

American Jurisprudence, Second Edition
Database updated July 2007

Seduction
Alan J. Jacobs, J.D.

I. In General; Criminal Liability
A. Overview

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§ 1. Generally; definitions and distinctions

West's Key Number Digest

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"Seduction" has been defined as the act of a man enticing a woman to have unlawful intercourse with him by means of persuasion, solicitation, promises, bribes, or other means, without the employment of force.[[FN1](#)] Furthermore, seduction has been said to signify a leading astray, and has been described as the act of persuading or inducing a woman of previously chaste character to yield to sexual intercourse by the use of any species of arts, persuasion, deceit, false promises, or other artifices which are calculated to have and do have that effect.[[FN2](#)]

In some instances, "seduction" has referred to the act of a "designing woman" in enticing a man to engage in sexual intercourse with her.[[FN3](#)]

A state seduction statute that applied only to men because of the definition of "seduction" as the act of a man enticing a woman to have unlawful intercourse with him by means of persuasion, solicitation, promises, bribes, or other means without employment of force, has been held to be unconstitutional.[[FN4](#)]

Force is generally a necessary element in establishing the offense of rape,[[FN5](#)] as is the absence of the victim's consent.[[FN6](#)] Where force is not employed to overcome reluctance, and where consent, however reluctant initially, can be spelled out, this we label "seduction," which society may condone even as it disapproves. Furthermore, in seduction, unlike rape, the consent of the woman, implied or explicit, has been procured by artifice, deception, flattery, fraud, or promise. These devices cannot supply the element of force and an absence of consent that are essential to the crime of rape and distinguish it from seduction. However, the mere threat of force can suffice to remove the conduct from the province of a criminal seduction statute and make it rape. Furthermore, there is

some conduct which comes close to the line between rape and seduction.[FN7]

"Sexual misconduct" differs from seduction, in that seduction involves allure-
ment, enticement, or persuasion to overcome unwillingness or resistance.[FN8]

CUMULATIVE SUPPLEMENT

Cases:

"Actions for injuries to personal rights" include libel, slander, criminal con-
versation, seduction, false imprisonment, and malicious prosecution. Gremminger v.
Missouri Labor and Indus. Relations Com'n, 129 S.W.3d 399 (Mo. Ct. App. E.D.
2004).

[END OF SUPPLEMENT]

[FN1] Carter v. State, 775 So. 2d 91 (Miss. 1999); Edwards v. Moore, 699 So.
2d 220 (Ala. Civ. App. 1997).

[FN2] Hirschy v. Coodley, 116 Cal. App. 2d 102, 253 P.2d 93 (2d Dist. 1953).

Seduction is the act of seducing; the act of a man enticing a woman to have
unlawful intercourse with him by means of persuasion, solicitation, prom-
ises, bribes, or other means without employment of force. Slawek v. Stroh,
62 Wis. 2d 295, 215 N.W.2d 9 (1974).

Seduction imports the idea of illicit intercourse accomplished by the use of
arts, persuasions, or wiles to overcome the resistance of a female who is
not disposed of her own volition to step aside from the paths of virtue.
Kathleen K. v. Robert B., 150 Cal. App. 3d 992, 198 Cal. Rptr. 273, 40
A.L.R.4th 1083 (2d Dist. 1984).

[FN3] Hart v. Knapp, 76 Conn. 135, 55 A. 1021 (1903); Blount v. State, 102
Fla. 1100, 138 So. 2, 80 A.L.R. 830 (1931).

[FN4] § 9.

[FN5] Am. Jur. 2d, Rape § 3.

[FN6] Am. Jur. 2d, Rape § 5.

[FN7] People v. Evans, 85 Misc. 2d 1088, 379 N.Y.S.2d 912 (Sup 1975).

As to elements of the offense of seduction, generally, see §§ 3 to 7.

As to consent as an element of seduction, generally, see § 4.

[FN8] People v. Hough, 159 Misc. 2d 997, 607 N.Y.S.2d 884 (Dist. Ct. 1994)
(statute defining sexual misconduct requires proof that lack of consent res-
ulted from forcible compulsion or from incapacity to consent and did not

provide for conviction based on allegation that consent given was vitiated
by fraud).

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Seduction was not a crime at common law.[[FN1](#)] It is of statutory origin.[[FN2](#)] States that have abolished civil actions for seduction may still carry criminal statutes for the offense.[[FN3](#)]

The purpose of a criminal seduction statute is, among other purposes, to prevent a seducer from using a promise to marry or a pending engagement, and the confidence and sacred relationship thus established, as a tool to induce an unmarried female, who had not yet experienced sexual intercourse, to engage in such activity with him.[[FN4](#)] It has also been stated that the purpose of a seduction statute is the marriage of the parties to the seduction.[[FN5](#)] If pregnancy is induced by a promise of marriage offered in good faith or not, and performed or not, the crime of seduction has been committed.[[FN6](#)]

[[FN1](#)] [Evans v. Com.](#), 183 Va. 775, 33 S.E.2d 636 (1945).

[[FN2](#)] [Mosley v. Lynn](#), 172 Ga. 193, 157 S.E. 450 (1931).

[[FN3](#)] [Magierowski v. Buckley](#), 39 N.J. Super. 534, 121 A.2d 749 (App. Div. 1956).

[[FN4](#)] [Collins v. State](#), 54 Ga. App. 246, 187 S.E. 621 (1936).

[[FN5](#)] [Combs v. Com.](#), 283 S.W.2d 714 (Ky. 1955).

[[FN6](#)] [State v. Hall](#), 85 N.J. Super. 312, 204 A.2d 617 (County Ct. 1964), judgment modified on other grounds, [87 N.J. Super. 480](#), 210 A.2d 74 (App. Div. 1965).

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§ 3. Sexual intercourse; resulting pregnancy

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An essential element of the crime of seduction is sexual intercourse between the accused and the female seduced.[[FN1](#)] In this regard, it has been said that the acts of seduction must culminate in sexual intercourse; or otherwise there is no seduction.[[FN2](#)] The word "seduce," in itself, imports the idea of illicit sexual intercourse accomplished by arts, promises, or deception overcoming a female's reluctance and scruples.[[FN3](#)]

Observation:

The definition accorded the term "sexual intercourse," as an essential element of the offense of criminal seduction, necessarily determines who may commit the offense and against whom it may be committed. Limiting the act of sexual intercourse to the copulative joining of male and female, in its traditional sense, necessarily makes the offense a heterosexual crime, involving conduct only between members of the opposite sex. However, other definitions include "any penetration of the female sex organ by a finger, the male sex organ or any object,"[[FN4](#)] or any "sexual connection" between humans, including anal intercourse.[[FN5](#)] Courts have also held that that adults of average intelligence understand the meaning of the term "sexual intercourse" without a specific definition.[[FN6](#)]

In some jurisdictions it is required that pregnancy must have resulted from the seduction before the crime is complete.[[FN7](#)]

[[FN1](#)] [Britt v. Com., 202 Va. 906, 121 S.E.2d 495 \(1961\).](#)

[[FN2](#)] [Morris v. Stanford, 53 Ga. App. 722, 187 S.E. 159 \(1936\).](#)

[\[FN3\] Carter v. Murphy, 10 Cal. 2d 547, 75 P.2d 1072 \(1938\).](#)

[\[FN4\] Aid For Women v. Foulston, 327 F. Supp. 2d 1273 \(D. Kan. 2004\)](#) (citing Kansas statute).

[\[FN5\] Giles v. State, 2004 WY 101, 96 P.3d 1027 \(Wyo. 2004\).](#)

[\[FN6\] City of Champaign v. Sides, 349 Ill. App. 3d 293, 284 Ill. Dec. 634, 810 N.E.2d 287 \(4th Dist. 2004\)](#), appeal denied (Ill. Oct. 6, 2004).

As to persons against whom the offense may be committed, see [§ 8](#).

[\[FN7\] State v. Hall, 85 N.J. Super. 312, 204 A.2d 617 \(County Ct. 1964\)](#), judgment modified on other grounds, [87 N.J. Super. 480, 210 A.2d 74 \(App. Div. 1965\)](#).

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§ 4. Consent of seduced female

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The victim's actual or implied consent to the act of intercourse is an essential element of the crime of seduction.[[FN1](#)] If a female ultimately assents or yields to the act of intercourse, the fact that she resisted the advances of her seducer for a time,[[FN2](#)] or that she was frightened and influenced by fear of the man,[[FN3](#)] does not preclude the perpetration of a criminal seduction. On the other hand, the use of force or a credible threat of force[[FN4](#)] prevents the act from being criminal seduction.

[[FN1](#)] [Aldridge v. State, 232 Miss. 368, 99 So. 2d 456 \(1958\); People v. Evans, 85 Misc. 2d 1088, 379 N.Y.S.2d 912 \(Sup 1975\).](#)

[[FN2](#)] [Aldridge v. State, 232 Miss. 368, 99 So. 2d 456 \(1958\).](#)

As to the victim's age as affecting her capacity to give consent, see [§ 7](#).

[[FN3](#)] [Denham v. State, 17 Okla. Crim. 473, 192 P. 241 \(1919\).](#)

[[FN4](#)] [People v. Evans, 85 Misc. 2d 1088, 379 N.Y.S.2d 912 \(Sup 1975\).](#)

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§ 5. Use of artifice, flattery, or deception; promises of marriage

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In some states, the offense of seduction may be accomplished by means of temptation, deception, and arts and acts of flattery,[[FN1](#)] or allurement, enticement, or persuasion that overcomes unwillingness or resistance.[[FN2](#)] Therefore, there is no seduction where a woman has no objection to having sexual intercourse with a man except for the possibility of pregnancy, and she bargains with the man to extract a conditional promise to marry if she becomes pregnant.[[FN3](#)]

An act of intercourse induced by the mutual desire of the parties to gratify a lustful passion, even though they may be engaged, does not fall within a seduction statute.[[FN4](#)] However, where the defendant acquired such influence over the seduced female, by artifice, flattery, or deception, as to cause her to yield to him, and in which the defense was that the act was for their mutual enjoyment and the matching of the passions of the one against those of the other, the evidence was held to sustain the man's conviction.[[FN5](#)]

Married men may be found guilty of seduction without having made any appeal to the affections of the alleged seducee, if other means were employed to overcome her scruples, debase her nature, and draw her aside from the path of virtue.[[FN6](#)] For example, a doctor was convicted of seduction for inducing a female patient to have sexual intercourse with him by telling her that he could not help cure her ailment otherwise.[[FN7](#)]

State statutes have sometimes required that the sexual intercourse result from the alleged seducer's promise of marriage in order to constitute the crime of seduction.[[FN8](#)] Under the Model Penal Code, in a section entitled "Corruption of Minors and Seduction," a male who has sexual intercourse with a female not his wife, or any person who engages in deviate sexual intercourse or causes another to

engage in deviate sexual intercourse, is guilty of an offense if the other person is a female who is induced to participate by a promise of marriage which the actor does not mean to perform.[[FN9](#)]

There is authority for the view that the promise of marriage, where required, must have preceded the intercourse.[[FN10](#)] However, under this view, such promise need not have been made at the time the intercourse took place. Rather, it need only appear that a promise of marriage was made, that the victim relied on it, and that she was thereby falsely and fraudulently persuaded to have intercourse with the defendant, although on another occasion.[[FN11](#)] Furthermore, the view has been followed, under such a statute, that where the specific charge was seduction under a promise of marriage, the dominating force that influenced the female must have been the promise to marry her.[[FN12](#)]

[\[FN1\] Mitchell v. State, 42 Ala. App. 41, 151 So. 2d 752 \(1962\).](#)

[\[FN2\] People v. Hough, 159 Misc. 2d 997, 607 N.Y.S.2d 884 \(Dist. Ct. 1994\).](#)

[\[FN3\] Britt v. Com., 202 Va. 906, 121 S.E.2d 495 \(1961\).](#)

[\[FN4\] Taylor v. Commonwealth, 271 Ky. 458, 112 S.W.2d 679 \(1938\).](#)

[\[FN5\] State v. Storrs, 112 Wash. 675, 192 P. 984 \(1920\), aff'd, 112 Wash. 675, 197 P. 17 \(1921\).](#)

[\[FN6\] Limbaugh v. Com., 149 Va. 383, 140 S.E. 133 \(1927\).](#)

[\[FN7\] Limbaugh v. Com., 149 Va. 383, 140 S.E. 133 \(1927\).](#)

[\[FN8\] Rickey v. State, 74 Okla. Crim. 398, 126 P.2d 753 \(1942\).](#)

[\[FN9\] Model Penal Code § 213.3\(1\)\(d\).](#)

For a definition of "deviate sexual intercourse," see [Am. Jur. 2d, Sodomy § 2](#).

[\[FN10\] State v. Howard, 264 Mo. 386, 175 S.W. 58 \(1915\).](#)

[\[FN11\] Barrington v. State, 90 Ga. App. 326, 82 S.E.2d 891 \(1954\).](#)

[\[FN12\] Epperson v. Com., 311 Ky. 423, 224 S.W.2d 453 \(1949\); Britt v. Com., 202 Va. 906, 121 S.E.2d 495 \(1961\).](#)

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§ 6. Previous chastity of seduced female

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Criminal seduction statutes have sometimes required that the victim must have been chaste prior to her seduction.[[FN1](#)] Under such a statute, the chasteness of the woman was to be determined as of the time of intercourse.[[FN2](#)]

A previously unchaste woman may reform, and if chaste at the time of the seduction and for a reasonable time prior to it, she may be a victim of criminal seduction.[[FN3](#)]

[\[FN1\] Mitchell v. State, 42 Ala. App. 41, 151 So. 2d 752 \(1962\); Britt v. Com., 202 Va. 906, 121 S.E.2d 495 \(1961\).](#)

[\[FN2\] Mitchell v. State, 42 Ala. App. 41, 151 So. 2d 752 \(1962\).](#)

[\[FN3\] Mitchell v. State, 42 Ala. App. 41, 151 So. 2d 752 \(1962\).](#)

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§ 7. Age of seduced female

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[Burden of proof of defendant's age, in prosecution where attainment of particular age is statutory requisite of guilt, 49 A.L.R. 3d 526](#)

The age of a seduced female may be an element of the crime of seduction, as, for example, in some jurisdictions where seduction could occur only where the victim was an unmarried female under 25 years of age. [[FN1](#)]

CUMULATIVE SUPPLEMENT

Cases:

Allegation, that defendant committed fraud and the intentional infliction of emotional distress by engaging in a romance with plaintiff under false pretenses, failed to state a claim upon which relief could be granted, under either New York or Connecticut law; plaintiff was merely seeking to recharacterize her claims for breach of promise to marry and seduction, which had been statutorily abolished in both states or had never existed. [Brown v. Strum, 350 F. Supp. 2d 346 \(D. Conn. 2004\)](#).

[END OF SUPPLEMENT]

[FN1] [Salas v. State, 164 Tex. Crim. 129, 296 S.W.2d 777 \(1956\)](#).

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