



Nebraska's Sexual Assault Laws

Nebraska law states that sexual assault occurs when a perpetrator subjects a victim to sexual penetration or sexual contact without the victim's consent. When the law says *without consent* it means that:

- you were threatened or forced
- you verbally expressed lack of consent (example: saying "no")
- you expressed lack of consent through conduct (example: pulling away or pushing the offender away)
- you were deceived or tricked into giving consent

Nebraska law also states that sexual assault occurs when the perpetrator *knew or should have known* that the victim was not mentally or physically able to give consent. Examples of this include:

- when you were asleep, passed out or unconscious
- when the perpetrator knew or should have known that you were too drunk or high to consent
- when the perpetrator knew or should have known that you were unable to understand what was going on due to mental impairment or developmental disability
- when the perpetrator knew or should have known that you were unable to make your own decisions due to cognitive impairment or developmental disability
- If the perpetrator knew or should have known that you were underage

If you thought it would have been useless or dangerous to fight back or say "no," this doesn't mean that you wanted the contact or gave consent. Nebraska law states that a victim doesn't need to resist if it would be useless or harmful to do so. Even if you didn't fight back, and even if you didn't say "no," if you didn't give consent, the perpetrator can still be arrested and charged with a crime.

In Nebraska, the age of consent for sexual intercourse is 16. Sexual penetration is considered sexual assault by Nebraska law when one person is 15 years old or younger and the other is 19 years old or older. It doesn't matter if the younger person said they wanted sexual intercourse in this situation. Nebraska law considers anyone under 16 to be too young to consent and the older person could be charged with a crime.

There are three degrees of sexual assault included in Nebraska law. The degree of assault depends on the age of the victim, the age of the perpetrator, whether there was penetration or not, and whether the victim was injured.

The following chart defines the terms used in Nebraska law and shows the penalties for each degree of sexual assault.

Nebraska Sexual Assault Offenses and Penalties

Definitions:

Sexual Penetration: Vaginal, oral or anal intercourse or any intrusion, however slight, of any part of the actor's or victim's body or any object manipulated by the actor into the genital area or anal openings of the victim. Sexual penetration does not require the emission of semen.

Sexual Contact: Intentional touching, either directly or through the clothing, of the victim's or actor's intimate parts (sexual organs, genital area, anal area, breasts, buttock, inner thigh, groin) to sexually arouse or gratify either party

Serious Personal Injury: Great bodily injury or disfigurement, extreme mental anguish or trauma, pregnancy, disease, or loss of impairment of a sexual or reproductive organ

Sexual penetration and contact are illegal regardless of age if:

- The victim verbally or physically expressed a lack of consent
- Physical force or the threat of force or coercion is used
- The actor has a weapon
- The victim is mentally or physically incapable of resisting or appraising the nature of his or her conduct

Nebraska Statute §28-318

1st Degree Sexual Assault Nebraska Statute §28-319	Penalty
<ul style="list-style-type: none"> • Sexual Penetration and <ul style="list-style-type: none"> ○ Without consent of the victim <u>or</u> ○ The actor knew or should have known that the victim was mentally or physically incapable of resisting or appraising the nature of his or her conduct <u>or</u> ○ The actor is 19 years of age or older and the victim is 12-15 yrs old 	Class II Felony <ul style="list-style-type: none"> ○ First offense: 1-50 yrs ○ Second offense: minimum 25 years
2nd Degree Sexual Assault Nebraska Statute §28-320	Penalty
<ul style="list-style-type: none"> • Sexual Contact and • Serious personal injury is caused to the victim and <ul style="list-style-type: none"> ○ Without consent of the victim <u>or</u> ○ The actor knew or should have known that the victim was mentally or physically incapable of resisting or appraising the nature of his or her conduct 	Class IIA Felony <ul style="list-style-type: none"> ○ 0-4 yrs and 2 yrs post-release supervision or ○ \$25,000 fine or ○ both
3rd Degree Sexual Assault Nebraska Statute §28-320	Penalty
<ul style="list-style-type: none"> • Sexual Contact and • No serious personal injury is caused to the victim and <ul style="list-style-type: none"> ○ Without consent of the victim <u>or</u> ○ The actor knew or should have known that the victim was mentally or physically incapable of resisting or appraising the nature of his or her conduct 	Class I Misdemeanor <ul style="list-style-type: none"> ○ 0-6mo or a fine up to \$1,000 or ○ both