

DISTRICT OF COLUMBIA
OFFICIAL CODE

TITLE 22.
CRIMINAL OFFENSES AND PENALTIES.

CHAPTER 30.
SEXUAL ABUSE.

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CHAPTER 30. SEXUAL ABUSE.

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CHAPTER 30. SEXUAL ABUSE.

SUBCHAPTER I. GENERAL PROVISIONS.

§ 22-3001. DEFINITIONS.

For the purposes of this chapter:

- (1) "Actor" means a person accused of any offense proscribed under this chapter.
- (2) "Bodily injury" means injury involving loss or impairment of the function of a bodily member, organ, or mental faculty, or physical disfigurement, disease, sickness, or injury involving significant pain.
- (3) "Child" means a person who has not yet attained the age of 16 years.
- (4) "Consent" means words or overt actions indicating a freely given agreement to the sexual act or contact in question. Lack of verbal or physical resistance or submission by the victim, resulting from the use of force, threats, or coercion by the defendant shall not constitute consent.
- (4A) "Domestic partner" shall have the same meaning as provided in § 32- 701(3).
- (4B) "Domestic partnership" shall have the same meaning as provided in § 32- 701(4).
- (5) "Force" means the use or threatened use of a weapon; the use of such physical strength or violence as is sufficient to overcome, restrain, or injure a person; or the use of a threat of harm sufficient to coerce or compel submission by the victim.
- (5A) "Minor" means a person who has not yet attained the age of 18 years.
- (6) "Official custody" means:
 - (A) Detention following arrest for an offense; following surrender in lieu of arrest for an offense; following a charge or conviction of an offense, or an allegation or finding of juvenile delinquency; following commitment as a material witness; following or pending civil commitment proceedings, or pending extradition, deportation, or exclusion;
 - (B) Custody for purposes incident to any detention described in subparagraph (A) of this paragraph, including transportation, medical diagnosis or treatment, court appearance, work, and recreation; or
 - (C) Probation or parole.
- (7) "Serious bodily injury" means bodily injury that involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.
- (8) "Sexual act" means:
 - (A) The penetration, however slight, of the anus or vulva of another by a penis;
 - (B) Contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus; or
 - (C) The penetration, however slight, of the anus or vulva by a hand or finger or by any object, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.
 - (D) The emission of semen is not required for the purposes of subparagraphs (A)-(C) of this paragraph.
- (9) "Sexual contact" means the touching with any clothed or unclothed body part or any object, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.
- (10) "Significant relationship" includes:
 - (A) A parent, sibling, aunt, uncle, or grandparent, whether related by blood, marriage, domestic partnership, or adoption;

(B) A legal or de facto guardian or any person, more than 4 years older than the victim, who resides intermittently or permanently in the same dwelling as the victim;

(C) The person or the spouse, domestic partner, or paramour of the person who is charged with any duty or responsibility for the health, welfare, or supervision of the victim at the time of the act; and

(D) Any employee or volunteer of a school, church, synagogue, mosque, or other religious institution, or an educational, social, recreational, athletic, musical, charitable, or youth facility, organization, or program, including a teacher, coach, counselor, clergy, youth leader, chorus director, bus driver, administrator, or support staff, or any other person in a position of trust with or authority over a child or a minor.

(11) "Victim" means a person who is alleged to have been subject to any offense set forth in subchapter II of this chapter.

(May 23, 1995, D.C. Law 10-257, § 101, 42 DCR 53; Apr. 24, 2007, D.C. Law 16-306, § 216(a), 53 DCR 8610; Dec. 10, 2009, D.C. Law 18-88, § 404(a), 56 DCR 7413.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 22-4101.

Effect of Amendments

D.C. Law 16-306 added par. (5A); in par. (10)(A), substituted "marriage, domestic partnership, or adoption" for "marriage, or adoption"; in par. (10)(C), substituted "spouse, domestic partner, or paramour" for "spouse or paramour"; and rewrote par. (10)(D), which had read as follows:

"(D) A teacher, scout master, coach, recreation center leader, or others in similar positions."

D.C. Law 18-88 added pars. (4A) and (4B).

Emergency Act Amendments

For temporary (90 day) amendment of section, see § 216(a) of Omnibus Public Safety Emergency Amendment Act of 2006 (D.C. Act 16-445, July 19, 2006, 53 DCR 6443).

For temporary (90 day) amendment of section, see § 216(a) of Omnibus Public Safety Congressional Review Emergency Amendment Act of 2006 (D.C. Act 16-490, October 18, 2006, 53 DCR 8686).

For temporary (90 day) amendment of section, see § 216(a) of Omnibus Public Safety Congressional Review Emergency Amendment Act of 2007 (D.C. Act 17-10, January 16, 2007, 54 DCR 1479).

For temporary (90 day) amendment of section, see § 216(a) of Omnibus Public Safety Second Congressional Review Emergency Amendment Act of 2007 (D.C. Act 17-25, April 19, 2007, 54 DCR 4036).

For temporary (90 day) amendment of section, see § 404(a) of Omnibus Public Safety and Justice Emergency Amendment Act of 2009 (D.C. Act 18-181, August 6, 2009, 56 DCR 6903).

For temporary (90 day) amendment of section, see § 404(a) of Omnibus Public Safety and Justice Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-227, October 21, 2009, 56 DCR 8668).

Legislative History of Laws

Law 10-257, the "Anti-Sexual Abuse Act of 1994," was introduced in Council and assigned Bill No. 10-87, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on November 1, 1994, and December 6, 1994, respectively. Signed by the Mayor on December 28, 1994, it was assigned Act No. 10-385 and transmitted to both Houses of Congress for its review. D.C. Law 10-257 became effective May 23, 1995.

For Law 16-306, see notes following § 22-404.

For Law 18-88, see notes following § 22-404.

SUBCHAPTER II. SEX OFFENSES.

§ 22-3002. FIRST DEGREE SEXUAL ABUSE.

(a) A person shall be imprisoned for any term of years or for life, and in addition, may be fined in an amount not to exceed \$250,000, if that person engages in or causes another person to engage in or submit to a sexual act in the following manner:

(1) By using force against that other person;

(2) By threatening or placing that other person in reasonable fear that any person will be subjected to death, bodily injury, or kidnapping;

(3) After rendering that other person unconscious; or

(4) After administering to that other person by force or threat of force, or without the knowledge or permission of that other person, a drug, intoxicant, or other similar substance that substantially impairs the ability of that other person to appraise or control his or her conduct.

(b) The court may impose a prison sentence in excess of 30 years only in accordance with § 22-3020 or § 24-403.01(b-2). For purposes of imprisonment following revocation of release authorized by § 24-403.01(b)(7), the offense defined by this section is a Class A felony.

(May 23, 1995, D.C. Law 10-257, § 201, 42 DCR 53; June 3, 1997, D.C. Law 11-275, § 13(a), 44 DCR 1408; June 8, 2001, D.C. Law 13-302, § 7(a), 47 DCR 7249.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 22-4102.

Effect of Amendments

D.C. Law 13-302 designated subsec. (a); and added subsec. (b).

Emergency Act Amendments

For temporary (90-day) amendment of section, see § 7(a) of the Sentencing Reform Emergency Amendment Act of 2000 (D.C. Act 13-410, August 11, 2000, 47 DCR 7271).

For temporary (90 day) amendment of section, see § 7(a) of the Sentencing Reform Congressional Review Emergency Amendment Act of 2001 (D.C. Act 13-462, November 7, 2000, 47 DCR 9443).

For temporary (90 day) amendment of section, see § 7(a) of Sentencing Reform Congressional Review Emergency Amendment Act of 2001 (D.C. Act 14-2, February 2, 2001, 48 DCR 2239).

For temporary (90 day) amendment of section, see § 7(a) of Sentencing Reform Second Congressional Review Emergency Amendment Act of 2001 (D.C. Act 14-51, May 2, 2001, 48 DCR 4370).

Legislative History of Laws

For legislative history of D.C. Law 10-257, see Historical and Statutory Notes following § 22-3001.

Law 11-275, the "Second Criminal Code Technical Amendments Act of 1996," was introduced in Council and assigned Bill No. 11-909, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 7, 1996, and December 3, 1996, respectively. Signed by the Mayor on December 24, 1996, it was assigned Act No. 11-520 and transmitted to both Houses of Congress for its review. D.C. Law 11-275 became effective on June 3, 1997.

For Law 13-302, see notes following § 22-722.

§ 22-3003. SECOND DEGREE SEXUAL ABUSE.

A person shall be imprisoned for not more than 20 years and may be fined in an amount not to exceed \$200,000, if that person engages in or causes another person to engage in or submit to a sexual act in the following manner:

(1) By threatening or placing that other person in reasonable fear (other than by threatening or placing that other person in reasonable fear that any person will be subjected to death, bodily injury, or kidnapping); or

(2) Where the person knows or has reason to know that the other person is:

(A) Incapable of appraising the nature of the conduct;

(B) Incapable of declining participation in that sexual act; or

(C) Incapable of communicating unwillingness to engage in that sexual act.

(May 23, 1995, D.C. Law 10-257, § 202, 42 DCR 53; June 3, 1997, D.C. Law 11-275, § 13(b), 44 DCR 1408.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 22-4103.

Legislative History of Laws

For legislative history of D.C. Law 10-257, see Historical and Statutory Notes following § 22-3001.

For legislative history of D.C. Law 11-275, see Historical and Statutory Notes following § 22-3002.

§ 22-3004. THIRD DEGREE SEXUAL ABUSE.

A person shall be imprisoned for not more than 10 years and may be fined in an amount not to exceed \$100,000, if that person engages in or causes sexual contact with or by another person in the following manner:

- (1) By using force against that other person;
- (2) By threatening or placing that other person in reasonable fear that any person will be subjected to death, bodily injury, or kidnapping;
- (3) After rendering that person unconscious; or
- (4) After administering to that person by force or threat of force, or without the knowledge or permission of that other person, a drug, intoxicant, or similar substance that substantially impairs the ability of that other person to appraise or control his or her conduct.

(May 23, 1995, D.C. Law 10-257, § 203, 42 DCR 53; June 3, 1997, D.C. Law 11-275, § 13(c), 44 DCR 1408.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 22-4104.

Legislative History of Laws

For legislative history of D.C. Law 10-257, see Historical and Statutory Notes following § 22-3001.

For legislative history of D.C. Law 11-275, see Historical and Statutory Notes following § 22-3002.

§ 22-3005. FOURTH DEGREE SEXUAL ABUSE.

A person shall be imprisoned for not more than 5 years and, in addition, may be fined in an amount not to exceed \$50,000, if that person engages in or causes sexual contact with or by another person in the following manner:

- (1) By threatening or placing that other person in reasonable fear (other than by threatening or placing that other person in reasonable fear that any person will be subjected to death, bodily injury, or kidnapping); or
- (2) Where the person knows or has reason to know that the other person is:
 - (A) Incapable of appraising the nature of the conduct;
 - (B) Incapable of declining participation in that sexual contact; or
 - (C) Incapable of communicating unwillingness to engage in that sexual contact.

(May 23, 1995, D.C. Law 10-257, § 204, 42 DCR 53; June 3, 1997, D.C. Law 11-275, § 13(d), 44 DCR 1408.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 22-4105.

Legislative History of Laws

For legislative history of D.C. Law 10-257, see Historical and Statutory Notes following § 22-3001.

For legislative history of D.C. Law 11-275, see Historical and Statutory Notes following § 22-3002.

§ 22-3006. MISDEMEANOR SEXUAL ABUSE.

Whoever engages in a sexual act or sexual contact with another person and who should have knowledge or reason to know that the act was committed without that other person's permission, shall be imprisoned for not more than 180 days and, in addition, may be fined in an amount not to exceed \$1,000.

(May 23, 1995, D.C. Law 10-257, § 205, 42 DCR 53.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 22-4106.

Legislative History of Laws

For legislative history of D.C. Law 10-257, see Historical and Statutory Notes following § 22-3001.

§ 22-3007. DEFENSE TO SEXUAL ABUSE.

Consent by the victim is a defense to a prosecution under §§ 22-3002 to 22-3006, prosecuted alone or in conjunction with charges under § 22-3018 or §§ 22-401 and 22-403.

(May 23, 1995, D.C. Law 10-257, § 206, 42 DCR 53; Dec. 10, 2009, D.C. Law 18-88, § 213, 56 DCR 7413.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 22-4107.

Effect of Amendments

D.C. Law 18-88 deleted "defense, which the defendant must establish by a preponderance of the evidence," following "defense".

Emergency Act Amendments

For temporary (90 day) amendment of section, see § 213 of Omnibus Public Safety and Justice Emergency Amendment Act of 2009 (D.C. Act 18-181, August 6, 2009, 56 DCR 6903).

For temporary (90 day) amendment of section, see § 213 of Omnibus Public Safety and Justice Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18- 227, October 21, 2009, 56 DCR 8668).

Legislative History of Laws

For legislative history of D.C. Law 10-257, see Historical and Statutory Notes following § 22-3001.

For Law 18-88, see notes following § 22-404.

§ 22-3008. FIRST DEGREE CHILD SEXUAL ABUSE.

Whoever, being at least 4 years older than a child, engages in a sexual act with that child or causes that child to engage in a sexual act shall be imprisoned for any term of years or for life and, in addition, may be fined an amount not to exceed \$250,000. However, the court may impose a prison sentence in excess of 30 years only in accordance with § 22-3020 or § 24-403.01(b-2). For purposes of imprisonment following revocation of release authorized by § 24-403.01(b)(7), the offense defined by this section is a Class A felony.

(May 23, 1995, D.C. Law 10-257, § 207, 42 DCR 53; June 8, 2001, D.C. Law 13-302, § 7(b), 47 DCR 7249.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 22-4108.

Effect of Amendments

D.C. Law 13-302 added the last two sentences.

Emergency Act Amendments

For temporary (90-day) amendment of section, see § 7(b) of the Sentencing Reform Emergency Amendment Act of 2000 (D.C. Act 13-410, August 11, 2000, 47 DCR 7271).

For temporary (90 day) amendment of section, see § 7(b) of the Sentencing Reform Congressional Review Emergency Amendment Act of 2001 (D.C. Act 13-462, November 7, 2000, 47 DCR 9443).

For temporary (90 day) amendment of section, see § 7(b) of Sentencing Reform Congressional Review Emergency Amendment Act of 2001 (D.C. Act 14-2, February 2, 2001, 48 DCR 2239).

For temporary (90 day) amendment of section, see § 7(b) of Sentencing Reform Second Congressional Review Emergency Amendment Act of 2001 (D.C. Act 14-51, May 2, 2001, 48 DCR 4370).

Legislative History of Laws

For legislative history of D.C. Law 10-257, see Historical and Statutory Notes following § 22-3001.

For Law 13-302, see notes following § 22-722.

§ 22-3009. SECOND DEGREE CHILD SEXUAL ABUSE.

Whoever, being at least 4 years older than a child, engages in sexual contact with that child or causes that child to engage in sexual contact shall be imprisoned for not more than 10 years and, in addition, may be fined in an amount not to exceed \$100,000.

(May 23, 1995, D.C. Law 10-257, § 208, 42 DCR 53.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 22-4109.

Legislative History of Laws

For legislative history of D.C. Law 10-257, see Historical and Statutory Notes following § 22-3001.

§ 22-3009.01. FIRST DEGREE SEXUAL ABUSE OF A MINOR.

Whoever, being 18 years of age or older, is in a significant relationship with a minor, and engages in a sexual act with that minor or causes that minor to engage in a sexual act shall be imprisoned for not more than 15 years and may be fined in an amount not to exceed \$150,000, or both.

(May 23, 1995, D.C. Law 10-257, § 208a, as added Apr. 24, 2007, D.C. Law 16-306, § 216(b), 53 DCR 8610.)

HISTORICAL AND STATUTORY NOTES

Emergency Act Amendments

For temporary (90 day) addition, see § 216(b) of Omnibus Public Safety Emergency Amendment Act of 2006 (D.C. Act 16-445, July 19, 2006, 53 DCR 6443).

For temporary (90 day) addition, see § 216(b) of Omnibus Public Safety Congressional Review Emergency Amendment Act of 2006 (D.C. Act 16-490, October 18, 2006, 53 DCR 8686).

For temporary (90 day) addition, see § 216(b) of Omnibus Public Safety Congressional Review Emergency Amendment Act of 2007 (D.C. Act 17-10, January 16, 2007, 54 DCR 1479).

For temporary (90 day) addition, see § 216(b) of Omnibus Public Safety Second Congressional Review Emergency Amendment Act of 2007 (D.C. Act 17-25, April 19, 2007, 54 DCR 4036).

Legislative History of Laws

For Law 16-306, see notes following § 22-404.

§ 22-3009.02. SECOND DEGREE SEXUAL ABUSE OF A MINOR.

Whoever, being 18 years of age or older, is in a significant relationship with a minor and engages in a sexual contact with that minor or causes that minor to engage in a sexual contact shall be imprisoned for not more than 7 1/2 years and may be fined in an amount not to exceed \$75,000, or both.

(May 23, 1995, D.C. Law 10-257, § 208b, as added Apr. 24, 2007, D.C. Law 16-306, § 216(c), 53 DCR 8610.)

HISTORICAL AND STATUTORY NOTES

Emergency Act Amendments

For temporary (90 day) addition, see § 216(c) of Omnibus Public Safety Emergency Amendment Act of 2006 (D.C. Act 16-445, July 19, 2006, 53 DCR 6443).

For temporary (90 day) addition, see § 216(c) of Omnibus Public Safety Congressional Review Emergency Amendment Act of 2006 (D.C. Act 16-490, October 18, 2006, 53 DCR 8686).

For temporary (90 day) addition, see § 216(c) of Omnibus Public Safety Congressional Review Emergency Amendment Act of 2007 (D.C. Act 17-10, January 16, 2007, 54 DCR 1479).

For temporary (90 day) addition, see § 216(c) of Omnibus Public Safety Second Congressional Review Emergency Amendment Act of 2007 (D.C. Act 17-25, April 19, 2007, 54 DCR 4036).

For Law 16-306, see notes following § 22-404.

§ 22-3009.03. FIRST DEGREE SEXUAL ABUSE OF A SECONDARY EDUCATION STUDENT.

Any teacher, counselor, principal, coach, or other person of authority in a secondary level school who engages in a sexual act with a student under the age of 20 years enrolled in that school or school system, or causes that student to engage in a sexual act, shall be imprisoned for not more than 10 years, fined in an amount not to exceed \$100,000, or both.

(May 23, 1995, D.C. Law 10-257, § 208c, as added Oct. 23, 2010, D.C. Law 18-239, § 204, 57 DCR 5405.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

Law 18-239, the "Prohibition Against Human Trafficking Amendment Act of 2010", was introduced in Council and assigned Bill No. 18-70, which was referred to the Committee on Public Safety and the Judiciary. The Bill was adopted on first and second readings on March 16, 2010, and June 1, 2010, respectively. Signed by the Mayor on June 21, 2010, it was assigned Act No. 18-444 and transmitted to both Houses of Congress for its review. D.C. Law 18-239 became effective on October 23, 2010.

§ 22-3009.04. SECOND DEGREE SEXUAL ABUSE OF A SECONDARY EDUCATION STUDENT.

Any teacher, counselor, principal, coach, or other person of authority in a secondary level school who engages in sexual conduct with a student under the age of 20 years enrolled in that school or school system, or causes that student to engage in sexual conduct, shall be imprisoned for not more than 5 years, fined in an amount not to exceed \$50,000, or both.

(May 23, 1995, D.C. Law 10-257, § 208d, as added Oct. 23, 2010, D.C. Law 18-239, § 204, 57 DCR 5405.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For history of Law 18-239, see notes under § 22-3009.03.

§ 22-3010. ENTICING A CHILD.

(a) Whoever, being at least 4 years older than a child or being in a significant relationship with a minor, (1) takes that child or minor to any place for the purpose of committing any offense set forth in §§ 22-3002 to 22-3006 and §§ 22-3008 to 22-3009.02, or (2) seduces, entices, allures, convinces, or persuades or attempts to seduce, entice, allure, convince, or persuade a child or minor to engage in a sexual act or contact shall be imprisoned for not more than 5 years or may be fined in an amount not to exceed \$50,000, or both.

(b) Whoever, being at least 4 years older than the purported age of a person who represents himself or herself to be a child, attempts (1) to seduce, entice, allure, convince, or persuade any person who represents himself or herself to be a child to engage in a sexual act or contact, or (2) to entice, allure, convince, or persuade any person who represents himself or herself to be a child to go to any place for the purpose of engaging in a sexual act or contact shall be imprisoned for not more than 5 years or may be fined in an amount not to exceed \$50,000, or both.

(c) No person shall be consecutively sentenced for enticing a child or minor to engage in a sexual act or sexual contact under subsection (a)(2) of this section and engaging in that sexual act or sexual contact with that child or minor, provided, that the enticement occurred closely associated in time with the sexual act or sexual contact.

(May 23, 1995, D.C. Law 10-257, § 209, 42 DCR 53; Apr. 24, 2007, D.C. Law 16-306, § 216(d), 53 DCR 8610; Mar. 25, 2009, D.C. Law 17-353, § 173(b), 56 DCR 1117.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 22-4110.

Effect of Amendments

D.C. Law 16-306 rewrote the section, which had read as follows:

"Whoever, being at least 4 years older than a child, takes that child to any place, or entices, allures, or persuades a child to go to any place for the purpose of committing any offense set forth in §§ 22-3002 to 22-3006 and §§ 22-3008 and 22-3009 shall be imprisoned for not more than 5 years and, in addition, may be fined in an amount not to exceed \$50,000."

D.C. Law 17-353 validated a previously made technical correction in subsec. (a).

Emergency Act Amendments

For temporary (90 day) amendment of section, see § 216(d) of Omnibus Public Safety Emergency Amendment Act of 2006 (D.C. Act 16-445, July 19, 2006, 53 DCR 6443).

For temporary (90 day) amendment of section, see § 216(d) of Omnibus Public Safety Congressional Review Emergency Amendment Act of 2006 (D.C. Act 16-490, October 18, 2006, 53 DCR 8686).

For temporary (90 day) amendment of section, see § 216(d) of Omnibus Public Safety Congressional Review Emergency Amendment Act of 2007 (D.C. Act 17-10, January 16, 2007, 54 DCR 1479).

For temporary (90 day) amendment of section, see § 216(d) of Omnibus Public Safety Second Congressional Review Emergency Amendment Act of 2007 (D.C. Act 17-25, April 19, 2007, 54 DCR 4036).

Legislative History of Laws

For legislative history of D.C. Law 10-257, see Historical and Statutory Notes following § 22-3001.

For Law 16-306, see notes following § 22-404.

Law 17-353, the "Technical Amendments Act of 2008", was introduced in Council and assigned Bill No. 17-994 which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 2, 2008, and December 16, 2008, respectively. Signed by the Mayor on January 15, 2009, it was assigned Act No. 17-687 and transmitted to both Houses of Congress for its review. D.C. Law 17-353 became effective on March 25, 2009.

§ 22-3010.01. MISDEMEANOR SEXUAL ABUSE OF A CHILD OR MINOR.

(a) Whoever, being 18 years of age or older and more than 4 years older than a child, or being 18 years of age or older and being in a significant relationship with a minor, engages in sexually suggestive conduct with that child or minor shall be imprisoned for not more than 180 days, or fined in an amount not to exceed \$1,000, or both.

(b) For the purposes of this section, the term "sexually suggestive conduct" means engaging in any of the following acts in a way which is intended to cause or reasonably causes the sexual arousal or sexual gratification of any person:

- (1) Touching a child or minor inside his or her clothing;
- (2) Touching a child or minor inside or outside his or her clothing close to the genitalia, anus, breast, or buttocks;
- (3) Placing one's tongue in the mouth of the child or minor; or
- (4) Touching one's own genitalia or that of a third person.

(May 23, 1995, D.C. Law 10-257, § 209a, as added Apr. 24, 2007, D.C. Law 16-306, § 216(e), 53 DCR 8610.)

HISTORICAL AND STATUTORY NOTES

Emergency Act Amendments

For temporary (90 day) addition, see § 216(e) of Omnibus Public Safety Emergency Amendment Act of 2006 (D.C. Act 16-445, July 19, 2006, 53 DCR 6443).

For temporary (90 day) addition, see § 216(e) of Omnibus Public Safety Congressional Review Emergency Amendment Act of 2006 (D.C. Act 16-490, October 18, 2006, 53 DCR 8686).

For temporary (90 day) addition, see § 216(e) of Omnibus Public Safety Congressional Review Emergency Amendment Act of 2007 (D.C. Act 17-10, January 16, 2007, 54 DCR 1479).

For temporary (90 day) addition, see § 216(e) of Omnibus Public Safety Second Congressional Review Emergency Amendment Act of 2007 (D.C. Act 17-25, April 19, 2007, 54 DCR 4036).

For temporary (90 day) addition of section, see § 511(a) of Public Safety Legislation Sixty-Day Layover Emergency Amendment Act of 2010 (D.C. Act 18-693, January 18, 2011, 58 DCR 640).

For temporary (90 day) addition of section, see § 511(a) of Public Safety Legislation Sixty-Day Layover Congressional Review Emergency Amendment Act of 2011 (D.C. Act 19-45, April 20, 2011, 58 DCR 3701).

For Law 16-306, see notes following § 22-404.

§ 22-3010.02. ARRANGING FOR A SEXUAL CONTACT WITH A REAL OR FICTITIOUS CHILD.

(a) It is unlawful for a person to arrange to engage in a sexual act or sexual contact with an individual (whether real or fictitious) who is or who is represented to be a child at least 4 years younger than the person, or to arrange for another person to engage in a sexual act or sexual contact with an individual (whether real or fictitious) who is or who is represented to be a child of at least 4 years younger than the person. For the purposes of this section, arranging to engage in a sexual act or sexual contact with an individual who is fictitious shall be unlawful only if the arrangement is done by or with a law enforcement officer.

(b) A person who violates subsection (a) of this section shall be imprisoned for not more than 5 years, fined an amount not to exceed \$50,000, or both.

(May 23, 1995, D.C. Law 10-257, § 209b, as added June 3, 2011, D.C. Law 18-377, § 11(a), 58 DCR 1174.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For history of Law 18-377, see notes under § 22-303.

§ 22-3011. DEFENSES TO CHILD SEXUAL ABUSE AND SEXUAL ABUSE OF A MINOR.

(a) Neither mistake of age nor consent is a defense to a prosecution under §§ 22-3008 to 22-3010.01, prosecuted alone or in conjunction with charges under § 22-3018 or § 22-403.

(b) Marriage or domestic partnership between the defendant and the child or minor at the time of the offense is a defense, which the defendant must establish by a preponderance of the evidence, to a prosecution under §§ 22-3008 to 22-3010.01, prosecuted alone or in conjunction with charges under § 22-3018 or § 22-403, involving only the defendant and the child or minor.

(May 23, 1995, D.C. Law 10-257, § 210, 42 DCR 53; Apr. 24, 2007, D.C. Law 16-306, § 216(f), 53 DCR 8610; June 3, 2011, D.C. Law 18-377, § 11(b), 58 DCR 1174.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 22-4111.

Effect of Amendments

D.C. Law 16-306, in the section heading, substituted "abuse and sexual abuse of a minor" for "abuse"; and substituted "§ 22-3010.01" for "§ 22-3010" both times it appears.

D.C. Law 18-377, in subsec. (b), substituted "Marriage or domestic partnership between the defendant and the child" for "Marriage between the defendant and the child" and substituted "child or minor" for "child".

§ 22-3012. STATE OF MIND PROOF REQUIREMENT.

In a prosecution under §§ 22-3008 to 22-3010, prosecuted alone or in conjunction with charges under § 22-3018 or § 22-403, the government need not prove that the defendant knew the child's age or the age difference between himself or herself and the child.

(May 23, 1995, D.C. Law 10-257, § 211, 42 DCR 53.)

§ 22-3013. FIRST DEGREE SEXUAL ABUSE OF A WARD.

Any staff member, employee, contract employee, consultant, or volunteer at a hospital, treatment facility, detention or correctional facility, group home, or other institution; anyone who is an ambulance driver or attendant, a bus driver or attendant, or person who participates in the transportation of a ward, patient, client, or prisoner to and from such institutions; or any official custodian of a ward, patient, client, or prisoner, who engages in a sexual act with a ward, patient, client, or prisoner, or causes a ward, patient, client, or prisoner to engage in or submit to a sexual act shall be imprisoned for not more than 10 years or

fined in an amount not to exceed \$100,000, or both.

(May 23, 1995, D.C. Law 10-257, § 212, 42 DCR 53; May 17, 1996, D.C. Law 11-119, § 6(a), 43 DCR 528; Apr. 24, 2007, D.C. Law 16-306, § 216(g), 53 DCR 8610.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 22-4113.

Effect of Amendments

D.C. Law 16-306 rewrote the section, which had read as follows:

"Whoever engages in a sexual act with another person or causes another person to engage in or submit to a sexual act when that other person:

"(1) Is in official custody, or is a ward or resident, on a permanent or temporary basis, of a hospital, treatment facility, or other institution; and

"(2) Is under the supervisory or disciplinary authority of the actor shall be imprisoned for not more than 10 years and, in addition, may be fined in an amount not to exceed \$100,000."

Emergency Act Amendments

For temporary (90 day) amendment of section, see § 216(g) of Omnibus Public Safety Emergency Amendment Act of 2006 (D.C. Act 16-445, July 19, 2006, 53 DCR 6443).

For temporary (90 day) amendment of section, see § 216(g) of Omnibus Public Safety Congressional Review Emergency Amendment Act of 2006 (D.C. Act 16-490, October 18, 2006, 53 DCR 8686).

For temporary (90 day) amendment of section, see § 216(g) of Omnibus Public Safety Congressional Review Emergency Amendment Act of 2007 (D.C. Act 17-10, January 16, 2007, 54 DCR 1479).

For temporary (90 day) amendment of section, see § 216(g) of Omnibus Public Safety Second Congressional Review Emergency Amendment Act of 2007 (D.C. Act 17-25, April 19, 2007, 54 DCR 4036).

Legislative History of Laws

For legislative history of D.C. Law 10-257, see Historical and Statutory Notes following § 22-3001.

Law 11-119, the "Criminal Code Technical Amendments Act of 1996," was introduced in Council and assigned Bill No. 11-484, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 5, 1995, and January 4, 1996, respectively. Signed by the Mayor on January 26, 1996, it was assigned Act No. 11-198 and transmitted to both Houses of Congress for its review. D.C. Law 11-119 became effective May 17, 1996.

For Law 16-306, see notes following § 22-404.

§ 22-3014. SECOND DEGREE SEXUAL ABUSE OF A WARD.

Any staff member, employee, contract employee, consultant, or volunteer at a hospital, treatment facility, detention or correctional facility, group home, or other institution; anyone who is an ambulance driver or attendant, a bus driver or attendant, or person who participates in the transportation of a ward, patient, client, or prisoner to and from such institutions; or any official custodian of a ward, patient, client, or prisoner, who engages in a sexual contact with a ward, patient, client, or prisoner, or causes a ward, patient, client, or prisoner, to engage in or submit to a sexual contact shall be imprisoned for not more than 5 years or fined in an amount not to exceed \$50,000, or both.

(May 23, 1995, D.C. Law 10-257, § 213, 42 DCR 53; Apr. 24, 2007, D.C. Law 16-306, § 216(h), 53 DCR 8610.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 22-4114.

Effect of Amendments

D.C. Law 16-306 rewrote the section, which had read as follows:

"Whoever engages in sexual contact with another person or causes another person to engage in or submit to sexual contact when that other person:

"(1) Is in official custody, or is a ward or resident, on a permanent or temporary basis, of a hospital, treatment facility, or other institution; and

"(2) Is under the supervisory or disciplinary authority of the actor shall be imprisoned for not more than 5 years

and, in addition, may be fined in an amount not to exceed \$50,000."

Emergency Act Amendments

For temporary (90 day) amendment of section, see § 216(h) of Omnibus Public Safety Emergency Amendment Act of 2006 (D.C. Act 16-445, July 19, 2006, 53 DCR 6443).

For temporary (90 day) amendment of section, see § 216(h) of Omnibus Public Safety Congressional Review Emergency Amendment Act of 2006 (D.C. Act 16-490, October 18, 2006, 53 DCR 8686).

For temporary (90 day) amendment of section, see § 216(h) of Omnibus Public Safety Congressional Review Emergency Amendment Act of 2007 (D.C. Act 17-10, January 16, 2007, 54 DCR 1479).

For temporary (90 day) amendment of section, see § 216(h) of Omnibus Public Safety Second Congressional Review Emergency Amendment Act of 2007 (D.C. Act 17-25, April 19, 2007, 54 DCR 4036).

Legislative History of Laws

For legislative history of D.C. Law 10-257, see Historical and Statutory Notes following § 22-3001.

For Law 16-306, see notes following § 22-404.

§ 22-3015. FIRST DEGREE SEXUAL ABUSE OF A PATIENT OR CLIENT.

(a) A person is guilty of first degree sexual abuse who purports to provide, in any manner, professional services of a medical, therapeutic, or counseling (whether legal, spiritual, or otherwise) nature, and engages in a sexual act with another person who is a patient or client of the actor, or is otherwise in a professional relationship of trust with the actor; and

(1) The actor represents falsely that the sexual act is for a bona fide medical or therapeutic purpose, or for a bona fide professional purpose for which the services are being provided;

(2) The nature of the treatment or service provided by the actor and the mental, emotional, or physical condition of the patient or client are such that the actor knows or has reason to know that the patient or client is impaired from declining participation in the sexual act;

(3) The actor represents falsely that he or she is licensed as a particular type of professional; or

(4) The sexual act occurs during the course of a consultation, examination, treatment, therapy, or other provision of professional services.

(b) Any person found guilty pursuant to subsection (a) of this section shall be imprisoned for not more than 10 years and, in addition, may be fined in an amount not to exceed \$100,000.

(May 23, 1995, D.C. Law 10-257, § 214, 42 DCR 53; May 17, 1996, D.C. Law 11-119, § 6(b), 43 DCR 528; Apr. 24, 2007, D.C. Law 16-306, § 216(i), 53 DCR 8610.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 22-4115.

Effect of Amendments

D.C. Law 16-306, in subsec. (a)(1), deleted "or" from the end; in subsec. (a)(2), substituted a semicolon for a period; and added subsecs. (a)(3) and (4).

Emergency Act Amendments

For temporary (90 day) amendment of section, see § 216(i) of Omnibus Public Safety Emergency Amendment Act of 2006 (D.C. Act 16-445, July 19, 2006, 53 DCR 6443).

For temporary (90 day) amendment of section, see § 216(i) of Omnibus Public Safety Congressional Review Emergency Amendment Act of 2006 (D.C. Act 16-490, October 18, 2006, 53 DCR 8686).

For temporary (90 day) amendment of section, see § 216(i) of Omnibus Public Safety Congressional Review Emergency Amendment Act of 2007 (D.C. Act 17-10, January 16, 2007, 54 DCR 1479).

For temporary (90 day) amendment of section, see § 216(i) of Omnibus Public Safety Second Congressional Review Emergency Amendment Act of 2007 (D.C. Act 17-25, April 19, 2007, 54 DCR 4036).

Legislative History of Laws

For legislative history of D.C. Law 10-257, see Historical and Statutory Notes following § 22-3001.

For legislative history of D.C. Law 11-119, see Historical and Statutory Notes following § 22-3013.

For Law 16-306, see notes following § 22-404.

§ 22-3016. SECOND DEGREE SEXUAL ABUSE OF A PATIENT OR CLIENT.

(a) A person is guilty of second degree sexual abuse who purports to provide, in any manner, professional services of a medical, therapeutic, or counseling (whether legal, spiritual, or otherwise) nature, and engages in a sexual contact with another person who is a patient or client of the actor, or is otherwise in a professional relationship of trust with the actor; and

(1) The actor represents falsely that the sexual contact is for a bona fide medical or therapeutic purpose, or for a bona fide professional purpose for which the services are being provided;

(2) The nature of the treatment or service provided by the actor and the mental, emotional, or physical condition of the patient or client are such that the actor knows or has reason to know that the patient or client is impaired from declining participation in the sexual contact;

(3) The actor represents falsely that he or she is licensed as a particular type of professional; or

(4) The sexual contact occurs during the course of a consultation, examination, treatment, therapy, or other provision of professional services.

(b) Any person found guilty pursuant to subsection (a) of this section shall be imprisoned for not more than 5 years and, in addition, may be fined in an amount not to exceed \$50,000.

(May 23, 1995, D.C. Law 10-257, § 215, 42 DCR 53; Apr. 24, 2007, D.C. Law 16-306, § 216(j), 53 DCR 8610.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 22-4116.

Effect of Amendments

D.C. Law 16-306, in subsec. (a)(1), deleted "or" from the end; in subsec. (a)(2), substituted a semicolon for a period; and added subsecs. (a)(3) and (4).

Emergency Act Amendments

For temporary (90 day) amendment of section, see § 216(j) of Omnibus Public Safety Emergency Amendment Act of 2006 (D.C. Act 16-445, July 19, 2006, 53 DCR 6443).

For temporary (90 day) amendment of section, see § 216(j) of Omnibus Public Safety Congressional Review Emergency Amendment Act of 2006 (D.C. Act 16-490, October 18, 2006, 53 DCR 8686).

For temporary (90 day) amendment of section, see § 216(j) of Omnibus Public Safety Congressional Review Emergency Amendment Act of 2007 (D.C. Act 17-10, January 16, 2007, 54 DCR 1479).

For temporary (90 day) amendment of section, see § 216(j) of Omnibus Public Safety Second Congressional Review Emergency Amendment Act of 2007 (D.C. Act 17-25, April 19, 2007, 54 DCR 4036).

Legislative History of Laws

For legislative history of D.C. Law 10-257, see Historical and Statutory Notes following § 22-3001.

For Law 16-306, see notes following § 22-404.

§ 22-3017. DEFENSES TO SEXUAL ABUSE OF A WARD, PATIENT, OR CLIENT.

(a) Consent is not a defense to a prosecution under §§ 22-3013 to 22-3016, prosecuted alone or in conjunction with charges under § 22-3018.

(b) That the defendant and victim were married or in a domestic partnership at the time of the offense is a defense, which the defendant must prove by a preponderance of the evidence, to a prosecution under §§ 22-3013 to 22-3016, prosecuted alone or in conjunction with charges under § 22-3018.

(May 23, 1995, D.C. Law 10-257, § 216, 42 DCR 53; Dec. 10, 2009, D.C. Law 18-88, § 404(b), 56 DCR 7413.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 22-4117.

Effect of Amendments

D.C. Law 18-88, in subsec. (b), substituted "That the defendant and victim were married or in a domestic partnership" for "Marriage between the defendant and victim".

Emergency Act Amendments

For temporary (90 day) amendment of section, see § 404(b) of Omnibus Public Safety and Justice Emergency Amendment Act of 2009 (D.C. Act 18-181, August 6, 2009, 56 DCR 6903).

For temporary (90 day) amendment of section, see § 404(b) of Omnibus Public Safety and Justice Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-227, October 21, 2009, 56 DCR 8668).

Legislative History of Laws

For legislative history of D.C. Law 10-257, see Historical and Statutory Notes following § 22-3001.

For Law 18-88, see notes following § 22-404.

§ 22-3018. ATTEMPTS TO COMMIT SEXUAL OFFENSES.

Any person who attempts to commit an offense under this subchapter shall be imprisoned for a term of years not to exceed 15 years where the maximum prison term authorized for the offense is life or for not more than 1/2 of the maximum prison sentence authorized for the offense and, in addition, may be fined an amount not to exceed 1/2 of the maximum fine authorized for the offense.

(May 23, 1995, D.C. Law 10-257, § 217, 42 DCR 53.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 22-4118.

Legislative History of Laws

For legislative history of D.C. Law 10-257, see Historical and Statutory Notes following § 22-3001.

§ 22-3019. NO IMMUNITY FROM PROSECUTION FOR SPOUSES OR DOMESTIC PARTNERS.

No actor is immune from prosecution under any section of this subchapter because of marriage, domestic partnership, or cohabitation with the victim; provided, that marriage or the domestic partnership of the parties may be asserted as an affirmative defense in prosecution under this subchapter where it is expressly so provided.

(May 23, 1995, D.C. Law 10-257, § 218, 42 DCR 53; Apr. 24, 2007, D.C. Law 16-306, § 216(k), 53 DCR 8610.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 22-4119.

Effect of Amendments

D.C. Law 16-306 rewrote the section, which had read as follows:

"§ 22-3019. No spousal immunity from prosecution.

"No actor is immune from prosecution under any section of this subchapter because of marriage or cohabitation with the victim; provided, however, that marriage of the parties may be asserted as an affirmative defense in a prosecution under this subchapter where it is expressly so provided."

Emergency Act Amendments

For temporary (90 day) amendment of section, see § 216(k) of Omnibus Public Safety Emergency Amendment Act of 2006 (D.C. Act 16-445, July 19, 2006, 53 DCR 6443).

For temporary (90 day) amendment of section, see § 216(k) of Omnibus Public Safety Congressional Review Emergency Amendment Act of 2006 (D.C. Act 16-490, October 18, 2006, 53 DCR 8689).

For temporary (90 day) amendment of section, see § 216(k) of Omnibus Public Safety Congressional Review Emergency Amendment Act of 2007 (D.C. Act 17-10, January 16, 2007, 54 DCR 1479).

For temporary (90 day) amendment of section, see § 216(k) of Omnibus Public Safety Second Congressional Review Emergency Amendment Act of 2007 (D.C. Act 17-25, April 19, 2007, 54 DCR 4036).

Legislative History of Laws

For legislative history of D.C. Law 10-257, see Historical and Statutory Notes following § 22-3001.

For Law 16-306, see notes following § 22-404.

§ 22-3020. AGGRAVATING CIRCUMSTANCES.

(a) Any person who is found guilty of an offense under this subchapter may receive a penalty up to 1 1/2 times the maximum penalty prescribed for the particular offense, and may receive a sentence of more than 30 years up to, and including life imprisonment without possibility of release for first degree sexual abuse or first degree child sexual abuse, if any of the following aggravating circumstances exists:

- (1) The victim was under the age of 12 years at the time of the offense;
- (2) The victim was under the age of 18 years at the time of the offense and the actor had a significant relationship to the victim;
- (3) The victim sustained serious bodily injury as a result of the offense;
- (4) The defendant was aided or abetted by 1 or more accomplices;
- (5) The defendant is or has been found guilty of committing sex offenses against 2 or more victims, whether in the same or other proceedings by a court of the District of Columbia, any state, or the United States or its territories; or
- (6) The defendant was armed with, or had readily available, a pistol or other firearm (or imitation thereof) or other dangerous or deadly weapon.

(b) It is not necessary that the accomplices have been convicted for an increased punishment (or enhanced penalty) to apply under subsection (a)(4) of this section.

(c) No person who stands convicted of an offense under this subchapter shall be sentenced to increased punishment (or enhanced penalty) by reason of the aggravating factors set forth in subsection (a) of this section, unless prior to trial or before entry of a plea of guilty, the United States Attorney or the Corporation Counsel, as the case may be, files an information with the clerk of the court, and serves a copy of such information on the person or counsel for the person, stating in writing the aggravating factors to be relied upon.

(May 23, 1995, D.C. Law 10-257, § 219, 42 DCR 53; May 17, 1996, D.C. Law 11-119, § 6(c), 43 DCR 528; June 8, 2001, D.C. Law 13-302, § 7(c), 47 DCR 7249.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 22-4120.

Effect of Amendments

D.C. Law 13-302 substituted "a sentence of more than 30 years up to, and including life imprisonment without possibility of release for first degree sexual abuse or first degree child sexual abuse," for "a life sentence without parole, if life imprisonment is the maximum penalty prescribed for the offense,".

Emergency Act Amendments

For temporary (90-day) amendment of section, see § 7(c) of the Sentencing Reform Emergency Amendment Act of 2000 (D.C. Act 13-410, August 11, 2000, 47 DCR 7271).

For temporary (90 day) amendment of section, see § 7(c) of Sentencing Reform Congressional Review Emergency Amendment Act of 2001 (D.C. Act 14-2, February 2, 2001, 48 DCR 2239).

For temporary (90 day) amendment of section, see § 7(c) of Sentencing Reform Second Congressional Review Emergency Amendment Act of 2001 (D.C. Act 14-51, May 2, 2001, 48 DCR 4370).

Legislative History of Laws

For legislative history of D.C. Law 10-257, see Historical and Statutory Notes following § 22-3001.

For legislative history of D.C. Law 11-119, see Historical and Statutory Notes following § 22-3013.

For Law 13-302, see notes following § 22-722.

SUBCHAPTER III. ADMISSION OF EVIDENCE IN SEXUAL ABUSE OFFENSE CASES.

§ 22-3021. REPUTATION OR OPINION EVIDENCE OF VICTIM'S PAST

SEXUAL BEHAVIOR INADMISSIBLE.

(a) Notwithstanding any other provision of law, in a criminal case in which a person is accused of an offense under subchapter II of this chapter, reputation or opinion evidence of the past sexual behavior of an alleged victim of such offense is not admissible.

(b) For the purposes of this subchapter, "past sexual behavior" means sexual behavior other than the sexual behavior with respect to which an offense under subchapter II of this chapter is alleged.

(May 23, 1995, D.C. Law 10-257, § 301, 42 DCR 53.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 22-4121.

Legislative History of Laws

For legislative history of D.C. Law 10-257, see Historical and Statutory Notes following § 22-3001.

§ 22-3022. ADMISSIBILITY OF OTHER EVIDENCE OF VICTIM'S PAST SEXUAL BEHAVIOR.

(a) Notwithstanding any other provision of law, in a criminal case in which a person is accused of an offense under subchapter II of this chapter, evidence of a victim's past sexual behavior other than reputation or opinion evidence is also not admissible, unless such evidence other than reputation or opinion evidence is:

(1) Admitted in accordance with subsection (b) of this section and is constitutionally required to be admitted; or

(2) Admitted in accordance with subsection (b) of this section and is evidence of:

(A) Past sexual behavior with persons other than the accused, offered by the accused upon the issue of whether the accused was or was not, with respect to the alleged victim, the source of semen or bodily injury; or

(B) Past sexual behavior with the accused where consent of the alleged victim is at issue and is offered by the accused upon the issue of whether the alleged victim consented to the sexual behavior with respect to which such offense is alleged.

(b)(1) If the person accused of committing an offense under subchapter II of this chapter intends to offer under subsection (a) of this section, evidence of specific instances of the alleged victim's past sexual behavior, the accused shall make a written motion to offer such evidence not later than 15 days before the date on which the trial in which such evidence is to be offered is scheduled to begin, except that the court may allow the motion to be made at a later date, including during trial, if the court determines either that the evidence is newly discovered and could not have been obtained earlier through the exercise of due diligence or that the issue to which such evidence relates has newly arisen in the case. Any motion made under this paragraph, and the accompanying offer of proof, shall be filed under seal and served on all other parties and on the alleged victim.

(2) The motion described in paragraph (1) of this subsection shall be accompanied by a written offer of proof. If the court determines that the offer of proof contains evidence described in subsection (a) of this section, the court shall order a hearing in chambers to determine if such evidence is admissible. At such hearing, the parties may call witnesses, including the alleged victim, and offer relevant evidence. If the relevancy of the evidence which the accused seeks to offer in the trial depends upon the fulfillment of a condition of fact, the court, at the hearing in chambers, or at a subsequent hearing in chambers scheduled for such purpose, shall accept evidence on the issue of whether such condition of fact is fulfilled and shall determine such issue.

(3) If the court determines on the basis of the hearing described in paragraph (2) of this subsection that the evidence which the accused seeks to offer is relevant and that the probative value of such evidence outweighs the danger of unfair prejudice, such evidence shall be admissible in the trial to the extent an order made by the court specifies evidence which may be offered and areas with respect to which the alleged victim may be examined or cross-examined.

(May 23, 1995, D.C. Law 10-257, § 302, 42 DCR 53.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 22-4122.

Legislative History of Laws

For legislative history of D.C. Law 10-257, see Historical and Statutory Notes following § 22-3001.

§ 22-3023. PROMPT REPORTING.

Evidence of delay in reporting an offense under subchapter II of this chapter to a public authority shall not raise any presumption concerning the credibility or veracity of a charge under subchapter II of this chapter.

(May 23, 1995, D.C. Law 10-257, § 303, 42 DCR 53.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 22-4123.

Legislative History of Laws

For legislative history of D.C. Law 10-257, see Historical and Statutory Notes following § 22-3001.

§ 22-3024. PRIVILEGE INAPPLICABLE FOR SPOUSES OR DOMESTIC PARTNERS.

Laws attaching a privilege against disclosure of communications between spouses or domestic partners are inapplicable in prosecutions under subchapter II of this chapter where the defendant is or was married to the victim, or is or was a domestic partner of the victim, or where the victim is a child.

(May 23, 1995, D.C. Law 10-257, § 304, 42 DCR 53; Apr. 24, 2007, D.C. Law 16-306, § 216(l), 53 DCR 8610.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 22-4124.

Effect of Amendments

D.C. Law 16-306 rewrote the section, which had read as follows:

"§ 22-3024. Spousal privilege inapplicable.

"Laws attaching a privilege against disclosure of communications between a husband and wife are inapplicable in prosecutions under subchapter II of this chapter where the defendant is or was married to the victim or where the victim is a child."

Emergency Act Amendments

For temporary (90 day) amendment of section, see § 216(l) of Omnibus Public Safety Emergency Amendment Act of 2006 (D.C. Act 16-445, July 19, 2006, 53 DCR 6443).

For temporary (90 day) amendment of section, see § 216(l) of Omnibus Public Safety Congressional Review Emergency Amendment Act of 2006 (D.C. Act 16-490, October 18, 2006, 53 DCR 8686).

For temporary (90 day) amendment of section, see § 216(l) of Omnibus Public Safety Congressional Review Emergency Amendment Act of 2007 (D.C. Act 17-10, January 16, 2007, 54 DCR 1479).

For temporary (90 day) amendment of section, see § 216(l) of Omnibus Public Safety Second Congressional Review Emergency Amendment Act of 2007 (D.C. Act 17-25, April 19, 2007, 54 DCR 4036).

Legislative History of Laws

For legislative history of D.C. Law 10-257, see Historical and Statutory Notes following § 22-3001.

For Law 16-306, see notes following § 22-404.