

2016 -- S 2535

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LC004754
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

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A N A C T

RELATING TO CRIMINAL OFFENSES -- SEXUAL ASSAULT

Introduced By: Senators Nesselbush, Lynch Prata, Crowley, Coyne, and Goodwin

Date Introduced: February 25, 2016

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 11-37-1, 11-37-2 and 11-37-4 of the General Laws in Chapter 11-
2 37 entitled "Sexual Assault" are hereby amended to read as follows:

3 **11-37-1. Definitions. --** The following words and phrases, when used in this chapter,
4 have the following meanings:

5 (1) "Accused" means a person accused of a sexual assault.

6 (2) "Force or coercion" means when the accused does any of the following:

7 (i) Uses or threatens to use a weapon, or any article used or fashioned in a manner to lead
8 the victim to reasonably believe it to be a weapon.

9 (ii) Overcomes the victim through the application of physical force or physical violence.

10 (iii) Coerces the victim to submit by threatening to use force or violence on the victim
11 and the victim reasonably believes that the accused has the present ability to execute these threats.

12 (iv) Coerces the victim to submit by threatening to at some time in the future murder,
13 inflict serious bodily injury upon or kidnap the victim or any other person and the victim
14 reasonably believes that the accused has the ability to execute this threat.

15 (3) "Intimate parts" means the genital or anal areas, groin, inner thigh, or buttock of any
16 person or the breast of a female.

17 (4) "Mentally disabled" means a person who has a mental impairment which renders that
18 person incapable of appraising the nature of the act.

19 (5) "Mentally incapacitated" means a person who is rendered temporarily incapable of

1 appraising or controlling his or her conduct due to the influence of a narcotic, anesthetic, or other
2 substance administered to that person without his or her consent, or who is mentally unable to
3 communicate unwillingness to engage in the act.

4 (6) "Physically helpless" means a person who is unconscious, asleep, or for any other
5 reason is physically unable to communicate unwillingness to an act.

6 (7) "Position of authority" means and includes, but is not limited to, any person who is a
7 parent or acting in the place of a parent and charged with any of a parent's rights, duties or
8 responsibilities to a person nineteen (19) years of age or under, or a person who is charged with
9 any duty or responsibility for the health, welfare, or supervision of a person nineteen (19) years of
10 age or under, either independently or through another, no matter how brief, at the time of the act.

11 ~~(7)~~(8) "Sexual contact" means the intentional touching of the victim's or accused's
12 intimate parts, clothed or unclothed, if that intentional touching can be reasonably construed as
13 intended by the accused to be for the purpose of sexual arousal, gratification, or assault.

14 ~~(8)~~(9) "Sexual penetration" means sexual intercourse, cunnilingus, fellatio, and anal
15 intercourse, or any other intrusion, however slight, by any part of a person's body or by any object
16 into the genital or anal openings of another person's body, or the victim's own body upon the
17 accused's instruction, but emission of semen is not required.

18 ~~(9)~~(10) "Spouse" means a person married to the accused at the time of the alleged sexual
19 assault, except that such persons shall not be considered the spouse if the couple are living apart
20 and a decision for divorce has been granted, whether or not a final decree has been entered.

21 ~~(10)~~(11) "Victim" means the person alleging to have been subjected to sexual assault.

22 **11-37-2. First degree sexual assault. --** A person is guilty of first degree sexual assault if
23 he or she engages in sexual penetration with another person, and if any of the following
24 circumstances exist:

25 (1) The accused, not being the spouse, knows or has reason to know that the victim is
26 mentally incapacitated, mentally disabled, or physically helpless.

27 (2) The accused uses force or coercion.

28 (3) The accused, through concealment or by the element of surprise, is able to overcome
29 the victim.

30 (4) The accused engages in the medical treatment or examination of the victim for the
31 purpose of sexual arousal, gratification, or stimulation.

32 (5) The accused has supervisory or disciplinary power over the victim by virtue of the
33 accused's legal, professional, voluntary or occupational status or is in a position of authority, and
34 the victim is nineteen (19) years of age or under.

1 **11-37-4. Second degree sexual assault.** -- A person is guilty of a second-degree sexual
2 assault if he or she engages in sexual contact with another person and if any of the following
3 circumstances exist:

4 (1) The accused knows or has reason to know that the victim is mentally incapacitated,
5 mentally disabled, or physically helpless.

6 (2) The accused uses force, element of surprise, or coercion.

7 (3) The accused engages in the medical treatment or examination of the victim for the
8 purpose of sexual arousal, gratification, or stimulation.

9 (4) [The accused has supervisory or disciplinary power over the victim by virtue of the](#)
10 [accused's legal, professional, voluntary or occupational status or is in a position of authority, and](#)
11 [the victim is nineteen \(19\) years of age or under.](#)

12 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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RELATING TO CRIMINAL OFFENSES -- SEXUAL ASSAULT

1 This act would define any act of sexual penetration or contact performed by an individual
2 with supervisory or disciplinary power, or who is in a position of authority, upon a person
3 nineteen (19) years of age or younger, as sexual assault.

4 This act would take effect upon passage.

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