

# SCORECARD

REPORT CARD DELAWARE | 2020

Final Score  
**70%****18 7 5 2 3 4**

19 10 10 7 4 6

Final Grade  
**B-**

## SCORECARD TOPLINES

The lowest age for sexual contact is 12 years. Free and affirmative consent is not required for sexual contact. A person's intoxication level impacting their ability to consent is not considered in all circumstances. Does not require data collection on hate crimes. Does not have a penalty enhancement for crimes motivated by political affiliation or age. A recurring inventory of untested rape kits does not occur. Mandatory testing of new rape kits is not required to occur. A rape kit tracking system has not been implemented. A survivor's right to notice regarding rape kits does not exist. Has not provided funding for rape kit handling reform. An exemption for spousal rape exists under laws criminalizing statutory rape. Statute of limitations has not been eliminated for all felony sex crimes.

## Child Marriage

The age of consent for marriage is generally 18 years of age. No exceptions exist to permit marriage for minors younger than 18 years of age. A lower age limit is not permitted only because a child is pregnant, if the child was previously married, or if a child is an active member of the armed forces. There is no gender difference in the lowest age permitted for a child to marry.

## Consent to Sexual Contact

The lowest age of consent for sexual contact is 12 years of age. The law accounts for a difference in age between the individuals engaging in sexual contact. The law does not require consent to be freely given or given by affirmative consent. The law accounts for a person's developmental disability or mental capacity impacting their ability to consent. The law accounts for a person's consciousness impacting their ability to consent. The law accounts for a person's intoxication level impacting their ability to consent but not in all circumstances. The law accounts for the relationship between a victim and perpetrator impacting the victim's ability to consent.

## Discrimination & Hate Crimes

The state does have a hate crimes law but does not require data collection on hate crimes. The state does not criminalize interference with religious worship. The state does have a penalty enhancement for crimes or an independent crime for crimes motivated by race, religion, or ethnicity. The state does have a penalty enhancement for crimes motivated by sexual orientation. The state does have a penalty enhancement for crimes motivated by gender or gender identity. The state does have a penalty enhancement for crimes motivated by disability. The state does not have a penalty enhancement for crimes motivated by political affiliation. The state does not have a penalty enhancement for crimes motivated by age.

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### Rape Kit Processing

The state has conducted an inventory of untested rape kits. This has occurred twice. However, a recurring inventory of untested rape kits is not mandated. Testing of the state backlog of untested rape kits has occurred and is in the process of completion. Mandatory testing of new rape kits is not required to occur. A rape kit tracking system has not been implemented. A survivor's right to notice does not exist. The state has not provided funding for rape kit handling reform.

### Spousal Rape

The state does not treat rape of a spouse differently than rape of an individual who is not a spouse of the perpetrator. The state does allow for conviction of a spouse for raping their partner if the partner is unconscious, drugged, or otherwise incapacitated. An exemption for spousal rape does exist under laws criminalizing statutory rape. An exemption for spousal rape or unwanted sexual contact does not exist under laws criminalizing sexual contact between people with a supervisory relationship.

### Statute of Limitations for Sexual Crimes

The state does not have a reduced statute of limitations for criminal prosecution if a victim chooses not to report the crime. The statute of limitations for the most serious felony sex crime is 21 years or more. The statute of limitations has not been eliminated for all felony sex crimes. Exceptions to the statute of limitations do exist for DNA evidence. For certain crimes that normally have a five years statute of limitations, the statute of limitations becomes 10 years if prosecution is based on DNA evidence.