

18 U.S.C. § 2250 — Tiering

State	Offense	Short Title	Tier	Citation	Comparable Offense(s)	Approach	Details
Federal	8 U.S.C. § 1328	Importing Alien for Immoral Purposes	Tier II	U.S. v. Byun 539 F.3d 982 (9 th Cir. 2008)	18 U.S.C. § 1591 18 U.S.C. § 2423(a)	Categorical, but non-categorical with respect to the age of the victim	Brought a Korean National who was 17 years old to Guam to engage in prostitution.
Federal	18 U.S.C. §§ 2252A(a)(2)(B), 2252A(b)(1) and 2256	Distribution of Child Pornography	Tier II	U.S. v. Nazerzadeh 73 F.4 th 341 (5 th Cir. 2023)	n/a	Not specified	Long textual analysis of tiering language in SORNA. Motion to terminate registration.
UCMJ	10 U.S.C. § 920(b)(2)(B)	Abusive Sexual Contact & Sexual Assault	Tier III	U.S. v. Brown 774 Fed. Appx. 837 (5 th Cir. 2019)	18 U.S.C. § 2242(2)	Categorical	Plain error analysis. "Knowing" element. Sexual assault on intoxicated woman. Utilizes § 2246 definitions.
UCMJ	10 U.S.C. § 920c(b)	Forcible Pandering	Tier I	U.S. v. Coulson 86 F.4th 1189 (8 th Cir. 2023)	18 U.S.C. § 2241 18 U.S.C. § 2242	Categorical	Compelled intercourse involving an adult woman with money paid to D.
UCMJ	10 U.S.C. § 925	Sodomy	Tier III	U.S. v. Taylor 644 F.3d 573 (7 th Cir. 2011)	n/a	Modified Categorical	Divisible statute
California	Cal. Penal Code § 220	Assault with the Intent to Commit Rape	Not a Tier III	U.S. v. Daniel 2021 WL 3037404 (D. Idaho 7/19/21)	18 U.S.C. § 2241(a)(1) 18 U.S.C. § 2242(1)	Categorical	Looked at state case law to interpret "force", requires only the force inherent in the act itself, broader than federal definition.

18 U.S.C. § 2250 — Tiering

State	Offense	Short Title	Tier	Citation	Comparable Offense(s)	Approach	Details
Colorado	§ 18-3-403	Second Degree Sexual Assault	Tier I	U.S. v. Ballantyne 2019 WL 3891252 (D. Mont. 8/19/19)	18 U.S.C. § 2244(a)	Categorical	Penetration offense; state statute interpreted to “sweep more broadly”. Utilizes § 2246 definitions.
Colorado	§ 18-3-405(a)	Sexual Contact with Child under 15	Tier I	U.S. v. Navarro 54 F.4th 268 (5 th Cir. 2022)	18 U.S.C. § 2241(c) 18 U.S.C. § 2243(a)	Categorical	Sexual assault of 6-year-old and 8-year-old. Same statute as in <i>Walker</i> . Cites <i>Escalante</i> .
Colorado	§ 18-3-405(a)	Sexual Contact with Child under 15	Tier I	U.S. v. Walker 931 F.3d 576 (7 th Cir. 2019)	18 U.S.C. § 2244(a)(2), (3), & (5)	Categorical, but non-categorical with respect to the age of the victim	Sexual assault of 4-year-old and 6-year-old. Colorado statute required victim to be under 15 and 4 years younger than offender. 7 th Circuit held that children under 15 are <i>not</i> categorically incapable of appraising the nature of sexual conduct (§ 2242(2)(A)).
Connecticut	§ 53a-71(a)	Sexual Assault in the Second Degree	Tier III	U.S. v. Goguen 218 F. Supp. 3d 111 (D. Me. 11/2/16)	18 U.S.C. § 2242(2)	Categorical	Sexual assault on physically helpless victim. Utilizes § 2246 definitions.
Florida	§ 794.011(3)	Sexual Battery with Force	Tier III	U.S. v. Bango 386 Fed. Appx. 50 (3d Cir. 2010)	18 U.S.C. § 2241(a) 18 U.S.C. § 2242(1)	Not specified	Victim 12 years of age or older.

18 U.S.C. § 2250 — Tiering

State	Offense	Short Title	Tier	Citation	Comparable Offense(s)	Approach	Details
Florida	§ 794.011(5)	Sexual Battery with Slight Force (v>12)	Tier II	U.S. v. Ramirez 677 Fed. Appx. 575 (11 th Cir. 2017)	18 U.S.C. § 2244(b)	Not specified	Sexual battery on 16-year-old victim.
Florida	§ 800.04(3)	Statutory Rape	Tier II	U.S. v. Backus 550 Fed. Appx. 260 (6 th Cir. 2014)	18 U.S.C. § 2243(a)	Categorical	20-year-old had sex with a minor under 16. Utilizes § 2246 definitions.
Georgia	§ 16-6-1	Rape (aiding & abetting)	Tier III	U.S. v. Cammerto 859 F.3d 311 (4 th Cir. 2017)	18 U.S.C. § 2241(a), (b)	Categorical	Rape of an adult. Defendant argued that because a person could be convicted as an aider-and-abettor, the Georgia statute swept more broadly. However, under federal law, A & A treated as principals.
Illinois	720 ICSA § 5/11-1.60(c)(1)(i)	Aggravated Criminal Sexual Abuse	Tier I	U.S. v. Flint 2018 WL 473427 (W.D. La. 1/18/18)	18 U.S.C. § 2244(a)(5) 18 U.S.C. § 2241(c)	Categorical	Sexual conduct with a victim under 13 years old. Illinois statute criminalizes touching of body parts that federal statutes do not. Statute divisible but could not determine subsection.

18 U.S.C. § 2250 — Tiering

State	Offense	Short Title	Tier	Citation	Comparable Offense(s)	Approach	Details
Illinois	720 ICSA § 5/11-1.60(d)	Aggravated Criminal Sexual Abuse	Not a Tier III	Cary v. U.S. 2013 WL 530575 (C.D. Ill. 2/12/13)	Unclear	Modified Categorical	Ineffective assistance case. Assumes that sexual act with victim between 13-16 would not be a tier III offense, without further discussion. Sentencing case.
Illinois	720 ICSA § 5/12-16(c)(1)(i)	Aggravated Criminal Sexual Abuse	Tier I	U.S. v. Ellickson Case No. 2:20-cr-00227 (E.D. Wisc. 2/12/21) (R & R)	Not specified	Categorical	Sexual penetration of a victim under 13. Illinois statute criminalizes touching of body parts that federal statutes do not. Cites <i>Flint</i> . Utilizes § 2246 definitions.
Indiana	§ 35-42-4-3(b); § 35-42-4-9(b)	Child Molesting; Sexual Misconduct with a Minor	Tier I	U.S. v. Capri 2024 WL 3381305 (E.D. Tenn. 7/11/24)	18 U.S.C. § 2244(a)(3)	Categorical	'Realistic probability' analysis using Indiana case law. Indiana statute criminalizes touching of body parts that federal statute does not. Utilizes § 2246 definitions.
Indiana	§ 35-52-4-8(a)	Sexual Battery	Not a Tier III	U.S. v. Stock 685 F.3d 621 (6 th Cir. 2012)	Not specified	Categorical	Offense only required sexual contact although underlying facts alleged rape. Sentencing case. Utilizes § 2246 definitions.

18 U.S.C. § 2250 — Tiering

State	Offense	Short Title	Tier	Citation	Comparable Offense(s)	Approach	Details
Kentucky	§ 510.110(1)(b)(2)	Sexual Abuse in the First Degree	Tier I	U.S. v. Flippins 2024 WL 3360514 (D. Kan. 7/10/24)	18 U.S.C. § 2244	Modified Categorical	Sexual abuse of a four-year-old girl. Definition of “intimate parts”, as interpreted by Kentucky case law, broader than the definition of “sexual conduct” in § 2246. Utilizes § 2246 definitions.
Louisiana	§ 14:81	Indecent Behavior with a Juvenile	Tier II	U.S. v. Black 963 F. Supp. 2d 790 (E.D. Tenn. 2013)	18 U.S.C. § 2244(a)(3) 18 U.S.C. § 2244(b)	Categorical	Lewd and lascivious act on or in the presence of a child under 17, and a two-year age difference. Held to be comparable to § 2244(b).
Maryland	§ 3-304	Second Degree Rape	Tier II	Edwards v. U.S. 2017 WL 7102896 (N.D. W. Va. 12/21/17)	Not specified	Not specified	Offender at least 18 and victim 13 years old. Any possible error not preserved, and court did not consider. Habeas case.
Minnesota	§ 609.342(1)(g)	First Degree Criminal Sexual Conduct	Tier I	U.S. v. Laney 2021 WL 1821188 (N.D. Iowa 5/6/21)	18 U.S.C. § 2241(c)	Categorical, but non-categorical with respect to the age of the victim	Sexual contact with an 11-month-old; because statute only required proof that the victim was under 16, not 12, it is a tier I. Follows <i>Walker</i> , disregards <i>Berry</i> , <i>Byun</i> , and <i>White</i> .

18 U.S.C. § 2250 — Tiering

State	Offense	Short Title	Tier	Citation	Comparable Offense(s)	Approach	Details
Minnesota	§ 609.343(1)(a)	Criminal Sexual Conduct in the Second Degree	Tier III	U.S. v. Coleman 681 Fed. Appx. 413 (5 th Cir. 2017)	18 U.S.C. § 2244	Categorical	Sexual contact with 10-year-old girl. Tier III even though statute's intent element is "slightly broader". Utilizes § 2246 definitions.
Mississippi	§ 97-5-23	Touching Child for Lustful Purposes	Tier III	U.S. v. Young 872 F.3d 742 (5 th Cir. 2017)	18 U.S.C. § 2244	Categorical	Sexual contact with a 12-year-old child. State statute criminalizes touching particular body parts and touching with an object, as well as not limiting the victim's age to under 13. "Realistic probability" analysis. Age argument waived. Utilizes § 2246 definitions.
Nebraska	§ 28-319	Attempted First Degree Sexual Assault	Tier I	U.S. v. Church 461 F. Supp. 3d 875 (S.D. Iowa 2020)	18 U.S.C. § 2241 18 U.S.C. § 2242	Categorical	Attempted forcible sexual penetration causing serious personal injury. Rejected divisibility argument.
Nebraska	§ 28-319(1)	Attempted First Degree Sexual Assault	Tier I	U.S. v. Karsten 2024 WL 1703159 (D. Neb. 4/19/24)	18 U.S.C. § 2244(a)(3)	n/a	Divisibility case, based on <i>Mathis</i> . Underlying statute indivisible.

18 U.S.C. § 2250 — Tiering

State	Offense	Short Title	Tier	Citation	Comparable Offense(s)	Approach	Details
New Jersey	§ 2C:14-2(c)(1)	Sexual Assault in the Second Degree	Tier I	U.S. v. Montgomery 966 F.3d 335 (5 th Cir. 2020)	18 U.S.C. § 2241 18 U.S.C. § 2242	Categorical	<p>Looked to state case law to interpret elements; because state offense criminalized non-consensual intercourse in the absence of proof of additional force, threats, or fear, it was broader than federal tier III offenses.</p> <p>Utilizes § 2246 definitions.</p>
New Jersey	§ 2C:24-4(a)	Endangering Welfare of a Child	Not a Tier III	U.S. v. Berry 814 F.3d 192 (4 th Cir. 2016)	18 U.S.C. § 2241 18 U.S.C. § 2242	Modified Categorical, but non-categorical with respect to the age of the victim	<p>Divisible offense, underlying offense allowed conviction for person who ‘causes the child harm’ or engages in sexual conduct impairing the morals of a child under 16. Because contact not required by state offense, not a Tier III. Sentencing case.</p> <p>Utilizes § 2246 definitions.</p>

18 U.S.C. § 2250 — Tiering

State	Offense	Short Title	Tier	Citation	Comparable Offense(s)	Approach	Details
New York	§ 130.30	Second Degree Rape	Tier I	U.S. v. Marrero 2024 WL 1253643 (2d Cir. 3/25/2024)	18 U.S.C. § 2243(a) 18 U.S.C. § 2244(a)(3)	Categorical	Sexual intercourse by a person 18 or older with a person 15 or under. <i>Shephard</i> document issue as to date of offense and applicable statute.
New York	§ 130.30	Second Degree Rape	Tier III	U.S. v. Palaguachi 187 F. Supp. 3d 356 (E.D.N.Y. 5/16/16)	18 U.S.C. § 2243(a)	Categorical, but non-categorical with respect to the age of the victim	Sexual intercourse by a person 18 or older with a person under 15; actual age of victim was 12. Permitted to look at actual victim age per <i>White</i> .
New York	§ 130.35(1)	First Degree Rape	Tier III	U.S. v. Gilchrist 2021 WL 808753 (M.D. Pa. 3/3/21)	18 U.S.C. § 2241 18 U.S.C. § 2242	Categorical	Sex by forcible compulsion; ‘realistic probability’ discussion. Utilizes § 2246 definitions.
New York	§ 130.65	Attempted Sexual Abuse in the First Degree	Tier III	U.S. v. Neel 641 Fed. Appx. 782 (10 th Cir. 2016)	Not specified	Not specified	Where state court could have sentenced to more than one year, but chose to sentence under one year, still eligible for tier III classification.
North Carolina	§ 14-202.1	Indecent Liberties with a Child	Tier I	U.S. v. White 782 F.3d 1118 (10 th Cir. 2015)	18 U.S.C. § 2244	Categorical	State offense did not require physical contact as an element, so not a tier II or tier III offense. Utilizes § 2246 definitions.

18 U.S.C. § 2250 — Tiering

State	Offense	Short Title	Tier	Citation	Comparable Offense(s)	Approach	Details
Ohio	§ 2907.04(A)	Corruption of a Minor	Tier I	U.S. v. McGough 844 Fed. Appx. 859 (6 th Cir. 2021)	18 U.S.C. § 2244	Categorical	Government conceded tier I classification. 22-year-old had sex with a 13-year-old. <i>Utilizes § 2246 definitions.</i>
Ohio	§ 2907.05(A)(4)	Gross Sexual Imposition	Tier III	U.S. v. Forster 549 Fed. Appx. 757 (10 th Cir. 2013)	18 U.S.C. § 2244	Categorical	Sexual contact with victim under 13. <i>Utilizes § 2246 definitions.</i>
Oregon	§ 163.405(1)(b)	First Degree Sodomy	at least a Tier II	U.S. v. Loomis 2017 WL 987447 (D. V.I. 3/14/2017)	18 U.S.C. § 2244(a)(5) 18 U.S.C. § 2241(c)	Modified Categorical	Victim under 12. Looked at the facts to conclude that the ‘four years older’ exception in § 20911(5)(C) did not apply. Divisible statute, cites <i>Mathis</i> . <i>Utilizes § 2246 definitions.</i>
Oregon	§ 163.425	Second Degree Sexual Abuse	Not a Tier III	U.S. v. Cabrera-Gutierrez 756 F.3d 1125 (9 th Cir. 2014)	18 U.S.C. § 2242	Categorical	Offender had sex with intoxicated 15-year-old. No age specified in statute (18 age of consent in Oregon, 16 under federal law). More general non-consent element in state statute than federal statute. <i>Descamps</i> forecloses modified categorical approach.

18 U.S.C. § 2250 — Tiering

State	Offense	Short Title	Tier	Citation	Comparable Offense(s)	Approach	Details
Oregon	§ 163.427(1)(a)(A)	Attempted Sexual Abuse, First Degree	Tier I	U.S. v. Greene 2017 WL 395053 (M.D. Tenn. 1/30/17)	18 U.S.C. § 2244	Modified Categorical	Sexual contact with a person under 14. Force not required, nor is fear, incapacity. "Intimate parts" in state statute not defined and could be very broad. Utilizes § 2246 definitions.
Pennsylvania	§ 18-3121(a)	Rape	Tier III	Peele v. Oberlander 2023 WL 5487646 (E.D. Pa. 8/24/23)	18 U.S.C. § 2241(a) 18 U.S.C. § 2242(1) – (2)	Not Specified	Minor victim. Habeas petition.
Rhode Island	§ 11-37-8.1	First Degree Child Molestation	Not a Tier III	U.S. v. Morales 801 F.3d 1 (1 st Cir. 2015)	18 U.S.C. § 2241 18 U.S.C. § 2242	Categorical	18-year-old offender had sex with 13-year-old victim. Because this is broader than the federal cutoff age of 12, not a tier III offense.
Tennessee	§ 39-13-504	Aggravated Sexual Battery	Not a Tier III	U.S. v. Barcus 892 F.3d 228 (6 th Cir. 2018)	18 U.S.C. § 2241 18 U.S.C. § 2242	Categorical	19-year-old offender had sex with 12-year-old victim. State offense does not require 'intent' to be proven so sweeps more broadly. Cites <i>Mathis</i> . Utilizes § 2246 definitions.
Texas	§ 22.011(a)	Sexual Assault	Tier I	U.S. v. Burchell 2021 WL 3726899 (D. S.D. 8/23/21)	18 U.S.C. § 2241 18 U.S.C. § 2242	Categorical	Sexual penetration w/o consent. Underlying subsection not specified. Age of victim unknown.

18 U.S.C. § 2250 — Tiering

State	Offense	Short Title	Tier	Citation	Comparable Offense(s)	Approach	Details
Texas	§ 22.011(c)(1)	Sexual Assault	Tier I	U.S. v. Roebuck 2015 WL 13667427 (D. N.M. 1/26/15)	18 U.S.C. § 2241 18 U.S.C. § 2242	Categorical	Strict liability statutory rape statute. Considered possible affirmative defense. <i>Rejected by Escalante.</i>
Utah	§ 76-5-401	Unlawful Sexual Activity with a Minor	Tier I	U.S. v. Escalante 933 F.3d 395 (5 th Cir. 2019)	18 U.S.C. § 2244 18 U.S.C. § 2243	Categorical	35-year-old had sexual contact with a 14-year-old. Rejected possible affirmative defense argument under § 2243(c)(1). Utah statute did not require proof of any age differential. Court could look at circumstances to determine if the victim was a minor, but not to determine age differential. Cites <i>Mathis.</i>
Vermont	13 VSA § 2602	Lewd or Lascivious Conduct with Child	Tier II	U.S. v. Phillips 2016 WL 5338711 (M.D. Fl. 9/23/16)	18 U.S.C. § 2422(b)	Categorical	Sexual assault of 14-year-old.
Virginia	§ 18.2-67.3(a)(1)	Aggravated Sexual Battery	Tier III	U.S. v. Robinson 2012 WL 5902342 (W.D. Va. 11/25/12)	18 U.S.C. § 2244 18 U.S.C. § 2241	Categorical	Sexual assault of 2-year-old. Utilizes § 2246 definitions.

18 U.S.C. § 2250 — Tiering

State	Offense	Short Title	Tier	Citation	Comparable Offense(s)	Approach	Details
Washington	RCW 9A.44.050(1)(a)	Attempted Second Degree Rape	Tier III	U.S. v. Fitzgerald 2025 WL 567019 (E.D. Wash. 2/20/25)	18 U.S.C. § 2241(a)(1)	Categorical	Intent issue, Court looked at statutory and Common Law definition. Utilizes § 2246 definitions.
Wisconsin	§ 940.225(1)(d)	First Degree Sexual Assault	Tier I	U.S. v. Early Livestock 2020 WL 2044728 (N.D. Okla. 4/28/20)	18 U.S.C. § 2244(a)(5) 18 U.S.C. § 2241(c)	Categorical	Sexual contact or sexual intercourse with victim 12 or under. Because 18 USC § 2244 only applies to victims <i>under</i> 12, not a tier III offense. Utilizes § 2246 definitions.