

National Institute of Corrections/ Washington College of Law

Elements of Good
State Laws

July 13-18, 2003



Enacting a Law

- Context
- Climate
- Proponent

Important Policy Decisions

- What conduct does the law cover?
- Which staff does the law target?
- Will you penalize inmates?
- What agencies are covered by the law?
- What are the penalties?
- Will you make this a strict liability offense?
- Is this a separate statute

What conduct does the law cover?

- Sexual assault
- Sexual contact
- Failure to report

Which staff does the law target?

- Correctional officers
- Other corrections employees – doctor, counselor, chaplain
- Contract employees
- Volunteers

Will you penalize the conduct of inmates?

- Message sent to inmates
- Message sent to staff
- Impact on reporting by inmates
- Impact on reporting by staff

What agencies are covered?

- Prisons
- Jails
- Probation
- Parole
- Police
- Community correctional facilities
- Juvenile detention facilities
- Juvenile group homes

What are the penalties?

- Felony
- Misdemeanor
- Graduated sanctions depending on the severity of the offense and other factors
- Fines

Where will you place the statute?

- Vulnerable adult statute
- State's general rape statute
- Separate statute

Is this a strict liability offense?

- Consent
- Marriage
- Ignorance of status

Things to Remember

- ✓ You cannot control what passes in the legislature
- ✓ Absence of law doesn't mean that states don't address the issue
- ✓ Enactment of law does not guarantee enforcement

Things to remember

- These cases are a subset of sexual assault cases in general – underreported and underprosecuted
- Visible aggressive prosecutions are important – public education, prevention, sanctioning
- Relationship is everything – prosecutor, hospital, police, victim assistance