How is Consent Defined?

Without consent, 569 S.W.3d 372 (Arkansas 2019). “means words or overt actions indicating a freely given agreement to the sexual act or contact in question. Lack of verbal or physical resistance or submission by the victim is insufficient to establish consent. The phrase “without consent” in statutes refers to a particular type of unwanted sexual activity: unwanted sexual activity that is coerced by force or the threat of force. Georgia Code § 16-6-1.

Arkansas

“Without consent” means that a person:

1. withholds consent by the immediate use or threatened use of force against a person or property; or
2. is incapable of giving consent because of mental disorder, mental defect, drugs, alcohol, sleep or any other similar impairment of cognition and such condition is known or should have reasonably been known to the person.

Arkansas Code § 5-14-125.

“Mentally incapacitated” means that a person is rendered temporarily incapable of appraising or controlling his or her conduct due to the influence of a narcotic, anesthetic or other substance administered to that person without his or her consent, or due to any other act committed upon that person without his or her consent. Arkansas Code §§ 5-14-103; 5-14-125.

Arkansas Code § 5-14-103.

“Physically helpless” means that a person is:

1. physically helpless to communicate a lack of consent; or
2. confined in some institution such as a nursing home, hospital, mental institution or prison; or
3. unconscious.

Arkansas Code § 5-14-101(5).

“Mentally incapacitated” includes any of the following:

1. is incapable of giving consent because of mental disorder, mental defect, drugs, alcohol, sleep or any other similar impairment of cognition; or
2. is incapable of giving consent because of mental disorder, mental defect, drugs, alcohol, sleep or any other similar impairment of cognition.

Arkansas Code §§ 5-14-103; 5-14-125.

Arkansas Code § 5-14-125.

“Physically helpless” includes any of the following:

1. is physically helpless to communicate a lack of consent; or
2. is physically helpless to communicate consent.

Arkansas Code §§ 5-14-101(5).

Hawaii

“Consent is not defined by statute. However, Hawaii law provides that a person commits a sex crime if:

1. he or she induces another person to engage in a sexual act by compulsion; or
2. he or she induces another person to engage in a sexual act by means of fear or coercion.

Hawaii Revised Statutes § 776-32(d).

Delaware

“Voluntary” means any of the following:

1. subject to the influence of fear; or
2. by any other means for the purpose of preventing resistance.

Delaware Code § 781.

“Force” means the use or threat of physical force or violence to the person or to any other person or property.

Delaware Code § 781.

“Mentally Defective” means that a person suffers from a mental disorder or mental defect which renders that person permanently or temporarily incapable of appreciating the nature of the act or of conforming his or her conduct to the requirements of law.

Delaware Code § 781.

Note: “health professional” includes all individuals who are licensed or who hold themselves out to be licensed or who otherwise provide professional physical or mental health care to the general public.

New York

The phrase “without consent” in statutes refers to a particular type of unwanted sexual activity: unwanted sexual activity that is coerced by force or the threat of force. Georgia Code § 16-6-1.

Arizona

“Without consent” includes any of the following:

1. victim is coerced by the immediate use or threatened use of force against a person or property; or
2. victim is incapable of consent because of mental disorder, mental defect, drugs, alcohol, sleep or any other similar impairment of cognition.


Connecticut

“Consent is not defined by statute. However, Connecticut law provides that a person commits a sex crime if:

1. he or she induces another person to engage in a sexual act by compulsion; or
2. he or she induces another person to engage in a sexual act by means of fear or coercion.


Florida

“Consent to sexual activity where the victim is physically helpless means that the victim is physically helpless to communicate a lack of consent.

Florida Statutes § 794.011.

California

“Consent is not defined by statute. However, California law provides that a person commits a sex crime if:

1. he or she induces another person to engage in a sexual act by means of fear or coercion.

California Penal Code § 261.

Washington

“Consent is not defined by statute. However, Washington law provides that a person commits a sex crime if:

1. he or she induces another person to engage in a sexual act by means of fear or coercion.

Washington Revised Code § 9.94.050.

Note: “health professional” includes all individuals who are licensed or who hold themselves out to be licensed or who otherwise provide professional physical or mental health care to the general public.

See: California Penal Code § 261.

Note: “Health professionals” includes all individuals who are licensed or who hold themselves out to be licensed or who otherwise provide professional physical or mental health care to the general public.
Person is guilty of a sex crime if the actor intentionally subjects another person to any "contact" if:

1. the sexual act is done by force or against the will of the other (if the consent or acquiescence of the victim is procured by threats of violence toward any person or of the victim's person or property, or if the consent was obtained through a knowing misrepresentation that the sexual intercourse was a legally required procedure within the scope of the offender's authority);

2. the other person is unconscious or otherwise physically incapable of resisting and has not consented to the sexual touching;

3. the actorلب the other person's physical or mental condition conflicts with the reasonable belief that the sex act is consensual;

4. the actor takes advantage of a finding that she did not give her consent and that the victim was overcome by force or fear to facilitate the sexual intercourse.

Consent is not specifically defined. However, Kansas law provides that a person commits a sex crime when a person knowingly engages in sexual intercourse and:

- the offender is a police officer or other law enforcement official who either: (1) arrested the person or was responsible for maintaining the person in actual custody; (2) knew or should have known the person's age; or (3) the person on whom the offender was relying to determine whether the act was done by force or against the will of the other;

- the other person is under the care or custody of state or local agency pursuant to court order and the actor is employed or working on behalf of the state or local agency, except where the circumstances show the actor believed, or had reason to believe, the other person was 14 or 15 years of age and the actor is at least 10 years older than the other person; or

- the actor is the other person's spouse and the victim's consent was obtained through a knowing misrepresentation that the sexual intercourse was a legally required procedure within the scope of the offender's authority.

Culpable mental state means a person with significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior which adversely affects gross patterns of behavior and is manifested before age 18 years. However, Kansas law does not define the term 'mental disability'.
Maryland

Consent is not specifically defined.

However, Maryland law provides that a person consents to a sexual act if the person engages in "vaginal intercourse" or "sexual act" with another:

(1) by force, threats of force, or the threat of violence; or
(2) if the person is not voluntarily participating in the act due to the use of alcohol, drugs, or any other intoxicating drug.

Substantially cognitively impaired individual means words or overt actions by a person indicating a freely given present agreement to perform a particular sexual act with the actor. Consent does not mean the

Mentally incapacitated individual is a person, including a person who is developmentally disabled, who is not capable of giving consent. Consent is not specifically defined.

Substantially cognitively impaired individual means an individual who lacks the capacity to understand the nature of the act or to give consent or who lacks the capacity to resist or communicate unwillingness to submit to sexual intercourse, sexual act, or sexual contact. MD Code, Criminal Law, § 3-301.

\(\text{Value: } \text{No.} \\
\text{Definition: } \text{No, but resistance by the victim is not required to show lack of consent.} \)

Further, an expression of lack of consent through words or conduct means there is no consent or that consent has been withdrawn.

\(\text{Value: } \text{No.} \\
\text{Definition: } \text{No, but resistance by the victim is not required to show lack of consent.} \)

Massachusetts

Consent is not specifically defined.

The standard used in the sexual assault statutes is whether the accused used "force or coercion to accomplish the sexual act." Mich. Code Ann. art. 40, § 280.1160.

Lack of consent results from:

(1) force;
(2) fear or threat of harm or death;
(3) physical or mental incapacity of the victim;
(4) the victim is a conscious and competent victim, mere passivity on the victim's part will not establish the absence of consent. The law looks for express negation or implicit recognition of why the will to resist was exercised by force or fear of harm. Davis v. State, 288 Md. 395, 418, 418 A.2d 225 (1980).

A person who is mentally incapacitated or physically helpless as defined by this section cannot consent to a sexual act.

\(\text{Value: } \text{No.} \\
\text{Definition: } \text{See also: } \)
Engages in sexual penetration with a person, other than his legal spouse, who is 15 years of age or older and under 18 years of age where the age difference between the actor and the other person is 4 years or more, or
Engages in sexual contact with a person other than his legal spouse who is under 18 years of age;
In order to establish effective consent by the putative victim of a sexual encounter, a determination must be made whether the putative victim was capable of understanding the nature of the sexual encounter and making a voluntary decision to participate in the sexual encounter.

New Mexico
New Mexico does not specifically define “consent.” Between New Mexico “forces” or consents as:
(1) the use of physical force or physical violence;
(2) the use of threats to inflict physical injury; or physical force against the victim or another when the victim believes that there is a present ability to execute the threats. An “implied threat” is an threat of physical force, intimidation, or domination that is executed when the victim believes that there is a present ability to execute the threats;
(3) the use of threats, including threats of physical punishment, to the victim or another when the victim believes that there is a present ability to execute the threats.
(4) where the person has substantially impaired the complainant’s power to appraise or control his or her conduct by administering or employing, without the knowledge or consent of the complainant, a controlled substance as defined in chapter 18-1A-1 C.R.S. (2018), or other means with intent to impair the complainant’s conduct;
(5) the perpetration of criminal sexual penetration or criminal sexual contact by a psychotherapist on his patient, with or without the patient’s consent, during the course of the psychotherapist’s单独 engaged in the course of professional psychotherapy.

New York
Order New York law, lack of consent results from:
(1) forcible compulsion;
(2) incapacity to consent;
(3) the victim’s altered state of consciousness, or incapacity to consent, in which the victim does not express or imply willingness in the actor’s conduct;
(4) a person is deemed incapable of consent when he or she is:
(a) under the age of 18 years;
(b) mentally ill or mentally incapacitated;
(c) physically helpless;
(d) less than 15 years old;
(e) under the influence of alcohol or drugs.

North Carolina
The concepts of “force” and “against the will of the other person” are used in the statute:
N.C.G.S.A. § 14-27.20 defines “Against the will of the other person” as either of the following:
(a) Without consent of the other person; or
(b) Without consent of the other person, in which a reasonable person would believe the person to be incapable of giving consent to such act.
A threat of serious bodily harm which reasonably places fear in a person’s mind is sufficient to demonstrate the use of force and the lack of consent.

North Dakota
A person is considered incapable of consent when he or she is:
(1) under the age of 18 years;
(2) mentally or emotionally incapable of consent; or
(3) physically helpless.

North Dakota
North Dakota does not specifically define “consent.” However, North Dakota defines “force or coercion” as:
Under North Dakota law, consent cannot be inferred under circumstances in which consent is not clear including, but not limited to:
(1) when the victim clearly expressed that he or she did not consent to engage in such act, and a reasonable person in the actor’s situation would have understood such lack of consent;
(2) where the actor’s conduct is so as to express or imply willingness in the actor’s conduct; or
(3) where the actor’s conduct is so as to express or imply willingness in the actor’s conduct.

Ohio
Ohio does not specifically define “consent.” However, for the purpose of proving resistance, the offender substantially impairs the other person’s judgment or control by administering any drug, intoxicant, or controlled substance to the other person.
A victim need not prove physical resistance to the offender. See, R.C. § 2907.02. Rape; evidence; marriage or cohabitation not defenses to rape charges

Oregon
Oregon does not specifically define “consent.” However, in order to establish effective consent by the putative victim of a sexual encounter, a determination must be made whether the putative victim was capable of understanding the nature of the sexual encounter and making a voluntary decision to participate in the sexual encounter.

Pennsylvania
Pennsylvania does not specifically define “consent.” However, Pennsylvania defines “force or coercion” as:
Consent cannot be inferred under circumstances in which consent is not clear including, but not limited to:
(1) when the victim clearly expressed that he or she did not consent to engage in such act, and a reasonable person in the actor’s situation would have understood such lack of consent;
(2) where the actor’s conduct is so as to express or imply willingness in the actor’s conduct; or
(3) where the actor’s conduct is so as to express or imply willingness in the actor’s conduct.

Puerto Rico
Puerto Rico does not specifically define “consent.” Any person who performs sexual penetration, whether vaginal, anal, oral-genital, digital or instrumental under any of the following circumstances is a second degree felony:
(1) If the victim has not yet reached the age of 15 years (15) at the time of the event;
(2) If the victim suffers from a mental disease or defect, whether temporary or permanent, under which the victim is unable to understand the nature of the act at the time of its commission;
(3) If the victim has been compelled into the act by means of physical force, violence, intimidation, or threat of force or violence, or threat of injury to the victim or immediate family;
(4) If the victim is under the control of any person who by any means (whether by compulsion, fraud, deceit, intimidation, violence, or threat of violence) has substantially impaired the victim’s power to appraise or control the victim’s conduct by administering or employing, without the knowledge or consent of the victim, any substance as defined by the Uniform Controlled Substances Act of 1972 of the United States of America, or any other means with intent to impair the victim’s conduct;
(5) If the relationship is a significant familial relationship, or if the person is the victim’s son, daughter, father, mother, stepfather, stepmother, husband, wife, grandparent, grandchild, great-grandparent, or great-grandchild.

Rhode Island
A person is considered incapable of consent when he or she is:
(1) under the age of 18 years;
(2) mentally ill or mentally incapacitated;
(3) physically helpless.

South Carolina
The term “consent” means the affirmative, unambiguous and voluntary agreement to engage in a specific sexual activity during a sexual encounter which can be revoked at any time.
Consent cannot be given by a person who by reason of youth, mental disease or defect is manifestly unable or known by the actor to be unable to make a decision of such a nature or a person who by reason of youth, mental disease or defect or intoxication is incapable of making a decision of such a nature.

South Dakota
South Dakota does not specifically define “consent.” However, South Dakota defines “use of force” as:
(1) If the victim is less than fifteen years old;
(2) If the victim suffers from a mental disease or defect which renders the victim incapable of understanding the nature of the act or of giving consent.
Pennsylvania does not specifically define “consent.” However, Pennsylvania defines “force or coercion” as:
Consent cannot be inferred under circumstances in which consent is not clear including, but not limited to:
(1) when the victim clearly expressed that he or she did not consent to engage in such act, and a reasonable person in the actor’s situation would have understood such lack of consent;
(2) where the actor’s conduct is so as to express or imply willingness in the actor’s conduct; or
(3) where the actor’s conduct is so as to express or imply willingness in the actor’s conduct.

Tennessee
Tennessee does not specifically define “consent.” However, Tennessee defines “force or coercion” as:
(1) If the victim is less than fifteen years old;
(2) If the victim suffers from a mental disease or defect which renders the victim incapable of understanding the nature of the act or of giving consent.

Texas
Texas does not specifically define “consent.” However, Texas defines “use of force” as:
(1) If the victim is less than fifteen years old;
(2) If the victim suffers from a mental disease or defect which renders the victim incapable of understanding the nature of the act or of giving consent.

Utah
Utah does not specifically define “consent.” However, Utah defines “force or coercion” as:
Consent cannot be inferred under circumstances in which consent is not clear including, but not limited to:
(1) when the victim clearly expressed that he or she did not consent to engage in such act, and a reasonable person in the actor’s situation would have understood such lack of consent;
(2) where the actor’s conduct is so as to express or imply willingness in the actor’s conducted; or
(3) where the actor’s conduct is so as to express or imply willingness in the actor’s conduct.

Virginia
Virginia’s criminal code includes a generally applicable definition of consent as follows:
(1) by force or compulsion;
(2) by incapacity to consent;
(3) by submission to sexual conduct which can be revoked at any time.

Washington
Consent cannot be inferred under circumstances in which consent is not clear including, but not limited to:
(1) when the victim clearly expressed that he or she did not consent to engage in such act, and a reasonable person in the actor’s situation would have understood such lack of consent;
(2) where the actor’s conduct is so as to express or imply willingness in the actor’s conducted; or
(3) where the actor’s conduct is so as to express or imply willingness in the actor’s conducted.

West Virginia
West Virginia does not specifically define “consent.” However, West Virginia defines “force or coercion” as:
Consent cannot be inferred under circumstances in which consent is not clear including, but not limited to:
(1) when the victim clearly expressed that he or she did not consent to engage in such act, and a reasonable person in the actor’s situation would have understood such lack of consent;
(2) where the actor’s conduct is so as to express or imply willingness in the actor’s conducted; or
(3) where the actor’s conduct is so as to express or imply willingness in the actor’s conducted.

Wisconsin
Wisconsin does not specifically define “consent.” However, Wisconsin defines “force or coercion” as:
Consent cannot be inferred under circumstances in which consent is not clear including, but not limited to:
(1) when the victim clearly expressed that he or she did not consent to engage in such act, and a reasonable person in the actor’s situation would have understood such lack of consent;
(2) where the actor’s conduct is so as to express or imply willingness in the actor’s conducted; or
(3) where the actor’s conduct is so as to express or imply willingness in the actor’s conducted.

Wyoming
Wyoming does not specifically define “consent.” However, Wyoming defines “force or coercion” as:
Consent cannot be inferred under circumstances in which consent is not clear including, but not limited to:
(1) when the victim clearly expressed that he or she did not consent to engage in such act, and a reasonable person in the actor’s situation would have understood such lack of consent;
(2) where the actor’s conduct is so as to express or imply willingness in the actor’s conducted; or
(3) where the actor’s conduct is so as to express or imply willingness in the actor’s conducted.
Rhode Island

"Force or coercion" means that the accused does any of the following:

(i) Uses or threatens to use a weapon, or any article used or fashioned in a manner to lead the victim to reasonably believe it to be a weapon;
(ii) Overcomes the victim through the application of physical force or physical violence;
(iii) Compels the victim to submit by threatening to use force or violence on the victim or on the victim's immediate family or friends;
(iv) Compels the victim to submit by threatening to cause harm to the victim or on the victim's immediate family or friends;
(v) Compels the victim to submit by threatening to cause harm to any person or property that the victim reasonably believes has the ability to execute this threat;
(vi) Compels the victim to submit by threatening to retaliate in the future against the victim or any other person; or
(vii) Compels the victim to submit or participate, under circumstances not amounting to the force or threat required under Subsection (2) or (4); or
(viii) Compels the victim to submit or participate by threatening to use force or violence against the victim or another person or in fear that she or he or another person will be kidnapped.

A person is guilty of second degree sexual assault if he or she is over the age of eighteen (18) years and engaged in sexual penetration with another person over the age of fourteen (14) years and under the age of consent, sixteen (16) years of age.

A person is guilty of third degree sexual assault if he or she is over the age of eighteen (18) years and engaged in sexual penetration with another person who is under the age of consent, sixteen (16) years of age.

South Carolina

“(d) the actor coerces the victim to submit or participate by threatening to use force or violence on the victim, or a third person, and the actor reasonably believes that the victim is unaware of the nature of the relationship between the actor and the victim; or
(e) the actor coerces the victim to submit or participate by threatening to cause harm to the victim or another person, and the victim reasonably believes that the actor has the ability to execute the threat;
(f) the actor coerces the victim to submit or participate by threatening to use force or violence against the victim or another person; or
(g) the actor coerces the victim to submit or participate by threatening to cause harm to the victim or another person, and the victim reasonably believes that the actor has the ability to execute the threat.

South Dakota

\[Watt v. Virgin Islands\]

Texas

A person is guilty of sexual assault in the first degree if the act is accomplished by the use of physical force or violence of a high and aggravated nature to overcome the victim or another person.

A person is guilty of sexual assault in the second degree if the act is accomplished by the use of physical force or violence of a high and aggravated nature to overcome the victim or another person.

A person is guilty of sexual assault in the third degree if the act is accomplished by the use of physical force or violence of a high and aggravated nature to overcome the victim or another person.

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A person is guilty of sexual assault in the third degree if the act is accomplished by the use of physical force or violence of a high and aggravated nature to overcome the victim or another person.

Tennessee

Alabama

A person will be deemed to have acted without the consent of the other person where the actor:

(i) Unlawfully and intentionally takes or attempts to take sexual conduct from the other person;

(iii) Unlawfully and intentionally induces or influences the other person to submit to or participate in sexual conduct;

(iii) Unlawfully and intentionally induces or influences the other person to submit to or participate in sexual conduct;

(iii) Unlawfully and intentionally induces or influences the other person to submit to or participate in sexual conduct;

(iii) Unlawfully and intentionally induces or influences the other person to submit to or participate in sexual conduct;

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(iii) Unlawfully and intentionally induces or influences the other person to submit to or participate in sexual conduct;

(iii) Unlawfully and intentionally induces or influences the other person to submit to or participate in sexual conduct;
Nebraska

Lack of consent results from forceful compulsion, incapacity to consent, or any circumstances in addition to the forceful compulsion or incapacity to consent in which the victim does not express or implicitly acquiesce in the act's consent. W. Va. Code Ann. § 61-8-02.

Lack of capacity to consent:

1. Incapacitated, as defined in this subsection;
2. Mentally incapable, as defined in this subsection;
3. Substantially unable to understand or appraise the nature or consequences of the act or sexual penetration;
4. Subject to incarceration, confinement or supervision by a state, county, or local government entity, when the actor is a person prohibited from having sexual intercourse or engaging in sexual penetration on a state, county, or local governmental entity pursuant to § 61-8-02 of this code.

West Virginia

Does not mean that a person constitutes a "person with whom the offender is engaged in sexual contact with" in this subsection if the person

1. Has the sexual penetration or is not committed;
2. Is incapable of appraising the nature of one's own conduct, including the nature or consequences of the act of sexual penetration;
3. Is incapable of understanding or appraising the nature or consequences of the act of sexual penetration;
4. Is administered to the person

The sexual penetration is not directly affected by consent, lack of consent, incapacity to consent, or any circumstances in addition to the forceful compulsion or incapacity to consent in which the victim does not express or implicitly acquiesce in the act's consent. W. Va. Code Ann. § 61-8-02.

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4. Subject to incarceration, confinement or supervision by a state, county, or local government entity, when the actor is a person prohibited from having sexual intercourse or engaging in sexual penetration on a state, county, or local governmental entity pursuant to § 61-8-02 of this code.

Wyoming

Yes, a victim can be incapable of consent by reason of drugs, alcohol or any other incapacitating substance or condition. W. Y. S. 6.05.015.

Lack of capacity to consent:

1. Incapacitated, as defined in this subsection;
2. Mentally incapable, as defined in this subsection;
3. Substantially unable to understand or appraise the nature or consequences of the act or sexual penetration;
4. Subject to incarceration, confinement or supervision by a state, county, or local government entity, when the actor is a person prohibited from having sexual intercourse or engaging in sexual penetration on a state, county, or local governmental entity pursuant to § 61-8-02 of this code.

West Virginia


Wyoming


Nebraska


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Wyoming

Yes, a person can be incapable of giving legal consent under sexual assault and abuse statutes. The element of incapacity is required to be found by the jury beyond a reasonable doubt under California Penal Code § 287(a).

Defenses:

- Consent: The defense that the victim consented to the sexual act.
- Justification: The defense that the actor had a legal right to engage in the sexual activity.
- Self-defense: The defense that the actor reasonably believed that the force or violence was necessary to protect themselves or another person.

California General Statutes Annotated § 286-287.

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- Self-defense: The defense that the actor reasonably believed that the force or violence was necessary to protect themselves or another person.

California General Statutes Annotated § 286-287.
Yes, a person is unable to consent to engaging in a sexual act if such person is incapable of appreciating the nature of such act or of giving intelligent, knowing, and voluntary consent. Florida Statutes § 794.011(2)(A)-(C).

Yes, a person that is physically helpless or mentally incapacitated may not be able to provide intelligent, knowing, and voluntary consent. Florida Statutes § 794.011(2)(A)-(C).

Yes, a person that is mentally incapacitated may not be able to provide intelligent, knowing, and voluntary consent. Florida Statutes § 794.011(2)(A)-(C).

Florida

18 years old. Florida Statutes §§ 794.011, 794.01(7).

Yes, any developmentally disabled and/or mentally incapacitated individual is incapable of giving intelligent, knowing, and voluntary consent. Florida Statutes § 782.81(3)(a).

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Yes, a person that is mentally incapacitated may not be able to provide intelligent, knowing, and voluntary consent. Florida Statutes § 782.81(3)(a).

District of Columbia

16 years old. D.C. Code § 22-3001(1).

Yes. A person is unable to consent to engaging in a sexual act if such person is incapable of appreciating the nature of such act or of giving intelligent, knowing, and voluntary consent. D.C. Code § 22-3005(2)(A)-(C).

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Sexual Abuse of a Minor

Yes, a minor in a significant relationship with a person who is over 18 years of age cannot consent to sexual acts. D.C. Code § 22-3002, 22-3004(4).

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Sexual Abuse of a Secondary Education Student

A student under the age of 20 years enrolled in a secondary level school cannot consent to sexual acts with any teacher, counselor, principal, or any other person of authority in that school or school system. D.C. Code § 22-3001(10).

Sexual Abuse of a Ward

A ward, patient, client, or person, as applicable, cannot consent to sexual contact with any staff member, employee, contact employee, consultant or volunteer at a hospital, treatment facility, institution, facility, or organization engaged in the provision of public health, social, recreational, athletic, medical, charitable, or youth promoting services, or any other person regularly or frequently having regular direct contact with the ward, patient, client, or person, as applicable, in a professional purpose for which the services are provided through the agency or any affiliated entity, or as defined by any Federal or District regulatory authority or any such entity, that person is in a position of trust or authority as an agent or employee of such organization, or is otherwise in a position of control or authority, whether or not the person so employed or otherwise engaged is an elected official exempt from such certification or any other person in the position or who, in the provision of services, or in the course of the performance of professional duties, exercises control over, directs, or influences, or in some manner or form has control over, the ward, patient, client, or person, as applicable, or other personal or professional relationship with the ward, patient, client, or person, as applicable, that the ward, patient, client, or person, as applicable, knows or has reason to know the conduct is likely to cause annoyance, affront, offense or alarm to the ward, patient, client, or person, as applicable.

Sexual Abuse of a Patient or Client

A person less than 18 years of age cannot consent to engage in conduct with any healthcare professional as defined above; any other person providing instruction or educational services, or any other person having regular direct contact with any patient, ward,这是我无法理解的“Suggests, solicits, requests, commands, implores, or otherwise attempts to induce a child to engage in the conduct of a sexual act, sexual contact, or sexual conduct with any person who stands in a position of trust, authority or supervision over the child, or is an invitee or designee of such person who stands in a position of trust, authority, or supervision over the child (11 Delaware Code § 795A(1).) 11 Delaware Code § 795A(1).

Yes, a female who intentionally exposes her genitals, buttocks to a child under the age of 16 years in circumstances in which he knows her conduct is likely to cause annoyance, affront, offense or alarm to him.

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Delaware

18 years old. Delaware Code § 778A(2)(b); 778A(3).

A person that stands in a position of trust, authority or supervision over the child, or is an invitee or designee of such person who stands in a position of trust, authority, or supervision over the child (11 Delaware Code § 795A(1).) 11 Delaware Code § 795A(1).

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Yes. A person commits a sex crime if the person otherwise meets the elements of all the sex crimes and the victim is a person 16 years of age or older who (1) is incapable of giving consent; or (2) has been subjected to coercion.

Yes. A person commits a sex crime if the person otherwise meets the elements of all the sex crimes and the victim is a person 16 years of age or older who has been: (i) a law enforcement officer who is at least 5 years older than a child at least 16 years of age but less than 18 years of age whom the child is capaciously capable of engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy; or (ii) a person who is a member of the child’s immediate family and has knowledge that the child is incapacitated due to a mental or physical condition or a combination thereof.

Yes. A person commits a sex crime if the person otherwise meets the elements of all the sex crimes and the victim is a person who is in a position of professional relationship with a minor and is capable of exercising judgment concerning sexual matters and is incapable of giving consent.

Yes. A person commits a sex crime if the person otherwise meets the elements of all the sex crimes and the victim is a person who is in a position of professional relationship with a minor and has been: (i) a law enforcement officer who is at least 5 years older than a child at least 16 years of age but less than 18 years of age whom the child is capaciously capable of engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy; or (ii) a person who is a member of the child’s immediate family and has knowledge that the child is incapacitated due to a mental or physical condition or a combination thereof.

Yes. A person commits a sex crime if the person otherwise meets the elements of all the sex crimes and the victim is a person who is in a position of professional relationship with a minor and is capable of exercising judgment concerning sexual matters and is incapable of giving consent; or (2) the sex act is performed while the other person is under the influence of a drug inducing sleep or its intoxication is a child at least 16 years of age but less than 18 years of age or a person 16 years of age or older who is incapacitated due to a mental or physical condition or a combination thereof.

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Yes. A person is deemed incapable of consent when he or she is physically helpless, which includesanimation, or if the interlocutor knows the victim is incapable of consent to sexual contact from a person who is in a position of special trust or authority, regardless of whether the victim is mentally defective, the sole question in determining whether the victim is capable of consent is whether the victim knows the nature of the sexual relationship and whether she is capable of giving consent because she is known of the victim's knowledge of the victim.

Yes. A person is guilty of a sex crime if the person engages in sexual intercourse or deviate sexual intercourse with another person and:

(1) the other person is under 16 years of age, or
(2) the other person is under 18 years of age and is incapable of giving consent to sexual contact because the victim suffers from a physical or mental condition, or is too young, or is under the influence of alcohol or controlled dangerous substance or anesthetic agent or other intoxicating agent.

Yes. A person is guilty of a sex crime if the person engages in sexual intercourse or deviate sexual intercourse with another person and:

(1) 21 years old or more, and he/she engages in sexual intercourse with a minor under 18 years of age; or
(2) in a position of authority or position of special trust and he/she engages in sexual intercourse with a person who is a student at the school where the educator is assigned, employed, or working at the time of the offense; or
(3) the other person, not the actor's spouse, has not attained 18 years of age or has not attained 21 years of age, when there is an age difference of greater than 3 years between the two persons, when the victim is a student at the school where the educator is assigned, employed, or working at the time of the offense.
program or residence and fails from a mental disability that is reasonably apparent or known to the actor.

- the actor is employed to provide care to a dependent person or an individual who is physically or emotionally incapable of providing self-care because of advanced age or physical or mental incapacity.

Mental disability can either be reasonably apparent or known to the actor and the complainant.

Example:

Yes. A person may not engage in "sexual penetration" or "vaginal intercourse" with a person who is less than 16 years old.

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Yes. A person who subjects another to sexual penetration or sexual contact is guilty of sexual assault in either the second degree or third degree. Neb. Rev. Stat. § 28-322.01.

Yes. Consent is ineffective if: it is given by a person who was incapacitated, incapable of making an informed consent to sexual contact charged against the victim because the victim is: (3) an employee, contractor, or volunteer of the facility or a program participant in a private alternative adolescent residential program that is part of the facility; or (4) a law enforcement officer who is involved with the case in which the victim or the perpetrator is a law enforcement officer. Neb. Rev. Stat. § 28-322.01.

By therapists, clergy, correctional officers and special transportation services providers. Consent by the complainant is not a defense to these sexual acts. Neb. Stat. 800.544 and 566.384.

Yes. Consent is ineffective if: it is given by a person who is a law enforcement officer or was convicted of a crime involving sexual assault, sexual penetration, sexual battery, a sexually related offense, or domestic violence in the presence of the victim or the perpetrator is a law enforcement officer. Neb. Rev. Stat. § 28-322.01.

Yes, a person is guilty of sexual battery if he or she engages in sexual penetration or sexual contact with a student if he or she is a law enforcement officer, a sexually related offense, or domestic violence in the presence of the victim or the perpetrator is a law enforcement officer. Neb. Rev. Stat. § 28-322.01.

Yes. "Without consent" means the victim is incapable of consent because the victim is: (i) a person who is incapacitated, incapable of making an informed consent to sexual contact charged against the victim because the victim is: (ii) an employee, contractor, or volunteer of the facility or a program participant in a private alternative adolescent residential program that is part of the facility; or (iii) a law enforcement officer who is involved with the case in which the victim or the perpetrator is a law enforcement officer. Neb. Rev. Stat. § 28-322.01.

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Yes, a person commits the crime of sexual battery if he or she engages in sexual penetration or sexual contact with a student if he or she is a law enforcement officer, a sexually related offense, or domestic violence in the presence of the victim or the perpetrator is a law enforcement officer. Neb. Rev. Stat. § 28-322.01.

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Yes, a person is guilty of sexual battery if he or she engages in sexual penetration or sexual contact with a student if he or she is a law enforcement officer, a sexually related offense, or domestic violence in the presence of the victim or the perpetrator is a law enforcement officer. Neb. Rev. Stat. § 28-322.01.

Yes, a person is guilty of sexual battery if he or she engages in sexual penetration or sexual contact with a student if he or she is a law enforcement officer, a sexually related offense, or domestic violence in the presence of the victim or the perpetrator is a law enforcement officer. Neb. Rev. Stat. § 28-322.01.

Yes, a person is guilty of sexual battery if he or she engages in sexual penetration or sexual contact with a student if he or she is a law enforcement officer, a sexually related offense, or domestic violence in the presence of the victim or the perpetrator is a law enforcement officer. Neb. Rev. Stat. § 28-322.01.
Yes. A person is deemed incapable of committing a sexual contact because the person is physically or mentally incapacitated or because the victim is mentally or physically incapable of resisting or engaging in sexual contact. The consent of the victim is not a defense. Consent is not a defense. N.H.R. Rev. Stat. Ann. § 632-A:5(4).

Although not specific in the statute, consent is deemed incapable of consent if the person is incapable or obviously physically or mentally incapacitated by medical treatment, medications, psychoactive substances or alcohol.
Code Ann. § 2907.04(A). However, there is an exception for a person (who is not their spouse) when the person performing the sexual activity is a physically helpless person, which includes a person who is unconscious, when the person performing the sexual activity is physically helpless, North Carolina General Statutes Ann. § 14-27.22, § 14-27.27, § 14-27.33.

‘Mentally incapacitated’ means a person who, by reason of being substantially impaired as a result of any physical or mental condition, is unable to resist or consent to engage in a sexual act or sexual conduct.

Ohio imposes strict liability with respect to the victim’s age: 1. A person engages in sexual conduct or sexual contact with another, or causes another to engage in sexual conduct or sexual contact with another person, when the other person is less than fourteen years of age. Ohio Rev. Code Ann. § 2907.02(A)(1). A person who has reasonable cause to believe that the other person is incapable of understanding the nature of that person’s conduct, is guilty of gross sexual imposition if that person knows or reasonably should have known the other person is incapable of understanding the nature of that person’s conduct. § 2907.05(A)(5) (crime of gross sexual imposition for sexual conduct); § 2907.02(A)(1)(c) (crime of rape to resist or consent is substantially impaired as a result of any physical or mental condition, is unable to resist or consent to engage in a sexual act). Yes, if the intoxication is involuntary. 2. A person who knowingly has sexual contact with another, or who causes another to engage in sexual contact with another, is guilty of gross sexual imposition if that person knows or reasonably should have known the other person is incapable of understanding the nature of that person’s conduct. § 2907.05(A)(5) (crime of gross sexual imposition for sexual contact). Yes.

North Dakota

Depending on the crime, either an adult or minor must be the victim: 1. A person who engages in sexual conduct or sexual contact with another, or causes another to engage in sexual conduct or sexual contact with another person, when the other person is less than ten years of age. N.D. Century Code Ann. § 12.1-20-01(3). (crime of gross sexual imposition for sexual contact). Yes, if the intoxication is involuntary. 2. A person who has sexual contact with another, or who causes another to engage in sexual contact with another person, when the other person is less than fifteen (15) years of age, whether or not the other person is physically helpless. § 12.1-20-01(3).

Yes, a person who engages in sexual conduct or sexual contact with another, or who causes another to engage in sexual conduct or sexual contact with another person, when the other person is a school personnel, other than a teacher, school administrator, school teacher, school principal, school counselor, student, or coach, at any age, or who is other school personnel, and who engages in sexual conduct or sexual contact with a victim who is a student. North Carolina General Statutes Ann. §14-27.22; §14-27.27; §14-27.33. Yes.

Colorado

Who imposes strict liability with respect to the victim’s age: 1. A person engages in sexual conduct or sexual contact with another, or causes another to engage in sexual conduct or sexual contact with another person, when the other person is less than sixteen years of age. Colorado Rev. Stat. § 18-6-103(1)(7) (crime of criminal sexual conduct). Yes, if the intoxication is involuntary. 2. A person who has sexual contact with another, or who causes another to engage in sexual contact with another person, when the other person is a school personnel, other than a teacher, school administrator, school teacher, school principal, school counselor, student, or coach, at any age, or who is other school personnel, and who engages in sexual conduct or sexual contact with a victim who is a student. North Carolina General Statutes Ann. §14-27.22; §14-27.27; §14-27.33. Yes, if the intoxication is involuntary.
Rhode Island
18 years or older. R.I. Gen. Laws § 11-37-1.6. Any person who performs sexual penetration, whether vaginal, anal, or oral, with a person whose legal consent is not given, may be guilty of a first-degree felony. R.I. Gen. Laws § 11-37-1.6.

Rhode Island
18 years or older. R.I. Gen. Laws § 11-37-1.5. Any person who performs sexual penetration, whether vaginal, anal, or oral, with a person whose legal consent is not given, may be guilty of a first-degree felony. R.I. Gen. Laws § 11-37-1.5. Any person who performs sexual penetration, whether vaginal, anal, or oral, with a person whose legal consent is not given, may be guilty of a first-degree felony. R.I. Gen. Laws § 11-37-1.5.

Rhode Island
18 years or older. R.I. Gen. Laws § 11-37-1.4. Any person who performs sexual penetration, whether vaginal, anal, or oral, with a person whose legal consent is not given, may be guilty of a first-degree felony. R.I. Gen. Laws § 11-37-1.4.

Rhode Island
18 years or older. R.I. Gen. Laws § 11-37-1.3. Any person who performs sexual penetration, whether vaginal, anal, or oral, with a person whose legal consent is not given, may be guilty of a first-degree felony. R.I. Gen. Laws § 11-37-1.3.

Rhode Island
18 years or older. R.I. Gen. Laws § 11-37-1.2. Any person who performs sexual penetration, whether vaginal, anal, or oral, with a person whose legal consent is not given, may be guilty of a first-degree felony. R.I. Gen. Laws § 11-37-1.2.

Rhode Island
18 years or older. R.I. Gen. Laws § 11-37-1.1. Any person who performs sexual penetration, whether vaginal, anal, or oral, with a person whose legal consent is not given, may be guilty of a first-degree felony. R.I. Gen. Laws § 11-37-1.1.

Rhode Island
18 years or older. R.I. Gen. Laws § 11-37-1. Any person who performs sexual penetration, whether vaginal, anal, or oral, with a person whose legal consent is not given, may be guilty of a first-degree felony. R.I. Gen. Laws § 11-37-1.
Yes, "consent" means "sexual intercourse, cunnilingus, fellatio, or any other act committed against the will of a person who is incapable of understanding the nature of the act or who, because of any intoxicating agent, is incapable of appraising or controlling his or her conduct." S.C. Code Ann. § 16-3-651(g).

South Dakota does not specifically define "sexual act" as an act of sexual contact or sexual battery. If a person engages in sexual contact without the consent of the other person, the person is guilty of sexual contact. S.D. Code Ann. § 22-33-30.

Tennessee


Yes, sexual misconduct means that as a result of mental disease or defect, due to a mental condition or mental or physical incapacity, or due to any other act committed against the will of the other person, the actor has sexual contact or sexual battery with a person who is incapable of understanding the nature of the act or who, because of any intoxicating agent, is incapable of appraising or controlling his or her conduct. Tenn. Code Ann. § 39-13-501(5).

Texas

17 years old. Texas Code Ann. § 21.001(a) & (c).

Yes, a sexual assault is considered to occur without consent of the victim when the actor engages in sexual contact or sexual battery with a person who is incapable of understanding the nature of the act or who, because of any intoxicating agent, is incapable of appraising or controlling his or her conduct. Tex. Code Ann. Arts. 37.07 & 22.011(a).

Utah


Yes, a sexual offense is considered to occur without consent of the victim when the actor engages in sexual contact or sexual battery with a person who is incapable of understanding the nature of the act or who, because of any intoxicating agent, is incapable of appraising or controlling his or her conduct. Utah Code Ann. §§ 76-9-601(2)(c), 76-9-602(2)(c), 76-9-601(4)(b), 76-9-603(4)(b).

Vermont


Yes, a person acts without consent of the victim when the actor engages in sexual contact or sexual battery with a minor who is under 16 years old and the actor knew or had reason to know that the minor was less than 16 years old when the victim was at least 16 years old. Vt. Stat. Ann. § 1353.

Virginia


Yes, a sexual offense is considered to occur without consent of the victim when the actor engages in sexual contact or sexual battery with a person who is incapable of understanding the nature of the act or who, because of any intoxicating agent, is incapable of appraising or controlling his or her conduct. Va. Code Ann. §§ 18.2-71 and 18.2-72.

Washington


Yes, a sexual assault is considered to occur without consent of the victim when the actor engages in sexual contact or sexual battery with a person who is incapable of understanding the nature of the act or who, because of any intoxicating agent, is incapable of appraising or controlling his or her conduct. Wash. Rev. Code Ann. §§ 9.94.501 to 9.94.503.

West Virginia


Yes, the victim is under the age of 16 and at the time of the offense, the actor is a parent, step parent, guardian or legal custodian of the victim if the consent of the victim was obtained under any circumstance known to the actor to be false or if the actor knew that the victim was incapable of giving consent.

Wisconsin


Yes, a sexual assault is considered to occur without consent of the victim when the actor engages in sexual contact or sexual battery with a person who is incapable of understanding the nature of the act or who, because of any intoxicating agent, is incapable of appraising or controlling his or her conduct. Wis. Stat. Ann. §§ 94.87 and 94.88.

Wyoming


Yes, a person acts without the consent of the victim when the actor engages in sexual contact or sexual battery with a minor who is under 16 years old and the actor knew or had reason to know that the minor was under 16 years old when the victim was at least 16 years old. Wyo. Stat. Ann. § 6–1–102.
VIRGIN ISLANDS
18 years old unless legally married. V.I.C. § 1702.

Yes, an actor who engages in sexual contact with a person who knows or reasonably should know that the person has a mental illness, mental deficiency or physical defect, the influence of a controlled or intoxicating substance administered to that person, or the nature and degree of any other condition or influence of the complaining witness. V.I.C. §§ 1701(1) & (2), 1701(5).

Yes, a person who is presumed incapable of consent is incapable of giving consent if the defendant has administered to that person without his or her consent an intoxicant to a degree which would impact the victim's ability to consent and therefore make it a sexual assault in the first degree. V.I.C. § 1704.

There are special rules for persons in positions of authority over the victim and for persons residing in the same household as the victim.

Yes, any actor who engages in sexual intercourse with a person who is physically helpless or incapable of giving consent is guilty of rape in the second degree. V.I.C. § 1703.

VIRGINIA
18 years old. VA Code Ann. §§ 18.2-57 to 18.2-67.

Yes, an actor who engages in sexual contact or sexual intercourse with a person when the actor knows or reasonably should know that the person has a mental illness, mental deficiency or physical defect, the influence of a controlled or intoxicating substance administered to that person, or the nature and degree of any other condition or influence of the complaining witness. Wash. Rev. Code Ann. §§ 9A.44.010(4); 9A.44.050.

WASHINGT.

Yes, there are special relationships between the victim and actor that may make a sexual act between an actor and the victim engage in sexual intercourse with a person who is presumed incapable of giving consent. W. Va. Code Ann. §§ 61-8B-1(3) & (4), 61-8B-2(c).

Yes, an actor who is presumed incapable of giving consent is incapable of giving consent. W. Va. Code Ann. § 61-8B-1(3) & (4), 61-8B-2(c).

WISCONSIN
18 years old unless physically helpless or incapable of giving consent. Wis. Stat. Ann. § 980.23(5).

Yes, a person who is presumed incapable of giving consent is incapable of giving consent. W. Va. Code Ann. § 61-8B-1(3) & (4), 61-8B-2(c).

Yes, a person who is engaged in sexual contact with a patient or resident who has sexual conduct with a patient or resident of any other condition or influence of the complaining witness. Wis. Stat. Ann. § 980.23(5).

There are special relationships between the victim and actor that may make a sexual act between an actor and the victim engage in sexual intercourse with a person who is presumed incapable of giving consent. Wis. Stat. Ann. § 980.23(5).

Yes, there are special relationships between the victim and actor that may make a sexual act between an actor and the victim engage in sexual intercourse with a person who is presumed incapable of giving consent. Wis. Stat. Ann. § 980.23(5).

WYOMING

Yes, any actor who engages in sexual contact with a person who is presumed incapable of giving consent is incapable of giving consent of the nature of the victim's lack of ability to give consent. Wis. Stat. Ann. § 948.09.

Yes, any actor who engages in sexual contact or sexual intercourse with a person who is presumed incapable of giving consent is incapable of giving consent if the defendant has administered to that person without his or her consent an intoxicant to a degree which would impact the victim's ability to consent and therefore make it a sexual assault in the first degree. Wis. Stat. Ann. § 948.09.

Yes, the term ‘position of authority’ includes, but is not limited to, religious, school, workplace, employer, custodian or substantially similar position, and a police officer or probation officer other than those acting in an official capacity.

Yes, the term ‘position of authority’ includes, but is not limited to, religious, school, workplace, employer, custodian or substantially similar position, and a police officer or probation officer other than those acting in an official capacity.

Yes, any actor who engages in sexual contact or sexual intercourse with a person who is presumed incapable of giving consent is incapable of giving consent if the defendant has administered to that person without his or her consent an intoxicant to a degree which would impact the victim's ability to consent and therefore make it a sexual assault in the first degree. Wyo. Stat. Ann. § 6-2-316.

Yes, any actor who engages in sexual contact or sexual intercourse with a person who is presumed incapable of giving consent is incapable of giving consent if the defendant has administered to that person without his or her consent an intoxicant to a degree which would impact the victim's ability to consent and therefore make it a sexual assault in the first degree. Wyo. Stat. Ann. § 6-2-316.