Consent Laws

Defining Consent

<table>
<thead>
<tr>
<th>State</th>
<th>How is Consent Defined?</th>
<th>From the definition requires “free and general consent” or “affirmative consent.”</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alaska</td>
<td>Consent has been interpreted to mean “agreement or compliance with the proposition of another.” Ex parte Gordon, 52 Haw. 196, 471 P.2d 341, 342 (Haw. 1970).</td>
<td>No. Ala. Code § 13A-6-70.</td>
</tr>
<tr>
<td>Colorado</td>
<td>Consent signifies voluntary agreement or compliance with the proposition of another. 9 C.R.S. § 18-3-305. To constitute consent, the actor must have the capacity for 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>Yes. California Penal Code § 261.</td>
</tr>
<tr>
<td>Nevada</td>
<td>Consent is not specifically defined. However, Nevada law provides that a person shall be deemed to have consented when he or she, with knowledge of the nature of the act or transaction involved, performs an act which is recognized as a sexual act in the state where the act is performed.</td>
<td>No. No.</td>
</tr>
<tr>
<td>Arkansas</td>
<td>Consent means cooperation in act or attitude pursuant to an exercise of free will and knowledge of the nature of the act. Ark. Code Ann. § 5-14-101.</td>
<td>No.</td>
</tr>
<tr>
<td>District of Columbia</td>
<td>Consent means voluntary agreement or compliance with the proposition of another. 9 C.R.A. §§ 791, 792.</td>
<td>No.</td>
</tr>
<tr>
<td>Michigan</td>
<td>Consent includes any of the following: 1) the victim consents to the sexual act; 2) the victim is incapacitated for the sexual act by compulsion; 3) the victim is physically helpless; 4) the victim is mentally incapacitated; 5) the victim is mentally defective; 6) the victim is unable to communicate unwillingness to an act. M.C.C. § 750.5.</td>
<td>No.</td>
</tr>
<tr>
<td>New York</td>
<td>Consent means cooperation in act or attitude pursuant to an exercise of free will and knowledge of the nature of the act. N.Y. Comp. Laws Ann. tit. 40, § 65.11(4).</td>
<td>Yes.</td>
</tr>
<tr>
<td>Ohio</td>
<td>Consent means cooperation in act or attitude pursuant to an exercise of free will and knowledge of the nature of the act. Ohio Rev. Code Ann. § 2901.03.</td>
<td>Yes.</td>
</tr>
<tr>
<td>Oregon</td>
<td>Consent is not defined by statute. However, Oregon law provides that a person consents to a sexual crime if the person consents to the sexual act or contact in question.</td>
<td>No.</td>
</tr>
</tbody>
</table>

**Constitutional Considerations**

- **Consent** means voluntary agreement or compliance with the proposition of another. 9 C.R.S. § 18-3-305. To constitute consent, the actor must have the capacity for the exercise of free will. The person must act freely and voluntarily and have knowledge of the nature of the act or transaction involved.

**Other Considerations**

- **Mentally Defective** means that a person suffers from a mental disease or defect which renders that person temporary or permanently incapable of appraising the nature of decisions or conduct.
- **Mentally Incapacitated** means that a person is: (1) physically helpless; (2) mentally defective or mentally incapacitated; or (3) because of a victim's age.
- **Submission under the influence of fear** shall not constitute consent.
- **A current or previous relationship shall not be sufficient to constitute consent under the provisions of this part 4.**

**Additional Considerations**

- **The use of force or threat of force or violence** shall not constitute consent.
- **Consent cannot be procured through inducing fear in the victim.** See West's Ann.Cal.Penal Code § 266c.

Last Updated: March 2020
Kentucky

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

- the victim is overcome by force or fear;
- the victim is unconscious or physically powerless;
- the victim's consent was obtained through a knowing misrepresentation that the sexual intercourse was a legally required procedure within the scope of the offendee's authority.

The text is not complete, but it appears to be discussing the circumstances under which consent may be considered invalid in certain cases, such as when the victim is unconscious or physically powerless.

Louisiana

Consent is not specifically defined. However, Louisiana law provides that a person commits a sex crime when:

- the victim is incapable of giving consent because of mental deficiency or disease, or because of the effect of any alcoholic liquor, narcotic, drug or other substance administered by the offender to the victim;
- the victim consents to the sexual intercourse or other sexual conduct in question;
- the victim's consent is obtained through a knowing misrepresentation that the sexual intercourse was a legally required procedure within the scope of the offendee's authority.

The text is not complete, but it appears to be discussing the circumstances under which consent may be considered invalid in certain cases, such as when the victim is incapable of giving consent due to mental deficiency or disease.

Illinois

Consent of a woman from fear of personal violence is void.
Consent is not specifically defined.

Maryland

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:

(1) If the victim is a substantially cognitively impaired individual, a mentally incapacitated individual, or a physically helpless individual, and the person performing the sexual act knows or reasonably should know that the person performing the sexual act is at least 4 years older than the victim; or

(2) if the victim is 14 or 15 years old, and the person performing the sexual act is at least 4 years older than the victim. MD Code, Criminal Law, § 3-301.

Yes.

Michigan

Consent is not specifically defined.

Yes.

Mississippi

Consent is not specifically defined.

Yes.

Montana

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:

(2) if the victim is on parole or probation or under juvenile probation.

Yes.

Nebraska

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:

(1) if the victim 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 is a member of the same household as the victim; or

(2) the victim is a witness in a criminal investigation or a person who is under investigation in a criminal matter and the perpetrator is a law enforcement officer who is directly involved in the parent or guardian’s case or involved in the supervision of the case.

This does not apply if the individuals are married to each other and one of the individuals involved is a patient in or resident of a facility, is a recipient of care in a hospital setting and the other individual is an employee, contractor, or volunteer of the facility or community-based service.

Yes.

Nevada

Consent itself is not defined; however, “without consent” means:

No.

New Hampshire

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:

Yes.

New Jersey

Lack of consent results from:

Yes, there is no case law or statutory basis to suggest a requirement.

New Mexico

For purposes of the crime of sexual offense against an elderly person, “lack of consent” can result when:

Yes.
Engages in sexual penetration with a person, other than her legal spouse, who is 13 years of age or older and under 18 years of age where the age difference between the actor and the other person is 4 years or more; or
Engages in sexual contact with a person other than her legal spouse who is under 13 years of age; or
Engages in sexual contact to engage in sexual contact on her own behalf or for the benefit of the actor in the presence of the actor, when the actor is a person with whom the actor does not have a current or prior relationship or who is not a legal or institutional recipient of the actor’s care; or
Engages in sexual contact in a position of authority over the person and uses that authority to coerces the victim to submit under any of the following circumstances:
(a) the victim is on parole or probation or under juvenile probation. N.H. Rev. Stat. Ann. §§ 632-A:3; 632-A:4.

Forcible compulsion, 94 N.C. State v. Ricks, 235 N.C. App. 656, 7 (2014) (“Consent induced by violence or fear of violence is not effective to preclude
45 N.C. App. 481 (1980).

Puerto Rico
Ohio
New Mexico
North Dakota
New Mexico does not specifically define “consent.” Instead, New Mexico law construes the term “consent” as being implied by the affirmative, unambiguous and voluntary assent of the victim, which may vary from a verbal or physical response.

Consent to bodily harm: When the offender is charged to constitute an offense because it causes or threatens bodily harm, consent to such conduct or the infliction of the harm is required.

Consent: 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.

Consent to medication: A threat of serious bodily harm which reasonably places fear in a person’s mind is sufficient to demonstrate the use of force and the lack of consent.

Ohio does not specifically define “consent.” This definition is provided in the Ohio Revised Code in section 2903.01 of the Code.

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Rhode Island: A person is guilty of sexual exploitation of a minor in the first degree if: 
1. The actor engages in sexual contact with the victim and any of the following circumstances exist: 
   (a) The actor knows or has reason to know that the victim is under 14 years of age. 
   (b) The actor knows or has reason to know that the victim is under 16 years of age. 
   (c) The actor knows or has reason to know that the victim is under 18 years of age. 
   (d) The victim is a mental or emotionally disabled person and the actor knows or has reason to know the victim is under 18 years of age. 
2. The actor knows or has reason to know that the victim is under 14 years of age and the actor coerces the victim by using any of the following means: 
   (a) Physical force or intimidation. 
   (b) Threats or the use of fear. 
   (c) Coercion to which the victim reasonably believes that the actor has the present ability to carry out the threat. 
3. The actor knows or has reason to know that the victim is under 16 years of age and the actor coerces the victim by using any of the following means: 
   (a) Physical force or intimidation. 
   (b) Threats or the use of fear. 
   (c) Coercion to which the victim reasonably believes that the actor has the present ability to carry out the threat. 
   (d) Coercion by means of the victim's knowledge, or another's knowledge, that the person to whom the victim reasonably believes the actor has the present ability to carry out the threat. 

South Dakota: A person is guilty of engaging in sexual conduct in a degree if: 
1. The actor knowingly engages in sexual conduct with a victim and any of the following circumstances exist: 
   (a) The actor knows or has reason to know that the victim is under 14 years of age. 
   (b) The victim is a mentally incapacitated, mentally disabled, or physically helpless person and the actor knows or has reason to know that the victim is under 16 years of age. 
   (c) The actor knows or has reason to know that the victim is under 18 years of age and the victim is a mentally incapacitated, mentally disabled, or physically helpless person. 

Tennessee: A person is guilty of sexual battery if: 
1. The actor engages in sexual contact with the victim and any of the following circumstances exist: 
   (a) The actor knows or has reason to know that the victim is under 14 years of age. 
   (b) The victim is a mentally incapacitated, mentally disabled, or physically helpless person and the actor knows or has reason to know that the victim is under 16 years of age. 
   (c) The actor knows or has reason to know that the victim is under 18 years of age and the victim is a mentally incapacitated, mentally disabled, or physically helpless person. 

Texas: A person is guilty of engaging in sexual conduct with a child if: 
1. The actor engages in sexual conduct with a child and any of the following circumstances exist: 
   (a) The actor knows or has reason to know that the victim is under 14 years of age. 
   (b) The actor knows or has reason to know that the victim is under 16 years of age. 
   (c) The actor knows or has reason to know that the victim is under 18 years of age. 

Virginia: A person is guilty of engaging in sexual conduct with a minor if: 
1. The actor engages in sexual conduct with a minor and any of the following circumstances exist: 
   (a) The actor knows or has reason to know that the victim is under 14 years of age. 
   (b) The actor knows or has reason to know that the victim is under 16 years of age. 
   (c) The actor knows or has reason to know that the victim is under 18 years of age. 

Washington: A person is guilty of engaging in sexual conduct with a minor if: 
1. The actor engages in sexual conduct with a minor and any of the following circumstances exist: 
   (a) The actor knows or has reason to know that the victim is under 14 years of age. 
   (b) The actor knows or has reason to know that the victim is under 16 years of age. 
   (c) The actor knows or has reason to know that the victim is under 18 years of age.
Incapacitated State v. Thompson, 890 P.2d 1278 (Alaska Ct. App. 1999), a minor cannot consent to sexual contact or sexual intercourse in circumstances where:

- the person suffers from a mental illness or defect that impairs capacity to understand or exercise the right to avoid such contact or intercourse, have capacity to avoid such contact or intercourse, or understand full range of ordinary consequences thereof;
- has been determined as being incapable of providing consent to sexual activity by reason of mental illness or defect, mental disorder, mental defect, drugs, alcohol or other substance
- is physically incapable of providing consent due to temporary incapacity, such as unconsciousness, or due to permanent incapacity (including, but not limited to, a condition resulting from a mental disease or defect, mental disorder, mental defect, drugs, alcohol or other substance); or
- is in a position of authority over the victim's ability to consent.


(Alaska 2019).

Incapacitated, or mentally incapable, means that a person is unable to understand the nature of the situation, or unable to comprehend the consequences of his or her conduct due to the influence of a narcotic, anesthetic, or intoxicating substance and the condition was known or should have reasonably been known to the defendant. Alaska Stat. § 11.41.425(a)(1).

The following constitutes sexual assault in the second degree:

- A person engaging in sexual contact with another person who the offender knows is mentally incapable and who is in the offender's care by authority of law or in a facility or program that is required by law to be licensed by the state or the commissioner of Administration to be licensed by the state, or in the offender's care by authority of law or in a facility, or program that is required by law to be licensed by the state.

The following constitutes sexual assault in the first degree:

- A person engaging in sexual penetration with another person who the offender knows is in the offender's care by authority of law or in a facility, or program that is required by law to be licensed by the state, and the offender is a health care worker and the sexual act is being committed for professional treatment of the victim.

- A person engaging in sexual penetration with another person who the offender knows is in the offender's care by authority of law or in a facility, or program that is required by law to be licensed by the state, and the offender is an employee of a health care worker and the sexual act is being committed for professional treatment of the victim.

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California

11 years old or 15 years old if the actor is less than 4 years older than the victim


- No, the actor may be guilty of sexual assault or unlawful sexual contact if the victim is incapable of giving consent. California Penal Code § 261.5; Annotated §§ 53a-71.

- Yes, the accused is guilty of rape if the victim is incapable of giving consent because of mental disorder or developmental disability when the other person is in the same relationship to the victim as the defendant is to the victim when the act occurred. California Penal Code § 261.5; 18 U.S.C. §§ 2241, 2243, 18 U.S.C. Annotated §§ 53a-71.

- Yes, the accused is guilty of rape if the victim is incapacitated or under the influence of a drug or intoxicant. California Penal Code § 261.5; 18 U.S.C. §§ 2241, 2243, 18 U.S.C. Annotated §§ 53a-71.

- Yes, the accused is guilty of rape if the victim is incapacitated or under the influence of a drug or intoxicant when the other person is in the same relationship to the victim as the defendant is to the victim when the act occurred. California Penal Code § 261.5; 18 U.S.C. §§ 2241, 2243, 18 U.S.C. Annotated §§ 53a-71.

- Yes, the accused is guilty of rape if the victim is incapacitated or under the influence of a drug or intoxicant when the other person is in the same relationship to the victim as the defendant is to the victim when the act occurred. California Penal Code § 261.5; 18 U.S.C. §§ 2241, 2243, 18 U.S.C. Annotated §§ 53a-71.

- Yes, a person is guilty of sexual assault or unlawful sexual contact if the person is legally incapacitated and the act occurred. California Penal Code § 261.5; 18 U.S.C. §§ 2241, 2243, 18 U.S.C. Annotated §§ 53a-71.

- Yes, the accused is guilty of rape if the victim is incapacitated or under the influence of a drug or intoxicant when the other person is in the same relationship to the victim as the defendant is to the victim when the act occurred. California Penal Code § 261.5; 18 U.S.C. §§ 2241, 2243, 18 U.S.C. Annotated §§ 53a-71.

- Yes, a person is guilty of sexual assault or unlawful sexual contact if the person is legally incapacitated and the act occurred. California Penal Code § 261.5; 18 U.S.C. §§ 2241, 2243, 18 U.S.C. Annotated §§ 53a-71.

- Yes, a person is capable of consenting to sexual intercourse with an adult who is the minor's spouse. California Penal Code § 261.5(a).

Colorado

18 years old: Colorado Revised Statutes Annotated § 18-3-402(1)(d)-(e).

- Yes, a person can be incapable of consent due to mental disorder or developmental disability. Colorado Revised Statutes Annotated § 18-3-402(1)(d)-(e).

- Yes, the actor may be guilty of sexual assault or unlawful sexual contact when the victim is incapable of giving consent. Colorado Revised Statutes Annotated § 18-3-402(1)(d)-(e).

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- Yes, a person is guilty of sexual assault or unlawful sexual contact if the person is legally incapacitated and the act occurred. Colorado Revised Statutes Annotated § 18-3-402(1)(d)-(e).

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- Yes, a person is capable of consenting to sexual intercourse with an adult who is the minor’s spouse. Colorado Revised Statutes Annotated § 18-3-402(1)(d)-(e).

Connecticut

Yes, the actor may be guilty of sexual assault or unlawful sexual contact when the victim is incapable of giving consent. Connecticut General Statutes Annotated § 774, against a child under the age of 16 and the person stands in a position of trust, authority, or supervision over the child, or is an invitee or designee of a person who stands in a position of trust, authority, or supervision over the child, or is an invitee or designee of a person who stands in a position of trust, authority, or supervision over the child, or is a person who stands in a position of trust, authority, or supervision over the child, or is an invitee or designee of a person who stands in a position of trust, authority, or supervision over the child.

- No, the actor is a child and any non-parent person in a position of trust over the child.

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Delaware

18 years old: Delaware Code § 776A(1); 11 Delaware Code §§ 774, 775, 776, 778, 779.

- Yes, a person can be incapable of giving consent due to mental disorder or developmental disability. Delaware Code § 776A.

- Yes, there is no consent if the defendant knew the victim was impaired because of mental retardation, or such condition results in the defendant's knowledge or against the other person's will or consent, or if the victim was incapacitated by alcohol, drugs, or other means for the purpose of sexual intercourse. Delaware Code § 776A.

- Yes, there is no consent if the defendant knew the victim was impaired because of mental retardation, or such condition results in the defendant's knowledge or against the other person's will or consent, or if the victim was incapacitated by alcohol, drugs, or other means for the purpose of sexual intercourse. Delaware Code § 776A.

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- Yes, a person is capable of consenting to sexual intercourse with an adult who is the minor’s spouse. Delaware Code § 776A.
Yes. A person is unable to consent to sexual acts or sexual conduct with anyone who is an ambulance driver or attendant, a bus driver or attendant, a police officer, a sheriff, a corrections officer, a detective, a security guard, a hotel employee, a security guard, a campus security officer, or a guard employed by a prison or detention facility, unless the person is acting in that capacity and is over the age of 18 years. Florida Statutes § 794.011 (1)(c).

A minor is less than 18 years of age and lacks the mental capacity to appreciate the nature of the conduct, to know that the conduct is harmful to the person, or to know that the person is thereby likely to cause annoyance, affront, offense or alarm. Florida Statutes § 794.011(5)(e)(7).

The nature of the treatment or service provided by the person or the spouse, domestic partner, or paramour of the person, the nature of the treatment or service provided by a staff member of a religious organization or educational institution, the fact that the person or the spouse, domestic partner, or paramour of the person is acting in a professional capacity, the fact that the person or the spouse, domestic partner, or paramour of the person is acting in a personal capacity, or any other factor relevant to the victim's ability to understand the nature of the treatment or service provided by the person or the spouse, domestic partner, or paramour of the person. D.C. Code § 22–3002, 22-3004(4).
Yes. A person commits a sex crime if the person engages in sexual penetration with another person and the actor knows or has reason to know that the victim is mentally defective or mentally incapacitated. 720 ILCS 5/11-1.60. However, if the victim at the time is unconscious or has mental illness, mental disability or mental insufficiency, including that:

- The victim at the time is unconscious.
- The victim suffers from a disease, disorder, or mental illness, mental disability or mental insufficiency that is more severe if the accused delivers a drug, medicine, or another substance.
- The victim is physically helpless, which includes:
  - The victim is at least 16 years old.
  - The victim is under the influence of a narcotic, anesthetic or other substance.
  - The victim has reason to know that the victim is at the time is unconscious.
- The victim is a person with a disability.
- The person engages in sexual penetration with a person who is 17 years of age or older and holds a teaching certificate, for purposes of section 5/11-9.2 when he or she is an employee of a community agency funded by the State of Hawaii, or a person in custody. HRS §§ 707-730; 707-731; 707-732.

In addition, the crime and punishment are more severe if the accused delivers the drug, medicine, or other substance. HRS §§ 707-730; 707-731; 707-732.

Yes. A person commits sexual assault in the second degree if the person knowingly engages in or causes sexual contact with a minor who is at least 16 years old and the person is contemporaneously acting in a professional capacity to instruct, advise, counsel, or supervise the minor, or has reason to know that the victim is under the influence of a narcotic, anesthetic or other substance.

A person commits sexual assault in the second degree if the person is not less than 5 years older than the minor; and (ii) the person is not less than 5 years older than the minor, and the person is not legally married to the minor. HRS §§ 707-730; 707-731; 707-732.

Yes. A person commits custodial sexual misconduct when the probation or supervising officer, surveillance agent, or aftercare specialist commits custodial sexual misconduct when the probation or supervising officer, surveillance agent, or aftercare specialist engages in sexual misconduct with a person who is a probationer, parolee, release, or person serving a term of conditional release who is under probation, parole, accountability court, or pretrial supervision; or

- A person commits custodial sexual misconduct when the probation or supervising officer, surveillance agent, or aftercare specialist engages in sexual misconduct with a person who is a probationer, parolee, release, or person serving a term of conditional release who is under probation, parole, accountability court, or pretrial supervision.

Yes. A person commits custodial sexual misconduct when:

- The employee or agent engages in sexual misconduct with a person who is a probationer, parolee, release, or person serving a term of conditional release who is under probation, parole, accountability court, or pretrial supervision; or
- The employee or agent engages in sexual misconduct with a person who is a probationer, parolee, release, or person serving a term of conditional release who is under probation, parole, accountability court, or pretrial supervision.
Yes. A person commits a sex crime if the sex act is performed with another person who is mentally deficient or mentally incapacitated, which includes a person who is suffering from a mental or emotional disease or condition, or a person who is temporarily incapable of giving consent. K.S.A. 21-5503; 21-5504*. It is a defense to a prosecution of indecent liberties with a child (as defined in subsections (b)(1), (b)(2)(A) and (b)(3)(A)) that the child was married to the accused at the time of the offense. K.S.A. 21–5504(a)(1) was held to be unconstitutional to the extent that it does not allow a defense to a prosecution of criminal sodomy (for sodomy with a child 14 years of age or more years of age but less than 16 years of age) and aggravated criminal sodomy (aggravated criminal sodomy of a child 14 years of age or more years of age but less than 16 years of age) if the accused and the child were married at the time of the offense. K.S.A. 21–5504(a)(1) and K.S.A. 21–5515.

Yes. A person commits a sex crime if the sex act is performed with another person who is suffering from a mental or emotional disease or condition, or a person who is temporarily incapable of giving consent. I.C. §§ 35-42-4-1; 35-42-4-8; 35-42-4-9.

Yes. A person commits a sex crime if the sex act is performed with another person who is suffering from a mental or emotional disease or condition, or a person who is temporarily incapable of giving consent. I.C. §§ 35-42-4-1; 35-42-4-8; 35-42-4-9.

Yes. A person commits a sex crime if the sex act is performed with another person who is suffering from a mental or emotional disease or condition, or a person who is temporarily incapable of giving consent. I.C. §§ 35-42-4-1; 35-42-4-8; 35-42-4-9.
A person is deemed incapable of consent when he or she is: 
1. An institutionalized person who is mentally defective, or otherwise physically incapable of understanding or appreciating the nature of the sexual act, and therefore incapable of giving consent.

A person is deemed incapable of consent when he or she is: 
1. Two or more people subscribing to a contract with the same object, whereby a minor who is less than 18 years old is to be employed or to work in some capacity.

A person is deemed incapable of consent when he or she is: 
1. A person under the age of 18 years and is a resident in or attending a family foster home.

A person is deemed incapable of consent when he or she is: 
1. A person under the age of 18 years who the person knows is less than 16 years old, and the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who is interacting with such law enforcement officer during the time that the sexual act occurred.

A person is deemed incapable of consent when he or she is: 
1. A person 15 years of age or younger who the person knows is less than 16 years old, and the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who is interacting with such law enforcement officer during the time that the sexual act occurred.

A person is deemed incapable of consent when he or she is: 
1. A person 14 years of age or younger who the person knows is less than 16 years old, and the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who is interacting with such law enforcement officer during the time that the sexual act occurred.

A person is deemed incapable of consent when he or she is: 
1. A person 13 years of age or younger who the person knows is less than 16 years old, and the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who is interacting with such law enforcement officer during the time that the sexual act occurred.

A person is deemed incapable of consent when he or she is: 
1. A person 12 years of age or younger who the person knows is less than 16 years old, and the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who is interacting with such law enforcement officer during the time that the sexual act occurred.

A person is deemed incapable of consent when he or she is: 
1. A person 11 years of age or younger who the person knows is less than 16 years old, and the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who is interacting with such law enforcement officer during the time that the sexual act occurred.

A person is deemed incapable of consent when he or she is: 
1. A person 10 years of age or younger who the person knows is less than 16 years old, and the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who is interacting with such law enforcement officer during the time that the sexual act occurred.

A person is deemed incapable of consent when he or she is: 
1. A person 9 years of age or younger who the person knows is less than 16 years old, and the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who is interacting with such law enforcement officer during the time that the sexual act occurred.

A person is deemed incapable of consent when he or she is: 
1. A person 8 years of age or younger who the person knows is less than 16 years old, and the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who is interacting with such law enforcement officer during the time that the sexual act occurred.

A person is deemed incapable of consent when he or she is: 
1. A person 7 years of age or younger who the person knows is less than 16 years old, and the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who is interacting with such law enforcement officer during the time that the sexual act occurred.

A person is deemed incapable of consent when he or she is: 
1. A person 6 years of age or younger who the person knows is less than 16 years old, and the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who is interacting with such law enforcement officer during the time that the sexual act occurred.

A person is deemed incapable of consent when he or she is: 
1. A person 5 years of age or younger who the person knows is less than 16 years old, and the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who is interacting with such law enforcement officer during the time that the sexual act occurred.

A person is deemed incapable of consent when he or she is: 
1. A person 4 years of age or younger who the person knows is less than 16 years old, and the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who is interacting with such law enforcement officer during the time that the sexual act occurred.

A person is deemed incapable of consent when he or she is: 
1. A person 3 years of age or younger who the person knows is less than 16 years old, and the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who is interacting with such law enforcement officer during the time that the sexual act occurred.

A person is deemed incapable of consent when he or she is: 
1. A person 2 years of age or younger who the person knows is less than 16 years old, and the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who is interacting with such law enforcement officer during the time that the sexual act occurred.

A person is deemed incapable of consent when he or she is: 
1. A person 1 year of age or younger who the person knows is less than 16 years old, and the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who is interacting with such law enforcement officer during the time that the sexual act occurred.

A person is deemed incapable of consent when he or she is: 
1. A person who is less than 18 years old, or 
2. A person who is less than 16 years old.

Or, she is: 
1. A person who is less than 16 years old.

The consent of a student, whether or not that student is 17 years of age, is not valid if induced by the person to whom he or she is in a relationship between the actor and other person, regardless of the person's age solely under this chapter regardless of the person's age solely.
program or residence and suffers from a mental disability that is reasonably apparent or known to the actor, the actor is guilty of criminal sexual conduct in the third degree: Minn. Stat. § 609.341.

16 years old: Minn. Stat. § 609.344 (e)

15 years old: Minn. Stat. § 609.345.

Mental disability can be either reasonably apparent or known to the actor, and the actor must know or have reason to know that the victim is a substantially cognitively disabled person. Minn. Stat. § 609.341.

The actor is a parent or a current or recent position of authority over the victim. Minn. Stat. § 609.344, Minn. Stat. § 609.345.

A person may not engage in "sexual act," "sexual contact," "sexual penetration," or "sexual abuse" if the actor knows or has reason to know that the victim is a substantially cognitively disabled person. Minn. Stat. § 609.341.

The action must be illegal for the victim's school in which case the age of the victim is not relevant. Minn. Stat. § 609.343.

Yes. A person who is mentally impaired, mentally incapacitated, or physically helpless as a result of alcohol or drug use is not guilty of criminal sexual conduct in the third degree. Minn. Stat. § 609.341.

Mental disability can be either reasonably apparent or known to the actor, and the actor must know or have reason to know that the victim is a substantially cognitively disabled person. Minn. Stat. § 609.341.

The action must be illegal for the victim's school in which case the age of the victim is not relevant. Minn. Stat. § 609.343.

Yes, if such intoxication renders the victim incapable of giving "subjective awareness or reason to withdraw consent because of a physical condition" or "physical helpless." Minn. Stat. § 609.341.

Person entering the victim's school in which case the age of the victim is not relevant. Minn. Stat. § 609.343.

The action must be illegal for the victim's school in which case the age of the victim is not relevant. Minn. Stat. § 609.343.

Yes, if the perpetrator is a family member, a current or recent position of authority over the victim, or an employee of a correctional treatment plan. Minn. Stat. § 609.344, Minn. Stat. § 609.345.

"Mandated reporter" means a person who is:

1. A physician, medical intern, hospital personnel engaged in the performance of clinical duties, or laboratory personnel engaged in the performance of medical or laboratory duties.

2. A nurse, registered nurse or licensed practical nurse.

3. A schoolteacher, teaching assistant, parent or employee of a church, school district, or other institution, or public or private school, or any related agency that is known or reasonably should know that the victim is a substantially cognitively disabled person. Minn. Stat. § 609.341.

Yes. A person is guilty of criminal sexual conduct if the victim is a substantially cognitively disabled person. Minn. Stat. § 609.341.

The actor has a significant relationship to the complainant and is a defense. Minn. Stat. § 609.341.

The actor uses his or her position to gain access to, or to exploit, the victim. Minn. Stat. § 609.341.

Yes, if the intoxication is as a result of alcohol or drug use. Minn. Stat. § 609.341.

"Physical helpless" means a person who is physically helpless as a result of alcohol or drug use or who is unable to communicate unaided to an acquaintance. Minn. Stat. § 609.341.

Yes, if the victim is at least 13 but less than 18 years of age. Minn. Stat. § 609.341.

Yes, if the perpetrator is a family member, a current or recent position of authority over the victim, or an employee of a correctional treatment plan. Minn. Stat. § 609.344, Minn. Stat. § 609.345.

The actor is an employee of a correctional treatment plan. Minn. Stat. § 609.341.

The victim must be at least 13 but under 18 years of age. Minn. Stat. § 609.341.

Yes. The victim is at least 13 but less than 18 years of age and the perpetrator is a parent, a current or recent position of authority, or a caretaker of the victim. Minn. Stat. § 609.341.

"Subjective awareness" means that the victim has a subjective awareness of the act or the result of the act. Minn. Stat. § 609.341.

"Vaginal intercourse" means the insertion of the penis into the vagina. Minn. Stat. § 609.341.

"Sexual penetration" means the insertion of the penis into the vagina, the mouth, the rectum, or another body opening, or the placement of a part of the body into another body opening, or the placing of a part of the body into another body opening, or the placing of a part of the body into another body opening. Minn. Stat. § 609.341.

"Reasonably apparent" or "known to the actor" means reasonably apparent or known to the actor. Minn. Stat. § 609.341.

"Reasoned consent to sexual conduct" means the victim reasonably believed that the act was consensual and was knowledgeable of the nature of the act. Minn. Stat. § 609.341.

"Mental incapacitation" means a temporary or permanent mental incapacity. Minn. Stat. § 609.341.

"Vaginal intercourse" means the insertion of the penis into the vagina. Minn. Stat. § 609.341.

"Sexual penetration" means the insertion of the penis into the vagina, the mouth, the rectum, or another body opening, or the placement of a part of the body into another body opening, or the placing of a part of the body into another body opening, or the placing of a part of the body into another body opening. Minn. Stat. § 609.341.

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"Reasonably apparent" or "known to the actor" means reasonably apparent or known to the actor. Minn. Stat. § 609.341.

"Reasoned consent to sexual conduct" means the victim reasonably believed that the act was consensual and was knowledgeable of the nature of the act. Minn. Stat. § 609.341.
Yes, a person commits the crime of sexual contact with a student if he or she engages in sexual contact with another person who is a student of an elementary, middle, junior high or high school, or is a student teacher; and (B) is an employee, contractor, or volunteer of the supervising authority who is involved in the student's education and has supervisory or disciplinary authority over the student; (C) is an employee, contractor, or volunteer of the school or of an organization working with the school on a program or project who is not a student of the school; or (D) is an employee, contractor, or volunteer of the school or school district to provide services.

Mar. Stat. § 560-145.1 et seq. However, the above do not apply if the individuals are married, and (1) one of the individuals, involved as a parent or partner and the other individual is a probation participant and the other individual is a worker affiliated with the program; (2) the individual involved is a student teacher; (3) the individual involved is an elected or appointed official of the school district; or (4) the individual involved is a volunteer of the school or of an organization working with the school on a program or project or a person employed by an entity that contracts with the school or of an organization working with the school on a program or project or a person employed by an entity that contracts with the school or of an organization working with the school on a program or project; and has supervisory or disciplinary authority over the student; (E) is an employee, contractor, or volunteer of the school or of an organization working with the school on a program or project; or (F) is a parent or guardian involved in the child abuse or neglect proceeding and the perpetrator is a relative or a volunteer of the program.

Mont. Code Ann. § 45-5-501(1)(b)(v),(vi), (vii). However, the above do not apply if the individuals are married, and (1) one of the individuals, involved as a parent or partner and the other individual is a probation participant and the other individual is a worker affiliated with the program; (2) the individual involved is a student teacher; (3) the individual involved is an elected or appointed official of the school district; or (4) the individual involved is a volunteer of the school or of an organization working with the school on a program or project or a person employed by an entity that contracts with the school or of an organization working with the school on a program or project; and has supervisory or disciplinary authority over the student; (E) is an employee, contractor, or volunteer of the school or of an organization working with the school on a program or project; or (F) is a parent or guardian involved in the child abuse or neglect proceeding and the perpetrator is a relative or a volunteer of the program.

Mont. Code Ann. § 45-5-501(1)(b)(vii). However, the above do not apply if the individuals are married, and (1) one of the individuals, involved as a parent or partner and the other individual is a probation participant and the other individual is a worker affiliated with the program; (2) the individual involved is a student teacher; (3) the individual involved is an elected or appointed official of the school district; or (4) the individual involved is a volunteer of the school or of an organization working with the school on a program or project or a person employed by an entity that contracts with the school or of an organization working with the school on a program or project; and has supervisory or disciplinary authority over the student; (E) is an employee, contractor, or volunteer of the school or of an organization working with the school on a program or project; or (F) is a parent or guardian involved in the child abuse or neglect proceeding and the perpetrator is a relative or a volunteer of the program.
Yes, a person is deemed incapable of consent to sexual conduct if he or she is physically incapable of engaging in sexual conduct. N.H. Rev. Stat. Ann. § 632-A:3(III).

Yes, it is sexual assault to commit an act of sexual penetration with a person that is a client of a health care provider, or engaged in the practice of a health care profession, and the person is at least 18 years of age and is at least four years older than the child and is not the child's family member. N.M. Stat. Ann. § 30-9-11(F).

Yes, a person is deemed incapable of consent to sexual conduct if he or she is physically or mentally helpless. N.J. Stat. Ann. § 2C:14-2(i).

Yes, it is sexual assault to commit an act of sexual penetration with a person that is a client of a health care provider, or engaged in the practice of a health care profession, and is at least 18 years of age and is at least four years older than the child and is not the child's family member. N.M. Stat. Ann. § 30-9-11(F).

Yes, a mentally incapacitated person, who includes a person who is physically incapable of giving consent, is incapable of engaging in sexual conduct. N.H. Rev. Stat. Ann. § 632-A:3(IV).


Yes, it is sexual assault for a person to commit an act of sexual penetration while the victim is in a position of authority and uses that position to coerce the victim. N.H. Rev. Stat. Ann. § 632-A:2(b).

Yes, a person is deemed incapable of consent to sexual conduct if he or she is incapable of giving consent due to the nature of the victim's medical condition, which includes a person who is mentally disabled, a mentally ill, a physically disabled, or a person who is suffering from a disease that renders the victim temporarily or permanently incapable of giving consent. N.J. Stat. Ann. § 2C:14-2(c).
A person who engages in a sexual act or sexual contact with another, or who causes another to engage in a sexual act or sexual contact, is guilty of gross sexual imposition if the person knows that the other person is substantially incapable of appreciating the nature of his or her conduct, or, in the case of a minor, is reasonably incompetent to appreciate the nature of his or her conduct, or if the other person suffers from a mental disorder or mental defect which renders him incapable of appreciating the nature of his or her conduct. N.D. Century Code § 12.1-20-03(1)(d).

Yes, it is a crime to engage in sexual activity with a physically handicapped person, which includes a person who is unconscious, when the person knows that the other person is unconscious. North Carolina General Statutes Annotated § 12.1-20-03(1)(d).

Yes, it is a crime to engage in sexual activity with a mentally handicapped person when the person knows that the other person is mentally handicapped. South Carolina General Laws Supp. 1973 § 14-27-27.

Yes, it is a crime to engage in sexual activity with a physically handicapped person, which includes a person who is unconscious, when the person knows that the other person is unconscious. North Carolina General Statutes Annotated § 12.1-20-03(1)(d).

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Mentally incapacitated, mentally disabled, 1951, 192 Or. 557, 235 P.2d 764. (Where ‘means a ‘person’ means the Rhode Island Pennsylvania Oklahoma


It is rape in the second degree if the complainant suffers from a mental disorder that renders the perpetrator and who may be of the same or the opposite sex as the perpetrator. Or. Rev. Stat. § 163.375(5).

Yes. Any person who performs sexual penetration, whether vaginal, anal, orificial or by digital means, or by instrument or the like, in an establishment where the establishment is used for immoral purposes or for any other reason, the knowledge of the complainant, 16 P.C. A. § 1111(4).

Yes. Any person who performs sexual penetration, whether vaginal, anal, orificial or by digital means, or by instrument or the like, in an establishment where the establishment is used for immoral purposes or for any other reason, the knowledge of the complainant, 16 P.C. A. § 1111(4).

Yes. A person who is an employee or agent of the Department of Corrections or a council incarcero, involuntary commitment, whether the complainant’s decision was based on purpose of preventing resistance. 16 P.C. A. § 1111(8).

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Yes. A person who is an employee or agent of the Department of Corrections or a council incarcero, involuntary commitment, whether the complainant’s decision was based on purpose of preventing resistance. 16 P.C. A. § 1111(8).
Yes. A person is guilty of criminal sexual conduct if the person engages in sexual battery with the victim and the actor knows or has reason to know that the victim is unable to appraise the nature of the sexual act or lewd and lascivious conduct due to the actor’s care by authority of law or is the actor’s child, grandchild, ward or寄者, or other person with whom the actor has a relationship of trust, or had supervisory or disciplinary power over the minor by virtue of the defendant's legal, professional or custodial, supervisory, or disciplinary authority over the minor and used the authority to accomplish the sexual contact. Tex. Code Ann. §§ 22.013 & 22.014.

Yes, there are limitations on liability for a person (the victim is the legal guardian of the child at the time of the offense). S.C. Code Ann. § 16-3-755(B).

Yes, a sexual assault is considered to occur without the consent of the victim when the minor is under the age of 18 years old, or the victim was, at the time of the offense, incapacitated due to the actor’s care by authority of law or is the actor’s child, grandchild, ward or寄者, or other person with whom the actor has a relationship of trust, or had supervisory or disciplinary power over the minor by virtue of the defendant's legal, professional or custodial, supervisory, or disciplinary authority over the minor and used the authority to accomplish the sexual contact. Tex. Code Ann. §§ 22.013 & 22.014.

Utah Code Ann. § 16-3-654(1)(b).

Yes. There are limitations on liability for a person (the victim is the legal guardian of the child at the time of the offense). S.C. Code Ann. § 16-3-755(B).

Sexual battery” means "sexual contact, consensual, felonious, and otherwise, by any or any person, whether by any of a person's hand or the hand of another person, or by any other means, for medically recognized treatment or diagnostic purposes." S.C. Code Ann. § 16-3-755(A).

Yes. A person can be deemed incapable of appraising or controlling the person's conduct due to the actor's care by authority of law or is the actor's child, grandchild, ward or寄者, or other person with whom the actor has a relationship of trust, or had supervisory or disciplinary power over the minor by virtue of the defendant's legal, professional or custodial, supervisory, or disciplinary authority over the minor and used the authority to accomplish the sexual contact. Tex. Code Ann. §§ 22.013 & 22.014.

Yes, if the intoxication renders the person temporarily incapable of appraising or controlling the person's conduct due to the actor's care by authority of law or is the actor's child, grandchild, ward or寄者, or other person with whom the actor has a relationship of trust, or had supervisory or disciplinary power over the minor by virtue of the defendant's legal, professional or custodial, supervisory, or disciplinary authority over the minor and used the authority to accomplish the sexual contact. Tex. Code Ann. §§ 22.013 & 22.014.

Note that in Tennessee, the spouse of the defendant can be a "victim" by the rape and sexual battery statutes when the marriage is terminated. Tenn. Code Ann. § 39-13-501.

Yes. There are limitations on liability for a person (the victim is the legal guardian of the child at the time of the offense). S.C. Code Ann. § 16-3-755(B).

Yes, if the intoxication renders the person temporarily incapable of appraising or controlling the person's conduct due to the actor's care by authority of law or is the actor's child, grandchild, ward or寄者, or other person with whom the actor has a relationship of trust, or had supervisory or disciplinary power over the minor by virtue of the defendant's legal, professional or custodial, supervisory, or disciplinary authority over the minor and used the authority to accomplish the sexual contact. Tex. Code Ann. §§ 22.013 & 22.014.

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Yes, an actor who engages in sexual contact with a victim who is either 16 or 17 years old in the first degree. W. Va. Code Ann. § 61-8B-7.

Yes, an actor who engages in sexual abuse of a minor in the first degree if the victim is under the influence of a controlled or intoxicating substance administered to the person without the person's knowledge. W. Va. Code Ann. § 61-8B-7.

Yes, a person who is either 16 or 17 years old and incapable of giving consent to or resisting sexual intercourse or sexual contact. W. Va. Code Ann. § 61-8B-7.

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