

DEFENDING ACCUSATIONS OF RAPE AND OTHER SEX CRIMES IN TENNESSEE

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If you are currently facing charges of rape or sexual battery in the State of Tennessee you are likely already aware of how those accusations can change your life. Few criminal offenses carry with them the stigma that a sex offense does. The mere accusation of rape or sexual battery can cause an avalanche of negative consequences. Those consequences may impact your personal, professional, and family life even *before* the case is actually litigated. Consulting with a criminal defense attorney is always a wise idea when you are charged with a crime. If you are charged with a sex offense, the need to consult with an experienced Tennessee criminal defense attorney takes on a heightened importance. In the meantime, however, it may be beneficial to understand more about the Tennessee sex offense laws and about some of the common defenses to accusations of rape or other sex offenses.

Tennessee Sex Offenses

While there are a seemingly endless number of specific sex offenses with which you could be charged in the State of Tennessee, it helps to know what some of the most common crimes are and what the State of Tennessee needs to prove for a conviction. The crime of rape is found in Tennessee Code Section 39-13-503 which states, in pertinent part, as follows:

“Rape is unlawful sexual penetration of a victim by the defendant or of the defendant by a victim accompanied by any of the following circumstances:

- (1) Force or coercion is used to accomplish the act;
- (2) The sexual penetration is accomplished without the consent of the victim and the defendant knows or has reason to know at the time of the penetration that the victim did not consent;
- (3) The defendant knows or has reason to know that the victim is mentally defective, mentally incapacitated or physically helpless; or
- (4) The sexual penetration is accomplished by fraud.”

Sexual Battery is found in Tennessee Code Section 39-13-505 which states:

“Sexual battery is unlawful sexual contact with a victim by the defendant or the defendant by a victim accompanied by any of the following circumstances:”

(The circumstances mirror those within the definition of rape)

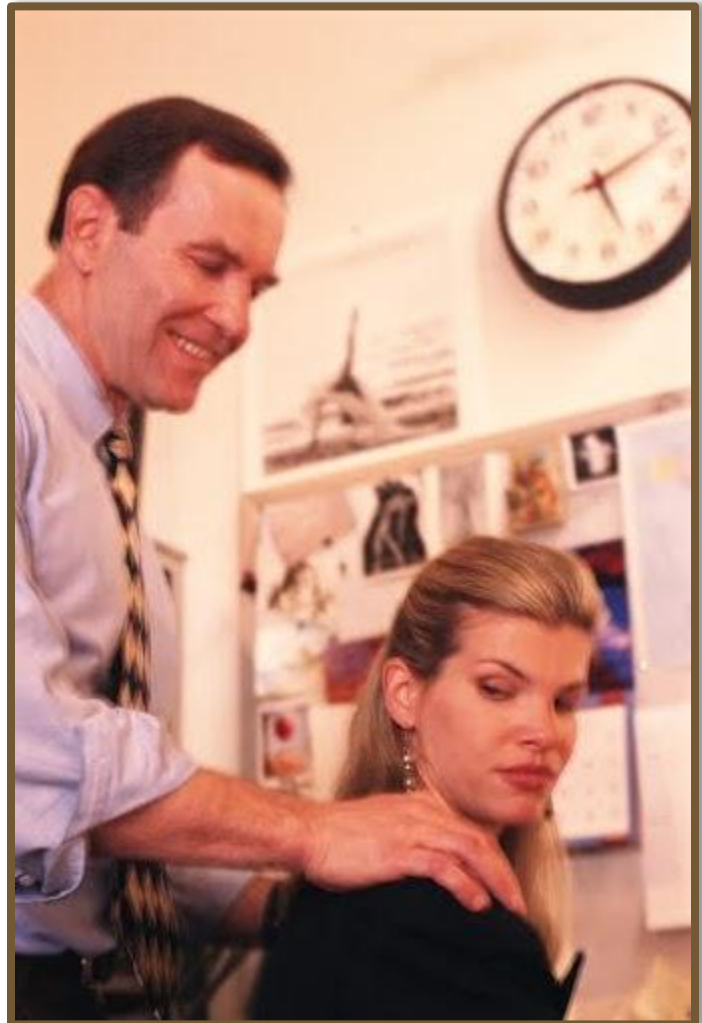
Statutory Rape and Consent

Consent is one of the most common defenses to allegations of rape, sexual battery, or any other sex offense. As you may imagine, when you use consent as a defense you are admitting the conduct in question did occur; however, the alleged victim consented, or agreed, to the conduct. Consent is most often used successfully when the accused and the alleged victim had an intimate relationship prior to the alleged rape or sexual battery. This does not, however, preclude the defense of consent from being used in cases where the accused and alleged victim did not know each other prior to the incident that gave rise to the criminal charges. It is far from uncommon for people to have consensual sex with someone they just met at a nightclub or party, for example.

Consent cannot be asserted as a defense if the alleged victim was under the age of 18 at the time of the incident. In the State of Tennessee the age of consent is 18,

meaning that someone under the age of 18 **cannot legally consent** to sexual conduct.

Statutory rape in Tennessee occurs when you have sex with someone under the age of 18 and you are at least four years older than the victim. Keep in mind though that even if the four year age difference does not exist you are still unable to use consent as a defense. You may avoid being charged with statutory rape but if the alleged victim is under the age of 18 he or she cannot legally consent under any circumstances, even if he or she initiated the conduct or verbally agreed to the conduct.



Common Defenses Other Than Consent

Because no two criminal prosecutions are the same it is impossible to know what defense might work in your case without consulting a criminal defense attorney. Some of the more common defenses though, aside from consent, include:

- **Mistaken identity** –in sex crime investigations where the perpetrator is a stranger the alleged victim is often shown a photo array or takes part in a line-up in an attempt to identify the perpetrator. Unfortunately, victims often identify the wrong person either because the victim was subtly coached or influenced by a law enforcement officer to identify a particular individual or simply out of a desire to identify *someone*.
- **“It never happened”** –this defense asserts that the conduct in question never occurred. Maybe you do know the alleged victim, even had a relationship with him or her in the past, but your position is that the alleged sexual conduct that forms the basis of the charges against you never took place.
- **Evidentiary problems** –it is extremely rare for a prosecutor to move forward with a sex crime case without physical evidence. In the absence of physical evidence it becomes a “he said -- she said”, debate that is highly unlikely to result in a conviction. Evidentiary problems, therefore, can result in a dismissal of the charges against you. Aside from lack of evidence, other common evidentiary problems the prosecutor might face include evidence obtained as a result of an illegal search and seizure or chain of custody problems that make the evidence inadmissible at trial.
- **Victim motivation** –sadly, people do fabricate sex crimes sometimes. A jilted lover or a jealous spouse might cry “rape” as a way to get back at you. Parents will even make up allegations of child molestation when embroiled in a bitter child custody case as a way to ensure they will win the case. If there is a reason why the alleged victim would lie it warrants investigation as a possible defense.

If you have been accused of rape, sexual battery, or any other sex offense in the State of Tennessee it is crucial that you retain the services of an experienced Tennessee criminal defense attorney right away to ensure that your rights are protected throughout the prosecution of your case and the begin working on your defense.

Tennessee Bureau of Investigation, [Statutory Definitions of Tennessee Sexual and Violent Sexual Offenses with Related Codes](#)

Criminal Defense Lawyer.com, [Tennessee Statutory Rape Laws](#)

Ohio State University, [Some Common Confusions about Consent in Rape Cases](#)

USLegal, [Defenses](#)

Criminal Defense Lawyer.com, [Rape Laws, Defenses and Penalties](#)

About Bennett and Michael, Attorneys at Law



The law firm of Bennett & Michael is located on the historic public square in Murfreesboro, Tennessee. We offer knowledgeable and effective representation for families in divorce and family law situations, injured victims of negligent accidents, and those charged with misdemeanor or felony offenses.

Our firm takes pride in being a local law firm that delivers superior results at competitive prices right here at home for the people of Murfreesboro, Smyrna, La Vergne, and the greater Rutherford County area. Our staff is professional and helpful, and our attorneys are experienced litigators and trial lawyers.

When you need legal help, you should be confident that the lawyer you choose will provide you with exceptional, trustworthy, and effective services. Our experienced, dedicated, and compassionate lawyers and legal staff are committed to always protecting clients' rights and relentlessly fighting for their best interests. Enlist the unyielding advocacy at Bennett & Michael, and you can trust that you and your family will get the results, service, and respect that you deserve. You won't be disappointed.