

SEX-RELATED OFFENSES – TEN FREQUENTLY ASKED QUESTIONS

1. What is the law regarding sexual contact or a sexual relationship with my 16 year old girlfriend/boyfriend:

One of the number one misconceptions we often deal with concerns whether a consensual sexual relationship is always legal. The age of the parties determines whether this kind of relationship is legal. A child is a person who has not attained the age of 18, and it is a serious criminal offense in Wisconsin to have sexual intercourse – which is broadly defined – with a person who has not reached the age of 16. It is a Class C felony, and if force or the threat of force is involved, the case becomes much more serious. A Class C felony is punishable by a fine not to exceed \$100,000, imprisonment not to exceed 40 years, or both. A sexual relationship between two individuals who are both under the age of 18 could also result in potential charges against both minors. In addition, sexual contact during intercourse is very broadly defined under Wisconsin law. Our office can assist you in navigating through this complicated topic.

2. Is it against the law to send sexually-related photographs via my cell phone to my girlfriend/boyfriend or other friends if they consent to receiving these photographs?

These days, this type of action is generally referred to as “sexting” and is illegal. Generally, these cases involve photographs of individuals under the age of 16. This is referred to as possession of child pornography and is a very serious offense. This type of action could result in the issuance of either Class D or Class I felony, which both carry certain mandatory prison terms of up to 3 years.

3. What if I use my computer to send these photographs? Is that legal?

Absolutely not. The use of a computer to facilitate the possession or sharing of child pornography is a crime in and of itself, and will result in the seizing of a computer through a search warrant. Additional charges – in addition to possession of child pornography – will likely result. The same is true of a cell phone or any other electronic device. In addition, federal charges are also possible, since each time you utilize a cell phone or computer, you are using the public air waves. The federal government can become involved in these types of cases.

4. If my girlfriend/boyfriend is 17 years old and provides consent, is it illegal to have sexual intercourse with him/her.

It is absolute illegal. Sec. 948.09 Wis. Stats. makes it a crime for a person who is not the legal spouse of the other person but has attained the age of 16 to be charged with a Class A misdemeanor. The general belief that the age of consent is 16 years of age is not factual. The “cut-off” age is 18.

5. I was the victim of sexual abuse as a child. Is there any action I can take today?

Absolutely. The statute of limitations for sexual assault has been significantly expanded and continues to change dramatically. Today, the statute of limitations is when the victim reaches the age of 45. In

some cases, recent legislation has removed any statute of limitations. In addition, there are significant civil ramifications for the offender. As one of the few law firms in the state that practices Victimology, we can assist you as the victim of a sexual crime to guide you through the reporting of the abuse to authorities, as well as assisting you through the criminal phase and any civil litigation to recover any damages you may have suffered.

6. I've heard that if I'm convicted of a crime, I can have my record expunged at any time. Is this true?

No. There are certain provisions in the Criminal Code that allow a judge to order a conviction to be erased (expunged) under very specific and limited conditions. While this Section of the Statutes has been significantly expanded to include felonies and raise the age limit to 26 at the time of the incident, it is restricted only to certain felony types and does not apply to every felony.

Feel free to contact Bucher Law Group, LLC at any time with questions concerning these important and pertinent topics in today's society.