list-style-type: none"> 1) Victim authorizes disclosure. 2) Victim reveals the intent to commit a crime or harmful act in the course of counseling. 3) Victim institutes charges against the rape crisis counselor or rape crisis program for malpractice which concern the confidential communications. <p>Source: https://rainn.org/public-policy/legal-resources/newyork/confidentiality</p>
New Jersey	<p><i>Specific requirement to report sexual assault?</i> No.</p> <p><i>Requirement to report non-accidental or intentional injuries?</i> No.</p> <p><i>Requirement to report injuries caused by criminal conduct?</i> Yes, however, there is an exception for sexual assault victims 18 and older who are not suffering from a gunshot wound or serious bodily injury.</p> <p><i>Additional statutes that may impact competent adult victims of sexual assault?</i> It is mandatory to report gunshot wounds.</p> <p>Source: http://www.sapr.mil/public/docs/laws/newjersey.pdf</p> <p>Every case of a wound, burn or any other injury arising from or caused by a firearm, destructive device, explosive or weapon shall be reported at once to the police authorities by the physician consulted, attending or treating the case or the manager, superintendent or other person in charge.</p> <p>Source: http://www.sapr.mil/public/docs/laws/newjersey.pdf</p> <p>To be exempt information, confidential privilege must be claimed by the victim counselor*, unless otherwise instructed by prior written consent of the victim.</p> <p>The victim counselor privilege is absolute and prohibited any in camera inspection of</p>

	<p>records privileged under this statute absent “compelling circumstances”. Even a preliminary disclosure of the victim counselor’s records intrudes upon the victim’s rights and dilutes the absolute nature of the statutory privilege</p> <p><i>*Victim counselor</i> means a person engaged in any office, institution or center defined as a victim counseling center by this act, who has undergone 40 hours of training and is under the control of a direct services supervisor of the center and who has a primary function of rendering advice, counseling or assisting victims of acts of violence. This definition includes a rape care advocate.</p> <p>Source: https://www.rainn.org/pdf-files-and-other-documents/Public-Policy/Legal-resources/NewJersey.pdf</p> <p>The only exceptions are:</p> <ol style="list-style-type: none"> 1) Disclosure to a defendant of statements or information given by a victim to a victim-witness coordinator, where such disclosure is required by the State or Federal Constitution. N.J. Stat. Ann. § 2A:84A-22.16 2) A person waives his or her right or privilege to refuse to disclose or to prevent another from disclosing a specified matter if he or she or any other person while the holder thereof has (a) contracted with anyone not to claim the privilege or (b) without coercion and with knowledge of his or her right or privilege, made disclosure of any part of the privileged matter or consented to such disclosure by anyone. <p>Source: http://apps.rainn.org/policy-state-laws-db/index2.cfm?state=New%20Jersey&group=6</p>
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Section 5: Penalties for Cases of Convicted Sexual Assault/ Rape

To better understand current attitudes toward sexual assault and the factors that influence decisions made by sexual perpetrators, it is crucial to be familiar with the legal repercussions that result from convicted cases of sexual assault. Though interpersonal sexual violation is a crime punishable in every state, the severity of the penalties for these acts vary. Below the various levels, definitions and punishments of sexual crimes are listed. Note that the legal repercussions for these crimes are extensive and specialized in each state, and for this reason only the regulations most pertinent to this study are featured here.

ALASKA	Definition	Sentence
1st Degree Sexual Assault	The offender engages in sexual penetration with another person without consent of that person	An unclassified felony, punishable under code 12.55 (detailing punishments for all violent crimes in the state). Essentially, it is up to the discretion of the presiding judge.
2nd Degree Sexual Assault	The offender engages in sexual contact with another person without consent of that person	A class B felony, punishable by up to ten years’ imprisonment and a fine of up to \$100,000.
3rd Degree Sexual Assault	The offender engages in sexual contact with a person who the offender knows is A) mentally incapable;	A class C felony, can result in a prison term of up to five years and a fine of up to \$50,000.

	B)incapacitated; C) unaware that a sexual act is being committed	
4th Degree Sexual Assault	1) While employed in a the custody and care of prisoners, the offender engages in sexual contact with a person who the offender knows is committed to imprisonment or period of temporary commitment; 2) the offender engages in sexual contact with a person 18 or 19 years of age who the offender knows is committed to the custody of the Department of Health and Social Services. 3) While acting as a peace officer in the state, the offender engages in sexual contact with a person with reckless disregard that the person is in the apparent custody of the offender; 4) While employed by the state as a parole officer the offender engages in sexual contact with a person with reckless disregard that the person is on probation or parole.	A class A misdemeanor in Alaska is punishable by up to one year in jail and a fine of up to \$10,000.
For all above crimes	Committing any of these crimes makes one a registered sex offender in the state of Alaska, and subject to the following laws.	1) A person with a single conviction for a sex offense is required to register annually for 15 years after the date of unconditional discharge. 2) A person convicted of two or more convictions is required to register annually for life. 3) For 15 year registrants, proof of unconditional discharge must be submitted to the department for determination of a final registration date. It is the responsibility of the registrant to complete the unconditional discharge paperwork. 4) Offenders must continue registering until the department has provided notification of a final registration date and are subject to criminal charges for Failure to Register if they fail to do so.

Sources: http://www.womenslaw.org/statutes_detail.php?statute_id=5850#statute-top
<http://www.criminaldefenselawyer.com/resources/alaska-misdemeanor-crimes-class-and-sentences.htm>

SOUTH DAKOTA	Definition	Sentence
1st Degree Rape	An act of sexual penetration if the victim is under 13 years old	Class C Felony. Minimum penalty of fifteen years imprisonment for the first offense. Maximum penalty of life imprisonment and \$50,000 fine.
2nd Degree Rape	An act of sexual penetration through the use of force, coercion, or threats of immediate and great bodily harm against the victim or other persons within the victim's presence, accompanied by apparent power of execution.	Class 1 Felony. Maximum penalty of 50 years imprisonment and \$50,000 fine.
3rd Degree Rape	An act of sexual penetration where 1) the victim is incapable, because of physical or mental incapacity, of giving consent to such act; 2) the victim is incapable of giving consent because of any intoxicating, narcotic, or anesthetic agent or hypnosis.	Class 2 Felony. Maximum penalty of 25 years imprisonment and \$50,000 fine.
Sexual Contact with a Person Incapable of Consenting	Knowingly engaging in sexual contact with a person who is 16 or older who is incapable because of physical or mental incapacity of consenting to sexual contact, where the actor is 15 or older.	Class 4 Felony. Maximum penalty of 10 years imprisonment and \$20,000 fine.
Sexual Contact Without Consent With Person Capable of Consenting	Knowingly engaging in sexual contact with a person, other than the actor's spouse, who is capable of consenting but has not consented to such contact, where the actor is 15 or older	Class 1 Misdemeanor. Maximum penalty of 1 year imprisonment and \$2,000 fine.

For all above crimes	Any of the crimes listed above include these punishments	<p>The court may as part of the sentence, order that the defendant not reside within 1 mile of the victim's residence, willfully come within 1,000 ft of the victim, attend the same school as the victim, or have any contact with the victim, whether direct or indirect or through a third party. Conditions will no longer apply once the victim reaches the age of majority.</p> <p>Must register in the state as a sexual offender for life.</p>
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Sources: http://legis.sd.gov/Statutes/Codified_Laws/DisplayStatute.aspx?Type=Statute&Statute=22-22-1
<http://apps.rainn.org/policy-crime-definitions/index.cfm?state=South%20Dakota&group=3>
<http://www.keloland.com/newsdetail.cfm/changes-to-sex-offender-registry-considered/?id=88691>

NEW YORK	Definition	Sentence
Sexual Misconduct	<p>1) He or she engages in sexual intercourse with another person without such person's consent;</p> <p>2) He or she engages in oral sexual conduct or anal sexual conduct with another person without such person's consent;</p>	Not more than one year in jail and not more than \$1,000 in fines
Rape in 3rd Degree	<p>1) He or she engages in sexual intercourse with another person who is incapable of consent by reason of some factor other than being less than seventeen years old;</p> <p>2) He or she engages in sexual intercourse with another person without such person's consent where such lack of consent is by reason of some factor other than incapacity to consent.</p>	Probation (no jail), or 1.5-4 years in jail.
Rape in 2nd Degree	He or she engages in sexual intercourse with another person who is incapable of consent by reason of being mentally disabled or mentally incapacitated.	2-7 years in jail.
Rape in the 1st Degree	<p>He or she engages in sexual intercourse with another person</p> <p>1) By forcible compulsion; or</p> <p>2) Who is incapable of consent by reason of being</p>	5-25 years in jail.

	physically helpless	
Criminal Sexual Act 3rd Degree	<p>1) He or she engages in oral sexual conduct or anal sexual conduct with a person who is incapable of consent by reason of some factor other than being less than seventeen years old.</p> <p>2) He or she engages in oral sexual conduct or anal sexual conduct with another person without such person's consent where such lack of consent is by reason of some factor other than incapacity to consent.</p>	Probation (no jail), or 1.5-4 years in jail.
Criminal Sexual Act 2nd Degree	<p>He or she engages in oral sexual conduct or anal sexual conduct with another person who is incapable of consent by reason of being mentally disabled or mentally incapacitated.*</p> <p>*It shall be an affirmative defense to the crime of criminal sexual act in the second degree as defined in subdivision one of this section that the defendant was less than four years older than the victim at the time of the act.</p>	2-7 years in jail.
Criminal Sexual Act 1st Degree	<p>A person is guilty of criminal sexual act in the first degree when he or she engages in oral sexual conduct or anal sexual conduct with another person:</p> <p>1) By forcible compulsion</p> <p>2) Who is incapable of consent by means of being physically helpless</p>	5-25 years in jail.
Forcible Touching	<p>A person is guilty of forcible touching when such person intentionally, and for no legitimate purpose, forcibly touches the sexual or other intimate parts of another person for the purpose of degrading or abusing such person; or for the purpose of gratifying the actor's sexual desire.</p> <p>For the purposes of this section, forcible touching includes squeezing, grabbing or pinching.</p>	Not more than one year in jail and not more than \$1,000 in fines.
Persistent Sexual	A person is guilty of persistent sexual abuse when he or she commits the crime of forcible touching,	Probation (no jail), or 1.5-4 years in jail

Abuse	sexual abuse in the third degree, or sexual abuse in the second degree, as defined in section and, within the previous ten year period, has been convicted two or more times, in separate criminal transactions for which sentence was imposed on separate occasions, of forcible touching, sexual abuse in the third degree, sexual abuse in the second degree, or any offense defined in this chart, of which the commission or attempted commission thereof is a felony.	
Sexual Abuse 3rd Degree	He or she subjects another person to sexual contact without the latter's consent; except that in any prosecution under this section, it is an affirmative defense that (a) such other person's lack of consent was due solely to incapacity to consent by reason of being less than seventeen years old, (b) such other person was more than fourteen years old, (c) the defendant was less than five years older than such other person.	Not more than three months in jail and not more than \$500 in fines
Sexual Abuse 2nd Degree	He or she subjects another person to sexual contact and when such other person is: 1) Incapable of consent by reason of some factor other than being less than seventeen years old; or 2) Less than fourteen years old.	Not more than one year in jail and not more than \$1,000 in fines
Sexual Abuse 1st Degree	A person is guilty of sexual abuse in the first degree when he or she subjects another person to sexual contact: 1) By forcible compulsion; 2) When the other person is incapable of consent by reason of being physically helpless	2-7 years in jail.
Aggravated Sexual Abuse 4th Degree	A person is guilty of aggravated sexual abuse in the fourth degree when: 1) He or she inserts a foreign object in the vagina, urethra, penis or rectum of another person and the other person is incapable of consent by reason of	Probation (no jail), or 1.5-4 years in jail

	<p>some factor other than being less than seventeen years old;</p> <p>2) He or she inserts a finger in the vagina, urethra, penis or rectum of another person causing physical injury to such person and such person is incapable of consent by reason of some factor other than being less than seventeen years old.</p>	
Aggravated Sexual Abuse 3rd Degree	<p>He or she inserts a foreign object in the vagina, urethra, penis or rectum of another person:</p> <p>1) By forcible compulsion;</p> <p>2) When the other person is incapable of consent by reason of being physically helpless;</p> <p>Or he or she inserts a foreign object in the vagina, urethra, penis or rectum of another person causing physical injury to such person and such person is incapable of consent by reason of being mentally disabled or mentally incapacitated.</p>	2-7 years in jail.
Aggravated Sexual Abuse 2nd Degree	<p>A person is guilty of aggravated sexual abuse in the second degree when he inserts a finger in the vagina, urethra, penis or rectum of another person causing physical injury to such person:</p> <p>1) By forcible compulsion; or</p> <p>2) When the other person is incapable of consent by reason of being physically helpless</p>	3.5 - 15 years in jail.
Aggravated Sexual Abuse 1st Degree	<p>A person is guilty of aggravated sexual abuse in the first degree when he inserts a foreign object in the vagina, urethra, penis or rectum of another person causing physical injury to such person:</p> <p>1) By forcible compulsion;</p> <p>2) When the other person is incapable of consent by reason of being physically helpless;</p>	5- 25 years in jail.
Applicable to most above crimes	<p>Anyone who was jailed or on parole/probation for a sex offense on or after January 21, 1996, must adhere to the following laws.</p>	<p>1) Register as a sex offender with the New York State Division of Criminal Justice Services.</p> <p>2) Level 1 offenders (low risk) must register for 20 years, unless they have a designation</p>

		(e.g. sexual predator, sexually violent offender, or predicate sex offender) in which case they must register for life. Level 2 offenders (moderate risk) and Level 3 offenders (high risk) must register for life.
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Sources: https://www.sarahlawrence.edu/offices-services/security/assault/Penal_Law.html
<http://www.criminaldefenselawyer.com/resources/new-york-misdemeanor-crimes-class-and-sentences.htm>
http://cityofyonkerspolice.org/penal.law/felony_sentences.htm
<http://www.criminaljustice.ny.gov/nsor/faq.htm>

NEW JERSEY	Definition	Sentence
Aggravated Sexual Assault	<p>He or she commits an act of sexual penetration with another person under any one of the following circumstances:</p> <ol style="list-style-type: none"> 1) the actor has supervisory or disciplinary power over the victim; 2) The act is committed during the commission, or attempted commission, whether alone or with one or more other persons, of robbery, kidnapping, homicide, aggravated assault on another, burglary, arson, or criminal escape; 3) The actor is armed with a weapon or any object fashioned in such a manner as to lead the victim to reasonably believe it to be a weapon and threatens by word or gesture to use the weapon or object; 4) The actor is aided or abetted by one or more other persons and the actor uses physical force or coercion; 7) The victim is one whom the actor knew or should have known was physically helpless, mentally defective or mentally incapacitated. 	Up to 20 years in prison with a minimum of 5 years before parole. Potentially up to a 200,000 dollar fine
Sexual Assault	<p>He or she commits an act of sexual penetration with another person under any one of the following circumstances:</p> <ol style="list-style-type: none"> 1) The actor uses physical force or coercion, but the victim does not sustain severe personal injury; 2) The victim is one whom the actor knew or should have known was physically helpless, mentally defective, or mentally incapacitated; 3) The victim is on probation or parole, or is detained in a hospital, prison, or other institution and the actor has supervisory or disciplinary power over the victim by virtue of the actor's legal, 	Between 5 and 10 years in jail and a fine up to \$150,000.

	professional or occupational status;	
Aggravated Criminal Sexual Contact	<p>He or she commits an act of sexual contact under any of the following circumstances:</p> <ol style="list-style-type: none"> 1) the actor has supervisory or disciplinary power over the victim; 2) The act is committed during the commission, or attempted commission, whether alone or with one or more other persons, of robbery, kidnapping, homicide, aggravated assault on another, burglary, arson, or criminal escape; 3) The actor is armed with a weapon or any object fashioned in such a manner as to lead the victim to reasonably believe it to be a weapon and threatens by word or gesture to use the weapon or object; 4) The actor is aided or abetted by one or more other persons and the actor uses physical force or coercion; 5) The actor uses physical force or coercion and severe personal injury is sustained by the victim; 	A prison sentence between 3 and 5 years and a fine up to \$15,000.
Criminal Sexual Contact	<p>He or she commits an act of sexual contact with the victim under any of the following circumstances:</p> <ol style="list-style-type: none"> 1) the actor has supervisory or disciplinary power over the victim; or 2) The act is committed during the commission, or attempted commission, whether alone or with one or more other persons, of robbery, kidnapping, homicide, aggravated assault on another, burglary, arson, or criminal escape; 3) The actor is armed with a weapon or any object fashioned in such a manner as to lead the victim to reasonably believe it to be a weapon and threatens by word or gesture to use the weapon or object; 4) The actor is aided or abetted by one or more other persons and the actor uses physical force or coercion; 	Up to eighteen months in prison and a fine up to \$10,000.
Applicable to most of the above crimes	If one has committed aggravated sexual assault, sexual assault, aggravated criminal sexual contact, or an attempt to commit any of these crimes if the court found that the offender's conduct was characterized by a pattern of repetitive, compulsive behavior, regardless of the date of the commission of the offense or the date of conviction they are subject to the following punishments.	Required to register as a sex offender, including those under supervision of the community, on probation, parole, furlough, work release, or a similar program.

Sources: <http://www.mynewjerseydefenselawyer.com/criminal-charges/sex-offenses/>
http://www.womanspace.org/get-educated/the-law/sexual-assault-law/#see_above
<http://www.criminaldefenselawyer.com/resources/criminal-defense/state-felony-laws/new-jersey-felony-class.htm>
http://www.nj.gov/njsp/spoff/megans_law.html

Section 6: Statute of Limitations

_____ A statute of limitations refers to the amount of time one is allowed to initiate legal action after a supposed crime has been committed. Sexual assault cases, which are already highly challenging to prosecute due to their ambiguous nature, can become even more of a gray-area where statutes of limitations are involved. On one hand, some argue that statutes of limitations should be made longer or eradicated entirely as victims need time to heal before facing their accused perpetrator in court. However, others hold that since sexual assault is already such an unclear crime it is in the best interest of the victim to expedite legal proceedings before essential evidence become inimitable. While both parties claim to have the best interests of the victim in mind the former prioritizes time and space for the recovery of the survivor, while the latter emphasizes the importance of pursuing legal justice as a means of healing.

The below table features the statute of limitations each state holds for cases of rape and sexual assault.

State	Statute of Limitations
Alaska	There is no time limit for the prosecution of any level of sexual assault crime.
South Dakota	There is no time limit for the prosecution of first or second degree rape cases. There is a seven year limit on the prosecution of third or fourth degree rape cases, or any time prior to the date victim reaches 25, whichever period is longer.
New York	There is a two year limit on the prosecution of sexual misconduct cases. There is five year time limit on the prosecution of third and second degree rape cases. There is no time limit on the prosecution of first degree rape cases. There is a five year time limit on the prosecution of third and second degree criminal sexual act cases.

	<p>There is no time limit on the prosecution of first degree sexual criminal act cases.</p> <p>There is a two year limit on the prosecution of forcible touching cases.</p> <p>There is a five year limit on the prosecution of persistent sexual abuse cases.</p> <p>There is a two year limit on the prosecution of third and second degree sexual abuse cases.</p> <p>There is a five year limit on the prosecution of first degree sexual abuses cases.</p> <p>There is a five year limit on the prosecution of third and second degree aggravated sexual abuse cases.</p> <p>There is no time limit on the prosecution of first degree sexual abuse cases.</p> <p>There is a five year limit on the prosecution of cases that involve facilitating a sex offense with a controlled substance.</p>
New Jersey	<p>There is no time limit on the prosecution of sexual assault cases.</p> <p>There is a five year limit on the prosecution criminal sexual contact cases.</p>

Source: <http://apps.rainn.org/policy-crime-definitions/index.cfm?state=South%20Dakota&group=7>

Conclusion

_____ As demonstrated by the research presented in this fact sheet, sexual assault is a complex crime and involves several highly interconnected factors of influence. Manifestly, it is not enough to say one is “against sexual assault”. Though all sexual assault allies strive to provide justice for survivors, they disagree when determining the best advocacy methods. A central question approached by this fact sheet that policy researchers must grapple with is whether their ultimate goal is legal justice for the victim, or creating a system that protects the survivor’s well-being. While some policies could improve a victim’s case presented at trial, they may also function to the detriment of the mental and/or emotional healing of a survivor.

Similarly, with so little modern research or transparency regarding sexual assault cases it is often up to the discretion of the policy advocates to determine which positions will be the most effective. Though Alaska has the highest rate of reported rape in the United States, is this because its laws promote rape culture? Or are Alaskan practices safely allowing victims to report and pursue justice against their perpetrators? The purpose of this factsheet is in no way to make opinionated statements concerning sexual assault policy. Rather, it is to demonstrate the complexity and ambiguity of sexual crimes. By providing an abundance of relevant information,

the authors of this factsheet intend to empower readers with the necessary perspective to draw informed conclusions about how to decrease sexual assault on a local and federal level.