

New Hampshire

WOMEN IN PRISON: 117 (12/99)ⁱ

Custodial Sexual Misconduct

Custodial Sexual Misconduct – Statute

§ 632-A:2 – *Aggravated Felonious Sexual Assault.*

§ 632-A:3 – *Felonious Sexual Assault.*¹

New Hampshire’s laws are part of the Sexual Offenses category of the criminal code. The laws require that the person be in a position of authority and “use” this position to accomplish the sexual assault.

Does the law impose a criminal penalty on the inmate?	No	The law does not penalize the inmate.
Does the statute cover all relevant forms of sexual abuse?	Yes	The law covers all forms of sexual abuse.
Does the law allow an officer to claim an inmate consented to the sexual act(s) to avoid prosecution?	--	The law does not allow consent as a defense to penetration. The law does not specify as to whether consent can be raised as a defense to other sexual contact.
Does the statute cover all custodians and staff in contact with inmates?	No	The law only protects against a person with “supervisory or disciplinary authority” and that the offender has to use this authority.
Does the statute cover all places where an inmate might be abused?	No	The law does not define it, but correctional institution is distinct from jails and other facilities.
Is the penalty a felony?	Yes	Violation is a felony.

Custodial Sexual Misconduct – Allegations and Incidents

Indictments/Convictions (answer to AI letter requesting information) ⁱⁱ	The New Hampshire Attorney General’s Office does not maintain statistics. However, the Office has conducted “a number of investigations and prosecutions.” ⁱⁱⁱ
Incidents reported in select media since 10/98	<ul style="list-style-type: none"> - Stafford County Jail: Officer Foss found guilty of sexually assaulting a female inmate. <i>The Union Leader (Manchester)</i> 01/23/01 - Hillsborough County Jail: Three guards charged for allegedly coercing three female inmates to perform oral sex on them. <i>The Boston Globe</i>. 12/31/00 - Hillsborough County Jail: Former inmate Lorraine Sullivan alleges she was grossly mistreated and subjected to sexual abuse by more than officers. <i>AP</i> 07/05/00 - Manchester Jail: US Attorney investigated charges of sexual abuse against female inmates by guards. Two officers pleaded guilty to the beating of an inmate. <i>The Union Leader (Manchester, NH)</i>. 06/07/00 - Goffstown Women Prison: Former inmate raped by Officer Martin Mullen received \$140,000 settlement. <i>AP</i>. 02/08/00 - Strafford County Jail: Two officers, Duane Foss and Russell Solsky, convicted on charges of sexual assault. <i>Union Leader</i>, 02/17/01 - Hillsborough County Jail: INS said they would pull their inmates out of county jail to protect them against alleged sexual abuse. <i>New Hampshire Sunday News</i>. 01/30/00

¹ The text of New Hampshire’s statute is reprinted at the end of this section.

Custodial Sexual Misconduct –Policies, Procedures and Practices of Guarding Specific to Women

The following data is based on surveys performed by the National Institute of Corrections in 1996 and 2000, except in cases when further details have been available to AI from alternative sources.

Is the current Department of Corrections policy on custodial sexual misconduct language explicit?	Yes	Policy includes direct and specific language about the sexual nature of the behaviors prohibited. ^{iv}
Allow cross-gender pat-down searches?	Yes	Cross-gender searches are routinely done. ^v
Restrictions on the duties of male guards?		Not known.
Was there staff training on sexual misconduct in 1996?	Yes	All staff receive six annual in-service training hours. ^{vi}
Has staff training been developed 1996-2000?	Yes	No details of training available. ^{vii}
Were there special procedures for investigating allegations of sexual misconduct in 1996?	No	New Hampshire is not specifically mentioned in the National Institute of Corrections report. However, it is noted that most DOCs use standard investigatory procedures with no special considerations for the nature of the complaint. ^{viii}
Have new investigation procedures been introduced 1996-2000?	Yes	According to the New Hampshire DOC, “allegations are vigorously investigated and swift action is taken against the alleged perpetrator.” ^{ix}
Were inmates informed of agency policies about sexual misconduct in 1996?	Yes	Policies are covered in a specific training presentation; in the standard inmate orientation; in an inmate handbook; and are available in library. ^x
Have procedures on informing inmates about sexual misconduct been revised 1996-2000?	No	The New Hampshire DOC is in the process of developing their procedures. ^{xi}

Custodial Sexual Misconduct –Legislative Proposals 2000-01

2000 HB 1480 – Sponsored by Representative Soltani 01/05/00 Introduced 02/24/00 Inexpedient to legislate		This bill would have made “consent” a valid defense to all sexual assault and “statutory rape” crimes when the age of the victim was not the protective issue.
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Parenting and Pregnancy in Custody

Pregnancy - Relevant Statutes/Administrative Rules

Legislation banning shackling in the third trimester or during labor	No	New Hampshire has no legislation limiting the use of shackling on pregnant inmates.
Administrative rules concerning pregnancy and delivery		Not known.

Pregnancy and Parenting - Policies, Procedures and Practices

Use of restraints in third trimester		Not known. We have received no response to our inquiries from the New Hampshire DOC.
Restraints during transport		See above.

Restraints during labor		See above.
Officer in delivery room		See above.
Parenting programs specific for women	Yes	New Hampshire DOC provides a parenting program specifically for women. ^{xii}
Special visitation rights for women	Yes	New Hampshire DOC has special visitation rights for women with children. ^{xiii}
State Mother and Child Residency Program	No	New Hampshire DOC has no residential program for inmate mothers and their infants/children. ^{xiv}

Contact information

NEW HAMPSHIRE DEPARTMENT OF CORRECTIONS

Commissioner Phil Stanley State Office Park South 105 Pleasant Street PO Box 1806 (Mailing) Concord, NH 03302-1806 Phone: (603) 271-5600; Fax: (603) 271-5643 Email (general): jvinson@chi.tds.net	Homepage: http://www.state.nh.us/doc/ Prison addresses: http://www.state.nh.us/doc/
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NEW HAMPSHIRE DEPARTMENT OF CORRECTIONS FACILITIES FOR WOMEN

New Hampshire State Prison for Women <i>Female inmates: 119^{xv}</i> Jane Coplan, Warden 317 Mast Road Goffstown, NH 03045 Phone: (603) 668-6137 http://www.state.nh.us/doc/	Lakes Region Facility (Co-correctional facility) <i>Female inmates: 35^{xvi}</i> John Sanfilippo, Warden Summit House Program Lakes Region Facility 1 Right Way Path Laconia, NH 03246 Phone: (603) 528-9203 http://www.state.nh.us/doc/
Calumet House Female inmates: 8 ^{xvii} Walt Davies, Unit Manager 126 Lowell Street Manchester, NH 03104 Phone: (603) 627-4194 http://www.state.nh.us/doc/	North End Halfway House Female Inmates: 8 ^{xviii} Frank McKone, Unit Manager 281 North State Street Concord, NH 03301 Phone: (603) 271-1878 http://www.state.nh.us/doc/

NEW HAMPSHIRE EXECUTIVE

Governor Jeanne Shaheen [D] State of New Hampshire Office of the Governor State House, Room 208-214 Concord, New Hampshire 03301-4990 Phone: (603) 271-2121; Fax: (603) 271-5686 Email (web based): http://www.state.nh.us/governor/comment.html	Home page: http://www.state.nh.us/governor Contact Page: http://www.state.nh.us/governor/contact.html Elected: 1996; reelected in 1998
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Attorney General Philip T. McLaughlin Office of the Attorney General New Hampshire Department of Justice 33 Capitol Street, Concord, NH 03301 Phone: (603) 271-3658; Fax: (603) 271-2110	Home page: http://webster.state.nh.us/nhdoj/agpage.html
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NEW HAMPSHIRE LEGISLATIVE INFORMATION

Legislative Session: Sessions are held every year from early January to the end of June. Elections for all positions are held in even numbered years. Senate: 24 members, 2-year term House: 400 representatives, 2-year term	Bill Search: http://199.192.9.6/gencourt/billstatus/iequickbill.html Bill information phone number: (603) 271-2239/ 2144
Senate State House 107 North State Street Concord, New Hampshire 03301	Senate homepage: http://www.state.nh.us/gencourt/senate/shomepage/nhsenate.htm
House of Representatives State House 107 North State Street Concord, New Hampshire 03301 Phone: (603) 271-3661	House home page: http://www.state.nh.us/gencourt/house/hhomepage/index.html

WOMEN IN PRISON - NGO RESOURCES

The organizations listed are not endorsed by or affiliated with Amnesty International.

New Hampshire-CURE P.O. Box 3594 Nashua, NH 03061-3594
Mettanokit Outreach 173 Meriam Hill Road Greenville NH 03048 Categories: Prisoners' Rights
ACLU of New Hampshire 18 Low Avenue Concord, NH 03301 Phone: (603) 225-3080

New Hampshire's Custodial Sexual Misconduct Statute

Excerpted

§ 632-A:2 Aggravated Felonious Sexual Assault. –

I. A person is guilty of the felony of aggravated felonious sexual assault if he engages in sexual penetration with another person under any of the following circumstances:

...

(n) When the actor is in a position of authority over the victim and uses this authority to coerce the victim to submit under any of the following circumstances:

(1) When the actor has supervisory authority over the victim by virtue of the victim being incarcerated in a correctional institution or juvenile detention facility; or

(2) When a probation or parole officer has supervisory authority over the victim while the victim is on parole or probation or under juvenile probation.

Consent of the victim under any of the above circumstances in subparagraph (n) shall not be considered a defense.

§ 632-A:3 Felonious Sexual Assault. –

A person is guilty of a class B felony if he:

...

IV. Engages in sexual contact with the person when the actor is in a position of authority over the person and uses that authority to coerce the victim to submit under any of the following circumstances:

(a) When the actor has supervisory authority over the victim by virtue of the victim being incarcerated in a correctional institution or juvenile detention facility; or

(b) When a probation or parole officer has supervisory authority over the victim while the victim is on parole or probation or under juvenile probation.

ⁱ *Prisoners in 1999*, Bureau of Justice Statistics Bulletin, August 2000 NCJ 183476.

ⁱⁱ The information does not reflect prosecutions or convictions under rape statutes.

ⁱⁱⁱ Letter from New Hampshire Attorney General's Office, Charles T. Putnam, Bureau Chief, Criminal Justice Bureau, 08/07/2000

^{iv} US Department of Justice National Institute of Corrections Information Center, "Sexual Misconduct in Prisons: Law, Remedies, and Incidence," National Institute of Corrections, Colorado, May 2000

^v National Institute of Corrections, Prisons Division and Information Center, "Cross-sex Pat Search Practices: Findings From NIC Telephone Research," Colorado, January 1999

^{vi} US Department of Justice National Institute of Corrections Information Center, "Sexual Misconduct in Prisons: Law, Agency Response, and Prevention," National Institute of Corrections, Colorado, November 1996

^{vii} US Department of Justice National Institute of Corrections Information Center, "Sexual Misconduct in Prisons: Law, Remedies, and Incidence," National Institute of Corrections, Colorado, May 2000

^{viii} US Department of Justice National Institute of Corrections Information Center, "Sexual Misconduct in Prisons: Law, Agency Response, and Prevention," National Institute of Corrections, Colorado, November 1996

^{ix} US Department of Justice National Institute of Corrections Information Center, "Sexual Misconduct in Prisons: Law, Remedies, and Incidence," National Institute of Corrections, Colorado, May 2000

^x US Department of Justice National Institute of Corrections Information Center, "Sexual Misconduct in Prisons: Law, Agency Response, and Prevention," National Institute of Corrections, Colorado, November 1996

^{xi} US Department of Justice National Institute of Corrections Information Center, "Sexual Misconduct in Prisons: Law, Remedies, and Incidence," National Institute of Corrections, Colorado, May 2000

^{xii} US Department of Justice National Institute of Corrections Information Center, "Current Issues in the Operation of Women's Prisons," National Institute of Corrections, Colorado, September 1998

^{xiii} US Department of Justice National Institute of Corrections Information Center, "Current Issues in the Operation of Women's Prisons," National Institute of Corrections, Colorado, September 1998

^{xiv} General Accounting Office, "Managing Female Inmate Populations," GAO/GGD-00-22, 2000

^{xv} New Hampshire Department of Corrections, New Hampshire State Prison for Women, Questions and Answers (figures as at June 30 1997): see < <http://www.state.nh.us/doc/>>. Only 66 of these women were sentenced in New Hampshire: the other women were from other jurisdictions. All women are included in the total women inmates' population (Footnote 1.)

^{xvi} New Hampshire Department of Corrections, New Hampshire State Prison for Women, Questions and Answers (figures as at June 30 1997): see < <http://www.state.nh.us/doc/>>

^{xvii} New Hampshire Department of Corrections, New Hampshire State Prison for Women, Questions and Answers (figures as at June 30 1997): see < <http://www.state.nh.us/doc/>>

^{xviii} New Hampshire Department of Corrections, New Hampshire State Prison for Women, Questions and Answers (figures as at June 30 1997): see < <http://www.state.nh.us/doc/>>