

## **§2A3.2**

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### **§2A3.2. Criminal Sexual Abuse of a Minor Under the Age of Sixteen Years (Statutory Rape) or Attempt to Commit Such Acts**

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- (a) Base Offense Level: **18**
- (b) Specific Offense Characteristics
  - (1) If the minor was in the custody, care, or supervisory control of the defendant, increase by **4** levels.
  - (2) If (A) subsection (b)(1) does not apply; and (B)(i) the offense involved the knowing misrepresentation of a participant's identity to persuade, induce, entice, or coerce the minor to engage in prohibited sexual conduct; or (ii) a participant otherwise unduly influenced the minor to engage in prohibited sexual conduct, increase by **4** levels.
  - (3) If a computer or an interactive computer service was used to persuade, induce, entice, or coerce the minor to engage in prohibited sexual conduct, increase by **2** levels.
- (c) Cross Reference
  - (1) If the offense involved criminal sexual abuse or attempt to commit criminal sexual abuse (as defined in 18 U.S.C. § 2241 or § 2242), apply §2A3.1 (Criminal Sexual Abuse; Attempt to Commit Criminal Sexual Abuse). If the victim had not attained the age of 12 years, §2A3.1 shall apply, regardless of the "consent" of the victim.

#### **Commentary**

**Statutory Provision:** 18 U.S.C. § 2243(a). For additional statutory provision(s), see Appendix A (Statutory Index).

#### **Application Notes:**

1. **Definitions.**—For purposes of this guideline:

"**Computer**" has the meaning given that term in 18 U.S.C. § 1030(e)(1).

"**Interactive computer service**" has the meaning given that term in section 230(e)(2) of the Communications Act of 1934 (47 U.S.C. § 230(f)(2)).

"**Minor**" means (A) an individual who had not attained the age of 16 years; (B) an individual, whether fictitious or not, who a law enforcement officer represented to a participant (i) had not attained the age of 16 years, and (ii) could be provided for the purposes of engaging in sexually explicit conduct; or (C) an undercover law enforcement officer who represented to a participant that the officer had not attained the age of 16 years.