



Facing Sexual Assault Charges in Massachusetts

What You Need to Know If You Have Been Accused

We get you through the storm, safely.

Greater Boston • Eastern Massachusetts

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Being accused of a sex crime is one of the most serious things that can happen to a person. These charges are treated differently from almost any other kind of criminal case. The stakes are higher, the process is longer, and the consequences reach far beyond a courtroom. This guide explains how these cases actually work in Massachusetts, why they are so often decided on credibility alone, and what you need to do — and not do — right now to protect yourself.

Why These Cases Are Different

Most criminal cases involve some kind of physical evidence: a stolen item, a damaged car, a breath test. Sexual assault and rape cases are usually different. In many cases, there is no physical evidence at all. There is one person's word against another's.

That single fact changes everything about how these cases are investigated, charged, and defended. A prosecutor does not need a witness, a video, or DNA evidence to move forward. In most situations, one credible accusation is enough for the Commonwealth to file charges and take a case to a grand jury. This is true even when the accusation involves conduct that is said to have happened years, or even decades, earlier.

This does not mean the accusation is true. It means the case will almost always come down to which account the jury believes. Understanding that reality early is the first step in building an effective defense.

Understanding the Charges

Massachusetts prosecutes sex offenses under a number of different statutes, and the specific charge matters enormously. The penalties, the available defenses, and even which court hears the case can all depend on the exact charge and the age of the alleged victim.

- **Rape** (victim 16 or older): sexual intercourse compelled by force or threat, against the alleged victim's will. Up to 20 years in state prison for a first offense; life for a second or later offense; a 10-year mandatory minimum if a firearm was involved.
- **Aggravated Rape**: rape involving serious bodily injury, multiple participants, or committed during another serious felony. Carries up to life in prison and cannot be resolved with a Continuance Without a Finding (CWOFF).
- **Statutory Rape (Rape of a Child Under 16)**: sexual intercourse with someone under 16. Consent is not a defense, and mistake about the child's age is not a defense either —

Massachusetts has no "Romeo and Juliet" exception. Carries up to life in prison.

- **Aggravated Statutory Rape:** statutory rape with a significant age gap (more than 5 years if the child is under 12, or more than 10 years if the child is 12 to 15) or committed by a mandated reporter such as a teacher, coach, clergy member, or healthcare provider. Carries a mandatory minimum of 10 years that cannot be reduced or suspended.
- **Rape of a Child by Force** and **Aggravated Rape of a Child by Force:** the most serious child sex offenses under Massachusetts law, carrying up to life in prison with mandatory minimums of 10 to 15 years depending on the circumstances.
- **Indecent Assault and Battery:** unwanted intentional touching of a sexual nature. Penalties and rules differ depending on whether the alleged victim is 14 or older, under 14, or elderly or disabled — and whether a CWOFF is even legally available.

Every one of these charges carries mandatory sex offender registration upon conviction. We walk each client through exactly which statute applies to their situation, because the difference between charges can mean the difference between a resolution without a criminal record and a mandatory decade in state prison.

Why this matters: Many people assume that if enough time has passed, the case is barred by the statute of limitations. In Massachusetts, that assumption is often wrong. For child victims, the clock frequently does not even begin running until the alleged victim turns 16 or reports to police — whichever happens first. For many of the most serious child sex offenses, there is no time limit on prosecution at all. A person can be indicted decades after the alleged conduct, even with no physical evidence remaining.

Statutes of Limitations Rarely Provide Protection

People are often surprised to learn how little protection the passage of time actually provides in these cases. Under Massachusetts law, an ordinary rape charge involving an adult victim must generally be brought within 15 years. But that 15-year clock does not even start if the accuser was under 16 at the time of the alleged offense — it does not begin until the accuser turns 16 or reports to a law enforcement agency, whichever comes first.

For a number of the most serious child sex offense statutes, including child rape and certain indecent assault and battery charges, there is no outer time limit on prosecution at all. The only real limitation is practical: if the Commonwealth waits more than 27 years to bring charges, it must present independent evidence corroborating the accuser's account — evidence that cannot consist solely of a mental health professional's opinion.

What this means in practice is simple and important: do not assume that because an accusation involves something from long ago, it cannot be prosecuted. In our experience, some of the most serious cases we defend involve allegations dating back ten, twenty, or more years, often with no physical evidence, no forensic exam, and nothing left except memory and testimony.

What Not to Do Right Now

If you have been accused, contacted by police, or already charged, the decisions you make in the next several days matter more than almost anything else in your case.

- **Do not talk to police or investigators** without a lawyer present, even if you believe you can clear things up yourself. Investigators are trained to obtain statements that can be used against you. There is no version of "just telling your side" that helps you here without a lawyer in the room.
- **Do not contact the accuser, under any circumstances.** Not to apologize, not to ask why, not to explain your side. Any contact can be used as evidence, can violate conditions of release, and can turn a defensible case into witness intimidation.
- **Do not delete anything.** Text messages, social media posts, emails, call logs, direct messages, photos — leave all of it exactly as it is. Deleting evidence, even something that feels embarrassing or irrelevant, can result in a separate charge for destroying evidence and can make you look guilty of the underlying accusation even if you are not.
- **Do not post about your case, or your life, on social media.** Prosecutors and investigators regularly review social media for anything that can be used against a defendant.
- **Do not discuss the case with anyone except your lawyer** — not friends, not family, not coworkers. Those conversations are not confidential and can be used against you.
- **Write down what you remember** while it is fresh: dates, locations, who was present, and any communications. Give that document only to your attorney.

Why Preserving Evidence Matters So Much

In a case built on competing accounts, communications often matter more than anything else. Text messages, social media messages, and emails between you and the accuser — before and after the alleged incident — can establish the actual nature of the relationship, contradict a timeline, or reveal a motive to fabricate or exaggerate. That evidence disappears the moment it is deleted, and it often cannot be recovered later, even with an expert.

This is true whether the evidence seems to help you or hurt you. A defense built on an incomplete record is a weaker defense. Preserve everything and let your attorney decide what matters.

Aggravating Factors and Mandatory Minimum Sentences

Certain facts can transform a serious charge into one that carries a mandatory prison sentence a judge has no power to reduce, suspend, or waive.

- **Age of the alleged victim.** Charges involving children carry far higher maximum penalties, and several cannot be resolved short of trial without a conviction on the record.
- **Age gap between the parties.** When the accuser is under 16, a wide age difference can trigger the aggravated statutory rape statute and its 10-year mandatory minimum.
- **Mandated reporter status.** Teachers, coaches, clergy, healthcare providers, and certain other professionals face enhanced charges and mandatory minimums when the accuser is a minor.
- **Use of a firearm.** Any rape charge involving a firearm carries a 10-year mandatory minimum, rising to 15 years for a subsequent offense.
- **Serious bodily injury or joint enterprise.** These factors elevate a standard rape charge to aggravated rape, removing the maximum sentence entirely.

Identifying every aggravating factor the Commonwealth may allege — and whether the facts actually support it — is one of the first things we do in every case we take on. A mandatory minimum sentence is not something a judge can talk you out of at sentencing. It has to be addressed at the front end of the case.

Sex Offender Registration

A conviction on nearly every sex offense in Massachusetts carries mandatory registration with the Sex Offender Registry Board (SORB). SORB assigns a classification level — Level 1, 2, or 3 — based on an individualized risk assessment. Level 2 and Level 3 classifications are publicly searchable online, with real consequences for where you can live, work, and be present in your community. Registration for a first offense typically lasts at least 20 years; many child-victim and repeat convictions carry lifetime registration.

SORB classification is a separate proceeding from the criminal case, with its own hearing, its own evidence, and its own strict deadlines. Fighting the underlying charge and, where necessary, fighting for the lowest possible SORB classification are both part of a complete defense.

Building a Defense: Understanding Why an Accusation Was Made

A defense in these cases is rarely just about poking holes in the Commonwealth's evidence. It is about building a complete, credible explanation for the jury of why the accusation exists at all — and helping the jury understand that explanation clearly enough to act on it.

Accusations can arise from genuine misunderstanding, from custody and family court disputes, from regret after a consensual encounter, from pressure applied by a family member or third party, from mental health struggles, or in some cases from deliberate fabrication. Every situation is different, and the honest answer for why an accusation was made is not always obvious at the outset. Uncovering it takes real investigative work: examining the full history between the parties, any documented motive, the way a disclosure developed and changed over time, and every inconsistency between what was said at each stage.

In cases involving a disclosure that came out over time — to a friend, then a family member, then police, then in testimony — those differences in the account are often where a case is won or lost. Our approach is to document every version carefully and present those differences to the jury clearly, so that the explanation for what actually happened is one they can see and understand for themselves.

Possible Defenses

- **Consent**, in cases involving an alleged victim 16 or older. If the encounter was consensual, the charge cannot stand. This defense is not available where the accuser is under 16.
- **False or exaggerated accusation**, arising from custody disputes, relationship conflict, family pressure, or other motivations.
- **Mistaken identity**, particularly in cases involving strangers, limited prior contact, or unreliable identification procedures.
- **Challenges to physical and forensic evidence**, including chain-of-custody problems and the limits of what a SANE exam or DNA result actually proves.
- **Insufficient evidence** of one or more required elements, which the Commonwealth must prove beyond a reasonable doubt.
- **Constitutional violations**, including illegal searches, coerced statements, and improper identification procedures, which can result in evidence being suppressed before trial.

What to Do Right Now

- Do not talk to police or investigators without a lawyer present.
- Do not contact the accuser, under any circumstances.
- Do not delete any texts, emails, photos, or social media activity.
- Do not post about your case, or your life, on social media.
- Preserve every communication that could be relevant, whether it seems to help or hurt you.
- Write down what you remember while it is fresh, for your attorney only.
- Follow every condition of release exactly.
- Call an experienced Massachusetts criminal defense attorney immediately.

You Don't Have to Go Through This Alone

A criminal accusation is a storm crashing through your life — your freedom, your family, your career, your future. You don't have to navigate it alone, and you don't have to figure it out as you go. We understand that good people sometimes face great challenges, and we treat every person we represent as exactly that: a good person going through the hardest time of their life. We view each client not as a set of legal problems, but as a whole individual living a unique and valued life — that's what we call Comprehensive Criminal Defense. We are powerful in the courthouse and supportive outside of it — here to help you right the ship and continue your voyage. **We get you through the storm, safely.**

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About the Author



H. Ernest Stone has been defending people in Massachusetts criminal courts for 30 years. He started his career in 1996 with one goal: to stand up for regular people facing the power of the government. Ernie practices criminal defense exclusively. He has handled cases in District Court, Superior Court, the Massachusetts Appeals Court, the Supreme Judicial Court, and the Federal Courts. His practice focuses on sexual assault, domestic violence, OUI, and cases involving mental health — the kinds of cases where the stakes are highest and where people need someone truly in their corner. The people he represents are good people who have had a really bad day — sometimes the worst day of their lives. He believes that everyone deserves the highest quality legal defense, no matter what they are accused of. And he believes that a criminal case is an opportunity to do more than just fight the charges. His goal is to help people make lasting positive changes in their lives — to address what brought them into the system in the first place, and to come out the other side in a better place than where they started. Ernie practices in Beverly, Massachusetts, and serves clients throughout Greater Boston and Eastern Massachusetts.