

**US Virgin Islands Code**  
**Title 14 - Crimes**  
**Chapter 85 - Rape and Related Offenses**

**§ 1699. Definition**

As used in this chapter, unless the context clearly indicates otherwise:

- (a) “perpetrator” means a person accused of rape or unlawful sexual contact.
- (b) “personal injury” means serious bodily injury, disfigurement, chronic pain, disease, or loss or impairment of a sexual or reproductive organ.
- (c) “sexual conduct” means actual or simulated:
  - (1) Sexual intercourse, including genital to genital, oral to genital, anal to genital, or oral-anal, whether between persons of the same or opposite sex.
  - (2) Penetration of the vagina or rectum however slight by hand, finger or by any object except when done as part of a recognized medical procedure.
- (d) “sexual contact” means any touching of another person with the genitals or any touching of the genitals, anus, groin, inner thighs, buttocks, lips or breasts of another person, or such touching through the clothing, for the purpose of arousing or gratifying sexual desire of any person.
- (e) “sexual intercourse” means vaginal intercourse or any insertion, however slight, of a hand, finger or object into the vagina, vulva, or labia, excluding such insertion for medical treatment or examination.
- (f) “sodomy” means carnal knowledge of any person by the mouth, i.e., cunnilingus or fellatio; or by the anus; or by submission to the same; or by any insertion, however slight, of any object into a person's anus, excluding such insertion for medical treatment or examination.
- (g) “victim” means the person alleging to have been subjected to rape or unlawful sexual contact.

**§ 1700. Aggravated rape in the first degree**

- (a) Whoever perpetrates an act of sexual intercourse or sodomy with a person:
  - (1) Who is under the age of thirteen, or
  - (2) who is under sixteen years of age residing in the same household as the perpetrator, and force, intimidation, or the perpetrator's position of authority over the victim is used to accomplish the sexual act; or
- (b) Whoever causes personal injury to a victim as the result of an act of rape as set forth in section 1701 of this title; or

(c) Whoever uses a deadly weapon during the commission of an act of rape as set forth in section 1701—

- is guilty of aggravated rape in the first degree and shall be imprisoned for life or for any term of years, but not less than 15 years. Notwithstanding the provisions of Title 5, chapters 313, 405 and 407, Virgin Islands Code, or any other provisions of law, imposition or execution of the fifteen-year minimum period of incarceration shall not be suspended; neither shall probation, parole, or any other form of release be granted for this minimum period of incarceration.

- Whoever is convicted of a second or subsequent offense of aggravated rape in the first degree shall be punished by imprisonment for life or for any term of years, but not less than 25 years. Notwithstanding the provisions of Title 5, chapters 313, 405 and 407, Virgin Islands Code, or any other provision of law, imposition or execution of the twenty-five year minimum period of incarceration shall not be suspended; neither shall probation, parole, or any other form of release be granted for this minimum period of incarceration.

(d) Whoever is convicted of attempted aggravated rape in the first degree shall be punished by imprisonment for not more than 25 years, but not less than 7 years. Notwithstanding the provisions of Title 5, chapters 313, 405 and 407, or any other provision of law, imposition or execution of the seven-year period of incarceration shall not be suspended, nor shall probation, parole or another form of release be granted for this minimum period of incarceration.

(e) Whoever is found guilty of an offense in this section shall receive a psychiatric evaluation and participate in psychosocial counseling.

(f) Spousal consent shall be an affirmative defense in the event the persons are legally married pursuant to the provisions of title 16, chapter 1 of the Virgin Islands Code.

#### **§ 1700a. Aggravated rape in the second degree**

(a) Whoever perpetrates an act of sexual intercourse or sodomy with a person who is under eighteen years but thirteen years or older, or by force, intimidation, or the perpetrator's position of authority over the victim is used to accomplish the sexual act, is guilty of aggravated rape in the second degree and shall be imprisoned for life or for any term in years, but not less than 10 years. "Position of authority" shall include, but not be exclusive to the following: an employer, youth leader, scout leader, coach, teacher, counselor, school administrator, religious leader, doctor, nurse, psychologist, guardian ad litem, baby sitter, or substantially similar position, and a police officer or probation officer other than when the officer is exercising custodial control over a minor.

(b) Whoever is convicted of a second or subsequent offense of aggravated rape in the second degree shall be punished by imprisonment for life or for any term of years, but not less than 20 years. Notwithstanding the provisions of title 5, chapters 313, 405 and 407 of this Code, or of any other law, imposition or execution of the twenty-year minimum period of incarceration shall not be suspended; nor shall probation, parole, or any other form of release be granted for the minimum period of incarceration prescribed in this section.

(c) Whoever is convicted of attempted aggravated rape in the second degree shall be punished by imprisonment for not more than 25 years, but not less than 5 years. Notwithstanding the provisions of title 5, chapters 313, 405 and 407, or any other provision of law, imposition or execution of the five-year minimum period of incarceration shall not be suspended, nor shall probation, parole or any other form of release be granted for this minimum period of incarceration.

(d) Whoever is convicted of an offense under this section shall receive a psychiatric evaluation and participate in psychosocial counseling.

(e) Spousal consent shall be an affirmative defense in the event the persons are legally married pursuant to the provisions of title 16, chapter 1 of the Virgin Islands Code.

### **§ 1701. Rape in the first degree**

(a) Whoever perpetrates an act of sexual intercourse or sodomy with a person—

(1) when through idiocy, imbecility or any unsoundness of mind, either temporary or permanent, the person is incapable of giving consent, or, by reason of mental or physical weakness or immaturity or any bodily ailment, the person does not offer resistance;

(2) when the person's resistance is forcibly overcome;

(3) when the person's resistance is prevented by fear of immediate and great bodily harm which the person has reasonable cause to believe will be inflicted upon the person;

(4) when the person's resistance is prevented by stupor or weakness of mind produced by an intoxicating, narcotic or anaesthetic agent, or when the person is known by the defendant to be in such state of stupor or weakness of mind from any cause; or

(5) when the person is, at the time, unconscious of the nature of the act and this is known to the defendant—

is guilty of rape in the first degree and shall be imprisoned not less than 10 years nor more than 30 years. Notwithstanding the provisions of Title 5, chapters 313, 405 and 407, Virgin Islands Code, or any other provision of law, imposition or execution of this ten-year minimum period of incarceration shall not be suspended; neither shall probation, parole, or any other form of release be granted for this minimum period of incarceration.

(b) Whoever is convicted of a second or subsequent offense of rape in the first degree shall be punished by imprisonment for life or for any term of years, but not less than 10 years. Notwithstanding the provisions of Title 5, chapters 313, 405 and 407, Virgin Islands Code, or any other provision of law, imposition or execution of the ten-year minimum period of incarceration shall not be suspended; neither shall probation, parole, or any other form of release be granted for this minimum period of incarceration.

(c) Spousal consent shall be an affirmative defense in the event the persons are legally married pursuant to the provisions of title 16, chapter 1 of the Virgin Islands Code.

### **§ 1702. Rape in the second degree**

(a) Any person over 18 years of age who perpetrates under circumstances not amounting to rape in the first degree, an act of sexual intercourse or sodomy with a person who is at least 16 years but less than 18 years of age, and the perpetrator is 5 years or older than the victim, is guilty of rape in the second degree and shall be imprisoned not more than 10 years.

(b) Whoever is convicted of any offense under this section shall receive a psychiatric evaluation and participate in psychosocial counseling.

(c) Spousal consent shall be an affirmative defense in the event the persons are legally married pursuant to the provisions of title 16, chapter 1 of the Virgin Islands Code.

**§ 1703. Rape in the third degree**

(a) Any person under 18 years of age but over 16 years of age who perpetrates an act of sexual intercourse or sodomy with a person who is under 16 years of age but over 13 years of age, under circumstances not amounting to rape in the first degree, is guilty of rape in the third degree and shall be subject to the jurisdiction of the Family Division of the Superior Court pursuant to Title 4, Chapter 11, Virgin Islands Code. In lieu of a term of detention, the court, in its discretion, may recommend appropriate treatment, counseling or family planning.

(b) Spousal consent shall be an affirmative defense in the event the persons are legally married pursuant to the provisions of title 16, chapter 1 of the Virgin Islands Code.

**§ 1704. Penetration necessary to constitute rape**

Any sexual penetration, however slight, is sufficient to complete the crime.

**§ 1705. Repealed. Oct. 18, 1984, No. 5013, § 11, Sess. L. 1984, p. 354.**

**§ 1706. Repealed. Aug. 4, 1978, No. 4172, Sess. L. 1978, p. 168.**

**§ 1708. Unlawful sexual contact in the first degree**

(a) A person who engages in sexual contact with a person—

(1) when force or coercion is used to accomplish the sexual contact;

(2) when the other person is under thirteen years of age;

(3) when the other person is under sixteen years of age residing in the same household as the perpetrator, and force, intimidation or the perpetrator's position of authority over the victim is used to accomplish the sexual contact;

(4) when the other person is threatened or placed in fear of imminent and serious bodily injury;

(5) when the other person's ability to consent to or resist the contact has been substantially impaired by an intoxicating, narcotic or anesthetic agent; or

(6) when the other person is unconscious or physically helpless, or that person's mental defect or incapacity is known to the perpetrator—is guilty of unlawful sexual contact and shall be imprisoned not more than 15 years.

(b) Spousal consent shall be an affirmative defense in the event the persons are legally married pursuant to the provisions of title 16, chapter 1 of the Virgin Islands Code.

**§ 1709. Unlawful sexual contact in the second degree**

(a) A person over eighteen years of age who engages in sexual contact with a person who is over thirteen but under sixteen years of age is guilty of unlawful sexual contact in the second degree and shall be imprisoned not more than 1 year.

(b) Spousal consent shall be an affirmative defense in the event the persons are legally married pursuant to the provisions of title 16, chapter 1 of the Virgin Islands Code.