### Consent Laws

**Defining Consent**

| State | Where is Consent Defined? | From the definition requires “freely given consent” or “affirmative consent”?
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Alaska</td>
<td>Consent has been interpreted to mean “predisposition or compliance with the proposition of another.”</td>
<td>No. Ala. Code § 13A-6-70.</td>
</tr>
<tr>
<td>Arkansas</td>
<td>Consent is not defined by statute. However, statute provides that a person commits a sex crime if:</td>
<td>Not in a statute, but in case law:</td>
</tr>
<tr>
<td>California</td>
<td>Consent is not defined by statute. However, statute provides that a person commits a sex crime if:</td>
<td>Consent signifies voluntary agreement or cooperation.</td>
</tr>
</tbody>
</table>
Lack of consent
sexual act
results from:
Mental illness
"means that a person is rendered temporarily incapable of appraising or controlling his conduct as a result of the influence of an intoxicating
"means a person with significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive
"if:
Capacity to consent presupposes an intelligible capacity to understand the act, its nature, and possible consequences;
Consent of a woman from fear of personal violence is void.

Illinois
Consent is not specifically defined. However, Illinois law defines "sexual abuse" as any sex act between persons where:
- 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
- the victim is suffering from a mental defect or incapacity which temporarily results in the victim's lack of the right and strength to consent to sexual intercourse.

Indiana
Consent is not specifically defined. However, Indiana law defines a person commits a sex crime when a person knowingly engages in sexual intercourse and:
- the victim submits as a result of force or threat of force by the accused; (2) the victim submits as a result of fear or threat of violence by another person.
- the victim's consent was obtained through a knowing misrepresentation that the sexual intercourse was a legally required procedure within the scope of the authority's

Kansas
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:
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- the victim's consent was obtained through a knowing misrepresentation that the sexual intercourse was a legally required procedure within the scope of the authority's

Louisiana
Consent is not specifically defined. However, Louisiana law provides that a person commits a sex crime when:
- when the victim is a statutorily defined child; (2) the victim is a statutorily defined child; (3) the victim is a statutorily defined child; (4) the victim
- under the age of sixteen and the perpetrator is eighteen years of age or older; or
- the victim is a statutorily defined child; (2) the victim is a statutorily defined child; (3) the victim is a statutorily defined child; (4) the victim

Maine
Consent is not specifically defined. However, Maine law provides that a person is guilty of a sex crime if that person engages in a "sexual act" with another person and:
- the other person submits as a result of coercion; (2) the other person has substantially impaired the other person's decision-making ability through the use of any substance administered to him without his consent or as a result of any other act committed by the other person which
- the victim is a statutorily defined child; (2) the victim is a statutorily defined child; (3) the victim is a statutorily defined child; (4) the victim
- the victim is a statutorily defined child; (2) the victim is a statutorily defined child; (3) the victim is a statutorily defined child; (4) the victim
Maryland

Consent 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:
1. by force, or the threat of force, without the consent of the other;
2. if the victim is a substantially incapacitated individual, a mentally incapacitated individual, or a physically helpless individual, and the person performing the sexual act is not a substantially incapacitated individual, a mentally incapacitated individual, or a physically helpless individual;
3. if the victim is under the age of 18 years, and the person performing the sexual act is not under the age of 21 years;
4. if the victim is 16 or 17 years old, and the person performing the sexual act is not 8 years older than the victim;
5. if the victim is 15 or 16 years old, and the person performing the sexual act is 24 years old or older.

"Consent" means an individual who, because of inadequate mental capacity or a mental disorder, either temporarily or permanently, cannot or is not able to consent to sexual conduct. "Substantially incapacitated individual" means an individual who, because of inadequate mental capacity or a mental disorder, either temporarily or permanently, cannot or is not able to consent to sexual conduct. Maryland law also provides that a person may not engage in sexual conduct with another:
1. by force or threat of immediate physical force, or by making an immediate or present threat of future physical force against the person;
2. if the person performing the sexual act is a law enforcement officer who is involved in the victim's case.

Consent is not specifically defined.

Mississippi

"Consent" means an individual who, because of the influence of a drug, narcotic, or intoxicating substance, or because of an act committed on the person, is incapable of giving free and voluntary consent, or is incapable of appreciating the nature of the act committed on the person. Consent is not specifically defined.

Michigan

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 the victim is on parole or probation or under juvenile probation.

"Consent" means an individual who, because of the influence of a drug, narcotic, or intoxicating substance, or because of an act committed on the person, is incapable of giving free and voluntary consent, or is incapable of appreciating the nature of the act committed on the person. Consent is not specifically defined.

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Montana

The term "consent" means that the victim of a sexual assault is not engaged in the sexual act. "Consent" means an individual who, because of the influence of a drug, narcotic, or intoxicating substance, or because of an act committed on the person, is incapable of giving free and voluntary consent, or is incapable of appreciating the nature of the act committed on the person. Consent is not specifically defined. See also: Sexual Assault -- Definition of Consent.

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Oregon does not specifically define "consent." However, a person is deemed incapable of consent when he or she is:

- a child under the age of 12;
- mentally disabled;
- under 18 years of age;
- similarly physically helpless;
- or 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 express words and acts as an expression of lack of consent to such act under all the circumstances. New York Penal Law §130.05.

New Mexico does not specifically define consent. 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. Okla. Stat. tit. 21, § 113.

In order to establish effective consent by the putative victim of a sexual assault, a victim must demonstrate the presence of different elements, depending on the jurisdiction in which the offense was committed. See State v. Keane, 650 N.W.2d 989 (Iowa 2002); State v. Summit, 872 N.W.2d 341 (Iowa 2015).

In New Mexico, 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. Okla. Stat. tit. 21, § 113.
A person is guilty of criminal sexual conduct in the first degree if the actor engages in sexual battery with the victim and if any one or more of the following circumstances are proven:

(a) The actor uses aggravated force to accomplish sexual battery;

(b) The actor has reason to know that the victim is mentally incapacitated, mentally disabled, or physically helpless; or

(c) The actor commits sexual battery by the use of force, coercion, or threats of immediate and great bodily harm against the victim or another person within the victim's presence, accompanied by that person's fear of immediate and great bodily harm.

However, a person is not guilty of criminal sexual conduct if the victim expressed lack of consent through words or conduct;

(a) The actor knows or has reason to know that the victim is mentally incapacitated, mentally disabled, or physically helpless; or

(b) The actor commits sexual battery by fraud.

Sexual battery is unlawful sexual contact with a victim by the defendant or the defendant by a victim accompanied by any of the following circumstances:

(a) The victim is less than thirteen years of age;

(b) The sexual penetration is accomplished without the consent of the victim.

Sexual battery is unlawful if any one or more of the following circumstances are proven:

(a) The actor uses or threatens to use a weapon, or any article used or feared in a manner to lead the victim to reasonably believe it to be a weapon;

(b) The actor coerces the victim through the application of physical force or physical violence;

(c) The actor coerces the victim by threatening to use force or violence or by intimidation, unless the circumstances of the coercion, the victim reasonably believes that the actor has the present ability to execute the threat;

(d) The actor coerces the victim by fraud.

Sexual battery is unlawful sexual contact with a victim by the defendant or the defendant by a victim accompanied by any of the following circumstances:

(a) Sexual battery is unlawful if the actor uses aggravated force to accomplish sexual battery;

(b) The actor knows or has reason to know that the victim is mentally incapacitated, mentally disabled, or physically helpless.

Criminal sexual conduct is unlawful if any one or more of the following circumstances are proven:

(a) The victim is less than thirteen years of age;

(b) The actor knows or has reason to know that the victim is mentally incapacitated, mentally disabled, or physically helpless; or

(c) The actor commits sexual battery by fraud.

Sexual battery is unlawful sexual contact with a victim by the defendant or the defendant by a victim accompanied by any of the following circumstances:

(a) The victim is less than thirteen years of age;

(b) The actor uses or threatens to use a weapon, or any article used or feared in a manner to lead the victim to reasonably believe it to be a weapon;

(c) The actor coerces the victim through the application of physical force or physical violence;

(d) The actor coerces the victim by threatening to use force or violence or by intimidation, unless the circumstances of the coercion, the victim reasonably believes that the actor has the present ability to execute the threat;

(e) The actor coerces the victim by fraud.

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(b) The actor uses or threatens to use a weapon, or any article used or feared in a manner to lead the victim to reasonably believe it to be a weapon;

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(e) The actor coerces the victim by fraud.

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(a) The victim is less than thirteen years of age;

(b) The actor uses or threatens to use a weapon, or any article used or feared in a manner to lead the victim to reasonably believe it to be a weapon;

(c) The actor coerces the victim through the application of physical force or physical violence;

(d) The actor coerces the victim by threatening to use force or violence or by intimidation, unless the circumstances of the coercion, the victim reasonably believes that the actor has the present ability to execute the threat;

(e) The actor coerces the victim by fraud.
Lack of consent results from forcible compulsion, incapacity to consent, or any circumstances in addition to the forcible compulsion or incapacity to consent in which the victim does not expressly or impliedly acquiesce in the actor's conduct. W. Va. Code Ann. § 61-8B-2.

Mentally incapable means (among other things) that a person is unable to give informed consent indicating a freely given agreement to have sexual intercourse or sexual contact with another. W. Va. Code Ann. § 61-8B-2.

West Virginia

Mentally incapable, 655 P.2d 1246 (Wyo. 1982).

R.E.N. v. State

Does developmental disability "means words or overt actions by a person who is competent to give informed consent indicating a freely given agreement to have sexual intercourse or sexual contact with another. Alaska Stat. § 11.41.410(a)(3).

At what age is a person able to consent?

Arkansas

16 years old. Ark. Code § 5-14-110(a).


14 years old. Ark. Code § 5-14-110(a).

13 years old where the partner is 16 years old or older. Ark. Stat. § 5-14-110(a).

12 years old. Ark. Code § 5-14-110(a).

Yes, a victim can be incapable of consent or lack of consent is unavailable as a defense, including:

The following constitutes sexual assault in the first degree:

A person engaging in sexual penetration with a person who the offender knows is mentally incapable and who is in the care or custody of a person who is temporarily or permanently incapacitating the victim. W. Va. Code § 61-8B-2.

The following constitutes sexual assault in the second degree:

A person engaging in sexual penetration with a person who the offender knows is mentally incapable and who is in the care or custody of a person who is temporarily or permanently incapacitating the victim. W. Va. Code § 61-8B-2.

The following constitutes sexual assault in the third degree:

A person engaging in sexual penetration with a person who the offender knows is mentally incapable and who is in the care or custody of a person who is temporarily or permanently incapacitating the victim. W. Va. Code § 61-8B-2.

The following constitutes sexual assault in the fourth degree:

A person engaging in sexual penetration with a person who the offender knows is mentally incapable and who is in the care or custody of a person who is temporarily or permanently incapacitating the victim. W. Va. Code § 61-8B-2.

The following constitutes sexual assault in the fifth degree:

A person engaging in sexual penetration with a person who the offender knows is mentally incapable and who is in the care or custody of a person who is temporarily or permanently incapacitating the victim. W. Va. Code § 61-8B-2.
Yes, a person can be incapable of giving such consent when the person is cognitively impaired or otherwise incapable of appraising or controlling the person's own conduct. Connecticut General Statutes Annotated § 53a-4(1)(b).

Yes, the accused is guilty of rape where the other person is incapacitated. California Pen Code § 261.3(b).

Yes, in cases of sexual assault the victim's physical helplessness means the victim is physically helpless, unconscious, asleep or otherwise unable to resist the sexual contact. Colorado Revised Statutes Annotated § 18-3-402(1)(c).
District of Columbia


Yes, a person is unable to consent in engaging in a sexual act if such person is incapable of appreciating the nature of the act or of giving voluntary consent.


District of Columbia

17 years old. Florida Statutes §§ 794.411, 794.05.

Yes, a person that is physically helpless or mentally incapacitated may not be able to provide intelligent, knowing, and voluntary consent.

Floridians are legally allowed to engage in sexual acts only with the consent of the other party.

Florida

FL Statute § 794.411.

Yes, a person that is physically helpless or mentally incapacitated may not be able to provide intelligent, knowing, and voluntary consent.

FL Statute § 794.05.

FL Statute § 794.815(1)(c).

Statutory rape occurs when a person engages in sexual battery with a person who is under the age of consent. Sexual battery is a serious offense in Florida, and the penalties for statutory rape can include fines, imprisonment, and mandatory minimum sentences.


Sexual battery is defined as any sexual contact with a person who is under the age of consent, with the victim's consent being obtained through fraud, force, or intimidation. Sexual contact can include penetration of the victim's body with any part of the sexual organ of the person engaging in the contact, or the penetration of the sexual organ of the victim with any part of the sexual organ of the other person.

Sexual contact also includes any touching, fondling, or other physical contact with the sexual organs of the victim, or with any part of the sexual organ of the person engaging in the contact.

Sexual contact includes any oral or anal contact with the sexual organs of the victim, or with any part of the sexual organ of the person engaging in the contact.

Sexual contact also includes any penetration of the victim's vagina, rectum, or mouth with the penis of the person engaging in the contact, or any penetration of the sexual organ of the victim with the penis of the person engaging in the contact.

Sexual contact also includes any penetration of the victim's vagina, rectum, or mouth with the penis of the person engaging in the contact, or any penetration of the sexual organ of the victim with the penis of the person engaging in the contact.
A person commits sex abuse in the forth degree if the person engages in sexual conduct or sexual penetration with a person who is under 18 years of age and: a. is not another person who is physically or mentally incapacitated or is unable or not aware, knowing, or by threat or deception for other than sexual gratification, to give knowing consent to the sexual conduct or sexual penetration; or b. is another person and the actor knows or has reason to know that the victim is under 18 years of age or is not aware, knowing, or by threat or deception for other than sexual gratification, to give knowing consent to the sexual conduct or sexual penetration. (HRS § 707-730(a)(5); 707-733(a)).

Yes. A person commits sexual assault in the first degree if the person engages in sexual conduct or sexual penetration with a person who is under 18 years of age and the actor knows or has reason to know that: (a) the person is under 18 years of age; or (b) the victim is not aware, knowing, or by threat or deception for other than sexual gratification, to give knowing consent to the sexual conduct or sexual penetration. (HRS §§ 707-731; 707-733(a)(4)).

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

Yes. A person commits sex abuse in the forth degree if the person engages in sexual conduct or sexual penetration with another person and the actor knows or has reason to know that the victim is under 18 years of age or mentally defective or mentally incapacitated or is unable or not aware, knowing, or by threat or deception for other than sexual gratification, to give knowing consent to the sexual conduct or sexual penetration. (HRS §§ 707-730; 707-731; 707-732).

A person commits sexual assault in the first degree if the person engages in sexual conduct or sexual penetration with a person who is under 18 years of age and the actor knows or has reason to know that the victim is mentally incapacitated or is unable or not aware, knowing, or by threat or deception for other than sexual gratification, to give knowing consent to the sexual conduct or sexual penetration. (HRS §§ 707-731; 707-733(a)(4)).

Yes. A person commits sexual assault in the first degree if the person engages in sexual conduct or sexual penetration with another person and the actor knows or has reason to know that the victim is under 18 years of age or mentally defective or mentally incapacitated or is unable or not aware, knowing, or by threat or deception for other than sexual gratification, to give knowing consent to the sexual conduct or sexual penetration. (HRS §§ 707-730; 707-731; 707-732).

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Yes. A person commits sexual assault in the first degree if the person engages in sexual conduct or sexual penetration with a person who is under 18 years of age and the actor knows or has reason to know that the victim is under 18 years of age. (HRS §§ 707-731; 707-733(a)(4)).

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Yes. A person commits sex abuse in the forth degree if the person engages in sexual conduct or sexual penetration with another person and the actor knows or has reason to know that the victim is under 18 years of age or mentally defective or mentally incapacitated or is unable or not aware, knowing, or by threat or deception for other than sexual gratification, to give knowing consent to the sexual conduct or sexual penetration. (HRS §§ 707-730; 707-731; 707-732).
Yes. A person commits a sex crime if:

- the sex act is performed while the person with whom the offender is engaging in consensual sexual or other sexual conduct is under the influence of a narcotic, anesthetic, or intoxicating agent or other substance to such a degree as to be unable to understand the nature and consequences of the conduct at the time of its performance;

- the sex act is performed while the person with whom the offender is engaging in consensual sexual or other sexual conduct is physically capable of understanding the nature and consequences of the conduct at the time of its performance, but the person was temporarily incapable of appraising or controlling the person's behavior due to the influence of a narcotic, anesthetic, or intoxicating agent or other substance.

Yes. A person commits a sex crime if:

- the sex act is performed while the person with whom the offender is engaging in consensual sexual or other sexual conduct is incapable of giving consent at the time of its performance because of mental deficiency or incapacity which precludes the person from understanding the nature and consequences of the conduct at the time of its performance.

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Yes. A person commits a sex crime if:

- the sex act is performed while the person with whom the offender is engaging in consensual sexual or other sexual conduct is incapable of giving consent at the time of its performance because of mental deficiency or incapacity which precludes the person from understanding the nature and consequences of the conduct at the time of its performance.
A person is deemed incapable of consent when he or she is physically helpless, which includes incapacitation, or if the incapacitation arises from mental disability that is reasonably apparent or known to the actor, and which in fact prevents such incapacitated person from appraising the nature of the sexual act and the other person's power to appraise or control the nature of the sexual act.

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A person is guilty of sexual abuse in the first degree if he or she is a person who engages in sexual conduct with another person, and such person is under court supervision for sex offender, pursuant to 18 U.S.C. § 2257. This section also applies to persons who are under the supervision of the Department of Corrections, Department of Juvenile Justice, or contract with either department or a detention facility, to sexual contact. KRS § 510.010.
16 years old: MD Code, Criminal Law, § 3-306.

A person may not engage in "intercourse," "sexual act," or "sexual conduct" with another if the person is a stepparent, or guardian; or (2) any of the following: (a) the person is more than 48 months older than the complainant and the complainant was at least 16 but less than 18 years of age at the time of the sexual penetration or contact (neither mistake as to the complainant’s age nor consent to the act by the complainant shall be a defense). Minn. Stat. § 609.342, Minn. Stat. § 609.343.

Minn. Stat. § 609.341.

The actor is a member of the same household as the victim; (ii) a public or private school teacher, educational administrator, guidance counselor, principal or director of a public or private school, other child care worker, or other person who provides the services of child care resource and referral services to a child or school district in which that other person is employed, and who is not the actor’s spouse or domestic partner and who is not the actor’s employer or an employee of any entity that is not the actor’s employer, who establishes a relationship with, that other person; or (v) in charge of a medical or other public or private institution, school or facility that is not located in the actor’s household, or in charge of a medical or other public or private institution, school or facility that the actor is not a resident of.

Yes. A person who is mentally incapacitated, or physically helpless, means a person who is impotent or physically helpless, or mentally incapacitated to consent to the act.

Minn. Stat. § 609.341.

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Yes. A person who is mentally incapacitated, or physically helpless, means a person who is impotent or physically helpless, or mentally incapacitated to consent to the act. Minn. Stat. § 609.341.

It constitutes criminal sexual conduct if the actor committed sexual penetration or contact and he or she knew, or had reason to know, that the person was not of consenting age and the actor knew, or had reason to know, that the person was either incapacitated, or physically helpless, as defined in Minn. Stat. § 609.341, subd. 3.


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Yes. A person who is mentally incapacitated, or physically helpless, means a person who is impotent or physically helpless, or mentally incapacitated to consent to the act.

Minn. Stat. § 609.341.

The following acts constitute criminal sexual conduct in the fourth degree: (i) the victim is at least 13 but less than 16 years of age and the actor is at least 18 years of age; (ii) the actor is more than 48 months older than the complainant and the complainant was under 16 years of age at the time of the sexual penetration or contact (neither mistake as to the complainant’s age nor consent to the act by the complainant shall be a defense). Minn. Stat. § 609.342, Minn. Stat. § 609.343.

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Mississippi

Yes. A person is guilty of sexual battery if he or she engages in sexual conduct with a person who is incapable of resisting or appraising the nature of his or her conduct in the facility by reason of youth, mental or physical disability. Miss. Code Ann. §28-319(1)(b).

Yes. Consent is ineffective if it is given by a person who is incapable of making an informed or voluntary decision, by reason of: (a) disordered or incapacitated. Mont. Code Ann. § 45-5-501(1)(b)(viii)-(ix).

Missouri

Yes. A person is guilty of sexual conduct with another person who is incapable of consent due to incapacitation, and has sexual intercourse with another person who is incapable of consent, or lacks the capacity to consent, or is the victim of exerting control over the victim physically or mentally, or is unable to make a voluntary decision. Mo. Rev. Stat. § 566.030.

Yes. Consent is ineffective if it is given by a person who is incapable of making an informed or voluntary decision, by reason of: (a) disordered or incapacitated. Mo. Rev. Stat. § 566.030.

Montana

Yes. A person is guilty of sexual battery if the sexual act is part of a lawful search; (b) the entry was conducted in good faith and was reasonably believed to be necessary for the protection of the victim or the perpetrator; or (c) the victim is an employee of the school, or contract employee; or (d) the victim is a witness or is being investigated in a criminal matter and the perpetrator is a law enforcement officer. Mont. Code Ann. § 45-5-501(1)(a)(iv) (v). This does not apply if the individual is a student of the school or contract employee.

Yes. Persons employed by an entity that contracts with the school or school district are included in the definition of employee. Mont. Code Ann. § 45-5-502(5)(a).

Montana

Yes. An employee of a public or nonpublic facility is guilty of sexual conduct with another person who is incapable of consent due to incapacitation, and has sexual intercourse with another person who is incapable of consent, or lacks the capacity to consent, or is the victim of exerting control over the victim physically or mentally, or is unable to make a voluntary decision. Mont. Code Ann. § 45-5-501(1)(c)-(d).

Missouri

Yes. Consent is ineffective if it is given by a person who is incapable of making an informed or voluntary decision, by reason of: (a) disordered or incapacitated. Mont. Code Ann. § 45-5-501(1)(b)(viii)-(ix).

Mississippi

Yes. A person is guilty of sexual battery if the sexual act is part of a lawful search; (b) the entry was conducted in good faith and was reasonably believed to be necessary for the protection of the victim or the perpetrator; or (c) the victim is an employee of the school, or contract employee; or (d) the victim is a witness or is being investigated in a criminal matter and the perpetrator is a law enforcement officer. Mont. Code Ann. § 45-5-501(1)(a)(iv) (v). This does not apply if the individual is a student of the school or contract employee.

Yes. Persons employed by an entity that contracts with the school or school district are included in the definition of employee. Mont. Code Ann. § 45-5-502(5)(a).

Montana

Yes. An employee of a public or nonpublic facility is guilty of sexual conduct with another person who is incapable of consent due to incapacitation, and has sexual intercourse with another person who is incapable of consent, or lacks the capacity to consent, or is the victim of exerting control over the victim physically or mentally, or is unable to make a voluntary decision. Mont. Code Ann. § 45-5-501(1)(c)-(d).

Missouri

Yes. Consent is ineffective if it is given by a person who is incapable of making an informed or voluntary decision, by reason of: (a) disordered or incapacitated. Mont. Code Ann. § 45-5-501(1)(b)(viii)-(ix).

Mississippi

Yes. A person is guilty of sexual battery if the sexual act is part of a lawful search; (b) the entry was conducted in good faith and was reasonably believed to be necessary for the protection of the victim or the perpetrator; or (c) the victim is an employee of the school, or contract employee; or (d) the victim is a witness or is being investigated in a criminal matter and the perpetrator is a law enforcement officer. Mont. Code Ann. § 45-5-501(1)(a)(iv) (v). This does not apply if the individual is a student of the school or contract employee.

Yes. Persons employed by an entity that contracts with the school or school district are included in the definition of employee. Mont. Code Ann. § 45-5-502(5)(a).
Yes, a person is deemed incapable of giving consent if he or she is: (i) permanently incapable of giving consent. New York Rev. Stat. Ann. § 130.00(6).

Yes. A person is deemed incapable of giving consent if he or she is (1) physically incapacitated of giving consent. New York Rev. Stat. Ann. § 130.00(6).

Yes, a mentally disabled person, or a person who has a disability that renders him or her incapable of freely controlling his or her conduct. New York Rev. Stat. Ann. § 130.00(6).

Yes. Except between spouses, a person is deemed incapable of giving consent if he or she is: (1) permanently incapable of giving consent. New York Rev. Stat. Ann. § 130.00(6).


Yes. A person is deemed incapable of giving consent if he or she is: (i) physically incapacitated of giving consent, or (ii) permanently incapable of giving consent. New York Rev. Stat. Ann. § 130.00(6).

Yes, a mentally incapacitated person, or a person who has a disability that renders him or her incapable of freely controlling his or her conduct. New York Rev. Stat. Ann. § 130.00(6).

New Hampshire


Yes. A person is deemed incapable of giving consent if he or she: (1) is physically incapacitated of giving consent, or (2) is permanently incapable of giving consent. New Hampshire Rev. Stat. Ann. § 632-A:2(h).


Yes. A person is deemed incapable of giving consent if he or she is: (i) physically incapacitated of giving consent, or (ii) permanently incapable of giving consent. New Hampshire Rev. Stat. Ann. § 632-A:2(h).

Yes. A person is deemed incapable of giving consent if he or she is: (i) physically incapacitated of giving consent, or (ii) permanently incapable of giving consent. New Hampshire Rev. Stat. Ann. § 632-A:2(h).

Yes, a mentally incapacitated person, or a person who has a disability that renders him or her incapable of freely controlling his or her conduct. New Hampshire Rev. Stat. Ann. § 632-A:2(h).

New Mexico

Marriage: 17 years old. New Mexico Statutes §13-10-1.1.

Yes, a person that is unconscious is incapable of giving consent. New Mexico Statutes §13-10-1.1.

Yes, a mentally incapacitated person, or a person who has a disability that renders him or her incapable of freely controlling his or her conduct. New Mexico Statutes §13-10-1.1.

New York

Marriage: 17 years old. New York Penal Law §110.00.

Yes, a mentally disabled person, or a person who has a disability that renders him or her incapable of freely controlling his or her conduct. New York Penal Law §110.00.

Yes, a person that is unconscious is incapable of giving consent. New York Penal Law §110.00.

Yes. A person is deemed incapable of giving consent if he or she is: (i) physically incapacitated of giving consent, or (ii) permanently incapable of giving consent. New York Penal Law §110.00.

Yes. A person is deemed incapable of giving consent if he or she is: (i) physically incapacitated of giving consent, or (ii) permanently incapable of giving consent. New York Penal Law §110.00.
**North Dakota**

**Minors:**

- A person who engages in sexual activity with a minor who is less than seventeen years of age where the offender is less than reckless regarding the age of the minor is guilty of a class A felony.

- North Dakota Century Code Chapter 14-27.22; 14-27.27; 14-27.33.

**Sexual Abuse:**

- Sexual contact between members of the opposite sex where the victim is less than fourteen years of age is guilty of criminal sexual abuse.

- North Dakota Century Code Chapter 14-27.22; 14-27.27; 14-27.33.

**Sexually Impaired Person:**

- A person who knowingly engages in sexual contact with a person who is sexually impaired or a person who has been diagnosed or treated for a mental illness is guilty of sexual abuse.

- North Dakota Century Code Chapter 14-27.22; 14-27.27; 14-27.33.

**Sexual Conduct:**

- A person who engages in sexual conduct with another person is guilty of sexual conduct if that person knows or reasonably should know of the other person's incapacity to consent to sexual conduct.

- North Dakota Century Code Chapter 14-27.22; 14-27.27; 14-27.33.

**Sexual imposition:**

- A person who engages in a sexual act or sexual contact with another person who is not their spouse is guilty of sexual imposition if the person knows or reasonably should know that the other person is unaware of the sexual contact.

- North Dakota Century Code Chapter 14-27.22; 14-27.27; 14-27.33.

**Sexual Relationship:**

- A person who engages in sexual activity with a person who is not their spouse is guilty of sexual relationship if the person knows or reasonably should know that the other person is unaware of the sexual contact.

- North Dakota Century Code Chapter 14-27.22; 14-27.27; 14-27.33.

**Statutory Rape:**

- A person who has sexual relations with another person who is not their spouse and where the other person is less than seventeen years of age is guilty of statutory rape.

- North Dakota Century Code Chapter 14-27.22; 14-27.27; 14-27.33.

**Statutory Rape:**

- A person who has sexual relations with another person who is not their spouse and where the other person is less than seventeen years of age is guilty of statutory rape.

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- A person who has sexual relations with another person who is not their spouse and where the other person is less than seventeen years of age is guilty of statutory rape.

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**Statutory Rape:**

- A person who has sexual relations with another person who is not their spouse and where the other person is less than seventeen years of age is guilty of statutory rape.

- North Dakota Century Code Chapter 14-27.22; 14-27.27; 14-27.33.
Yes. A person is guilty of first degree sexual assault if he or she engages in sexual penetration, whether vaginal, anal, oral, or digital or uses a weapon or other means for coercion of one whom she is accustomed to obey, such as parent or child, or if the penetration is with another who is her incapable of consent, 18 Pa.C.S.A. § 3121(a)(3).

Yes. Rape is the first degree includes the act of sexual penetration committed by a person who engages in sexual penetration, whether vaginal, anal, oral, or digital or uses a weapon or other means for coercion of one whom she is accustomed to obey, such as parent or child, or if the penetration is with another who is her incapable of consent. Or. Rev. Stat. § 163.305(1).

Yes. Rape is an act of sexual penetration committed by a person who engages in sexual penetration, whether vaginal, anal, oral, or digital or uses a weapon or other means for coercion of one whom she is accustomed to obey, such as parent or child, or if the penetration is with another who is her incapable of consent. Or. Rev. Stat. § 163.305(1).

Yes. A person is guilty of first degree sexual assault if he or she engages in sexual penetration, whether vaginal, anal, oral, or digital or uses a weapon or other means for coercion of one whom she is accustomed to obey, such as parent or child, or if the penetration is with another who is her incapable of consent, 18 Pa.C.S.A. § 3121(a)(3).

Yes. Any person who performs sexual penetration, whether vaginal, anal, oral, or digital or uses a weapon or other means for coercion of one whom she is accustomed to obey, such as parent or child, or if the penetration is with another who is her incapable of consent, 18 Pa.C.S.A. § 3121(a)(3).

Yes. A person is guilty of first degree sexual assault if he or she engages in sexual penetration, whether vaginal, anal, oral, or digital or uses a weapon or other means for coercion of one whom she is accustomed to obey, such as parent or child, or if the penetration is with another who is her incapable of consent, 18 Pa.C.S.A. § 3121(a)(3).

Yes. A person is guilty of first degree sexual assault if he or she engages in sexual penetration, whether vaginal, anal, oral, or digital or uses a weapon or other means for coercion of one whom she is accustomed to obey, such as parent or child, or if the penetration is with another who is her incapable of consent, 18 Pa.C.S.A. § 3121(a)(3).

Yes. A person is guilty of first degree sexual assault if he or she engages in sexual penetration, whether vaginal, anal, oral, or digital or uses a weapon or other means for coercion of one whom she is accustomed to obey, such as parent or child, or if the penetration is with another who is her incapable of consent, 18 Pa.C.S.A. § 3121(a)(3).
Yes. An offense is committed without the consent of the victim if the actor knows that as a result of mental disorder or defect the victim is unable to appraise the nature of the sexual contact, or is unable to appreciate the nature of the sexual contact, or is unable to appraise the nature of the sexual contact, or is unable to appreciate the nature of the sexual contact or is unable to appraise the nature of the sexual contact, or is unable to appreciate the nature of the sexual contact, or is unable to appraise the nature of the sexual contact, or is unable to appreciate the nature of the sexual contact, or is unable to appraise the nature of the sexual contact, or is unable to appraise the nature of the sexual contact, or is unable to appraise the nature of the sexual contact, or is unable to appraise the nature of the sexual contact, or is unable to appraise the nature of the sexual contact, or is unable to appraise the nature of the sexual contact, or is unable to appraise the nature of the sexual contact, or is unable to appraise the nature of the sexual contact, or is unable to appraise the nature of the sexual contact, or is unable to appraise the nature of the sexual contact, or is unable to appraise the nature of the sexual contact. 18 Utah Code Ann. § 79-4-802(1).
Virgin Islands

18 years old, unless legally married. V.I.C. § 792.

Yes, an actor who engages in sexual intercourse with a person whose mental incapacity is incapable of giving consent is guilty of sexual abuse of a minor in the first degree. V.I.C. § 792.

Yes, an actor who engages in sexual intercourse with a person whose mental incapacity is incapable of giving consent is guilty of sexual abuse of a minor in the second degree. V.I.C. § 792.

Yes, a person who engages in sexual intercourse with a person without his or her consent, and the actor knows that the person has a mental defect or disability, is guilty of sexual abuse of a minor in the first degree. V.I.C. § 792.

Yes, a person who engages in sexual intercourse with a person whose mental incapacity is incapable of giving consent is guilty of sexual abuse of a minor in the first degree. V.I.C. § 792.

Yes, there are special rules for persons in positions of authority over the victim and those persons in the same household as the victim. V.I.C. § 792.

Virginia

18 years old. VA Code Ann. § 18.2-75.7.

Yes, a person who is rendered temporarily incapable of giving consent for sexual intercourse with a person who is under 16 years of age, engages in sexual intercourse with a person under 16 years of age, and the actor knows has a mental defect or disability, is guilty of sexual abuse of a minor in the first degree. W. Va. Code Ann. § 61-8B-5.

Yes, a person who is rendered temporarily incapable of giving consent for sexual intercourse with a person who is under 16 years of age, engages in sexual intercourse with a person under 16 years of age, and the actor knows has a mental defect or disability, is guilty of sexual abuse of a minor in the first degree. W. Va. Code Ann. § 61-8B-5.

Yes, a person who is rendered temporarily incapable of giving consent for sexual intercourse with a person who is under 16 years of age, engages in sexual intercourse with a person under 16 years of age, and the actor knows has a mental defect or disability, is guilty of sexual abuse of a minor in the first degree. W. Va. Code Ann. § 61-8B-5.

Yes, a person who is rendered temporarily incapable of giving consent for sexual intercourse with a person who is under 16 years of age, engages in sexual intercourse with a person under 16 years of age, and the actor knows has a mental defect or disability, is guilty of sexual abuse of a minor in the first degree. W. Va. Code Ann. § 61-8B-5.

Yes, a person who is unconscious is physically helpless and cannot give consent. Wis. Stat. Ann. § 940.225(4).


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California

18 years old. Cal. Penal Code § 261.5.

Yes, a person who is rendered temporarily incapable of giving consent for sexual intercourse with a person who is under 16 years of age, engages in sexual intercourse with a person under 16 years of age, and the actor knows has a mental defect or disability, is guilty of sexual abuse of a minor in the first degree. W. Va. Code Ann. § 61-8B-5.

Yes, a person who is rendered temporarily incapable of giving consent for sexual intercourse with a person who is under 16 years of age, engages in sexual intercourse with a person under 16 years of age, and the actor knows has a mental defect or disability, is guilty of sexual abuse of a minor in the first degree. W. Va. Code Ann. § 61-8B-5.

Yes, a person who is rendered temporarily incapable of giving consent for sexual intercourse with a person who is under 16 years of age, engages in sexual intercourse with a person under 16 years of age, and the actor knows has a mental defect or disability, is guilty of sexual abuse of a minor in the first degree. W. Va. Code Ann. § 61-8B-5.

Washington


Yes, there are several special relationships between the victim and actor that make it impossible to make a determination of consent. Wash. Rev. Code Ann. §§ 9A.44.093, 9A.44.096.

Yes, there are several special relationships between the victim and actor that make it impossible to make a determination of consent. Wash. Rev. Code Ann. §§ 9A.44.093, 9A.44.096.

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Yes, there are several special relationships between the victim and actor that make it impossible to make a determination of consent. Wash. Rev. Code Ann. §§ 9A.44.093, 9A.44.096.

West Virginia


Yes, a person who is under 16 years of age resides in the same household as the perpetrator and the perpetrator’s position of authority over the victim is presumed incapable of consent. W. Va. Code Ann. § 16-2-95.

Yes, a person who is under 16 years of age resides in the same household as the perpetrator and the perpetrator’s position of authority over the victim is presumed incapable of consent. W. Va. Code Ann. § 16-2-95.

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Wisconsin


Yes, a person who is in a special relationship to the victim, who engages in sexual contact with a person under 16 years of age, and the actor knows the person is under 16 years of age, is guilty of sexual contact in the first degree. Wis. Stat. Ann. § 940.02(4)(a) (West).

Yes, a person who is in a special relationship to the victim, who engages in sexual contact with a person under 16 years of age, and the actor knows the person is under 16 years of age, is guilty of sexual contact in the first degree. Wis. Stat. Ann. § 940.02(4)(a) (West).

Yes, a person who is in a special relationship to the victim, who engages in sexual contact with a person under 16 years of age, and the actor knows the person is under 16 years of age, is guilty of sexual contact in the first degree. Wis. Stat. Ann. § 940.02(4)(a) (West).

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Yes, a person who is in a special relationship to the victim, who engages in sexual contact with a person under 16 years of age, and the actor knows the person is under 16 years of age, is guilty of sexual contact in the first degree. Wis. Stat. Ann. § 940.02(4)(a) (West).

Wyoming


Yes, a person who is under 16 years of age resides in the same household as the perpetrator. Wyo. Stat. Ann. 16-1-113.

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