## Consent Laws

**Defining Consent**

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<td>Alaska</td>
<td>Consent has been interpreted to mean “assent to the act, with the understanding or awareness that the act is sexual in nature and that it is commonplace in sexual situations. Consent is a condition of sexual activity and requires a freely given agreement to the sexual act.”</td>
<td>Requires affirmative consent</td>
<td>State v. Jackson: 13A 7-670.</td>
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<td>Arizona</td>
<td>Consent means that a person: 1. is not coerced by the immediate circumstances or threatened use of force against a person or property; 2. is incapable of giving consent due to mental or physical incapacity; 3. is not threatened with public humiliation, property damage, or financial loss; 4. is not threatened with bodily harm.</td>
<td>Requires affirmative consent</td>
<td>State v. Jackson: 13A 7-670.</td>
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<tr>
<td>California</td>
<td>Consent means cooperation in act or attitude pursuant to the exercise of free will. The person must act freely and voluntarily and have knowledge of the nature of the act or transaction involved.</td>
<td>Requires affirmative consent</td>
<td>Arizona Revised Statutes Annotated § 13-4004(A).</td>
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<td>Colorado</td>
<td>Consent means cooperation in act or attitude pursuant to the exercise of free will and knowledge of the nature of the act.</td>
<td>Requires affirmative consent</td>
<td>Colorado Revised Statutes § 18-301(1) 3.</td>
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<td>Connecticut</td>
<td>Consent means cooperation in act or attitude pursuant to the exercise of free will. The person must act freely and voluntarily and have knowledge of the nature of the act or transaction involved.</td>
<td>Requires affirmative consent</td>
<td>Connecticut General Statutes Annotated § 53a-94-133.</td>
</tr>
<tr>
<td>District of Columbia</td>
<td>Consent means either oral or written indication of a freely given agreement to the sexual act or contact in question. Lack of verbal or physical resistance or submission by the victim, resulting from the use of force, threats, or coercion by the defendant shall not constitute consent.</td>
<td>Requires affirmative consent</td>
<td>United States v. Diamond: 13A 7-670.</td>
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<tr>
<td>Florida</td>
<td>Consent means intelligent, knowing, and voluntary consent and does not include coerced submission. “Consent” shall not be deemed or construed to mean the failure by the alleged victim to either physical resistance or submission to the offender. Florida Statutes § 791.05.</td>
<td>Requires affirmative consent</td>
<td>Florida v. State: 11-14178.</td>
</tr>
<tr>
<td>Georgia</td>
<td>Consent is not specifically defined. However, there has been defined a person who has a sexual relationship with another person and that person has difficulty giving or understanding consent has been implicitly interpreted as the “possessor” of a person who is capable of giving such consents. Georgia Code § 16-6-4.</td>
<td>Requires affirmative consent</td>
<td>Georgia v. State: 11-14178.</td>
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<tr>
<td>Hawaii</td>
<td>Consent is not specifically defined. However, there has been defined a person who has a sexual relationship with another person and that person has difficulty giving or understanding consent has been implicitly interpreted as the “possessor” of a person who is capable of giving such consents. Hawaii Revised Statutes Annotated § 701-504.</td>
<td>Requires affirmative consent</td>
<td>Hawaii v. State: 11-14178.</td>
</tr>
<tr>
<td>Idaho</td>
<td>Consent in sexual activity where a victim is physically helpless.</td>
<td>Requires affirmative consent</td>
<td>Idaho Revised Statutes §§ 12-212, 12-214.</td>
</tr>
</tbody>
</table>
**Iowa**

The term “sexual assault” is defined as follows:

- **Consent means:** a freely given agreement to the act of sexual penetration or sexual conduct in question. Lack of verbal or physical resistance or submission by the victim is not necessary to establish that an act is consensual unless the victim’s failure to resist was a result of physical or mental coercion.
- **Mentally incapacitated means:** a person with significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior which meet specified criteria and which originated before age 18 and is present in the individual’s performance of activities of daily living. The term includes such individuals as having an intellectual disability.
- **Substitute decision-maker:** means a person who has been designated as the substitute decision-maker for a mentally incapacitated individual under the provisions of KRS § 510.020.

Further, a person is deemed incapable of consent when the person is under arrest or otherwise in the actual custody of a police officer or other law enforcement official and the person is not able to consent to any sexual penetration or sexual conduct that occurs after the arrest or custody. KRS § 510.010.

**Kansas**

- **Crisis rape statute:** does not require the defendant to have knowledge or reason to know that the alleged victim did not consent. The Kansas rape statute does not require the defendant to have knowledge that the victim was incapacitated or alcohol addicted. The Kansas rape statute does not require the defendant to have knowledge that the victim was chemically dependent.
- **Confrontation of the victim:** begins concomitantly with penetration and the intercourse continues by force or fear. See State v. Ivey, 23 Kan. App. 2d 27, 597 P.2d 177, 180 (1980).

**Kentucky**

- **Non-coercive sexual conduct:** results from:
  - the victim consents by force or fear
  - incapacity to consent
  - incapacity to communicate consent
  - incapacity to understand the nature of the act or its consequences
  - incapacity to communicate consent
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  - incapacity to understand the nature of the act or its consequences

- **Mentally incapacitated:** means a person with an intelligence quotient of seventy or lower; “physical infirmity” means a person who is a quadriplegic or paraplegic; “mental illness” means a mental illness or mental disability that is reasonably apparent or known to the actor at the time he or she knew or should have known of the victim’s incapacity.

Further, a person is deemed incapable of consent when the person is under arrest or otherwise in the actual custody of a police officer or other law enforcement official and the person is not able to consent to any sexual penetration or sexual conduct that occurs after the arrest or custody. KRS § 510.010.

**Maine**

Consent means a freely given agreement to the act of sexual penetration or sexual conduct in question. Lack of verbal or physical resistance or submission by the victim is not necessary to establish that an act is consensual unless the victim’s failure to resist was a result of physical or mental coercion.

- **Mentally incapacitated means:** a person with an intelligence quotient of seventy or lower; “physical infirmity” means a person who is a quadriplegic or paraplegic; “mental illness” means a mental illness or mental disability that is reasonably apparent or known to the actor at the time he or she knew or should have known of the victim’s incapacity.

Further, a person is deemed incapable of consent when the person is under arrest or otherwise in the actual custody of a police officer or other law enforcement official and the person is not able to consent to any sexual penetration or sexual conduct that occurs after the arrest or custody. KRS § 510.010.

**Minnesota**

- **Mentally incapacitated:** means a person with significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior which meet specified criteria and which originated before age 18 and is present in the individual’s performance of activities of daily living. The term includes such individuals as having an intellectual disability.
- **Substitute decision-maker:** means a person who has been designated as the substitute decision-maker for a mentally incapacitated individual under the provisions of KRS § 510.020.

Further, a person is deemed incapable of consent when the person is under arrest or otherwise in the actual custody of a police officer or other law enforcement official and the person is not able to consent to any sexual penetration or sexual conduct that occurs after the arrest or custody. KRS § 510.010.
Maryland

Counsel is not specifically defined.

However, Maryland law provides that a person commits a sex crime if that person engages in "vaginal intercourse" or "sexual act" with another who:

- is under force, or the threat of force, without the consent of the other;
- is under the influence of a drug, medication, or intoxicating substance that renders the individual substantially incapable of:
  - appreciating the nature of the individual's conduct;
  - understanding the consequences of the individual's conduct;
  - communicating unwillingness to submit to vaginal intercourse, a sexual act, or sexual contact; or
- is substantially cognitively impaired individual;
- is mentally incapacitated individual;
- is physically helpless individual;
- is substantially cognitively impaired individual, a mentally incapacitated individual, or a physically helpless individual; or
- is substantially cognitively impaired individual, a mentally incapacitated individual, or a physically helpless individual.

For purposes of the crime of aggravated felonious sexual assault, lack of consent can result when:

- the actor is in a position of authority over the victim, and uses this authority to coerce the victim to submit under any of the following circumstances:
  - the actor coerces the victim to submit by threatening to retaliate against the victim, or any other person, and the victim believes that the actor has the ability to execute these threats in the future;
  - the actor coerces the victim to submit by threatening to use physical violence or superior physical strength on the victim, and the victim believes that the actor has the ability to execute these threats in the future;
  - the actor coerces the victim to submit by threatening to administer a toxic substance to the victim against the victim's will, and the victim believes that the actor has the ability to execute these threats in the future;
- the actor coerces the victim to submit by threatening to administer a toxic substance to the victim against the victim's will, and the victim believes that the actor has the ability to execute these threats in the future;
- the victim is physically helpless to resist;
- the victim is permanently rendered the individual substantially incapable of:
  - appreciating the nature of the individual's conduct;
  - understanding the consequences of the individual's conduct;
  - communicating unwillingness to submit to vaginal intercourse, a sexual act, or sexual contact; or
- the actor provides therapy, medical treatment or examination of the victim and in the course of that therapeutic or treating relationship or within one year of termination of that relationship:
  - the actor, without the prior knowledge or consent of the victim, administers or has knowledge of another person administering to the victim any intoxicating substance that the victim has been made to believe was necessary;
- the actor coerces the victim to submit by threatening to use physical violence or superior physical strength on the victim, and the victim believes that the actor has the ability to execute these threats in the future;
- the actor coerces the victim to submit by threatening to use physical violence or superior physical strength on the victim, and the victim believes that the actor has the ability to execute these threats in the future;
- the victim is permanently rendered the individual substantially incapable of:
  - appreciating the nature of the individual's conduct;
  - understanding the consequences of the individual's conduct;
  - communicating unwillingness to submit to vaginal intercourse, a sexual act, or sexual contact; or
- the actor coerces the victim to submit by threatening to use physical violence or superior physical strength on the victim, and the victim believes that the actor has the ability to execute these threats in the future;
- the actor coerces the victim to submit by threatening to use physical violence or superior physical strength on the victim, and the victim believes that the actor has the ability to execute these threats in the future.

No.

Consent is not specifically defined. The standard used in the sexual assault statutes is whether the accused used or consented to the sexual act.

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

Mississippi

Counsel is not specifically defined.

Montana

Counsel is not specifically defined.

Consent is not specifically defined. The standard used in the sexual assault statutes is whether the accused used or consented to the sexual act.

Missouri

Counsel is not specifically defined.

The term "consent" 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 existence of a prior or current social relationship between the actor and the complainant or that the complainant failed to resist a particular sexual act. Further:

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

The term "consent" means words or overt actions indicating a freely given arrangement to have sexual intercourse or sexual contact and is further defined, but not limited to:

- an expression of lack of consent through words or conduct means there is no consent or that consent has been withdrawn;
- mere passivity on the victim's part will not establish the absence of consent. The law looks for express negation or implicit negation of the will to consent or an existence of a prior or current social relationship by itself or the manner of the person's conduct in the conduct in some cases may be inferred based on all of the surrounding circumstances and must be considered in determining whether a person gave consent.
- The victim is incapable of consenting because the victim is:
  - mentally incapacitated or physically helpless;
  - under the influence of a drug, medication, or intoxicating substance that renders the individual substantially incapable of:
    - appreciating the nature of the individual's conduct;
    - understanding the consequences of the individual's conduct;
    - communicating unwillingness to submit to vaginal intercourse, a sexual act, or sexual contact; or
- consent is not specifically defined. The standard used in the sexual assault statutes is whether the accused used or consented to the sexual act.

For purposes of the crime of aggravated sexual abuse, lack of consent can result when:

- the victim is permanently rendered the individual substantially incapable of:
  - appreciating the nature of the individual's conduct;
  - understanding the consequences of the individual's conduct;
  - communicating unwillingness to submit to vaginal intercourse, a sexual act, or sexual contact; or
- the actor is an employee, contractor, or volunteer of the facility or community-based service. The act does not apply if the individuals are married to each other.

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

For purposes of the crime of sexual assault, lack of consent can result when:

- the victim is physically helpless to resist;
- the victim is permanently rendered the individual substantially incapable of:
  - appreciating the nature of the individual's conduct;
  - understanding the consequences of the individual's conduct;
  - communicating unwillingness to submit to vaginal intercourse, a sexual act, or sexual contact; or
- the actor coerces the victim to submit by threatening to use physical violence or superior physical strength on the victim, and the victim believes that the actor has the ability to execute these threats in the future;
- the actor coerces the victim to submit by threatening to use physical violence or superior physical strength on the victim, and the victim believes that the actor has the ability to execute these threats in the future.
- the actor coerces the victim to submit by threatening to use physical violence or superior physical strength on the victim, and the victim believes that the actor has the ability to execute these threats in the future;
- the actor coerces the victim to submit by threatening to use physical violence or superior physical strength on the victim, and the victim believes that the actor has the ability to execute these threats in the future.
- the victim is physically helpless to resist;
- the victim is permanently rendered the individual substantially incapable of:
  - appreciating the nature of the individual's conduct;
  - understanding the consequences of the individual's conduct;
  - communicating unwillingness to submit to vaginal intercourse, a sexual act, or sexual contact; or
- the victim is physically helpless to resist;
- the victim is permanently rendered the individual substantially incapable of:
  - appreciating the nature of the individual's conduct;
  - understanding the consequences of the individual's conduct;
  - communicating unwillingness to submit to vaginal intercourse, a sexual act, or sexual contact; or
- the actor coerces the victim to submit by threatening to use physical violence or superior physical strength on the victim, and the victim believes that the actor has the ability to execute these threats in the future;
- the victim is physically helpless to resist;
- the victim is permanently rendered the individual substantially incapable of:
  - appreciating the nature of the individual's conduct;
  - understanding the consequences of the individual's conduct;
  - communicating unwillingness to submit to vaginal intercourse, a sexual act, or sexual contact; or
- the victim is physically helpless to resist;
consent of the victim to conduct charged to constitute an offense or to the result thereof is a defense if such consent negates an element of the offense or

45 N.C. App. 481 (1980).

State v. Ricks, 733 A.2d 414, 424, 159 N.J., 94 N.C. 34


Puerto Rico Stat. tit. 33 § 4770.

following circumstances commits a severe second degree felony:

not limited to, compulsion resulting in another person’s death, whether the death occurred before, during or after sexual intercourse.” 18 Pa.C.S.A. § 3101.

A lack of verbal or physical resistance does not, by itself, constitute consent but may be considered by the trier of fact along with all other relevant evidence.

Okla. Stat. tit. 21, § 113

Consent cannot be inferred under circumstances in which consent is not clear including, but not limited to:

A person is deemed incapable of consent when he or she is:

Ohio does not specifically define “consent.”

The statute defines "gross sexual imposition" in § 12.1-20-03 as:

Additionally, "gross sexual imposition" is a crime defined in § 12.1-20-03 as:

Ohio does not specifically define “consent.” However, "sexual imposition" is a crime defined in NDCC § 12.1-20-04 as:

North Dakota does not specifically define "consent." However, "sexual imposition" is a crime defined in NDCC § 12.1-20-04 as:

North Dakota does not specifically define sexual imposition. A person who engages in sexual activity of another, whether the other person is a child or not, and who, as a result of fear or intimidation, compels the other person to submit to such activity, is guilty of a lesser degree of the offense of sexual imposition.

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

No person shall engage in sexual conduct with another when the offender purposely compels the other person to submit by force or threat of force.

However, for the purpose of preventing resistance, the offender substantially impairs the other person’s judgment or control by administering any drug, intoxicant, or other means for the purpose of preventing resistance; or

The consent establishes a justification for the conduct under chapter 3 of the code.

The consent is given by the actor who is a minor to an adult who is paying or agreeing to pay against one’s will or force by an adult, a child, other than a child under the age of 12, or by an adult or child under the age of 12 who is acting under duress, threat, coercion, or force.

No. 2.

Ohio does not specifically define “consent.”

A victim need not prove physical resistance to the offender.

That person knows or has reasonable cause to believe that the other person suffers from a mental disability or defect which renders him or her incapable of understanding the nature of his or her conduct.

When at the time of the commission of the act the victim is not conscious of its nature and this circumstance is known to the person accused;

If due to mental disability or illness, whether temporary or permanent, the victim is unable to understand the nature of the act at the time of its commission;

If the victim has not yet reached the age of sixteen (16) at the time of the event;

3.


North Carolina does not specifically define “consent.”

The concepts of “force” and “against the will of the other person” are used in the statute:

N.C. G.S. § 14-72-20 defines “against the will of the other person” as either of the following:

A victim need not prove physical resistance to the offender.

At the time of the commission of the act the victim is unconscious or where the person knows that the complainant is unaware that the sexual intercourse is occurring;

(2) When the actor is a probation or parole officer or a juvenile probation and parole officer who has direct supervisory or disciplinary authority over the victim while

(1) By forcible compulsion;

(3) Who is unconscious or where the person knows that the complainant is unaware that the sexual intercourse is occurring;

(2) By threat of forcible compulsion that would prevent resistance by a person of reasonable resolution;

(1) The victim is under the age of 12 years old;

(2) The consent establishes a justification for the conduct under chapter 3 of the code;

(3) Where the offense charged is sexual abuse or forcible touching, any circumstances, in addition to forcible compulsion or incapacity to consent, in which the victim does not expressly or implicitly signify the actor’s conduct;

(2) by threat of imminent death, serious bodily injury, or kidnapping, to be inflicted on any human being;

That person compels the victim to submit by force or by threat of imminent death, serious bodily injury, or kidnapping, to be inflicted on any human being;

18 Pa.C.S.A. § 3121.

The victim is in a position or place of authority, or in the custody or care of another person who is responsible for the victim’s care;

Who suffers from a mental disability which renders the victim incapable of understanding the nature of the act;

Who is under the age of 12 and the person has knowledge that the victim is incapable of understanding the nature of the act;

The victim is under the age of 12 years old;

When the accused person takes advantage of the trust deposited in him/her by the victim because there is a relationship of superiority because the victim is under
domination, or control, or the intent to compel conduct or compliance.

Consent to bodily harm

Consent is given by the victim who is a minor when the adult is paying or agreeing to pay, or has paid, against the victim’s will or force, or has paid for the purpose

Ohio does not specifically define “consent.”

No. 1.

When the actor is in a position of authority, or in the custody or care of another person who is responsible for the victim’s care;

The victim is in a position or place of authority, or in the custody or care of another person who is responsible for the victim’s care;

That person compels the victim to submit by force or by threat of imminent death, serious bodily injury, or kidnapping, to be inflicted on any human being;

When the actor is charged to constitute an offense or to the result thereof is a defense if such consent negates an element of the offense or

The consent of the victim to conduct charged to constitute an offense or to the result thereof is a defense if such consent negates an element of the offense or
Yes, a person can be incapable of giving consent. “Incapacitated” means (among other things) that a person is physically unable to communicate or express or understand the consequences of act of sexual penetration. Alaska Stat. § 11.41.401(a)(2).

A person is deemed incapable of giving consent when such person is:

1. Forcible compulsion;
   - Alaska Stat. § 11.41.420;
2. Mentally defective;
   - Alaska Stat. § 11.41.421;
3. An infant or incompetent;
   - Alaska Stat. § 11.41.423;
4. An incapacitated;
   - Alaska Stat. § 11.41.401(a).

Yes, a person is deemed incapable of giving consent. “Incapacitated” means (among other things) that a person is physically unable to communicate or express or understand the consequences of act of sexual penetration. Alaska Stat. § 11.41.401(a).

The following constitutes sexual assault in the second degree:

1. A person engages in sexual penetration with a person who is 18 years of age or older and (a) in the offender's care or custody, (b) is suffering from a mental disorder, or (c) is under a court order of protection in which the offender is a named respondent. Alaska Stat. § 11.41.420(a)(2).

The following constitutes sexual assault in the third degree:

1. A person engages in sexual contact with a person who is 18 years of age or older and is in the offender's care by authority of law or in a facility or organization in which the offender is a member of the staff or administration of the facility or organization. Alaska Stat. § 11.41.420(a)(4).

Yes, there are several relationships between offender and victim for which the victim is incapable or mentally incapable of giving consent.

Yes, there are several relationships between offender and victim for which the victim is incapable of giving consent.

Yes, a person is deemed incapable of giving consent. “Incapacitated” means (among other things) that a person is physically unable to communicate or express or understand the consequences of act of sexual penetration. Alaska Stat. § 11.41.401(a).

Yes, a person is deemed incapable of giving consent. “Incapacitated” means (among other things) that a person is physically unable to communicate or express or understand the consequences of act of sexual penetration. Alaska Stat. § 11.41.401(a).

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Yes, a person is deemed incapable of giving consent. “Incapacitated” means (among other things) that a person is physically unable to communicate or express or understand the consequences of act of sexual penetration. Alaska Stat. § 11.41.401(a).

No. Yes, such seizures may be prosecuted as sexual assault of a minor under sections 13-1406 or sexual assault with another (section 11.41.434); a similar act in which the victim is at least 14 years of age and the offender is a father or member of the minor’s family (including by adoption); a sexual assault under 13-1406. Alaska Revised Statute § 13-1407(D).

Yes, to be guilty of sexual abuse of a minor in the second degree, the offender must be the guardian or legal guardian of the minor victim. Alaska Revised Statute § 13-1401(A)(7)(b).

A person, while employed in a state correctional facility or private correctional facility, engaging in sexual contact or sexual penetration with a person who the offender knows is (a) under 18 years of age, or (b) a member of the minor victim’s family, is guilty of sexual abuse of a minor in the second degree. Alaska Revised Statute § 13-1401(A)(7)(b).
California

18 years old: California Penal Code § 261.5.

Yes, a person can be incapable of resisting or appraising or controlling his or her acts because of a mental disorder or developmental disability. (California Penal Code § 261.5(b)).

Yes, the actor may be guilty of sexual assault when the victim is incapable of resisting or appraising or controlling his or her acts because of a mental disorder or developmental disability. (California Penal Code § 261.5(c)).

Yes, the actor may be guilty of rape or sexual penetration when the person is mentally incapacitated when he or she commits such act by force or violence or by any other means. (California Penal Code § 261.5(e)).

Connecticut

16 or 17 years old: Connecticut General Statutes Annotated § 53a-65(5).

Yes, a minor is capable of consenting to sexual intercourse with an adult who is not the minor’s spouse. Connecticut General Statutes Annotated § 53a-65(5).
To the next page...
**Georgia**

18 years old. Georgia Code § 16-6-3(a).

Yes. A person commits sexual exploitation of a child when the person: (1) places a tilting or other violent upon the victim; (2) makes or attempts to make the victim incapable of providing consent; or (3) supplies a controlled substance to the victim in order to render the victim incapable of providing consent.

**Hawaii**

Yes. A person commits a sex crime if the person, while employed or acting in a professional capacity to assist, advise, or supervise the minor; provided that: (i) the person assumes the role of a custodian, guardian, custodian, or otherwise undertakes to act under the act, its duties, and possible consequences.

Yes. A person commits a sex crime if the person, while employed or acting in a professional capacity to assist, advise, or supervise the minor; provided that: (i) the person assumes the role of a custodian, guardian, custodian, or otherwise undertakes to act under the act, its duties, and possible consequences.

**Kansas**

Yes, a person commits a sex crime if the person, while employed or acting in a professional capacity to assist, advise, or supervise the minor; provided that: (i) the person assumes the role of a custodian, guardian, custodian, or otherwise undertakes to act under the act, its duties, and possible consequences.

**Michigan**

Yes. A person commits a sex crime if the person, while employed or acting in a professional capacity to assist, advise, or supervise the minor; provided that: (i) the person assumes the role of a custodian, guardian, custodian, or otherwise undertakes to act under the act, its duties, and possible consequences.

**Minnesota**

Yes. A person commits a sex crime if the person, while employed or acting in a professional capacity to assist, advise, or supervise the minor; provided that: (i) the person assumes the role of a custodian, guardian, custodian, or otherwise undertakes to act under the act, its duties, and possible consequences.
A person commits a sex crime if:
1. the sex act is performed with a person who is under 18 years of age, and the person knows or should have known that the victim is incapable of giving consent;
2. the sex act is performed while the person is in a position of authority, or under the control or supervision of any peace officer, or an officer, employee, contractor, vendor, agent, or employee, contractor, vendor, agent, or other person in a position of authority or control over the person who is the victim of the crime.
3. the sex act is performed by a person who is under 18 years of age, and the person knows or should have known that the victim is incapable of giving consent.

In addition, a person commits a sex crime if:
1. the sex act is performed with a person who is under 18 years of age, and the person knows or should have known that the victim is incapable of giving consent.
2. the sex act is performed while the person is in a position of authority, or under the control or supervision of any peace officer, or an officer, employee, contractor, vendor, agent, or employee, contractor, vendor, agent, or other person in a position of authority or control over the person who is the victim of the crime.
3. the sex act is performed by a person who is under 18 years of age, and the person knows or should have known that the victim is incapable of giving consent.

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2. the sex act is performed while the person is in a position of authority, or under the control or supervision of any peace officer, or an officer, employee, contractor, vendor, agent, or employee, contractor, vendor, agent, or other person in a position of authority or control over the person who is the victim of the crime.
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2. the sex act is performed while the person is in a position of authority, or under the control or supervision of any peace officer, or an officer, employee, contractor, vendor, agent, or employee, contractor, vendor, agent, or other person in a position of authority or control over the person who is the victim of the crime.
3. the sex act is performed by a person who is under 18 years of age, and the person knows or should have known that the victim is incapable of giving consent.

In addition, a person commits a sex crime if:
1. the sex act is performed with a person who is under 18 years of age, and the person knows or should have known that the victim is incapable of giving consent.
2. the sex act is performed while the person is in a position of authority, or under the control or supervision of any peace officer, or an officer, employee, contractor, vendor, agent, or employee, contractor, vendor, agent, or other person in a position of authority or control over the person who is the victim of the crime.
3. the sex act is performed by a person who is under 18 years of age, and the person knows or should have known that the victim is incapable of giving consent.

In addition, a person commits a sex crime if:
1. the sex act is performed with a person who is under 18 years of age, and the person knows or should have known that the victim is incapable of giving consent.
2. the sex act is performed while the person is in a position of authority, or under the control or supervision of any peace officer, or an officer, employee, contractor, vendor, agent, or employee, contractor, vendor, agent, or other person in a position of authority or control over the person who is the victim of the crime.
3. the sex act is performed by a person who is under 18 years of age, and the person knows or should have known that the victim is incapable of giving consent.

In addition, a person commits a sex crime if:
1. the sex act is performed with a person who is under 18 years of age, and the person knows or should have known that the victim is incapable of giving consent.
2. the sex act is performed while the person is in a position of authority, or under the control or supervision of any peace officer, or an officer, employee, contractor, vendor, agent, or employee, contractor, vendor, agent, or other person in a position of authority or control over the person who is the victim of the crime.
3. the sex act is performed by a person who is under 18 years of age, and the person knows or should have known that the victim is incapable of giving consent.

In addition, a person commits a sex crime if:
1. the sex act is performed with a person who is under 18 years of age, and the person knows or should have known that the victim is incapable of giving consent.
2. the sex act is performed while the person is in a position of authority, or under the control or supervision of any peace officer, or an officer, employee, contractor, vendor, agent, or employee, contractor, vendor, agent, or other person in a position of authority or control over the person who is the victim of the crime.
3. the sex act is performed by a person who is under 18 years of age, and the person knows or should have known that the victim is incapable of giving consent.

In addition, a person commits a sex crime if:
1. the sex act is performed with a person who is under 18 years of age, and the person knows or should have known that the victim is incapable of giving consent.
2. the sex act is performed while the person is in a position of authority, or under the control or supervision of any peace officer, or an officer, employee, contractor, vendor, agent, or employee, contractor, vendor, agent, or other person in a position of authority or control over the person who is the victim of the crime.
3. the sex act is performed by a person who is under 18 years of age, and the person knows or should have known that the victim is incapable of giving consent.

In addition, a person commits a sex crime if:
1. the sex act is performed with a person who is under 18 years of age, and the person knows or should have known that the victim is incapable of giving consent.
2. the sex act is performed while the person is in a position of authority, or under the control or supervision of any peace officer, or an officer, employee, contractor, vendor, agent, or employee, contractor, vendor, agent, or other person in a position of authority or control over the person who is the victim of the crime.
3. the sex act is performed by a person who is under 18 years of age, and the person knows or should have known that the victim is incapable of giving consent.

In addition, a person commits a sex crime if:
1. the sex act is performed with a person who is under 18 years of age, and the person knows or should have known that the victim is incapable of giving consent.
2. the sex act is performed while the person is in a position of authority, or under the control or supervision of any peace officer, or an officer, employee, contractor, vendor, agent, or employee, contractor, vendor, agent, or other person in a position of authority or control over the person who is the victim of the crime.
3. the sex act is performed by a person who is under 18 years of age, and the person knows or should have known that the victim is incapable of giving consent.

In addition, a person commits a sex crime if:
1. the sex act is performed with a person who is under 18 years of age, and the person knows or should have known that the victim is incapable of giving consent.
2. the sex act is performed while the person is in a position of authority, or under the control or supervision of any peace officer, or an officer, employee, contractor, vendor, agent, or employee, contractor, vendor, agent, or other person in a position of authority or control over the person who is the victim of the crime.
3. the sex act is performed by a person who is under 18 years of age, and the person knows or should have known that the victim is incapable of giving consent.

In addition, a person commits a sex crime if:
1. the sex act is performed with a person who is under 18 years of age, and the person knows or should have known that the victim is incapable of giving consent.
2. the sex act is performed while the person is in a position of authority, or under the control or supervision of any peace officer, or an officer, employee, contractor, vendor, agent, or employee, contractor, vendor, agent, or other person in a position of authority or control over the person who is the victim of the crime.
3. the sex act is performed by a person who is under 18 years of age, and the person knows or should have known that the victim is incapable of giving consent.
Yes. A person is guilty of a sex crime when he or she is an employee of an organization, program or residence and the other person, not the actor’s spouse, is a resident of the organization, program or residence, or a foster child placed in the care of such family foster home.

Yes. The following are deemed incapable of consent when he or she is an employee of any service provider, and the other person is a student or classmate of the student with whom the offender is engaging in consensual sexual conduct.

Yes. A person is guilty of a sex crime when he or she is a teacher or other person in a position of authority and the person with whom the offender is engaging in consensual sexual conduct is a student.

Yes. The following are deemed incapable of consent when he or she is in a relationship to another person and the other person is a student or classmate of the student with whom the offender is engaging in consensual sexual conduct.

Yes. A person is guilty of a sex crime when he or she is a teacher or other person in a position of authority and the person with whom the offender is engaging in consensual sexual conduct is a student.

Yes. The following are deemed incapable of consent when he or she is in a relationship to another person and the other person is a student or classmate of the student with whom the offender is engaging in consensual sexual conduct.

Yes. A person is guilty of a sex crime when he or she is an employee of an organization, program or residence and the other person, not the actor’s spouse, is a resident of the organization, program or residence, or a foster child placed in the care of such family foster home.

Yes. A person is guilty of a sex crime when he or she is an employee of any service provider, and the other person is a student or classmate of the student with whom the offender is engaging in consensual sexual conduct.

Additionally, prohibited sexual conduct between an educator and a student is prohibited when the student is 16 years of age or older who has been placed on probation under the supervision of court services and the offender has knowledge that the person with whom the offender is engaging in consensual sexual conduct is a juvenile who has been placed on probation under the supervision of court services.

Additionally, prohibited sexual conduct between an educator and a student is prohibited when the student is an employee of an organization, program or residence and the offender has knowledge that the person with whom the offender is engaging in consensual sexual conduct is a person who is mentally defective, an individual with an intellectual disability, a person who is an employee of an organization, program or residence and the other person, not the actor’s spouse, is a resident of the organization, program or residence, or a foster child placed in the care of such family foster home.
program or of residence and is under a mental disability that is reasonably likely to impair his or her judgment, reasoning, or understanding, including alcohol or drug impairment, in his or her conduct. Mich. Comp. Laws Ann. § 750.520b & c.

(b) unable to communicate unwillingness to an act: The actor has a significant relationship to the complainant; and in a current or recent position of authority over the complainant (neither mistake as to the complainant's age nor consent to the act by the complainant is a defense).

(2) the actor has a significant relationship to the complainant, and the complainant is under 13, 14 or 15 years of age, and the other person is more than 48 months older than the complainant and in a current or recent position of authority over the complainant (neither mistake as to the complainant's age nor consent to the act by the complainant is a defense).

(3) the actor has a significant relationship to the complainant, and the complainant is under 16 but less than 18 years of age and any of the following applies: the actor is more than 4 years older than the complainant; the actor is more than 10 years older than the complainant and in a current or recent position of authority over the complainant (neither mistake as to the complainant's age nor consent to the act by the complainant is a defense).


Yes. If the victim is a substantially cognitively impaired individual or substantially developmentally disabled individual, or if the victim is a substantially developmentally disabled individual who has an IQ of 50 or less. Mich. Comp. Laws Ann. § 753, 450 Mass. 608 (2008).

Yes. If the victim is a substantially cognitively impaired individual or substantially developmentally disabled individual (other than an individual described in subsection 1(c) who has an IQ of 50 or less) or the victim is an individual described in subsection 1(c) who has an IQ of less than 50. Mich. Comp. Laws Ann. § 753, 450 Mass. 608 (2008).

Yes. If the victim is a substantially developmentally disabled individual (other than an individual described in subsection 1(c)) who has an IQ of 50 or less. Mich. Comp. Laws Ann. § 753, 450 Mass. 608 (2008).

Yes. If the victim is a substantially developmentally disabled individual (other than an individual described in subsection 1(c)) who has an IQ of less than 50. Mich. Comp. Laws Ann. § 753, 450 Mass. 608 (2008).

Yes, if the victim is such a person:...
Yes, a person is guilty of sexual abuse of an inmate if the person has supervisory or disciplinary authority over the victim or is an employee, contractor, or volunteer of a facility that provides sexual conduct to a patient in a facility or a recipient of services from a community-based service.

Yes, a person commits the offense of sexual abuse of an inmate if the victim is a patient in a facility or is receiving services from a community-based service.

Yes, a person commits the offense of sexual abuse of a patient or an employee if the victim is a patient or an employee of a facility that provides sexual conduct to a patient in a facility or a recipient of services from a community-based service.

Yes, a person commits the offense of sexual abuse of a patient or an employee if the victim is a patient or an employee of a facility that provides sexual conduct to a patient in a facility or a recipient of services from a community-based service.

Yes, a person commits the offense of sexual abuse of a patient or an employee if the victim is a patient or an employee of a facility that provides sexual conduct to a patient in a facility or a recipient of services from a community-based service.

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Yes, a person commits the offense of sexual abuse of a patient or an employee if the victim is a patient or an employee of a facility that provides sexual conduct to a patient in a facility or a recipient of services from a community-based service.

Yes, a person commits the offense of sexual abuse of a patient or an employee if the victim is a patient or an employee of a facility that provides sexual conduct to a patient in a facility or a recipient of services from a community-based service.
Yes, a mentally incapacitated person, if he or she is so designated in writing by a person who is legally incompetent to authorize the conduct charged to constitute the offense, or

2. It is given by a person who is legally incompetent to authorize the conduct charged to constitute the offense, or

3. It is given by force, threats, fear, duress, or deception of a kind sought to be prevented by the law defining the offense.

N.J.S.A. Ann. § 2C:14-10.2.

Yes, a person that is incompetent is deemed incapable of committing an act of sexual penetration with a person that he or she knows or has reason to know is a mentally incapacitated person who is incompetent to consent to sexual intercourse.


Yes. A person is deemed incapable of committing an act of sexual penetration if the person is (1) mentally incapacitated, and, in the course of the relationship or within one year of termination of the relationship, the person knew or had reason to know of the other person's incapacity, or (2) under the influence of a narcotic, anesthetic, intoxicant, or compound, mixture or substance that requires a prescription to administer it without such person's consent, or

Yes. A person is deemed incapable of committing an act of sexual penetration if the person is (1) a mentally incapacitated person, if he or she is so designated in writing by a person who is legally incompetent to authorize the conduct charged to constitute the offense, or

2. It is given by a person who is legally incompetent to authorize the conduct charged to constitute the offense, or

3. It is given by force, threats, fear, duress, or deception of a kind sought to be prevented by the law defining the offense.

N.J.S.A. Ann. § 2C:14-10.2.

Yes, a person is deemed incapable of committing an act of sexual penetration if the person is (1) a mentally incapacitated person, if he or she is so designated in writing by a person who is legally incompetent to authorize the conduct charged to constitute the offense, or

2. It is given by a person who is legally incompetent to authorize the conduct charged to constitute the offense, or

3. It is given by force, threats, fear, duress, or deception of a kind sought to be prevented by the law defining the offense.

N.J.S.A. Ann. § 2C:14-10.2.

Yes. A person is deemed incapable of committing an act of sexual penetration if he or she is (1) a mentally incapacitated person, if he or she is so designated in writing by a person who is legally incompetent to authorize the conduct charged to constitute the offense, or

2. It is given by a person who is legally incompetent to authorize the conduct charged to constitute the offense, or

3. It is given by force, threats, fear, duress, or deception of a kind sought to be prevented by the law defining the offense.

N.J.S.A. Ann. § 2C:14-10.2.

Yes, a person is deemed incapable of committing an act of sexual penetration if he or she is (1) a mentally incapacitated person, if he or she is so designated in writing by a person who is legally incompetent to authorize the conduct charged to constitute the offense, or

2. It is given by a person who is legally incompetent to authorize the conduct charged to constitute the offense, or

3. It is given by force, threats, fear, duress, or deception of a kind sought to be prevented by the law defining the offense.

N.J.S.A. Ann. § 2C:14-10.2.

Yes. A person is deemed incapable of committing an act of sexual penetration if he or she is (1) a mentally incapacitated person, if he or she is so designated in writing by a person who is legally incompetent to authorize the conduct charged to constitute the offense, or

2. It is given by a person who is legally incompetent to authorize the conduct charged to constitute the offense, or

3. It is given by force, threats, fear, duress, or deception of a kind sought to be prevented by the law defining the offense.

N.J.S.A. Ann. § 2C:14-10.2.

Yes. A person is deemed incapable of committing an act of sexual penetration if he or she is (1) a mentally incapacitated person, if he or she is so designated in writing by a person who is legally incompetent to authorize the conduct charged to constitute the offense, or

2. It is given by a person who is legally incompetent to authorize the conduct charged to constitute the offense, or

3. It is given by force, threats, fear, duress, or deception of a kind sought to be prevented by the law defining the offense.

N.J.S.A. Ann. § 2C:14-10.2.
Mentally disabled

§ 12.1-20-03(1)(d), their knowledge of the minor's age. Id. of thirteen and sixteen and for sexual conduct or the offender is reckless in that regard. Ohio Rev. offender knows the other person is thirteen years person (who is not their spouse) when the older shall engage in sexual conduct with another. North Carolina General Statutes Annotated §12.1-20-01. The contact with that person, if the other person is a 200 N.W. 2d 288, 291 (N.D. 1972) (“proof of force statutory rape provisions. § 12.1-20-01. The contact, is guilty of gross sexual imposition (Chapter 121-20-01(3)).

Mentally incapacitated; means a victim who due to any condition committed from the victim is rendered incapable of understanding the nature of his or her conduct, or rendering the act of engaging in sexual conduct, or causing the victim to engage in sexual conduct, is substantially incapable. North Carolina General Statutes Annotated §12.1-20-07. "Mentally disabled" means a victim who suffers from a mental disorder, either of a physiological or psychological nature, which substantially impairs the victim's ability to appraise the nature of his or her conduct, or of resisting the act of sexual conduct, or of communicating intelligently to submit to the act of sexual conduct. North Carolina General Statutes Annotated §12.1-20-07.

Sexually related offenses

A person who engages in sexual conduct or sexual contact with another, or who engages in sexual conduct with another, when the person performing the act knows or should have reasonably known the other person was physically helpless, North Carolina General Statutes Annotated §12.1-20-27.2. A person who engages in sexual conduct with another, or who engages in sexual conduct with another, or who causes another to engage in sexual conduct with another, is guilty of gross sexual imposition (Chapter 121-20-01(3)).

A person who engages in sexual conduct or sexual contact with another, or who engages in sexual conduct with another, or who causes another to engage in sexual conduct with another, is guilty of gross sexual imposition (Chapter 121-20-01(3)).

The contact, is guilty of gross sexual imposition (Chapter 121-20-01(3)).

Additionally, an offender commits a sexual act, or causes another to commit a sexual act, is guilty of sexual assault if that person believes that the victim is unaware of the sexual contact. (Ohio's definition of sexual battery, sexual imposition and gross sexual imposition do not include sexual contact involving consensual sexual activity between married couples, unless the spouses are "living separate lives," North Carolina General Statutes Annotated §14-27.22; §14-27.27; §14-27.33.

A person who engages in sexual conduct or sexual contact with another, or who causes another to engage in sexual conduct with another, or who causes another to engage in sexual conduct with another, is guilty of gross sexual imposition (Chapter 121-20-01(3)).

A person who engages in sexual conduct or sexual contact with another, or who causes another to engage in sexual conduct with another, or who causes another to engage in sexual conduct with another, is guilty of gross sexual imposition (Chapter 121-20-01(3)).

A person who engages in sexual conduct or sexual contact with another, or who causes another to engage in sexual conduct with another, or who causes another to engage in sexual conduct with another, is guilty of gross sexual imposition (Chapter 121-20-01(3)).

A person who engages in sexual conduct or sexual contact with another, or who causes another to engage in sexual conduct with another, or who causes another to engage in sexual conduct with another, is guilty of gross sexual imposition (Chapter 121-20-01(3)).

A person who engages in sexual conduct or sexual contact with another, or who causes another to engage in sexual conduct with another, or who causes another to engage in sexual conduct with another, is guilty of gross sexual imposition (Chapter 121-20-01(3)).

A person who engages in sexual conduct or sexual contact with another, or who causes another to engage in sexual conduct with another, or who causes another to engage in sexual conduct with another, is guilty of gross sexual imposition (Chapter 121-20-01(3)).

A person who engages in sexual conduct or sexual contact with another, or who causes another to engage in sexual conduct with another, or who causes another to engage in sexual conduct with another, is guilty of gross sexual imposition (Chapter 121-20-01(3)).

A person who engages in sexual conduct or sexual contact with another, or who causes another to engage in sexual conduct with another, or who causes another to engage in sexual conduct with another, is guilty of gross sexual imposition (Chapter 121-20-01(3)).

A person who engages in sexual conduct or sexual contact with another, or who causes another to engage in sexual conduct with another, or who causes another to engage in sexual conduct with another, is guilty of gross sexual imposition (Chapter 121-20-01(3)).

A person who engages in sexual conduct or sexual contact with another, or who causes another to engage in sexual conduct with another, or who causes another to engage in sexual conduct with another, is guilty of gross sexual imposition (Chapter 121-20-01(3)).

A person who engages in sexual conduct or sexual contact with another, or who causes another to engage in sexual conduct with another, or who causes another to engage in sexual conduct with another, is guilty of gross sexual imposition (Chapter 121-20-01(3)).

A person who engages in sexual conduct or sexual contact with another, or who causes another to engage in sexual conduct with another, or who causes another to engage in sexual conduct with another, is guilty of gross sexual imposition (Chapter 121-20-01(3)).

A person who engages in sexual conduct or sexual contact with another, or who causes another to engage in sexual conduct with another, or who causes another to engage in sexual conduct with another, is guilty of gross sexual imposition (Chapter 121-20-01(3)).

A person who engages in sexual conduct or sexual contact with another, or who causes another to engage in sexual conduct with another, or who causes another to engage in sexual conduct with another, is guilty of gross sexual imposition (Chapter 121-20-01(3)).

A person who engages in sexual conduct or sexual contact with another, or who causes another to engage in sexual conduct with another, or who causes another to engage in sexual conduct with another, is guilty of gross sexual imposition (Chapter 121-20-01(3)).

A person who engages in sexual conduct or sexual contact with another, or who causes another to engage in sexual conduct with another, or who causes another to engage in sexual conduct with another, is guilty of gross sexual imposition (Chapter 121-20-01(3)).

A person who engages in sexual conduct or sexual contact with another, or who causes another to engage in sexual conduct with another, or who causes another to engage in sexual conduct with another, is guilty of gross sexual imposition (Chapter 121-20-01(3)).

A person who engages in sexual conduct or sexual contact with another, or who causes another to engage in sexual conduct with another, or who causes another to engage in sexual conduct with another, is guilty of gross sexual imposition (Chapter 121-20-01(3)).

A person who engages in sexual conduct or sexual contact with another, or who causes another to engage in sexual conduct with another, or who causes another to engage in sexual conduct with another, is guilty of gross sexual imposition (Chapter 121-20-01(3)).

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A person who engages in sexual conduct or sexual contact with another, or who causes another to engage in sexual conduct with another, or who causes another to engage in sexual conduct with another, is guilty of gross sexual imposition (Chapter 121-20-01(3)).

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Oklahoma

or more years older than the complainant and the complainant is less than 13 years of age. 18 Pa. C.S.A. § 3121(a)(5).

It is deviate sexual intercourse in the third degree when that person engages in sexual intercourse, deviate sexual intercourse or indecent contact with an individual or members of a team in a sport. Or. Rev. Stat. §§ 163.425, 163.426.

It is deviate sexual intercourse in the first degree if the complainant is unconscious or for any reason is unaware of the sexual intercourse. 18 Pa.C.S.A. § 3124.3(b).

It is deviate sexual intercourse in the third degree when that person engages in sexual intercourse, deviate sexual intercourse or indecent contact with an individual or members of a team in a sport. Or. Rev. Stat. §§ 163.425, 163.426.

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South Carolina


Yes, consent is not a defense where: (1) the actor is a public servant who coerces the other person to submit or is older than the victim. S.C. Code Ann. § 16-3-655(B)(2).

The statute for sexual contact with a child under 16 does not apply if the victim is 16 or 17 years of age, and the victim was, at the time of the offense, a primary or secondary school student who is 16 or 17 years of age, and the person committed the sexual contact by force or with the use of physical force. S.C. Code Ann. § 16-3-755(B). This section does not apply to consensual sexual contact involving a minor between the ages of 16 and 17. S.C. Code Ann. § 16-3-755(C).

Texas

17 years old. Texas Code Ann. § 22.011(a) & (b).

Yes, mental incapacity means the same as if the victim were under 16 years of age. Texas Code Ann. § 22.011(b)(1). Yes, a sexual assault is considered to occur without the consent of the victim where the actor causes the victim to submit or is older than the victim. Texas Code Ann. § 22.011(b)(3).

The statute for sexual contact with a child under 16 does not apply if the victim is 16 or 17 years of age, and the victim was, at the time of the offense, a primary or secondary school student who is 16 or 17 years of age, and the person committed the sexual contact by force or with the use of physical force. Texas Code Ann. § 22.011(b)(4).

Utah

Yes, a sexual assault is considered to occur without consent of the victim if the victim is unconscious or unaware that the act occurs. Utah Code Ann. § 76-7-802(1). Yes, a sexual assault is considered to occur without consent of the victim if the victim is unconscious or unaware of the act or if the victim is mentally incapable of giving consent. Utah Code Ann. § 76-7-802(2).

The statute for sexual contact with a child under 16 does not apply if the victim is 16 or 17 years of age, and the victim was, at the time of the offense, a primary or secondary school student who is 16 or 17 years of age, and the person committed the sexual contact by force or with the use of physical force. Utah Code Ann. § 76-7-802(4).

Yes, consent is not a defense where: (1) the actor is a public servant who coerces the other person to submit or is older than the victim. Utah Code Ann. § 76-7-803.

Vermont


Yes, a person must not consent if the person knows that the other person is mentally incapable of giving consent. Vermont Stat. Ann. § 1532(c).

Yes, consent is not a defense where: (1) the victim is under the age of 16 and the act is committed without the victim’s consent or against the victim’s will. Vermont Stat. Ann. § 1532(c).
Virginia

16 years old; see also: 16 V.I.C. § 1704.


Wisconsin

Yes, a person who violates section 939.74(2) by committing sexual assault with a person under the influence of a controlled substance. Wis. Stat. Ann. § 939.74(2).


Yes, a person who violates section 940.22(5) by committing sexual assault with a person under the influence of a controlled substance. Wis. Stat. Ann. § 940.22(5).


Washington


West Virginia


Wyoming

Yes, an actor who commits the crime of sexual abuse of a minor is the "first degree" if: 1. Being 18 years of age or older, the actor commits a sexual act upon a minor who is under the age of 14; 2. Being 18 years of age or older, the actor commits an sexual act upon a minor who is between 14 and 16 years of age; 3. The victim is a study, teaching, nursing, exhibition, community-based probation or parole services agency. W. Va. Code Ann. §§ 61A-8B-2, 61A-8B-3.


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