

§2A3.4

computer or an interactive computer service to communicate directly with a minor or with a person who exercises custody, care, or supervisory control of the minor.

4. **Inapplicability of §3B1.3.**—Do not apply §3B1.3 (Abuse of Position of Trust or Use of Special Skill).

<i>Historical Note</i>	Effective November 1, 1987. Amended effective November 1, 1989 (amendment 94); November 1, 1995 (amendment 511); November 1, 2000 (amendment 592); November 1, 2001 (amendment 615); November 1, 2004 (amendment 664); November 1, 2007 (amendment 701); November 1, 2010 (amendment 746); November 1, 2023 (amendment 816).
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§2A3.4. Abusive Sexual Contact or Attempt to Commit Abusive Sexual Contact

- (a) Base Offense Level:
- (1) **20**, if the offense involved conduct described in 18 U.S.C. § 2241(a) or (b);
 - (2) **16**, if the offense involved conduct described in 18 U.S.C. § 2242; or
 - (3) **12**, otherwise.
- (b) Specific Offense Characteristics
- (1) If the victim had not attained the age of twelve years, increase by **4** levels; but if the resulting offense level is less than **22**, increase to level **22**.
 - (2) If the base offense level is determined under subsection (a)(1) or (2), and the victim had attained the age of twelve years but had not attained the age of sixteen years, increase by **2** levels.
 - (3) If the victim was in the custody, care, or supervisory control of the defendant, increase by **2** levels.
 - (4) If the offense involved the knowing misrepresentation of a participant's identity to persuade, induce, entice, or coerce a minor to engage in prohibited sexual conduct, increase by **2** levels.
 - (5) If a computer or an interactive computer service was used to persuade, induce, entice, or coerce a minor to engage in prohibited sexual conduct, increase by **2** levels.