

# sex talk.

answers to your questions about sex and relationships

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## If an 18-year-old has sex with an underage partner is it sexual assault?

In short, it all depends what state you are in and how old you and your partner are. All states have a designated age of consent, which is the age when one can legally agree to have sex. Under the age of consent, even if a partner agrees to have sex or initiates sexual activity, they are not able to legally give consent because of their age. Sex where one partner is under this age is also referred to as statutory rape.

Here are the ages of consent in a few states:

- Arizona: 18
- California: 18
- New York: 17
- Illinois: 17
- Connecticut: 16
- Alaska: 16

Many factors determine whether or not you can be prosecuted for sex with a minor and the severity of charges. The Arizona Revised Statutes 13-1407 state that when the underage partner is 15, 16, or 17 and the non-underage partner is under 19, or still in high school, and no more than 2 years older than the underage partner, consensual sex may not be prosecuted. California

Penal Code Section 261.5 states that sex with any minor under 18 is statutory rape, with criminal punishment dependent upon the ages of the minor and the non-underage person. The larger the age gap between the two partners, the more severe the punishment.

The nature of the sexual relationship is also important to consider. According to Arizona Revised Statutes 13-1405, sexual conduct with a minor can result in a more severe felony if there is a relationship of trust between the two individuals. Additionally, consensual sex in a marriage where one spouse is a minor does not fall under statutory rape; however, if the sexual conduct is not consensual in a marriage with a minor, it is considered rape.

So, if you are considering starting, or are currently in, a sexual relationship with an underage partner, be aware of the laws in your state and proceed with caution. To talk to a counselor in a safe, anonymous setting, call UA Oasis Sexual Assault & Trauma Services at (520) 621-2051.

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[www.health.arizona.edu](http://www.health.arizona.edu)

Have a question? Email it to [sextalk@email.arizona.edu](mailto:sextalk@email.arizona.edu)



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