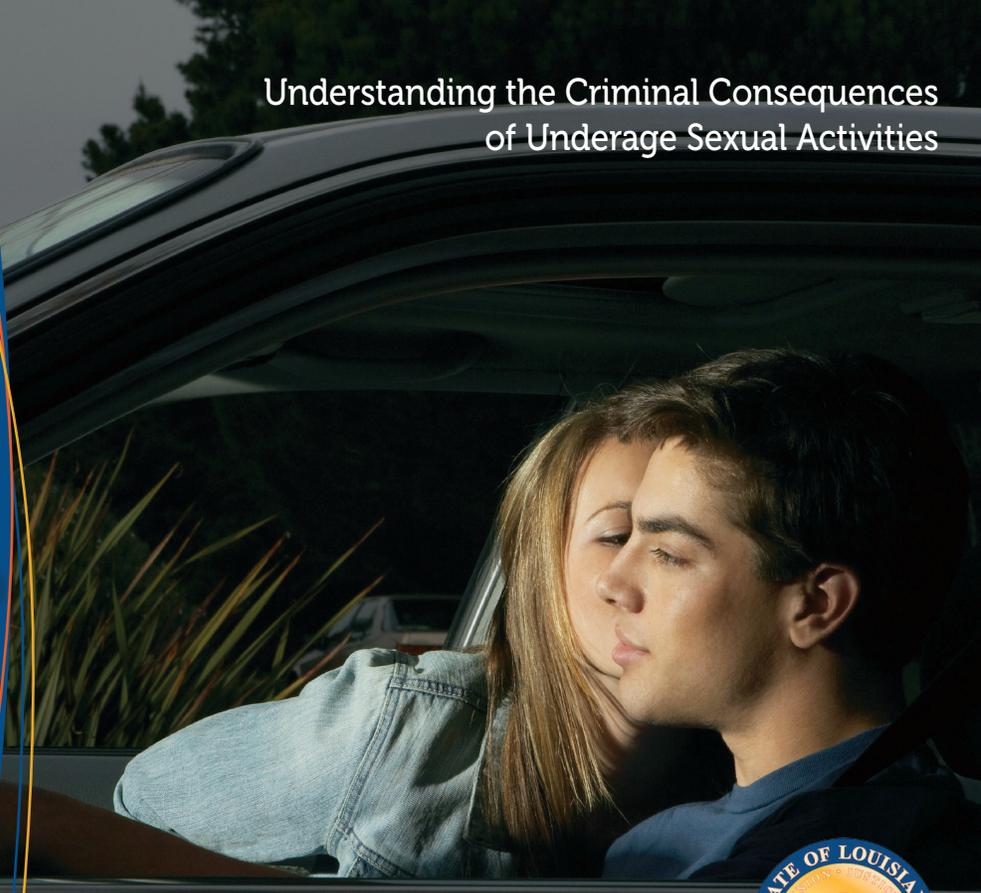
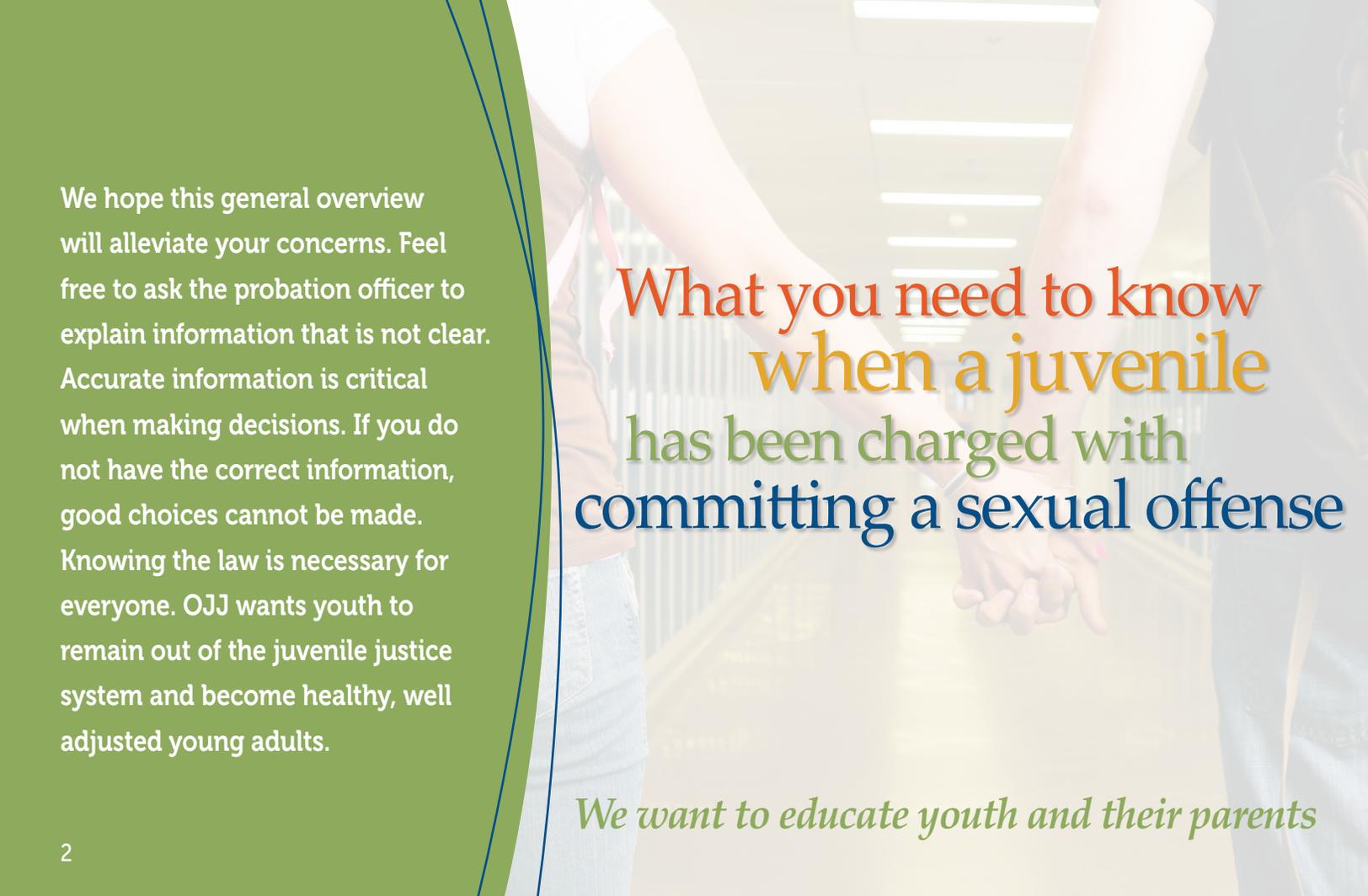


Understanding the Criminal Consequences
of Underage Sexual Activities

Community-Based
Juvenile Sex Offender
Treatment Program (JSOTP)



We hope this general overview will alleviate your concerns. Feel free to ask the probation officer to explain information that is not clear. Accurate information is critical when making decisions. If you do not have the correct information, good choices cannot be made. Knowing the law is necessary for everyone. OJJ wants youth to remain out of the juvenile justice system and become healthy, well adjusted young adults.



What you need to know when a juvenile has been charged with committing a sexual offense

We want to educate youth and their parents

Sexual Offenses: Laws and Consequences

Several laws cover sexual activity between or with a juvenile. Mere touching of another person on certain parts of their body is considered sexual activity.

Sexual activity/contact may be anal, oral, or vaginal. The contact may be by physical human contact or the use of a foreign object.

Sexual activity/ contact may be deemed unlawful if the victim is unable to legally consent due to impairment caused by intoxication, whether by legal drugs, illegal drugs, alcohol, or any combination of these substances.

The age consent, at which a male or female may choose to engage in a sexual act, is difficult to determine because consent depend on the nature of the sexual offense. An age difference of two to three years or more between the offender and the victim may result in a charge. An offense may be considered “aggravated” if there is an age difference between the offender and the victim or if a weapon was used when the offense was committed. If a youth, age 14 or older, commits an aggravated rape or aggravated kidnapping offense, he/she can be sentenced to the maximum amount of time, until his 21st birthday, in a secure facility. The term “aggravated” is also used for the purpose of sex offender registration.

A youth, who is age 15 or older at the time of commission of the crime of aggravated rape, can be charged as an adult. If the offender is age 17 or older and the victim is under the age of 13, and if the offender is convicted, he/she may receive a sentence up to 99 years in prison.



“Sexting” Is a Criminal Offense

The use of cell phones, computers, or other telecommunication devices has led to the practice of sending indecent visual depictions of oneself to another person. This is called “sexting”. It is illegal to show, transmit, give, distribute, transfer or circulate, using a computer or telecommunication device(s), indecent photograph(s), film, videotape(s), or other reproduction(s) of a person engaging in sexually explicit conduct to a youth under the age of 17. This includes data stored on any computer, telecommunication device or other electronic storage media which is capable of conversion to a visual image. Sexually explicit conduct means masturbation or lewd exhibition of genitals, pubic hair, anus, vulva (vagina lips) or female breast nipple of a person under the age of 17.

Telecommunication device includes analog or digital electronic devices which process data, telephone, video or sound transmission.

If adjudicated for sexting, a youth may be fined, incarcerated or placed on probation with a minimum condition of court-approved community service.

Report of Sexual Assault

All reports received by a law enforcement agency are investigated to determine whether or not a crime has been committed. Physical examinations and personal interviews of both the victim and the alleged perpetrator may be completed. The report is transmitted to the parish District Attorney’s Office.

District Attorney’s Office

The District Attorney will review all information received from the law enforcement agency to determine if charges should be filed. If the District Attorney finds sufficient grounds to charge a youth, he will file a petition for delinquency.

The alleged perpetrator’s family may employ an attorney prior to the first court appearance. A public defender will be appointed if the family cannot afford an attorney.

Court Intervention

At Adjudication:

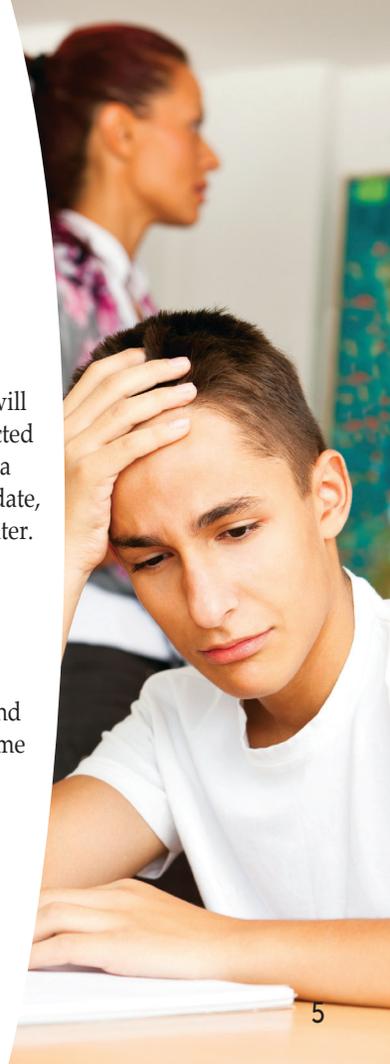
When a youth has been adjudicated (convicted of) for a sex crime, the judge will set a disposition hearing date, and order him/her to undergo a psychosexual evaluation to determine the youth's risk level, placement, treatment needs, and whether the youth will be responsive to treatment. The probation officer will refer the youth to providers who will perform the evaluation. The Office of Juvenile Justice (OJJ) will pay for the evaluation when the evaluation is conducted by a provider trained in the OJJ-approved evaluation process. The youth or his/her family will have to pay the fee if a chosen provider is not trained in the OJJ-approved evaluation method. While awaiting the disposition (sentencing) date, the youth will be required to follow temporary probation requirements or may be held in the Juvenile Detention Center. The youth's attorney and probation officer will keep him/her informed about the case during this process.

At Disposition:

The court is responsible for determining the most appropriate course of action that will aid the victim in healing and help rehabilitate the perpetrator. The court relies on reports, including the psychosexual evaluation, school reports and a home study. The court may also receive a report which includes detailed information about the youth's history. Some offenses carry mandatory sentences; others do not.

The judge may consider several alternatives at the disposition hearing. Some of these include:

- finding that no offense occurred
- determining that the perpetrator may be placed on supervised probation and remain at home (or a relative's home), and receive community-based treatment according to Juvenile Sex Offender Treatment Program (JSOTP) guidelines



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- determine that the perpetrator should be removed from the home and placed in a residential facility or group home to receive treatment according to JSOTP guidelines
 - determine that the perpetrator should be placed in a secure facility to receive treatment according to JSOTP guidelines
 - Sex Offender registration requirements (see below) This is not a disposition. It happens by operation of law if he is adjudicated for one of the named crimes and meets criteria

Probation and Parole Supervision

When a youth remains at home he/she will be supervised by an OJJ or local Probation Officer until all requirements imposed by the court have been completed.

If a youth is initially placed out of the home, in many cases he can return to his home if the family has participated in treatment and the youth has made appropriate progress. Treatment continues once the youth returns home.

Community-Based Treatment:

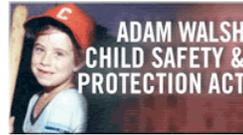
Community-based treatment means that a youth continues to live at home while receiving treatment. If community-based treatment is determined to be appropriate, an OJJ community-based treatment provider may be chosen in the region to complete sex offender treatment. Youth must be age 12-18 to participate in the Office of Juvenile Justice Community-Based Treatment Program and have been adjudicated for a hands-on (physical human contact or use of a foreign object) sex offense. A typical period of treatment is one year, but youth may be required to attend longer, depending on his progress and cooperation in treatment. Youth can expect to be in therapy 1 to 3 times per week for the duration of treatment, depending on his risk level and other factors. Treatment therapy will include individual, family and group sessions.

The Juvenile Sex Offender Treatment Program (JSOTP) is approved by the Office of Juvenile Justice. OJJ will pay for treatment with providers trained in the OJJ-approved sex offender treatment program. If a youth is not successful in

community-based treatment, he may be brought back to court and required to continue treatment in a group home, residential treatment facility or secure facility, such as Bridge City Center for Youth (BCCY), Jetson Center for Youth (JCY) or Swanson Center for Youth (SCY).

Sex Offender Registration

Juveniles adjudicated for certain sex offenses must register with parish/city law enforcement agencies every year for the rest of their lives, under a state law (R.S. 15:542 and following laws) that became effective January 2008. The law, modeled after the federal Adam Walsh Act, requires registration by any juvenile who was 14 years old or older at the time the offense was committed, AND has been adjudicated delinquent for perpetration, attempt, or conspiracy to commit any of the following: aggravated rape, forcible rape, second degree sexual battery, aggravated kidnapping of a child less than 13 years old, second degree kidnapping of a child under the age of 13, aggravated incest involving circumstances defined as “aggravated offense,” or aggravated crime against nature.



The probation officer will explain how to register as a sex offender. To register, the youth must go to the sheriff's office in all the parishes and police department of the city in which he resides, works or attends school. The annual registration fee is \$60.00 in each parish/city. Registration is not “notification” - juveniles will only notify the public of sex offender status if they provide recreational instruction to juveniles under age 17. Lifetime registration may be reduced to 25 years if the offender maintains a clean record for 25 years and successfully completes a sex offender treatment program.

Important things to remember:

- Sexual intercourse is the act of anal, oral or vaginal sexual penetration (intercourse).
- Lack of knowledge of a juvenile's age is not a defense when the victim is under the age of 13.
- A person can be charged with rape for having sex with someone who is drunk, drugged or mentally handicapped, and cannot willingly give consent.
- DFSA (Drug Facilitated Sexual Assault) may enhance any charge.

Definitions of Sexual Offenses

Rape: the act of anal, oral or vaginal sexual intercourse, with a male or female, without the person's lawful consent. Any sexual penetration is sufficient to complete the offense and emission is not necessary. Oral sexual intercourse means the touching of the anus or genitals of the victim by the offender, or of the offender by the victim, using the mouth or tongue.

Aggravated Rape: rape of a person where the anal, oral, vaginal sexual intercourse is deemed to be without the lawful consent of the victim because it is committed under any one or more of the following circumstances:

When the victim's resists the act to the utmost but whose resistance is:

- overcome by force
- prevented by threats of great harm and the offender's ability to carry out the threat
- prevented because the offender is armed with a dangerous weapon
- prevented due to the victim's mental or physical infirmity
- prevented because two or more offenders participated in the attack
- prevented because the victim is under the age of 13
- prevented because the person is age 65 or older

If the victim is under the age of 13 and the offender is age 17 or older, the district attorney may charge the crime as a capital offense in which

case the offender can receive the death penalty or life in prison in accordance with the jury's determination. If not charged as a capital offense, an offender found guilty will receive life in prison without benefit of parole, probation or suspension of sentence.

Forcible Rape is a rape committed under any one of the following circumstances:

The victim is prevented from resisting the rape by force or threats of physical violence, when the victim reasonably believes that resistance would not prevent the rape

- The victim is incapable of resisting or understanding the nature of the act because of being in a stupor (drunk) or under the influence of a narcotic, anesthetic agent ("date rape" drug) or controlled dangerous substance administered by the offender without the victim's knowledge

Simple Rape is a rape committed:

- when the victim is incapable of resisting or understanding the nature of the act because of being in a stupor or abnormal condition of the mind (drunk or drugged) produced by an intoxicating agent or any cause and the offender knew or should have known about the victim's incapacity

- when the victim is incapable of understanding the nature of the act through unsoundness of mind and the offender knew or should have known about the victim's incapacity
- when a female victim believes the person committing the act is her husband, and the belief is caused by pretense of the offender

Sexual Battery: intentionally engaging in any of the following acts, without consent of the victim; or if the act is consensual but the victim is under the age of 15 (unless married to the person) and is at least three years younger than the offender:

- touching the anus or genitalia of the victim by the offender, or the offender by the victim, with any body part of the offender, or an instrument
- lack of knowledge of the victim's age is not a defense

Second Degree Sexual Battery: the offender intentionally inflicts serious bodily injury on the victim while touching the genitalia of the victim by the offender, or the offender by the victim, with any body part of the offender, or an instrument.

Serious bodily injury means the injury involves unconsciousness, extreme physical pain, obvious disfigurement, protracted loss or impairment of a body function or mental faculty, or substantial risk of death.

Oral Sexual Battery: intentionally engaging in any of the following acts, with a person who is not the offender's spouse, and is under the age of 15 and at least three years younger than the offender:

- touching the anus or genitalia of the victim by the mouth or tongue of the offender
- touching the anus or genitalia of the offender by the mouth or tongue of the victim

Felony Carnal Knowledge of a Juvenile is committed when:

- a person 17 years old or older has sexual intercourse, with consent, with a person 13 years of age or older but less than 17, when the victim is not the offender's spouse and when the difference between the age of the victim and offender is four years or greater.
- a person commits a second offense of misdemeanor carnal knowledge of a juvenile
- a person, who has been convicted one or more times for crimes requiring the offender to register as a sex offender, commits a first offense of misdemeanor carnal knowledge of a juvenile
- lack of knowledge of the victim's age is not a defense

Misdemeanor Carnal Knowledge of a Juvenile is committed when a person:

- 17 years of age has sexual intercourse with consent, with a person 13 years of age but less than 17, when the victim is not the

offender's spouse, and the age difference between the offender and the victim is more than two years but less than four years.

- emission is not necessary and even slight penetration is sufficient to complete the offense
- offenders are eligible to have the conviction set aside and prosecution dismissed and are not required to register as a sex offender
- lack of knowledge of the victim's age is not a defense

Indecent Behavior with a Juvenile:

- the commission of any lewd or lascivious act upon a person or in the presence of a child under the age of 17, with an age difference of more than two years between the people, with the intention of arousing or gratifying the sexual desires of either person. The trial judge may issue orders to protect the safety of the child.
- the transmission, delivery or utterance of any textual, visual, written or oral communication depicting lewd or lascivious conduct, text words or images to any person reasonably believed to be under the age of 17 and reasonably believed to be at least two years younger than the offender. It is not a defense that the person actually receiving the transmission is not under the age of 17

Molestation of a Juvenile: commission by anyone over the age of 17 of any lewd or lascivious act upon a person or in the presence of a child under the age of 17, when the age difference is more than two years between the two people, with the intention of arousing or gratifying the sexual desires of either person, by the use of force, violence, duress, menace, psychological intimidation, threat of great bodily harm, of use of influence of a position of control or supervision over the juvenile.

Crime Against Nature: unnatural sexual intercourse:

- by a human being with another person of the same or opposite sex, or with an animal.
- solicitation by a person of another person, with intent to engage in any unnatural carnal copulation for compensation

Anal sexual intercourse is not a crime against nature when done under any circumstances described under the rape, aggravated rape, forcible rape and simple rape statutes. Emission is not necessary, and when two humans are involved, the use of the genital organ of one of the offenders is sufficient to constitute the offense.

Aggravated Crime Against Nature: a crime against nature committed under any one or more of the following:

- the victim is under the age of 17 and at least three years younger than the offender
- the victim resists to the utmost but is overcome by force
- the victim is prevented from resisting by threats of great bodily harm when the offender has the apparent power to commit the harm
- the victim is prevented from resisting because the offender is armed with a dangerous weapon
- the victim is incapable of giving consent due to mental incapacity or unsoundness of mind and the offender knew or should have known about the incapacity
- the victim is incapable of resisting or understanding the nature of the act by reason of stupor or abnormal condition of mind from any cause, or produced by a narcotic or anesthetic agent administered by the offender, and the offender knew or should have known about the incapacity

Sexual Battery of the Infirm: the intentional engaging in 1) the touching of the anus or genitals of the victim by the offender using any instrumentality or any part of the body of the victim or 2) the touching of the anus or genitals of the offender by the victim using any instrumentality of body part of the victim, sexual acts with another person, who is not the spouse of the offender, when:

- the offender forces the victim who is physically incapable of preventing the act because of advanced age or physical infirmity, to submit due to fear of great bodily harm
- the victim is incapable of resisting or understanding the nature of the act by reason of stupor or abnormal condition of mind from any cause, or produced by a narcotic or anesthetic agent administered by the offender, and the offender knew or should have known about the incapacity
- the victim is incapable of giving consent due to mental incapacity or unsoundness of mind and the offender knew or should have known about the incapacity

Contributing to the Delinquency of a Juvenile: means the intentional enticing, aiding, soliciting or permitting by anyone over the age of 17, of any child under the age of 17, to engage in the following activities. No exception is made for a child who is emancipated by marriage or otherwise. This list pertains only to sexual offenses. There are many more criteria than listed here.

- use vile, obscene or indecent language
- perform any sexually immoral act
- visit places that sell, display or exhibit sexually indecent and obscene material



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