

Appendix P

Forced Marriage as Child Abuse: State Laws¹

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“There is very clear distinction of what constitutes a forced marriage and an arranged marriage. One is tradition; the other is abuse” – Jasvinder Sanghera

Several states³ in the United States have criminalized forced marriage. The key elements of forced marriage in these states include elements that are also considered child abuse under the same state’s laws. Most commonly forced marriage, by its nature, includes acts of sexual assault, rape, kidnapping and other violent acts.

For example, Virginia’s statute states in pertinent part defining forced marriage as follows:

“any person who takes or detains a person against his or her will with the intent to compel such person, by force, threats, persuasions, menace or duress, to marry him or her or to marry any other person, or to be defiled [...] is guilty.”⁴

Most state statutes defining forced marriage contain similar definitional elements with a few modifications. In all of the statutes general intent is the same -- that forced marriage when committed against a minor constitutes child abuse. Perpetrators of forced marriage subject children to multiple forms of abuse and coercive tactics that constitute child abuse or child neglect under state law. The vast majority of children forced into marriages are girls. The tactics used against children in forced marriages include:

- Taking them out of school;
- Depriving them of food;
- Imprisoning them in a room at home;
- Cutting their social ties and networks;
- Emotional and/or blackmail;
- Rape, sexual assault and sexual exploitation; and
- In some cases death.

Forced marriage, like all child abuse and child sexual abuse has a negative effect on a child’s health, brain, and emotional development.⁵ The sexual nature of the abuse in forced marriage is particularly heinous and harmful.

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² Reports are labeled with the date of last update. If you reach a conclusion that conflicts with the material herein, you can contribute to our knowledge by sending an email to info@niwap.org.

³ As at 2013, the following states have enacted the law: California, District of Columbia, Maryland, Minnesota, Mississippi, Nevada, Oklahoma, Virginia, Virgin Islands, and West Virginia

⁴ Va. Code Ann. § 18.2-355

⁵ For a discussion of the impact of child abuse, child sexual abuse and trauma on children see *Appendix E: Understanding the Significance of a Minor’s Trauma History in Family Court Proceedings*, in NAT’L IMMIGRANT WOMEN’S ADVOCACY PROJECT, SPECIAL IMMIGRANT JUVENILE STATUS BENCH BOOK: A NATIONAL GUIDE TO BEST PRACTICES FOR JUDGES AND COURTS (2017), <http://niwaplibrary.wcl.american.edu/pubs/appendix-e-effects-of-trauma-on-minors-fact-sheet/>.

A forced marriage is one that takes place without the full and free consent of one or both parties and often involves the element of force, fraud, or coercion.⁶ Duress is a major factor in forced marriages. This duress may take the form of emotional, financial, physical, sexual threats and/or abuse.⁷ While arranged marriage may be a cultural practice that parties agree to participate in, forced marriage is very different.⁸ Perpetrators of forced marriage attempt to justify it by arguing that it is anchored in and a part of a culture and/or tradition. Other factors that contribute to forced marriage include:⁹

- Preservation of family honor,
- Families that are motivated to ensure that marriage take place within their family circle of relationships, within their class, or to gain access to a higher class,
- Marriages that provide a path to citizenship through a spousal visa because the child who is forced to marry is a U.S. citizen or lawful permanent resident.

Forced marriage is not only prevalent among adults who are capable of making decisions and who understand the consequence of such action. Studies have shown that there is a high rate of forced marriage among children or minors. The perpetrators of the forced marriage can often include the child’s parents, caretakers, and/or other custodians.¹⁰ State laws on child abuse and the child abuse response protocols often focus primarily on physical injury and do not encompass the full range of coercive threats and emotional abuse common in forced marriage cases.¹¹

Forced Marriage Includes Child Abuse - Child Neglect

Jurisdiction	Who the law protects	Text of Statute Covering Acts of forced marriage	Text of Statute Covering Act’s That Constitute Child Abuse
California Cal. Penal § 265	Women Only	Every person who takes any woman unlawfully, against her will, and by force, menace or duress, compels her to marry him, or to marry any other person, or to be defiled, is punishable by imprisonment in the state prison.	Sexual-Abuse/Exploitation Citation: Welf. & Inst. Code § 300; Penal Code § 11165.1 A child is considered dependent if he or she has been sexually abused; there is a substantial risk that the child will be sexually abused, as defined in § 11165.1 of the Penal Code, by his or her parent, guardian, or a household

⁶ Casey Swegman, *Tahirih Justice Center Forced Marriage Initiative - The Intersectionality of Forced Marriage with Other Forms of Abuse in the United States*, http://www.tahirih.org/wp-content/uploads/2016/02/AR_ForcedMarriage.pdf.

⁷ Casey Swegman, *Tahirih Justice Center Forced Marriage Initiative - The Intersectionality of Forced Marriage with Other Forms of Abuse in the United States*, http://www.tahirih.org/wp-content/uploads/2016/02/AR_ForcedMarriage.pdf.

⁸ Casey Swegman, *Tahirih Justice Center Forced Marriage Initiative - The Intersectionality of Forced Marriage with Other Forms of Abuse in the United States*, http://www.tahirih.org/wp-content/uploads/2016/02/AR_ForcedMarriage.pdf.

⁹ Karma Nirvana (2008), *Survivors of Honour Based Violence & Forced Marriage in the UK*. Retrieved from <http://www.karmanirvana.org.uk/wp-content/uploads/2013/07/Survivors-of-HBV-FM-Aug-2008.pdf>.

¹⁰ Tahirih Justice Centre Survey, *Forced Marriage in Immigrant Communities (2011)*. (Victims under the age of 18, and 41% of respondents in a Gangashakti survey discussed issues of child protection when asked about case characteristics) (Sri and Raja, 2013); Another study by Sauti Yetu of forced and early marriage in African immigrant communities in New York City found that 40% of their youth population was married, engaged, or promised, and that “of the 30 [study] participants...all but two faced pressures to marry or were already married before the age of 18” (Bangura, Tran, & Schermerhorn, 2012). The South Asian Legal Clinic of Ontario (SALCO) conducted a study on forced marriage in Canada and found that 10% of victims were between the ages of 12-15 and 25% of victims were between the ages of 16-18. See Helen Sowey, *From an emic perspective: Exploring consent in forced marriage law*, Australian & New Zealand Journal of Criminology (April 7, 2017). <http://journals.sagepub.com/doi/abs/10.1177/0004865817701982#articleCitationDownloadContainer>.

¹¹ Casey Swegman, *Tahirih Justice Center Forced Marriage Initiative - The Intersectionality of Forced Marriage with Other Forms of Abuse in the United States*, http://www.tahirih.org/wp-content/uploads/2016/02/AR_ForcedMarriage.pdf.

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<p>California</p>		<p>Penalties for Violating:</p> <ul style="list-style-type: none"> Imprisonment in state prison 	<p>member; or the parent or guardian has failed to adequately protect the child from sexual abuse when the parent or guardian knew or reasonably should have known that the child was in danger of sexual abuse.</p> <p>Welf. & Inst. Code § 300</p> <p>For the purposes of this subdivision, 'severe physical abuse' means:</p> <ol style="list-style-type: none"> Any single act of abuse that causes physical trauma of sufficient severity that, if left untreated, would cause permanent physical disfigurement, permanent physical disability, or death Any single act of sexual abuse that causes significant bleeding, deep bruising, or significant external or internal swelling More than one act of physical abuse, each of which causes bleeding, deep bruising, significant external or internal swelling, bone fracture, or unconsciousness.
<p>District of Columbia</p> <p>DC Code Ann. § 22-2705</p>	<p>Any person</p>	<p>(a) It is unlawful for any person, within the District of Columbia to:</p> <p>(3) Take or detain an individual against the individual's will, with intent to compel such individual by force, threats, menace, or duress to marry the abductor or to marry any other person</p> <p>Penalties for violating the law:</p> <p>A person shall be guilty of a felony and subject to:</p> <ul style="list-style-type: none"> imprisonment for not more than 5 years; or a fine of "not more than the amount set forth in section 101 of the Criminal Fine Proportionality Amendment Act of 2012," i.e., not more than \$12,500 for offenses punishable by imprisonment for 5 years or less but more than one year; or both. If the victim is under 18 years of age, a person 	<p>Code § 16-2301</p> <p>'Abused,' when used in reference to a child, means:</p> <p>Infliction of physical or mental injury Sexual abuse or exploitation Negligent treatment or maltreatment</p> <p>Code § 16-2301</p> <p>'Sexual abuse' means:</p> <p>Engaging in, or attempting to engage in, a sexual act or sexual contact with a child Causing or attempting to cause a child to engage in sexually explicit conduct Exposing the child to sexually explicit conduct</p>

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District of Columbia		<p>shall be guilty of a felony and subject to:</p> <ul style="list-style-type: none"> • imprisonment for not more than 20 years; • or a fine of “not more than the amount set forth in section 101 of the Criminal Fine Proportionality Amendment Act of 2012,” i.e., not more than \$50,000 for offenses punishable by imprisonment for 20 years or less but more than 15 years; • or both. 	
Maryland Md. Code Ann., Crim. Code §11-303	Any person	<p>(b)(2) A person may not knowingly take or detain another with the intent to use force, threat, coercion, or fraud to compel the other to marry the person or a third person or perform a sexual act, sexual contact, or vaginal intercourse.</p> <p>Penalties for violating the law</p> <p>A person shall be guilty of the felony of human trafficking and subject to:</p> <ul style="list-style-type: none"> • imprisonment not exceeding 25 years • or a fine not 	<p>Fam. Law § 5-701</p> <p>'Abuse' means: The physical or mental injury of a child by any parent or other person who has permanent or temporary care, custody, or responsibility for supervision of a child, or by any household or family member, under circumstances that indicate that the child's health or welfare is harmed or at substantial risk of being harmed</p> <p>Sexual abuse of a child, whether physical injuries are sustained or not</p> <p>Fam. Law § 5-701</p> <p>'Sexual abuse' means any act that involves sexual molestation or exploitation of a child by a parent or other person who has permanent or temporary care or custody or responsibility for supervision of a child, or by any household or family member. 'Sexual abuse' includes: Allowing or encouraging a child to engage in: Obscene photography, films, poses, or similar activity Pornographic photography, films, poses, or similar activity Prostitution Human trafficking Incest Rape Sexual offense in any degree Sodomy Unnatural or perverted sexual practices</p>

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<p>Minnesota Minn. Stat. Ann. § 609.265</p> <p>Minnesota</p>	<p>Persons under the age of 18 (but only if they are taken without the consent of the parents, guardian, or other person having legal custody of such person).</p>	<p>Whoever, for the purpose of marriage, takes a person under the age of 18 years, without the consent of the parents, guardian, or other person having legal custody of such person is guilty of abduction and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000 or both.</p> <p>Penalties for violating the law: A person is guilty of abduction and may be sentenced to: • imprisonment for not more than one year • or payment of a fine of not more than \$3,000 • or both.</p>	<p>Sexual Abuse/Exploitation</p> <p>Ann. Stat. §§ 626.556, Subd. 2; 260C.007, Subd. 31</p> <p>'Sexual abuse' means the subjection of a child to any act that constitutes criminal sexual conduct by a person responsible for the child's care, a person who has a significant relationship to the child, or a person in a position of authority. Sexual abuse includes any act that involves a minor that constitutes a violation of prostitution offenses. Sexual abuse also includes threatened sexual abuse, including the status of a parent or household member who has committed a violation that requires registration as a predatory offender.</p> <p>'Sexually exploited youth' means an individual who:</p> <ul style="list-style-type: none"> • Is alleged to have engaged in conduct that would, if committed by an adult, violate any Federal, State, or local law relating to being hired, offering to be hired, or agreeing to be hired by another individual to engage in sexual penetration or sexual conduct • Is a victim of the crime of criminal sexual conduct, criminal sexual predatory conduct, use of minors in sexual performances, or possession of child pornography • Is a victim of the Federal offenses of child pornography or child sex trafficking • Is a sex trafficking victim
<p>Mississippi Miss. Code Ann. § 97-3-1</p>	<p>Any person over the age of 14.</p>	<p>Every person who shall take any person over the age of fourteen (14) years unlawfully, against his or her will, and by force, menace, fraud, deceit, stratagem or duress, compel or induce him or her to marry such person or to marry any other person, or to be defiled, and shall be thereof duly convicted, shall be punished by imprisonment in the penitentiary not less than</p>	<p>Code § 43-21-105</p> <p>'Abused child' means a child whose parent, guardian, custodian, or any person responsible for his or her care or support, whether or not legally obligated to do so, has caused or allowed to be caused upon the child non-accidental physical injury or other maltreatment. The term 'abused child' also means a child who is or has been trafficked within the meaning of the Mississippi Human</p>

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Mississippi		<p>five (5) years and not more than fifteen (15) years.</p> <p>Penalties for violating the law: Imprisonment in the penitentiary not less than five (5) years and not more than fifteen (15) years.</p>	<p>Trafficking Act by any person, without regard to the relationship of the person to the child.</p> <p>Sexual Abuse/Exploitation</p> <p>Citation: Ann. Code § 43-21-105</p> <p>The term 'abused child' includes sexual abuse or sexual exploitation.</p> <p>'Sexual abuse' means obscene or pornographic photographing, filming, or depiction of children for commercial purposes, or the rape, molestation, incest, prostitution, or other such forms of sexual exploitation of children under circumstances that indicate that the child's health or welfare is harmed or threatened.</p>
Nevada Nev. Rev. Stat. 201.300	Any person	<p>2. A person: (a) Is guilty of sex trafficking if the person: ... (4) Takes or detains a person with the intent to compel the person by force, violence, threats or duress to marry him or her or any other person.</p> <p>Penalties for violating the law</p> <p>Penalties depend on whether the victim was an adult or a child, and the age of the child at the time the offense was committed. • If the victim of the sex trafficking is an adult: - the person is guilty of a category B felony; - shall be punished by 3-10 years' imprisonment in the state prison; and - may be fined not more than \$10,000. • If the victim of the sex trafficking is a child under 14 years old: - the person is guilty of a category A felony; - shall be punished by imprisonment in the state prison for life with the possibility of parole (eligible only after serving 15 years); and - may be fined not more than \$20,000. • If the victim of the sex trafficking</p>	<p>Rev. Stat. §§ 432B.020; 432B.090; 432B.150</p> <p>'Abuse or neglect of a child' means physical or mental injury of a non-accidental nature; sexual abuse or sexual exploitation; or negligent treatment or maltreatment of a child caused or allowed by a person responsible for his or her welfare under circumstances that indicate that the child's health or welfare is harmed or threatened with harm.</p> <p>Sexual Abuse/Exploitation</p> <p>Citation: Rev. Stat. §§ 432B.100; 432B.110</p> <p>'Sexual abuse' includes acts upon a child constituting:</p> <ul style="list-style-type: none"> • Incest • Lewdness with a child • Sadomasochistic abuse • Sexual assault • Statutory sexual seduction • Mutilation of the genitalia of a female child; aiding, abetting, encouraging, or participating in the mutilation of the genitalia of a female child; or removal of a female child from this

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Nevada		<p>is a child 14-16 years old: - the person is guilty of a category A felony; - shall be punished by imprisonment for life in the state prison with the possibility of parole (eligible only after serving 10 years); and - may be fined not more than \$10,000.</p> <p>• If the victim of the sex trafficking is a child 16-18 years old: - the person is guilty of a category A felony; - shall be punished by imprisonment for life in the state prison with the possibility of parole (eligible only after serving 5 years); and - may be fined not more than \$10,000. The court may impose an additional penalty for the primary offense – a fine of up to \$500,000 – where physical force or violence or the immediate threat of physical force or violence was used on a child (NV ST 201.352). The statute prohibits probation or suspended sentences for anyone convicted of sex trafficking a child (i.e., would prohibit the same for anyone convicted under the forced marriage provision if the victim were a child).</p>	State for the purpose of mutilating the genitalia of the child
Oklahoma Okla. Stat. Tit. 21 § 1117, §1118, and §1119	§§1117-1118: Women only; §1119: Anyone under age 15, but only if the parents do not consent to the marriage.	§1117, Compelling woman to marry: Any person who takes any woman against her will, and by force, menace or duress, compels her to marry him or to marry any other person, shall be guilty of a felony punishable by imprisonment in the State Penitentiary not less than ten (10) years. §1118, Intent to compel woman to marry: Any person who takes any woman unlawfully against her will, with the intent to compel her by force, menace or	Citation: Ann. Stat. Tit. 10A, § 1-1-105 'Abuse' means harm, threatened harm, or failure to protect from harm or threatened harm, to the health, safety, or welfare of a child by a person responsible for the child's health, safety, or welfare, including, but not limited to, non-accidental physical or mental injury, sexual abuse, or sexual exploitation. 'Harm or threatened harm to the health or safety of a child' means any real or threatened physical, mental, or emotional injury or damage to the body or mind that is not accidental, including, but not limited to, sexual

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Oklahoma		<p>duress to marry him, or to marry any other person, shall be guilty of a felony punishable by imprisonment in the State Penitentiary not exceeding (10) years. §1119, Abduction of person under fifteen: Every person who takes away or induces to leave any person under the age of fifteen (15) years, from a parent, guardian or other person having the legal charge of the person, without the consent of said parent, guardian, or other person having legal charge, for the purpose of marriage... shall be guilty of a felony punishable by imprisonment in the county jail not exceeding one (1) year, or by a fine not exceeding One Thousand Dollars (\$1,000.00), or by both such fine and imprisonment.</p> <p>Penalties for violating the law:</p> <p>All are felonies, punishable as follows: §1117: Imprisonment in the State Penitentiary not less than 10 years. §1118: Imprisonment in the State Penitentiary not exceeding 10 years. §1119: Imprisonment in the county jail not exceeding 1 year, or a fine not exceeding \$1000, or both</p>	<p>abuse, sexual exploitation, neglect, or dependency.</p> <p>Sexual Abuse/Exploitation</p> <p>Citation: Ann. Stat. Tit. 10A, § 1-1-105</p> <p>'Harm or threatened harm to a child's health or safety' includes, but is not limited to, sexual abuse or sexual exploitation.</p> <p>'Sexual abuse' includes, but is not limited to, rape, incest, and lewd or indecent acts or proposals made to a child, as defined by law, by a person responsible for the child's health, safety, or welfare.</p> <p>'Sexual exploitation' includes, but is not limited to:</p> <ul style="list-style-type: none"> • Allowing, permitting, encouraging, or forcing a child to engage in prostitution, as defined by law, by any person age 18 or older or by a person responsible for the health, safety, or welfare of a child • Allowing, permitting, encouraging, or engaging in the lewd, obscene, or pornographic photographing, filming, or depicting of a child in those acts by a person responsible for the child's health, safety, or welfare
Virginia Va. Code Ann. § 18.2-355	Any person	<p>Any person who: (2) Takes or detains a person against his or her will with the intent to compel such person, by force, threats, persuasions, menace or duress, to marry him or her or to marry any other person, or to be defiled [...] is guilty of pandering, and shall be guilty of a Class 4 felony</p> <p>Penalties for violating the law:</p> <p>A person is guilty of a Class 4 felony and subject to:</p>	<p>Ann. Code § 63.2-100</p> <p>'Abused or neglected child' means any child younger than age 18 whose parents or other person responsible for his or her care creates or inflicts, threatens to create or inflict, or allows to be created or inflicted upon the child a physical or mental injury by other than accidental means, or creates a substantial risk of death, disfigurement, or impairment of bodily or mental functions, including, but not limited to, a child who is with his or her parent or other person responsible for his or her care either (i) during the manufacture or attempted</p>

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Virginia		<ul style="list-style-type: none"> • Imprisonment of not less than two years nor more than 10 years • and a fine of not more than \$100,000 	<p>manufacture of a Schedule I or II controlled substance, or (ii) during the unlawful sale of such substance by that child's parents or other person responsible for his or her care, when such manufacture, or attempted manufacture or unlawful sale would constitute a felony violation.</p> <p>Sexual Abuse/Exploitation</p> <p>Ann. Code § 63.2-100</p> <p>The term 'abused or neglected child' includes any child younger than age 18 whose parents or other person responsible for his or her care commits or allows to be committed any act of sexual exploitation or any sexual act upon a child in violation of the law.</p>
Virgin Islands 14 V.I. Code Ann. § 1301	Women only	<p>Whoever takes any woman unlawfully, against her will, and by force, menace or duress, compels her- (1) to marry him; (2) to marry any other person; or (3) to be defiled</p> <p>Shall be imprisoned not more than 10 years.</p> <p>Penalties for violating the law:</p> <p>Imprisonment for not more than 10 years</p>	<p>Ann. Code Tit. 5, § 2502</p> <p>'Abuse' means any physical injury inflicted on a child, other than by accidental means, by those responsible for the care and maintenance of the child, which causes or creates substantial risk of death, serious or protracted disfigurement, protracted impairment of physical health, or loss or protracted impairment of the function of any bodily organ.</p> <p>'Imminent danger to that child's life or health' means danger that involves:</p> <ul style="list-style-type: none"> • Substantial physical pain • Serious bodily injury resulting in physical disfigurement • Substantial impairment of the function of a bodily member or organ • Injury that may result in death
West Virginia W. Va. Code, § 61-2-14	Everyone	<p>(a) Any person who takes away another person, or detains another person against such person's will, with intent to marry or defile the person, or to cause the person to be married or defiled by another</p>	<p>Ann. Code § 49-1-201</p> <p>'Abused child' means a child whose health or welfare is being harmed or threatened by:</p> <ul style="list-style-type: none"> • A parent, guardian, or custodian who knowingly or intentionally inflicts, attempts to

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West Virginia		<p>person; or takes away a child under the age of sixteen years from any person having lawful charge of such child, for the purpose of prostitution or concubinage, shall be guilty of a felony, and, upon conviction thereof, shall be confined in the penitentiary not less than three nor more than ten years.</p> <p>Penalties for violating the law: A felony conviction and imprisonment for not less than three nor more than ten years.</p>	<p>inflict, or knowingly allows another person to inflict physical injury or mental or emotional injury upon the child or another child in the home, including an injury to the child as a result of excessive corporal punishment</p> <ul style="list-style-type: none"> • Sexual abuse or sexual exploitation • The sale or attempted sale of a child by a parent, guardian, or custodian in violation of § 61-2-14h • Domestic violence as defined in § 48-27-202 <p>Sexual Abuse/Exploitation</p> <p>Citation: Ann. Code § 49-1-201</p> <p>'Imminent danger to the physical well-being of the child' includes an emergency situation in which there is reasonable cause to believe that any child in the home is or has been sexually abused or sexually exploited.</p> <p>'Sexual abuse' means:</p> <ul style="list-style-type: none"> • Engaging in, attempting to engage in, or knowingly procuring another person to engage in sexual intercourse, sexual intrusion, or sexual contact with a child younger than age 16, notwithstanding the fact that the child may have willingly participated in such conduct or the fact that the child may have suffered no apparent physical, mental, or emotional injury as a result of such conduct • Engaging in, attempting to engage in, or knowingly procuring another person to engage in sexual intercourse, sexual intrusion, or sexual contact with a child age 16 or older, notwithstanding the fact that the child may have consented to such conduct or the fact that the child may have suffered no apparent physical, mental, or emotional injury as a result of such conduct • Any conduct whereby a parent, guardian, or custodian displays his or her sex organs to a child or procures another person to display his

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West Virginia			<p>or her sex organs to a child for the purpose of gratifying the sexual desire of the parent, guardian, or custodian, of the person making such display, or of the child, or for the purpose of affronting or alarming the child</p> <p>'Sexual exploitation' means an act whereby a parent, guardian, or custodian:</p> <ul style="list-style-type: none"> • Whether for financial gain or not, persuades, induces, entices, or coerces a child to engage in sexually explicit conduct • Persuades, induces, entices, or coerces a child to display his or her sex organs for the sexual gratification of the parent, guardian, custodian, or a third person, or to display his or her sex organs under circumstances in which the parent, guardian, or custodian knows such display is likely to be observed by others who would be affronted or alarmed