START\_STATUTE13-1401.  Definitions; factors

A.  In this chapter, unless the context otherwise requires:

1.  "Oral sexual contact" means oral contact with the penis, vulva or anus.

2.  "Position of trust" means a person who is or was any of the following:

(a)  The minor's parent, stepparent, grandparent, adoptive parent, legal guardian, aunt, uncle or foster parent.

(b)  The minor's teacher or any school employee or volunteer at the minor's school who is eighteen years of age or older.

(c)  The minor's coach or instructor, whether the coach or instructor is an employee or volunteer.

(d)  The minor's clergyman or priest or any person who is at least eighteen years of age and who worked or volunteered for a religious organization that hosted events or activities where the minor was in attendance.

(e)  Engaged in a sexual or romantic relationship with the minor's parent, adoptive parent, grandparent, aunt, uncle, legal guardian, foster parent, stepparent, step-grandparent or sibling.

(f)  Related to the minor by blood or marriage within the third degree and is at least ten years older than the minor.

(g)  The minor's employer.

(h)  An employee of a group home or residential treatment facility where the minor resides or has previously resided. For the purpose of this subdivision, "group home" means a child welfare agency that receives for care and maintenance a child who has been adjudicated dependent or a community residential setting as defined in section 36‑551.

3.  "Sexual contact":

(a)  Means any direct or indirect touching, fondling or manipulating of any part of the genitals, anus or female breast by any part of the body or by any object or causing a person to engage in such contact.

(b)  Does not include direct or indirect touching or manipulating during caretaking responsibilities or interactions with a minor or vulnerable adult that an objective, reasonable person would recognize as normal and reasonable under the circumstances.

4.  "Sexual intercourse" means penetration into the penis, vulva or anus by any part of the body or by any object or masturbatory contact with the penis or vulva.

5.  "Spouse" means a person who is legally married and cohabiting.

6.  "Teacher" means a certificated teacher as defined in section 15‑501 or any other person who provides instruction to pupils in any school district, charter school or accommodation school, the Arizona state schools for the deaf and the blind or a private school in this state.

7.  "Without consent" includes any of the following:

(a)  The victim is coerced by the immediate use or threatened use of force against a person or property.

(b)  The victim is incapable of consent by reason of mental disorder, mental defect, drugs, alcohol, sleep or any other similar impairment of cognition and such condition is known or should have reasonably been known to the defendant.  For the purposes of this subdivision, "mental defect" means the victim is unable to comprehend the distinctively sexual nature of the conduct or is incapable of understanding or exercising the right to refuse to engage in the conduct with another.

(c)  The victim is intentionally deceived as to the nature of the act.

(d)  The victim is intentionally deceived to erroneously believe that the person is the victim's spouse.

B.  The following factors may be considered in determining whether a relationship is currently or was previously a sexual or romantic relationship pursuant to subsection A, paragraph 2, subdivision (e) of this section:

1.  The type of relationship.

2.  The length of the relationship.

3.  The frequency of the interaction between the two persons.

4.  If the relationship has terminated, the length of time since the termination. END\_STATUTE