

Definition of Sexual Abuse

Sexual abuse is defined as when any person commits any of the following acts. Unless otherwise specified, a child is defined as someone under the age of 18.

It's a pretty long definition. Take a few moments to read it and then we will break it down to examine the different parts. The various phrases included in the definition have very specific meanings.

- **Sexual intercourse or sexual contact**
 - with a child 15 years of age or younger (consent is not a consideration)
 - with a child 16 or 17 years old, when he or she does not consent
 - with a child by the child's foster parent (consent is not a consideration)
 - with a child placed in substitute care, by a person who works at, or volunteers at or has a responsibility to manage the facility where the child is placed (consent is not a consideration)
 - with a child who receives direct care or treatment services from certain organizations or facilities (child welfare agency, shelter care, child care center, etc.), by an employee, licensee or non-client resident of the organization or facility (consent is not a consideration)
- **Sexual exploitation of a child**
- **Permitting or encouraging a child to engage in prostitution**
- **Intentionally causing a child to view or listen to sexually explicit conduct for the purpose of sexually gratifying oneself or sexually humiliating the child.**
- **Exposing oneself to a child or causing the child to expose himself or herself for the purpose of sexually gratifying oneself or sexually humiliating the child.**

What is "sexual contact"?

Sexual contact primarily is intentional touching, either directly or over the clothing, of a child's intimate body parts, for the purpose of sexually gratifying oneself or sexually humiliating the child.

What about that phrase “for the purpose of sexually gratifying oneself or sexually humiliating the child”? Why is it included in the definition?

The act of touching a child’s genital area is not, by itself, sexual abuse. Consider wiping a toddler’s bottom during a diaper change. Or providing care for the child’s genital or anal area for any number of medical problems. These are normal, even necessary, care activities and should not be confused with sexual abuse.

What is “sexual exploitation”?

Sexual exploitation of a child includes:

- employing or persuading or coercing a child to engage in sexually explicit behavior for the purpose of photographing, filming or recording that behavior
- any part of the business aspect of the enterprise, such as recording, displaying, producing, advertising, distributing, etc.
- a person responsible for the child’s welfare knowingly permitting the child to engage in sexually explicit conduct for the above purposes

What is “sexually explicit conduct”?

The statutes define this as actual or simulated intercourse, bestiality, masturbation, sexual sadism or masochism, or lewd exhibition of intimate body parts.

Who can sexually abuse a child?

As in physical abuse, sexual abuse can be committed by any other person – a parent, a relative, a caregiver, a teacher, a family friend, a neighbor, and even, in some cases, by another child. Sexual curiosity and behaviors that are normal for children at various stages of development, however, should not be confused with this definition.

Why is consent a consideration in some instances of sexual contact or intercourse with a child but not others?

For children aged 15 or younger, the idea is that they have not developed enough cognitively, emotionally or socially to understand what they are consenting to, and are easily exploited and manipulated by older persons. Stipulating that they cannot legally consent means that the maltreater cannot use consent as a defense in court. There is an exception to the reporting law for a subset of these children which you will learn about later.

Children placed in foster homes, group homes and treatment facilities are also especially vulnerable to the adults who care for, oversee or provide services to them, Stipulating that they cannot legally consent offers them the same protection as children 15 years old or younger.

What is considered consent?

Consent must be freely and knowingly given. The law does not recognize a person's consent to sexual activity if that person is unable to judge the implications or ramifications because of mental illness, mental deficiency or intoxication.

What are some situations that you may come across that are not sexual abuse?

Here are three examples.

- Sexual contact with a 16 or 17 year old that is completely voluntary on the part of the child.
- Sexual intercourse with a 16 or 17 year old that is completely voluntary on the part of the child. This is a misdemeanor in the criminal code, but is not one of the specified types of sexual abuse in the reporting law.
- Developmentally normal sexual curiosity or behaviors displayed between pre-adolescents of similar age or development

TIP: Not all sexual crimes against minors are included in the legal definition of sexual abuse. Law enforcement agencies investigate all types of sexual crimes against children and take whatever action might be indicated under the criminal code. As a mandated reporter, you are only required to report those circumstances that are defined as sexual abuse in the reporting law, as described in s. 48.981 of the state statutes and Executive Order 54 and as discussed in this section.