

**From:** [Robert Gallimore](#)  
**To:** [J. Russell Jennings](#); [Blaine Finch](#)  
**Cc:** [Linda Kentch](#); [Natalie Scott](#); [Jenna Moyer](#); [Jordan Milholland](#); [Lauren Mendoza](#)  
**Subject:** Memo regarding other state "Romeo and Juliet" laws  
**Date:** Wednesday, February 14, 2018 5:30:14 PM  
**Attachments:** [KLRD Romeo and Juliet Memo.pdf](#)

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Rep. Jennings:

In today's House Committee on Corrections and Juvenile Justice hearing, Rep. Finch requested information regarding other states' Romeo and Juliet laws. You requested we forward a KLRD memo prepared by Lauren Mendoza on the topic for the 2017 Joint Committee on Corrections and Juvenile Justice Oversight. That memo is attached.

Thanks,

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**To:** Joint Committee on Corrections and Juvenile Justice Oversight

**From:** Lauren Mendoza, Principal Research Analyst

**Re:** "Romeo and Juliet" Statutes in Kansas and Other States

"Romeo and Juliet" statutes lessen penalties for certain sex crimes when those involved are a certain age or whose ages are within a certain range of years. This memorandum summarizes "Romeo and Juliet" or age gap statutes in effect in each state.

State (Age of Consent) / Statutes	"Romeo and Juliet" Provisions
Alabama (16) Ala. Code §§ 13A-6-70, 13A-6-62	Reduces from <u>first to second degree rape</u> when a 16 year old engages in sexual intercourse with a member of the opposite sex less than 16 but older than 12 and is at least 2 years older than the member of the opposite sex
Alaska (16) Alaska Stat. §§ 11.41.434 to 440	Defines <u>first degree sexual abuse of a minor</u> as applying to an actor who is 16 or older and a victim who is under 13 Defines <u>second degree sexual abuse of a minor</u> as applying to an actor who is 17 or older and a victim who is between 13 and 15 and is at least 4 years younger than the actor Defines <u>fourth degree sexual abuse of a minor</u> as applying to an actor who is under 16 and a victim who is under 13 and at least three years younger than the actor
Arizona (18) Ariz. Rev. Stat. Ann. § 13-1407	Reduces degree of felony for the crimes of <u>sexual conduct with a minor</u> and <u>aggravated luring a minor for sexual exploitation</u> when the victim is 15, 16, or 17; the actor is under 19 or attending high school and is no more than 24 months older than the victim; and conduct is consensual
Arkansas (16) Ark. Code Ann. §§ 5-14-103; 5-14-124 to 126	Affirmative defense to <u>rape of a victim who is less than 14</u> that the actor was not more than 3 years older than the victim Affirmative defense to <u>second degree sexual assault of a victim less than 14</u> that the actor was 3 years older than a victim less than 12 or 4 years older than a victim 12 or older Affirmative defense to <u>third degree sexual assault of a victim less than 14</u> that the actor is not more than 3 years older than the victim
California (18) Calif. Penal Code § 261.5	Specifies <u>unlawful sexual intercourse with a minor</u> is a misdemeanor, rather than a felony, when a minor is not more than 3 years older or 3 years younger than the perpetrator; persons over 18 may still be subject to a fine
Colorado (17) Colo. Rev. Stat. § 18-3-402	Specifies <u>sexual assault</u> is a class 4 felony when the victim is less than 15 and the actor is at least 4 years older than the victim or class 1 misdemeanor and an "extraordinary risk crime" subject to a modified sentencing range when the victim is at least 15 but less than 17 and the actor is at least 10 years older than the victim

State (Age of Consent) / Statutes	"Romeo and Juliet" Provisions
Connecticut (16) Conn. Gen. Stat. §§ 53a-71(a)(1), 53a-73a	Reduces from <u>first to second degree sexual assault</u> when the victim is between ages of 13 and 16 and the actor is 3 years older than the victim; Defines <u>sexual assault in the fourth degree</u> as applying to a victim under thirteen years of age and an actor who is more than two years older than the victim
Delaware (16) Del. Code Ann. tit. 11, § 762	Affirmative defense to <u>sexual offenses in which the victim's age is an element</u> when the victim "knowingly" consented to the act, is between the ages of 12 and 16, and is less than 4 years younger than the actor
Florida (18) Fla. Stat. § 943.04354	No reduction in criminal penalties, however, allows consideration for removal from the sex offender registry if the person is not more than 4 years older than the victim who is between the ages of 13 and 18 at the time of the violation
Georgia (16) Ga. Code Ann. § 16-6-3	Specifies <u>statutory rape</u> is a misdemeanor when the victim is between the ages of 14 and 16 and the actor is under 18 and is no more than 4 years older than the victim
Hawaii (16) Haw. Rev. Stat. §§ 707-730, 732	Defines <u>first and third degree sexual assault</u> as applying to an actor not less than 5 years older than a victim between the ages of 14 and 16
Idaho (18) Idaho Code Ann. §§ 18-1508A, 6101	Defines <u>sexual battery of a 16 or 17 year old</u> as applying to an actor at least 5 years older Defines <u>rape of a 16 or 17 year old</u> as applying to an actor at least 3 years older
Illinois (17) 720 Ill. Comp. Stat. Ch. 5/11-1.150	Reduces <u>criminal sexual abuse</u> from a class 4 felony to a Class A misdemeanor when the actor is less than 5 years older than a victim between the ages of 13 and 17
Indiana (16) Ind. Code § 34-42-4-9	Affirmative defense to <u>sexual misconduct with a minor</u> when the actor is less than 21 and not more than 4 years older than the victim; the two were dating; there was no use of or threat to use deadly force, use of a weapon, or resulting injuries; no drugs were involved; and the actor was not in a position of trust and had not previously committed another sex offense
Iowa (16) Iowa Code § 709.4	Defines <u>third degree sexual abuse when the victim is 14 or 15</u> to apply to an actor 4 or more years older than the victim
Kansas (16) Kan. Stat. Ann § 21-5507	Defines the crime of <u>unlawful voluntary sexual relations</u> as applying to a victim who is between the ages of 14 and 16 and an actor younger than 19 and less than 4 years older than the victim; carries penalties ranging from a severity level 8 person felony (voluntary sexual intercourse) to a level 10, person felony (voluntary lewd fondling or touching)
Kentucky (16) Ky. Rev. Stat. §§ 510.120, 510.130, 510.050, 515.060	Affirmative defense to <u>second degree sexual abuse</u> when lack of consent is due solely to incapacity to consent by reason of being less than 16, the victim was at least 14, and the actor was less than 5 years older than the victim Affirmative defense to <u>third degree sexual abuse</u> when lack of consent is due solely to incapacity to consent by reason of being less than 16, the victim was at least 14, and the actor was less than 18 years old Specifies <u>second degree rape</u> applies when the victim is under 14 and the actor is over 18 Specifies <u>third degree rape</u> applies when the victim is under 16 and the actor is over 21
Louisiana (17) La. Rev. Stat. Ann. § 14:80.1, 14:80	Defines <u>misdemeanor carnal knowledge of a juvenile</u> as consensual sex involving a 17 year old and a person between the ages of 13 and 17 when there is an age difference of between 2 and 4 years Defines <u>indecent behavior with juveniles</u> as any lewd or lascivious act upon the person or in the presence of any child under the age of 17 when there is an age difference of greater than 2 years

<b>State (Age of Consent) / Statutes</b>	<b>“Romeo and Juliet” Provisions</b>
Maine (16) Me. Rev. Stat. Ann. tit. 17-A, § 254	Defines <u>sexual abuse of a minor</u> as applying to a victim who is either 14 or 15 when the actor is at least 5 years older
Maryland (16) Md. Code Ann. Crim. Law § 3-304	Defines <u>second degree rape</u> as applying when the victim is under 14, and the other individual is at least 4 years older
Massachusetts (16) Mass. Gen. Laws ch. 265 § 23A	No statute identified; always unlawful when a child is under 16
Michigan (16) Mich. Comp. Laws § 750.520e	Defines <u>fourth degree sexual conduct</u> as applying to a victim between the ages of 13 and 16 when the actor is at least 5 years older
Minnesota (16) Minn. Stat. § 609.344	Defines <u>third degree criminal sexual conduct</u> as applying to a victim between the ages of 13 and 16 when the actor is at least 2 years older
Mississippi (16) Miss. Code Ann. § 97-3-65	Defines <u>statutory rape</u> as applying to an actor 17 or older and a victim between the ages of 14 and 16 who is 36 or more months younger than the actor; OR to an actor of any age and a victim under 14 who is 24 or more months younger than the actor
Missouri (17) Mo. Rev. Stat. §§ 566.032, 566.034	Defines <u>second degree statutory rape</u> as applying to an actor over 21 and a victim under 17; <u>first degree statutory rape</u> applies to a victim under 14
Montana (16) Mont. Code Ann. § 45-5-502	Provides consent is ineffective as a defense to <u>sexual assault</u> when the victim is less than 14 and the actor is 3 or more years older than the victim.
Nebraska (17) Neb. Rev. Stat. §§ 28-319, 28-320.01	Defines <u>first degree sexual assault</u> as applying to an actor who is at least 19 years of age when the victim is between the ages of 12 and 16
Nevada (16) Nev. Rev. Stat. § 200.368	Exception to <u>sexual assault</u> if an actor is less than 18 and not more than 2 years older than the victim unless force or threat of force is used or the actor knows or should know the victim is mentally or physically incapable of resisting or understanding the nature of his or her conduct
New Hampshire (16) N.H. Rev. Stat. Ann. §§ 632-A:3, 632-A:4	Lessens the penalty for <u>sexual assault</u> from a felony to a misdemeanor when the victim is between the ages of 13 and 16 and the age difference between the victim and the other person is 4 years or less
New Jersey (16) N.J. Stat. Ann. § 2C:14-2	Defines <u>sexual assault</u> as applying to a victim between the ages of 13 and 16 and an actor who is at least four years older.
New Mexico (17) N.M. Stat. Ann. § 30-9-11	Defines <u>fourth degree criminal sexual penetration</u> as applying to a victim between the ages of 13 and 16 when the actor is 18 and at least 4 years older than the victim
New York (17) N.Y. Penal Law §§ 130.25, 130.30	Defines <u>second degree rape</u> as applying to an actor 18 or older when the victim is less than 15 years of age; provides an affirmative defense when the actor is less than four years older than the victim Defines <u>third degree rape</u> as applying to an actor who is 21 or older when the victim is less than 17
North Carolina (16) N.C. Gen. Stat. §§ 14-27.25, 14-27.24	Defines <u>first-degree statutory rape</u> as applying to a victim under 13 and an actor who is at least 12 and is at least 4 years older than the victim Defines <u>statutory rape of person 15 years or younger</u> as applying to an actor

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	who is at least 12 and at least 6 years older than the victim
North Dakota (18) N.D. Cent. Code § 12.1-20-07	Reduces the penalty for <u>sexual assault</u> from a class C felony to a class A misdemeanor when the actor is between the ages of 18 and 22 and the victim is at least 15
Ohio (16) Ohio Rev. Code Ann. §§ 2907.02, 2907.04	Specifies an actor who pleads guilty or is convicted of <u>rape</u> who was less than 16, has not previously been convicted of rape, and during or immediately after the commission of the offense did not cause serious physical harm to the victim, shall not be sentenced to prison when the victim was 10 or older Defines <u>unlawful sexual conduct with a minor</u> as applying to a victim between the ages of 13 and 16 and an actor who is at least 18; reduces the penalty from a fourth degree felony to a first degree misdemeanor when the actor is less than 4 years older than the victim
Oklahoma (16) Okla. Stat. tit. 21 § 1112	Specifies a person cannot be convicted of <u>rape</u> for sexual intercourse with anyone over the age of 14 years, with his or her consent, unless the actor was 18 or older at the time of the act
Oregon (18) Or. Rev. Stat. §§ 163.345	Affirmative defense to <u>second and third-degree rape, first, second, and third-degree sexual abuse, unlawful sexual penetration with the hand, and contributing to the sexual delinquency of a minor</u> , when the victim's lack of consent was due solely to incapacity to consent by reason of being less than a specified age, that the actor was less than 3 years older than the victim Affirmative defense to <u>sexual misconduct</u> , when the victim was at least 15 and lack of consent was due solely to incapacity to consent by reason of being less than a specified age, that the actor was less than 3 years older than the victim
Pennsylvania (16) 18 Pa. Cons. Stat. § 3122.1	Defines <u>second degree statutory sexual assault</u> as applying to a victim under the age of 16 and an actor who is either between 4 and 8 or between 8 and 11 years older than the victim
Rhode Island (16) R.I. Gen. Laws § 11-37-6	Defines <u>third degree sexual assault</u> as applying to an actor over 18 and a victim between the ages of 14 and 16
South Carolina (16) S.C. Code Ann. §§ 16-3-655; 23-3-430	Specifies a person may not be convicted of <u>second-degree criminal sexual conduct with a minor</u> when the actor is 18 or less and engages in consensual lewd or lascivious conduct with a victim who is at least 14
South Dakota (16) S.D. Codified Laws §§ 22-22-1, 22-22-7, 22-22-7.3	Defines <u>rape</u> as applying to a victim between the ages of 13 and 16 and an actor who is at least 3 years older Reduces the penalty for <u>sexual contact with a child under 16</u> from a class 3 felony to a class 1 misdemeanor when the victim is at least 13 and the actor is less than 5 years older than the victim; specifies the penalty for such crime is a class 1 misdemeanor when both parties are under 16
Tennessee (18) Tenn. Code Ann. § 39-13-506	Defines <u>mitigated statutory rape</u> as applying to a victim who is between the ages of 15 and 18 and an actor who is between 4 and 5 years older than the victim Defines <u>statutory rape</u> as applying to a victim who is between the ages of 13 and 15 and an actor who is between 4 and 10 years older than the victim; OR a victim between the ages of 15 and 18 and an actor who is between 5 and 10 years older than the victim
Texas (17) Tex. Penal Code Ann. § 21.11	Affirmative defense to <u>indecentcy with a child</u> that the actor was not more than 3 years older than the victim and of the opposite sex; did not use duress, force, or a threat; and at the time of the offense was neither required to register for life as a sex offender nor a person who had a reportable conviction/adjudication for an offense under this section

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Utah (18) Utah Code Ann. §§ 76-5-401.1, 401.2, 401.3	<p>Defines <u>sexual abuse of a minor</u> as applying to a victim who is between the ages of 14 and 16 and an actor who is at least 4 years older; specifies the crime is a third degree felony, rather than a class A misdemeanor, if the actor is 18 or older</p> <p>Defines <u>unlawful sexual conduct with a 16 or 17 year old</u> as applying to an actor who is between 7 and 10 years older than the minor</p> <p>Reduces the penalty for <u>unlawful adolescent sexual activity</u> from a third degree felony to: a class A misdemeanor when the parties are 16 and 13 OR aged 14 or 15 and 12; a class B misdemeanor when the parties are 17 and 14 OR 15 and 13; and a class C misdemeanor when the parties are 12 or 13 OR 14 and 13</p>
Vermont (16) Vt. Stat. Ann. tit. 13 §§ 3252, 3253	<p>States no person shall engage in a sexual act with a child under 16 except where the person is less than 19, the child is at least 15, and the sexual act is consensual</p> <p>Defines <u>aggravated sexual assault</u> as applying to a victim under 13 and an actor who is at least 18</p>
Virginia (18) Va. Code Ann. § 18.2-63	<p>Reduces the penalty for <u>carnal knowledge of a child between 13 and 15 years of age</u> from a class 6 felony to a class 4 misdemeanor when the conduct is consensual and the actor is less than 3 years older than the consenting child</p>
Washington (16) Wash. Rev. Code §§ 9A.44.073, .076, .079	<p>Defines <u>first degree rape of a child</u> as applying to a victim less than 12 and a perpetrator who is at least 24 months older than the victim</p> <p>Defines <u>second degree rape of a child</u> as applying to a victim between the ages of 12 and 14 and a perpetrator who is at least 36 months older than the victim</p> <p>Defines <u>third degree rape of a child</u> as applying to a victim between the ages of 14 and 16 and a perpetrator who is at least 48 months older than the victim</p>
West Virginia (16) W. Va. Code §§ 61-8B-3, 61-8B-5, 61-8B-9	<p>Defines <u>first degree sexual assault</u> as applying to an actor who is 14 or older and a victim younger than 12</p> <p>Defines <u>third degree sexual assault</u> as applying to an actor who is 16 or older and a victim who is less than 16 and at least 4 years younger than the actor; affirmative defense to such crime that the actor was less than 16 or was less than 4 years older</p>
Wisconsin (18) Wis. Stat. § 948.09	<p>Specifies <u>sexual intercourse with a child age 16 or older</u> is a misdemeanor</p>
Wyoming (16) Wyo. Stat. Ann. §§ 6-2-314, 315, 316	<p>Defines <u>first degree sexual abuse of a minor</u> as applying to an actor older than 16 and a victim who is less than 13</p> <p>Defines <u>second degree sexual abuse of a minor</u> as applying to an actor 17 or older and a victim between the ages of 13 and 15 who is at least 4 years younger than the actor</p> <p>Defines <u>third degree sexual abuse of a minor</u> as applying to an actor 16 or older and a victim less than 13 who is at least 3 years younger than the actor</p>

LSM/mkl