

28-319.01.

Sexual assault of a child; first degree; penalty.

(1) A person commits sexual assault of a child in the first degree:

(a) When he or she subjects another person under twelve years of age to sexual penetration and the actor is at least nineteen years of age or older; or

(b) When he or she subjects another person who is at least twelve years of age but less than sixteen years of age to sexual penetration and the actor is twenty-five years of age or older.

(2) Sexual assault of a child in the first degree is a Class IB felony with a mandatory minimum sentence of fifteen years in prison for the first offense.

(3) Any person who is found guilty of sexual assault of a child in the first degree under this section and who has previously been convicted (a) under this section, (b) under section [28-319](#) of first degree or attempted first degree sexual assault, (c) under section [28-320.01](#) before July 14, 2006, of sexual assault of a child or attempted sexual assault of a child, (d) under section [28-320.01](#) on or after July 14, 2006, of sexual assault of a child in the second or third degree or attempted sexual assault of a child in the second or third degree, or (e) in any other state or federal court under laws with essentially the same elements as this section, section [28-319](#), or section [28-320.01](#) as it existed before, on, or after July 14, 2006, shall be guilty of a Class IB felony with a mandatory minimum sentence of twenty-five years in prison.

(4) In any prosecution under this section, the age of the actor shall be an essential element of the offense that must be proved beyond a reasonable doubt.

Source

- [Laws 2006, LB 1199, § 6;](#)
- [Laws 2009, LB97, § 12.](#)

Cross References

- **Registration of sex offenders**, see sections [29-4001](#) to [29-4014](#).

Annotations

- For purposes of the authorized limits of an indeterminate sentence, both "mandatory minimum" as used in subsection (2) of this section and "minimum" as used in section 28-105 in regard to a Class IB felony mean the lowest authorized minimum term of the indeterminate sentence. *State v. Russell*, 291 Neb. 33, 863 N.W.2d 813 (2015).

- The mandatory minimum sentence required by subsection (2) of this section affects both probation and parole: Probation is not authorized, and the offender will not receive any good time credit until the full amount of the mandatory minimum term of imprisonment has been served. *State v. Russell*, 291 Neb. 33, 863 N.W.2d 813 (2015).
- The range of penalties for sexual assault of a child in the first degree, first offense, under subsection (2) of this section, is 15 years' to life imprisonment. *State v. Russell*, 291 Neb. 33, 863 N.W.2d 813 (2015)