

South Carolina

WOMEN IN PRISON: 1,555 (06/05)¹

Custodial Sexual Misconduct

Custodial Sexual Misconduct – Statute

§ 44-23-1150ⁱ – *Sexual intercourse with patient or trainee*ⁱⁱ

The South Carolina statute is hidden in the Health title at the end of the chapter titled Provisions Applicable to Both Mentally Ill and Mentally Retarded Persons under article 11 Treatment, Rights, and Privileges and Expenses of Patients Generally.

Does the law impose a criminal penalty on the inmate?	No	The law does not penalize the inmate. However, it does create a misdemeanor punishable by a maximum of one year's imprisonment for knowingly or willfully submitting inaccurate or untruthful information concerning sexual misconduct.
Does the statute cover all relevant forms of sexual abuse?	Yes	The law prohibits acts of penetration and other sexual contact.
Does the law allow an officer to claim an inmate consented to the sexual act(s) to avoid prosecution?	No	The law does not allow an officer to claim an inmate's consent in order to avoid prosecution. The law specifically provides that an inmate is not capable of providing consent.
Does the statute cover all custodians and staff in contact with inmates?	No	The law applies to "actors" defined as including employees, volunteers, agents or contractors of a public entity that has statutory or contractual responsibility for inmates or patients confined in a prison, jail or mental health facility. Although the law has been amended to cover more individuals in contact with inmates, it only applies to those with supervisory responsibility over those on parole, probation, or other community supervision programs.
Does the statute cover all places where an inmate might be abused?	Yes	The law covers prisons, jails and mental health facilities and also protects those outside detention facilities including those on work detail, parole, and probation.
Is the penalty a felony?	Yes	Where the custodial sexual misconduct involves penetration, it is punishable by a maximum of ten years' imprisonment. For other sexual contact, the penalty is a maximum of five years, imprisonment. Both offenses are classified as felonies.

Custodial Sexual Misconduct – Allegations and Incidents

Indictments/Convictions (answer to AI letter requesting information) ²	As of October 2000, the Attorney General's Office reported that six individuals had been arrested for violations of the statute, with no cases yet prosecuted. ³ In a 2002 communication, the Attorney General indicated that it does not collect such information. ⁴ Amnesty International did not receive a response to its 2005 follow up inquiries with the AG.
-----------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

ⁱ 44-23-1150 was rewritten by the enactment of 2001 Act No. 68. The amended expanded the sections coverage of both actors and potential victims; broadened the scope of the statute to cover supervisory situations outside of institutions; provided definitions; provided an offense of sexual misconduct that does not include intercourse; and provided an offense of falsely reporting sexual misconduct and of failure to report such offenses.

ⁱⁱ The South Carolina law is reprinted at the end of this section.

<p>Incidents reported in select media since January 2000</p>	<p>- Beaufort County Jail: A guard has been accused of having sex with female inmate she was previously charged with smuggling prescription drugs to last month. (<i>AP State & Local Wire, 11/1/04</i>)</p>
	<p>- Charleston County Detention Center: An officer was fired after being arrested on charges of sexual misconduct with an inmate. The officer is charged with two counts of exposing himself to an inmate and engaging in sexual behavior with an inmate. It is claimed that the alleged incidents occurred in the detention center's medical and laundry facility areas. A total of five female inmates have filed criminal complaints against the officer. (<i>The Post and Courier (Charleston, SC), 7/23/03</i>)</p>
	<p>- Chester County Detention Center: An officer was arrested on charges that he had sex with a female inmate while on duty. Several months earlier, two other detention center officers were arrested after authorities say they were found in one of the inmates' dorm rooms. (<i>The Herald, 2/7/03</i>)</p>
	<p>- Various Locations: A state grand jury probe into corruption and misconduct within the state's prison system ended without any indictments by the panel, but many former prison employees have been convicted in the past two years for charges of sexual misconduct with an inmate. These include a high-ranking guard who had sex with an inmate and was sentenced to 10 years in prison, suspended upon service of 90 days; Carol L. Bell, a guard at Manning Correctional Institution, sentenced in June 2002 to a year in jail, suspended to six months probation; Jason Wayne Covington, a guard at Evans Correctional Institution in Bennettsville, sentenced in September of 2002 to 30 months in prison, suspended to 10 days; Eugene Porter, a Columbia guard accused of having sex with an inmate on work release, sentenced in November 2002 to 10 years, suspended upon service of 90 days; McCoy Spears, a Department of Juvenile Justice kitchen worker, sentenced in October 2001 to five years suspended upon service of 90 days. In addition, Steve Royster, Larry LaGrant and Joe Hetrick, all former workers at the former Women's Correctional Institution in Columbia, pleaded guilty to sexual misconduct charges and received suspended sentences. (<i>Greenville News, 1/20/03</i>)</p> <p>- Charleston County Jail: A male kitchen employee is charged with fondling a female inmate. (<i>The Post and Courier (Charleston, SC), 05/03/01</i>)</p> <p>- Women's Correctional Facility, Columbia: Lt. Cagle admitted to having sexual relations with inmate. Other officers, including a captain, also admitted to having relations with inmates; all were fired. (<i>The Post and Courier 10/16/00 and AP 1/11/01</i>)</p> <p>- Women's Correctional Center, Broad River: On October 16, 1999, an unidentified former woman prisoner settled a lawsuit for \$115,000. The woman claimed that she was raped by guard Anthony Green while imprisoned at Broad River and that prison officials subsequently denied her rape crisis counseling and psychiatric help for two years. Green later pleaded guilty to committing the rape and was sentenced to seven years in prison and three years' probation. (<i>Prison Legal News, 08/00</i>)</p> <p>- Wayne County Jail: Female inmates file lawsuit alleging sexual harassment and physical assault with claims against two officers for sexual abuse. (<i>The Charleston Gazette 06/03/00</i>)</p>

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

The following is based on data provided by South Carolina Department of Corrections in response to AI's survey in 2000 and 2005. AI did not receive data from the South Carolina Department of Corrections in 2002. Additional information from other sources is included where available

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. ⁵
Allow cross-gender pat-down searches?	Yes	According to the South Carolina Department of Corrections (DOC), pat-down searches are conducted by staff of the same sex unless “circumstances dictate otherwise.” ⁶
What is the percentage of female officers in relation to male officers?		According to the South Carolina DOC, 16% are male and 84% female for female institutions. ⁷
Restrictions on the duties of male guards?		No information provided.
Staff training on sexual misconduct?	Yes	According to the South Carolina DOC, staff training occurs during orientation, basic officer training and a yearly refresher course. ⁸
Inform inmates of agency policies and reporting procedures on sexual misconduct?	Yes	According to the South Carolina DOC, inmates are informed upon intake. They watch a video, are read a policy, and are required to sign a statement relating to agency policies/procedures regarding sexual misconduct. ⁹

Custodial Sexual Misconduct - Policies and Procedures

Guiding Official Response

The following is based on the South Carolina Department of Corrections response to AI’s surveys, please see above.

Is medical help available for the victim of alleged sexual abuse?	Yes	According to the South Carolina DOC, this is available, but no details were provided. ¹⁰
Are immediate mental health services available for the victim of alleged sexual abuse?	Yes	According to the South Carolina DOC, this is available, but no details were provided. ¹¹
Is counseling available for the victim of alleged sexual abuse?	Yes	According to the South Carolina DOC, this is available, but no details were provided. ¹²
Is a rape kit taken?	No	According to the South Carolina DOC, a rape kit is not taken for inmates who allege staff sexual misconduct – rape kits are only available for victims of rape. ¹³
Are there special procedures for investigating allegations of sexual misconduct?	Yes	According to the South Carolina DOC, there are procedures specified in manuals and at training, but no details were provided. ¹⁴
Is there a system for reporting allegations of custodial sexual misconduct within the DOC?	Yes	According to the South Carolina DOC, allegations can be reported through a hotline or DOC grievance procedure. ¹⁵
Is there a system for reporting allegations of custodial sexual misconduct directly to a body external to the DOC?	No	In a written response, the South Carolina DOC states that it is “not known” whether there is a system for reporting allegations to an external body. ¹⁶
Is the investigation external?	No	No information provided.
If there is an external investigation, how is it triggered?		According to the South Carolina DOC, an external investigation could be triggered by a referral by the South Carolina Department of Corrections Investigation Division. ¹⁷
Is there an independent body, such as a Corrections Ombudsman, with independent oversight of correctional facilities and the DOC?	No	No details provided.
Is there a system in place to track investigations, indictments and convictions for custodial sexual misconduct?	Yes	According to the South Carolina DOC, an internal database is maintained by the Investigations Division. ¹⁸
Are special measures taken to shield	Yes	According to the South Carolina DOC, measures include transfers

alleged victims from retaliation?		and separation. 19
If so, do the measures include solitary confinement or lock-down of the inmate?	Yes	According to the South Carolina DOC, every effort is made not to lock up the inmate victim unless it is necessary for her protection. 20

Custodial Sexual Misconduct – Pending Legislative Proposals

None

Pregnancy in Custody

Pregnancy - Statute

Legislation banning shackling in the third trimester or during labor	No	South Carolina has no legislation limiting the use of shackling on pregnant inmates.
----------------------------------------------------------------------	-----------	--------------------------------------------------------------------------------------

Pregnancy – Reported Incidents of Shackling

Lori Griffin was sent from jail to the hospital in handcuffs and leg irons for pre-natal care and, when in labor, was handcuffed to the bed during the entire delivery. Other women also were reportedly handcuffed and shackled at the legs upon entry. Attached to the handcuffs were three-inch wide leather belts that were wrapped around their stomachs, some while the women were still bleeding from childbirth. One woman complained of having been grabbed in a chokehold and shoved into detention.²¹

Pregnancy - Policies, Procedures and Practices

The following is based on the South Carolina Department of Corrections response to AI's surveys, please see above.

Use of restraints in third trimester	Yes	According to the South Carolina DOC, policy stipulates that the Warden and health services staff determine any and all changes when medical conditions warrant a change in the normal restraint policy. The use of restraints depends on medical conditions, stage of pregnancy and custody level. Pregnant women are usually not shackled unless security concerns outweigh the medical need. ²²
Restraints during transport	Yes	See above.
Restraints during labor	Yes	See above
Officer in delivery room	Yes	South Carolina DOC policy states that the guard is to be placed outside the room during surgical procedures. ²³

Contact information

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

Director Jonathan Edward Ozmint South Carolina Department of Corrections 4444 Broad River Road/P.O. Box 21787 Columbia, SC 29221 Phone: (803) 896-8555	Home page: http://www.doc.sc.gov
---------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS FACILITIES FOR WOMEN

<p>Camille Griffin Graham Correctional Institution <i>Female inmates:</i> 452 (06/05)²⁴ Warden: Judy Anderson 4450 Broad River Road Columbia, SC 29210-4096 Phone: (803) 896-8590 Security Level: level 3 and special needs (females)</p>	<p>Goodman Correctional Institution for Women <i>Female inmates:</i> 403²⁵ Warden: Jannita Gaston 4556 Broad River Road Columbia, SC 2910 Phone: (803) 896-8565 Security Level: Level 1-B (Females)</p>	<p>Leath Correctional Institution <i>Female inmates:</i> 700²⁶ Warden: Catherine Kendall 2809 Airport Road Greenwood, SC 29649 Phone: (864) 229-5709 or (803) 896-1000 Security Level: Level 3 (female)</p>
-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

SOUTH CAROLINA EXECUTIVE

<p>Governor Mark Sanford [R] P.O. Box 12267 Columbia, SC 29211 Phone: (803) 734-2100; Fax: (803) 734-5167 Email link: http://www.scgovernor.com/Contact.asp?sitecontentid=33</p>	<p>Home page: http://www.scgovernor.com/ Elected: 2002</p>
<p>Attorney General Henry McMaster [R] P.O. Box 11549 Columbia, SC 29211 Phone: (803) 734-3970 email: info@scattorneygeneral.org</p>	<p>Homepage: http://www.scattorneygeneral.org/ Elected: 2002</p>

SOUTH CAROLINA LEGISLATIVE INFORMATION

<p>Legislative Session: The Legislature begins in session annually on the second Tuesday in January and must adjourn no later than the first Thursday in June unless an extension is voted by a two-thirds vote of both Houses. The Governor may call the General Assembly into a special session.</p> <p>Senate: 46 members, 4-year terms House: 124 members, 2-year terms General Election is held in even-numbered years.</p>	<p>General Assembly home page: http://www.leginfo.state.sc.us/default.html Legislative information: http://www.leginfo.state.sc.us/work/current.html Bill search: http://www.leginfo.state.sc.us/work/113/bills/billinfnew.html Bill information phone number: (803) 734-2060</p>
<p>Senate P.O. Box 142, Columbia, SC 29202</p>	<p>Senate Home Page: http://www.leginfo.state.sc.us/senateframe.html</p>
<p>House of Representatives Blatt Bldg., Columbia, 29211 (The Whitney)</p>	<p>Home page: http://hod.state.va.us/welcome.htm</p>

WOMEN IN PRISON - NGO RESOURCES

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

<p>Prisoner Advocacy Network 1100 Skyland Drive #P-2 Columbia, SC 29210-8127 Tel (803) 254-9869</p>
<p>South Carolina CURE PO Box 504 Newberry, SC 29108</p>

South Carolina Advocates for Pregnant Women
PMB 243, 164-D Market Street
Charleston, SC 29401-1984
Phone: (843) 720-3272
Email: scapw@scapw.org
Website: www.scapw.org

Alston Wilkes Society
3519 Medical Drive
Columbia, SC 29203
Telephone (803) 799-2490
Website: www.alstonwilkessociety.org
Social service organization providing broad range of services to offenders and their families.

ACLU of South Carolina
2712 Middleburg Drive, Suite 104
Columbia, SC 29204
Phone: (803) 799-5151
Website: www.aclusc.org

South Carolina's Custodial Sexual Misconduct Statute

§ 44-23-1150. Sexual misconduct with an inmate, patient, or offender.

(A) As used in this section:

(1) "Actor" means an employee, volunteer, agent, or contractor of a public entity that has statutory or contractual responsibility for inmates or patients confined in a prison, jail, or mental health facility. Actor includes individuals who supervise inmate labor details outside of an institution or who have supervisory responsibility for offenders on parole, probation, or other community supervision programs.

(2) "Victim" means an inmate or patient who is confined in or lawfully or unlawfully absent from a prison, jail, or mental health facility, or who is an offender on parole, probation, or other community supervision programs. A victim is not capable of providing consent for sexual intercourse or sexual contact with an actor.

(B) An actor is guilty of sexual misconduct when the actor, knowing that the victim is an inmate, offender, or patient voluntarily engages with the victim in an act of sexual intercourse, whether vaginal, oral, or anal, or other sexual contact for the purpose of sexual gratification.

(C)(1) When the sexual misconduct involves an act of sexual intercourse, whether vaginal, oral, or anal, the actor is guilty of the felony of sexual misconduct, first degree and, upon conviction, must be imprisoned for not more than ten years.

(2) When the sexual misconduct does not involve sexual intercourse but involves other sexual contact which is engaged in for sexual gratification, the actor is guilty of the felony of sexual misconduct, second degree and, upon conviction, must be imprisoned for not more than five years. The term sexual contact, as used in this subsection, refers to an intrusion of any part of a person's body or of any object into the "intimate parts", as defined in Section 16-3-651(d), of another person's body, or to the fondling of the "intimate parts" of another person's body, which is done in a manner not required by professional duties, but instead is done to demonstrate affection, sexually stimulate that person or another person, or harass that person.

(D) A person who knowingly or willfully submits inaccurate or untruthful information concerning sexual misconduct as defined in this section is guilty of the misdemeanor of falsely reporting sexual misconduct and, upon conviction, must be imprisoned for not more than one year.

(E) A person who has knowledge of sexual misconduct who has received information in the person's professional capacity and fails to report it to the appropriate law enforcement authority, or a person who threatens or attempts to intimidate a witness is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

¹ South Carolina Department of Corrections (DOC), *Statistical Reports: Inmates and Bed Counts of SCDC Institutions*, June 2005, available at <http://www.doc.sc.gov/PublicInformation/StatisticalReports/StatisticalReports.htm>, as per 01/27/06.

² The information does not reflect prosecutions or convictions under rape statutes.

³ Letter from Robert E. Petersen, Deputy General Counsel, South Carolina DOC, 10/23/00.

⁴ Letter from Kim S. Aydlette, Assistant Deputy Attorney General, South Carolina Attorney General's Department, 08/27/02.

⁵ 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.

⁶ Fax from Lisa Woodward, South Carolina DOC, 08/26/05.

⁷ Fax from Lisa Woodward, South Carolina DOC, 08/26/05.

-
- ⁸ Fax from Lisa Woodward, South Carolina DOC, 08/26/05.
- ⁹ Fax from Lisa Woodward, South Carolina DOC, 08/26/05.
- ¹⁰ Fax from Lisa Woodward, South Carolina DOC, 08/26/05.
- ¹¹ Fax from Lisa Woodward, South Carolina DOC, 08/26/05.
- ¹² Fax from Lisa Woodward, South Carolina DOC, 08/26/05.
- ¹³ Fax from Lisa Woodward, South Carolina DOC, 08/26/05.
- ¹⁴ Fax from Lisa Woodward, South Carolina DOC, 08/26/05.
- ¹⁵ Fax from Lisa Woodward, South Carolina DOC, 08/26/05.
- ¹⁶ Fax from Lisa Woodward, South Carolina DOC, 08/26/05.
- ¹⁷ Fax from Lisa Woodward, South Carolina DOC, 08/26/05.
- ¹⁸ Fax from Lisa Woodward, South Carolina DOC, 08/26/05.
- ¹⁹ Fax from Lisa Woodward, South Carolina DOC, 08/26/05.
- ²⁰ Fax from Lisa Woodward, South Carolina DOC, 08/26/05.
- ²¹ Cornelia Whitner v. State of South Carolina, 328 S.C. 1; 492 S.E.2d 777; 1997 S.C. Lexis 203; 70 A.L.R.5th 723.
- ²² Fax from Lisa Woodward, South Carolina DOC, 08/26/05.
- ²³ South Carolina DOC Policy/Procedure OP-22.10, "Transportation of Inmates Outside the Institution." Policies sent by David Jordan, Director of Executive Affairs, 01/22/01.
- ²⁴ Fax from Lisa Woodward, South Carolina DOC, 08/26/05.
- ²⁵ Fax from Lisa Woodward, South Carolina DOC, 08/26/05.
- ²⁶ Fax from Lisa Woodward, South Carolina DOC, 08/26/05.