Consent Laws

Last Updated: March 2020

**Defining Consent**

<table>
<thead>
<tr>
<th>State</th>
<th>Consent Laws</th>
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<tbody>
<tr>
<td>Alaska</td>
<td>Consent has been interpreted to mean “assent or compliance with the provisions of another.” Ex parte Gordon, 96 Or. 263, 188 P. 1030 (Ala., 1919).</td>
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<tr>
<td>Arkansas</td>
<td>There is a lack of consent if a person engages in a sexual act with another person by forcible compulsion or with a person who is incapable of consent because he or she is physically helpless, mentally defective or mentally incapacitated, or because of a victim’s age. Arkansas Code § 5-14-101(3), 5-14-125.</td>
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<tr>
<td>Arizona</td>
<td>Consent cannot be procured through inducing fear in the victim. See West’s Ann.Cal.Penal Code § 266c.</td>
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<tr>
<td>California</td>
<td>Consent “means cooperation or assent to sexual contact that is voluntary on the part of the competent adult person when the person is able to make that decision.” Cal. Penal Code § 261.6.</td>
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<tr>
<td>Colorado</td>
<td>Consent “is act or attitude pursuant to an exercise of free will and with knowledge of the nature of the act.” Colorado Revised Statutes Annotated § 18-4-402(1).</td>
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<tr>
<td>Connecticut</td>
<td>Consent “cannot be used to obtain or in any other manner to induce a sexual act.” Conn. Gen. Stat. § 53a-75a.</td>
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<tr>
<td>Delaware</td>
<td>Consent is “the expression of a person’s agreement to engage in a sexual act.” Del. Code Ann. tit. 11, § 761.</td>
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<tr>
<td>District of Columbia</td>
<td>Consent “means the act or agreement indicating a freely given agreement to the sexual act or acts in question.” D.C. Code § 22-901(1).</td>
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<tr>
<td>Florida</td>
<td>Consent “means intelligent, knowing, and voluntary consent and does not include consent obtained. Consent shall not be deemed or considered to be given if the person is under the influence of any drug or alcohol, or if the person is under the influence of any substance that renders the person unaware of the nature of the act.” Florida Stat. § 791.01.</td>
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<tr>
<td>Georgia</td>
<td>Consent means a person consents when he or she agrees to the sexual contact and agrees to the sexual contact by acts of the body, including an affirmative response by words or gestures. Ga. Code Ann. § 16-6-20.</td>
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<tr>
<td>Hawaii</td>
<td>Consent “is not defined by statute.” Hawaii law provides that a person consents to a sexual crime if:</td>
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<tr>
<td>Idaho</td>
<td>Consent is “freely given consent.” Idaho Code § 18-108(1).</td>
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<tr>
<td>Indiana</td>
<td>Consent does not include those instances where a patient is unable to give consent. Ind. Code § 35-41-3-5.</td>
</tr>
<tr>
<td>Iowa</td>
<td>Consent to sexual activity exists where:</td>
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<tr>
<td>Kansas</td>
<td>Consent “includes the free, voluntary consent of a patient to a proposed or ongoing medical treatment.” K.S.A. 65-623.</td>
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<tr>
<td>Kentucky</td>
<td>Consent “is given when the patient or patient’s representative agrees to treatment.” Ky. Rev. Stat. § 301.640(1).</td>
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<tr>
<td>Louisiana</td>
<td>Consent “means cooperation in act or attitude pursuant to an exercise of free will and with knowledge of the nature of the act.” Louisiana Revised Statute Law § 14:42(1).</td>
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<tr>
<td>Maine</td>
<td>Consent requires that a person:</td>
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<td>Massachusetts</td>
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**Indiana**

A person commits the crime of sexual misconduct with a student when he or she is a student and commits any of the following activities:

1. Engages in any sexual act with a student who is under the age of 18 years;
2. Engages in any sexual act with a student who is under the age of 18 years and is not the actor's spouse;
3. Engages in any sexual act with a student who is under the age of 18 years and is not the actor's spouse and the actor is at least 10 years older than the student;
4. Engages in any sexual act with a student who is under the age of 18 years and is not the actor's spouse and the actor is at least 10 years older than the student and the actor is a law enforcement officer acting in performance of official duties;
5. Engages in any sexual act with a student who is under the age of 18 years and is not the actor's spouse and the actor is at least 10 years older than the student and the actor is a law enforcement officer acting in performance of official duties and the student, not the actor's spouse, is under arrest, in custody or being interrogated or temporarily detained, including during a traffic stop or questioning pursuant to an investigation of a crime.

**Iowa**

A person commits the crime of sexual abuse if he or she commits any of the following activities:

1. Commits or attempts to commit any sexual act with another person, if the victim is a child or a physically handicapped person who is under 16 years of age and the actor is at least 5 years older than the victim;
2. Commits or attempts to commit any sexual act with another person, if the victim is a child or a physically handicapped person who is under 16 years of age and the actor is at least 5 years older than the victim and the actor is a law enforcement officer acting in performance of official duties;
3. Engages in any sexual act with a school student who is under the age of 18 years and is not the actor's spouse.

**Kansas**

A person commits the crime of sexual abuse if he or she commits any of the following activities:

1. Engages in any sexual act with another person, if the victim is a child or a physically handicapped person who is under 16 years of age and the actor is at least 5 years older than the victim;
2. Engages in any sexual act with another person, if the victim is a child or a physically handicapped person who is under 16 years of age and the actor is at least 5 years older than the victim and the actor is a law enforcement officer acting in performance of official duties;
3. Engages in any sexual act with a student who is under the age of 18 years and is not the actor's spouse.

**Kentucky**

A person commits the crime of sexual abuse if he or she engages in any sexual act with another person, if the victim is a child or a physically handicapped person who is under 16 years of age and the actor is at least 5 years older than the victim.

**Louisiana**

A person commits the crime of sexual abuse if he or she engages in any sexual act with another person, if the victim is a child or a physically handicapped person who is under 16 years of age and the actor is at least 5 years older than the victim.

**Maine**

A person commits the crime of sexual abuse if he or she engages in any sexual act with another person, if the victim is a child or a physically handicapped person who is under 16 years of age and the actor is at least 5 years older than the victim.

**Mississippi**

A person commits the crime of sexual abuse if he or she engages in any sexual act with another person, if the victim is a child or a physically handicapped person who is under 16 years of age and the actor is at least 5 years older than the victim.
Maryland

Mentally incapacitated individual means an individual who, because of intoxicating drugs, mental illness, or other cause, is not capable of making a free and informed decision to consent to sexual conduct with another person.

Person means words or overt actions by a person indicating a freely given present agreement to perform a particular sexual act with the actor. Consent does not mean the refusal to resist, or communicative signals to submit to sexual intercourse, to a sexual act, or sexual contact.

Substantially cognitively impaired individual means an individual who suffers from an intellectual disability or a mental disorder, either of which temporarily or permanently renders the individual substantially incapable of:

(a) appreciating the nature of the individual's conduct;

(b) communicating willingness to submit to sexual intercourse, a sexual act, or sexual contact; or

(c) communicating unwillingness to submit to sexual intercourse, a sexual act, or sexual contact.

Maryland law also provides that a person may not engage in sexual conduct with another:

(a) if a substantially cognitively impaired individual, a mentally incapacitated individual, or physically helpless individual, and the person performing the act, in the case of a sexual act, is under 21 years of age, or, in the case of sexual contact, is under 15 years of age, and the person performing the sexual act has reason to know or reasonably should know that the victim is a substantially cognitively impaired individual, a mentally incapacitated individual, or physically helpless individual, or

(b) if a person is a probation officer or parole officer.

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:

(a) an expression of lack of consent through words or conduct means that there is no consent or consent has been withdrawn;

(b) a substantial or serious threat or act of sexual or sexual-related coercion by the perpetrator or the perpetrator's third party, which renders the victim physically or mentally impaired so as to be incapable of making an informed consent to sexual intercourse. Mo. Rev. Stat. § 566.030.

However, Missouri law provides that rape in the first degree is committed if the offender has sexual intercourse with another person who is incapacitated, incapable of consent, or lacks the capacity to consent, or by use of forcible compulsion. Forcible compulsion includes the use of a substance administered without a victim's knowledge or consent which renders the victim physically or mentally impaired so as to be incapable of making an informed consent to sexual intercourse. Mo. Rev. Stat. §§ 566.030, 566.040.

Mississippi

Consent is not specifically defined.

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:

(a) words of consent must be given before the sexual act begins or during the sexual act, and

(b) if a person is an outpatient, a client receiving psychotherapy services and the perpetrator:

(i) has supervisory or disciplinary authority over the victim or is receiving community-based services and the perpetrator:

(ii) is a supervisor or disciplinarian over the victim or is providing treatment to the victim, or

(iii) is an employee, contractor, or volunteer of the youth care facility, or

(iv) is directly involved in the parent or guardian's case or involved in the supervision of the case.

Further, an expression of lack of consent through words or conduct means that there is no consent or consent has been withdrawn. Miss. Code Ann. § 99-5-5(15).

West Virginia

Sexual assault means sexual penetration of a person that indicates by speech or conduct that there is not freely given consent to performance of the sexual act. W. Va. Code § 41-1-12.

For purposes of the crime of habitual sexual assault (Claw 2), lack of consent can result when a person:

(a) engages in sexual penetration with a person that indicates by speech or conduct that there is not freely given consent to performance of the sexual act; or

(b) engages in sexual penetration with a person that, because of intoxicating drugs, mental illness, or other cause, is not capable of making a free and informed decision to consent to sexual conduct with another person.

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

(a) engages in sexual penetration with a person that, because of intoxicating drugs, mental illness, or other cause, is not capable of making a free and informed decision to consent to sexual conduct with another person; or

(b) engages in sexual penetration with a person who is incapacitated, incapable of consent, or lacks the capacity to consent, or by use of forcible compulsion.

For purposes of the crime of sexual penetration of a mentally incapacitated individual, lack of consent can result when a person:

(a) engages in sexual penetration with a mentally incapacitated individual, or

(b) engages in sexual penetration with a mentally incapacitated individual who, because of intoxicating drugs, mental illness, or other cause, is not capable of making a free and informed decision to consent to sexual conduct with another person.
Engages in sexual penetration with a person, other than his legal spouse, who is under 18 years of age and is under the age difference between the actor and the other person is 4 years or more, or

Engages in sexual contact with a person other than his legal spouse who is under 18 years of age in order to establish effective consent by the putative victim of a sexual encounter, a defendant may demonstrate the presence of affirmative and voluntary acquiescence by the putative victim in the sexual encounter, which includes the following circumstances:

1. That victim is less than fifteen years old; or

2. That person or someone with that person's knowledge has substantially impaired the victim's power to appraise or control the victim's conduct by administering or causing to be administered any drug, intoxicant, or controlled substance to the other person surreptitiously or by force, threat of force, or deception.

N.A.

Oregon does not specifically define "consent." Anyone who participates in consensual sexual activity with a consenting adult is presumed to be engaging in consensual sexual activity unless it is shown by the evidence that the activity is not consensual.

N/A

Pennsylvania does not specifically define "consent." However, a person consents to a sexual act if the person agrees to the sexual act.

N/A

Puerto Rico (Post 2013 does not specifically define "consent." Any person who performs sexual penetration, whether vaginal, anal, oral, or manual, without the consent of the other person is guilty of sexual abuse.

N/A
Rhode Island

A person is guilty of second degree sexual assault if he or she engages in sexual penetration with another person and if any of the following circumstances exist:

(1) The defendant knows or has reason to know that the victim is physically helpless; or
(2) The defendant knows or has reason to know that the victim is mentally incapable; or
(3) The victim is a child under the age of sixteen (16) years; or
(4) The sexual penetration is accomplished without the victim's consent; or
(5) The sexual penetration is accomplished after the victim's resistance ceased due to the defendant's force or threat; or
(6) The victim is under the age of twenty-one (21) years and the res gestae occurred in the course of engaging in sexual relations or sexual conduct with a person other than the victim.

South Carolina

A person is guilty of criminal sexual conduct in the third degree if the actor engages in sexual penetration with another person and if any of the following circumstances exist:

(1) The victim is under the age of sixty-five (65) years; or
(2) The actor uses force or coercion to accomplish sexual battery; or
(3) The actor uses physical force or physical violence of a high and aggravated nature to overcome the victim; or
(4) The actor uses coercion by threatening to use force or violence on the victim or the victim's family or acquaintance; or
(5) The actor uses coercion by threatening to cause harm to the victim or the victim's family or acquaintance; or
(6) The actor uses coercion by threatening to do any of the following: (a) use any weapon or dangerous instrument or device to injure the victim or the victim's family or acquaintance; or (b) disclose, or threaten to disclose, the victim's intimate clinical information; or
(7) The actor uses coercion by threatening to cause the victim to be committed to a mental institution or facility; or
(8) The actor uses coercion by threatening to cause the victim to be placed in or retained in a institution or facility; or
(9) The actor uses coercion by threatening to cause the victim to be administratively or judicially committed to an institution or facility; or
(10) The actor uses coercion by threatening to place the victim in or retain the victim in a public or private institution or facility.

South Dakota

A person is guilty of criminal sexual conduct if the actor engages in sexual penetration with another person and if any of the following circumstances exist:

(1) The actor is a person under the age of sixteen (16) years; or
(2) The actor uses coercion by threatening to use force or violence on the victim or the victim's family or acquaintance; or
(3) The actor uses coercion by threatening to cause the victim to be committed to a mental institution or facility; or
(4) The actor uses coercion by threatening to cause the victim to be placed in or retained in a institution or facility; or
(5) The actor uses coercion by threatening to cause the victim to be administratively or judicially committed to an institution or facility; or
(6) The actor uses coercion by threatening to place the victim in or retain the victim in a public or private institution or facility.

Tennessee

A person is guilty of criminal sexual conduct if the actor engages in sexual penetration with another person and if any of the following circumstances exist:

(1) The actor uses coercion by threatening to cause the victim to be committed to an institution or facility; or
(2) The actor uses coercion by threatening to cause the victim to be placed in or retained in a institution or facility; or
(3) The actor uses coercion by threatening to cause the victim to be administratively or judicially committed to an institution or facility; or
(4) The actor uses coercion by threatening to place the victim in or retain the victim in a public or private institution or facility.

Texas

A person is guilty of first degree sexual assault if the actor engages in sexual penetration with another person and if any of the following circumstances exist:

(1) The actor is a health care services provider who, in the course of performing an assisted reproduction procedure on the other person, uses human reproductive material from a donor knowing that the other person has not expressly consented to the use of that material; or
(2) The actor engages in sexual penetration with another person and if any of the following circumstances exist:

1. The actor uses coercion by threatening to use force or violence on the other person or to cause harm to the other person; or
2. The actor compels the other person to submit or participate by threatening to use force or violence against the other person or to cause harm to the other person; or
3. The actor knows or has reason to know that the victim is physically helpless; or
4. The actor knows or has reason to know that the victim is mentally incapable; or
5. The actor knows or has reason to know that the victim is mentally incapable or physically helpless or
6. The victim submits to sexual battery by the actor under circumstances where the victim is also the victim of forcible confinement, kidnapping, trafficking in persons, or domestic violence.

Utah

A person is guilty of sexual assault if the actor engages in sexual penetration with another person and if any of the following circumstances exist:

(1) The actor uses coercion by threatening to use force or violence on the victim or the victim's family or acquaintance; or
(2) The actor uses coercion by threatening to cause the victim to be committed to a mental institution or facility; or
(3) The actor uses coercion by threatening to cause the victim to be placed in or retained in a institution or facility; or
(4) The actor uses coercion by threatening to cause the victim to be administratively or judicially committed to an institution or facility; or
(5) The actor uses coercion by threatening to place the victim in or retain the victim in a public or private institution or facility.

Virginia

A person is guilty of sexual assault if the actor engages in sexual penetration with another person and if any of the following circumstances exist:

(1) The actor uses coercion by threatening to cause the victim to be committed to a mental institution or facility; or
(2) The actor uses coercion by threatening to cause the victim to be placed in or retained in a institution or facility; or
(3) The actor uses coercion by threatening to cause the victim to be administratively or judicially committed to an institution or facility; or
(4) The actor uses coercion by threatening to place the victim in or retain the victim in a public or private institution or facility.

Washington

A person is guilty of first degree sexual assault if the actor engages in sexual penetration with another person and if any of the following circumstances exist:

(1) The actor uses coercion by threatening to use force or violence on the victim or the victim's family or acquaintance; or
(2) The actor uses coercion by threatening to cause the victim to be committed to a mental institution or facility; or
(3) The actor uses coercion by threatening to cause the victim to be placed in or retained in a institution or facility; or
(4) The actor uses coercion by threatening to cause the victim to be administratively or judicially committed to an institution or facility; or
(5) The actor uses coercion by threatening to place the victim in or retain the victim in a public or private institution or facility.

West Virginia

A person is guilty of sexual assault if the actor engages in sexual penetration with another person and if any of the following circumstances exist:

(1) The actor uses coercion by threatening to cause the victim to be committed to a mental institution or facility; or
(2) The actor uses coercion by threatening to cause the victim to be placed in or retained in a institution or facility; or
(3) The actor uses coercion by threatening to cause the victim to be administratively or judicially committed to an institution or facility; or
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Wisconsin

A person is guilty of sexual assault if the actor engages in sexual penetration with another person and if any of the following circumstances exist:

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Wyoming

A person is guilty of sexual assault if the actor engages in sexual penetration with another person and if any of the following circumstances exist:

(1) The actor uses coercion by threatening to cause the victim to be committed to a mental institution or facility; or
(2) The actor uses coercion by threatening to cause the victim to be placed in or retained in a institution or facility; or
(3) The actor uses coercion by threatening to cause the victim to be administratively or judicially committed to an institution or facility; or
(4) The actor uses coercion by threatening to place the victim in or retain the victim in a public or private institution or facility.
At what age is a person able to consent?

In many jurisdictions, a person is considered capable of giving informed consent at the age of 18. However, the legal age to consent to sexual activity can vary depending on the state or jurisdiction. In some cases, it may be lower or higher than 18 years old. The age of consent is an important factor in determining whether a person is capable of giving consent to sexual activity.

Consent

Mentally incapable

R.E.N. v. State,

position of authority

"means an

Arizona

Wisconsin

West Virginia

Alaska

Arkansas

Note: "Mental defect" means the victim is suffering from a mental disease or mental defect that renders the person incapable of appreciating or controlling the nature or consequences of the act. Alaska Stat. § 11.41.434(a).

Yes, a person that is temporarily incapacitated, or" means a person who is temporarily incapacitated by the use of a psychoactive substance or who is incarcerated, or a person who is an enlisted member of the armed forces and who is temporarily incapacitated by the use of a psychoactive substance or who is incarcerated (meaning the offender is responsible for those acts).

"Mental defect" means mental defect that renders the person incapable of appreciating or controlling the nature or consequences of the act. Alaska Stat. § 11.41.434(a).

"Mental defect" means the victim is suffering from a mental disease or mental defect that renders the person incapable of appreciating or controlling the nature or consequences of the act. Alaska Stat. § 11.41.434(a).

Arkansas

Yes, a victim can be incapable of consent because he or she is mentally incapable of appreciating or controlling the nature or consequences of the act, or because he or she is temporarily incapacitated (meaning the offender is responsible for those acts).

"Mental defect" means the victim is suffering from a mental disease or mental defect that renders the person incapable of appreciating or controlling the nature or consequences of the act. Alaska Stat. § 11.41.434(a).

Yes, a victim can be incapable of giving consent to sexual activity in the first degree if the offender knew or should have reasonably known that the victim was under 16 years old and the victim was incapable of giving consent any reason other than incapacity by reason of alcohol or other substance.

Yes, in a prosecution for non-forcible rape and sexual assault in the first degree: A person engaging in sexual penetration with another person who is in the offender's care, custody, control, or treatment (including professional treatment of the victim), with the victim being a student under 18 years of age.

Yes, in a prosecution for sexual assault in the first degree: A person engaging in sexual penetration with a person who is in the offender's care, custody, control, or treatment (including professional treatment of the victim), with the victim being a student under 18 years of age.

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California

18 years old. California Penal Code § 261.5.

Yes, a person can be incapable of giving consent under unlawful sexual contact when the person is over the age of 16 and under the age of 18.

In the context of the definition of the term "unlawful sexual contact" and the age of the victim, the California Penal Code § 261.5(c).

Yes, the accused is guilty of rape when either the victim or the defendant is under 14 years of age and the sexual intercourse occurs without the victim's consent. The statute requires that the defendant is under 18 years of age.

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Yes. A person is unable to consent to engaging in a sexual act if such person is: A. 12 years of age or younger. D.C. Code § 22-3001(3).
D. A person’s ability to consent is impacted by: (a) administering an anesthetic, or intoxicating substance that substantially impairs his or her ability to understand the nature of the act or to comprehend its consequences; or (b) providing intelligent, knowing, and voluntary consent.

Sexual Abuse of a Minor:

1. With whom the sexual contact occurs.
2. Whether the sexual contact occurs during the course of a professional relationship;
3. Whether the sexual contact occurs during the course of a consultation, examination, treatment, therapy, or other professional service;
4. Whether the sexual contact occurs during the course of a religious or spiritual practice or service;
5. Whether the sexual contact occurs during the course of a correctional or detention setting, including an encounter with a correctional or detention officer or staff member.

Sexual offenses against students by authority figures:

1. The sexual contact occurs during the course of a professional relationship;
2. Whether the sexual contact occurs during the course of a consultation, examination, treatment, therapy, or other professional service;
3. Whether the sexual contact occurs during the course of a religious or spiritual practice or service;
4. Whether the sexual contact occurs during the course of a correctional or detention setting, including an encounter with a correctional or detention officer or staff member.

Sexual Abuse of a Student:

1. The sexual contact occurs during the course of a professional relationship;
2. Whether the sexual contact occurs during the course of a consultation, examination, treatment, therapy, or other professional service;
3. Whether the sexual contact occurs during the course of a religious or spiritual practice or service;
4. Whether the sexual contact occurs during the course of a correctional or detention setting, including an encounter with a correctional or detention officer or staff member.

Sexual offenses against students by authority figures:

1. The sexual contact occurs during the course of a professional relationship;
2. Whether the sexual contact occurs during the course of a consultation, examination, treatment, therapy, or other professional service;
3. Whether the sexual contact occurs during the course of a religious or spiritual practice or service;
4. Whether the sexual contact occurs during the course of a correctional or detention setting, including an encounter with a correctional or detention officer or staff member.

Sexual Abuse of a Secondary Education Student:

1. The sexual contact occurs during the course of a professional relationship;
2. Whether the sexual contact occurs during the course of a consultation, examination, treatment, therapy, or other professional service;
3. Whether the sexual contact occurs during the course of a religious or spiritual practice or service;
4. Whether the sexual contact occurs during the course of a correctional or detention setting, including an encounter with a correctional or detention officer or staff member.

Sexual Abuse of a Victim:

1. The sexual contact occurs during the course of a professional relationship;
2. Whether the sexual contact occurs during the course of a consultation, examination, treatment, therapy, or other professional service;
3. Whether the sexual contact occurs during the course of a religious or spiritual practice or service;
4. Whether the sexual contact occurs during the course of a correctional or detention setting, including an encounter with a correctional or detention officer or staff member.
Yes, a victim who has been temporarily or permanently incapacitated due to the effects of a controlled substance, alcohol, or any other intoxicating substance, which the victim was not voluntarily under the influence of, or was not voluntarily using at the time of the act.

Yes, a victim whose will is temporarily or permanently incapacitated due to the effects of a controlled substance, alcohol, or any other intoxicating substance, which the victim was voluntarily under the influence of, or voluntarily using at the time of the act.

Yes, a person commits a sex crime if the person engages in sexual conduct with another person who is physically incapable of giving consent due to any mental illness, mental disability, or unsoundness of mind, due to any physical illness, or due to any mental or physical incapacity resulting from any physical injury or disease. HR §§ 707-730; 707-731; 707-732.

Yes. A person commits custodial sexual misconduct when the person subjects to a sexual act another person who is physically incapable of giving consent due to any mental illness, mental disability, or unsoundness of mind, due to any physical illness, or due to any mental or physical incapacity resulting from any physical injury or disease. HR §§ 707-730; 707-731; 707-732.

Yes, a victim whose will is temporarily or permanently incapacitated due to the effects of a controlled substance, alcohol, or any other intoxicating substance, which the victim was voluntarily under the influence of, or voluntary using at the time of the act.
A person commits a sex crime if:

1. a sex act between persons where the person otherwise meets the elements of the sex crime and the person is otherwise not capable of giving consent.

2. a sex act between persons where the person otherwise meets the elements of the sex crime and the person is otherwise not capable of consent.

3. a sex act between persons where the person otherwise meets the elements of the sex crime and the person is under the influence of a controlled substance.

4. a sex act between persons where the person otherwise meets the elements of the sex crime and the person is otherwise not capable of giving consent.

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4. a sex act between persons where the person otherwise meets the elements of the sex crime and the person is otherwise not capable of giving consent.
Yes. A person is deemed incapable of consent when he or she is physically helpless, which includes intoxication, or of the interments from the nature of the act by reason of a stupor or abnormal condition of the mind, which should include unconsciousness, or of resisting or of understanding the nature of the act by reason of a stupor or abnormal condition of the mind, which should include unconsciousness, or of resisting or of understanding the nature of the act by reason of stupor or abnormal condition of the mind, which should include unconsciousness, or of resisting or of understanding the nature of the act by reason of stupor or abnormal condition of the mind, which should include unconsciousness.

KRS § 510.020.

Yes. A person is deemed incapable of consent when he or she is physically helpless, which includes intoxication, or of the interments from the nature of the act by reason of a stupor or abnormal condition of the mind, which should include unconsciousness, or of resisting or of understanding the nature of the act by reason of a stupor or abnormal condition of the mind, which should include unconsciousness, or of resisting or of understanding the nature of the act by reason of stupor or abnormal condition of the mind, which should include unconsciousness, or of resisting or of understanding the nature of the act by reason of stupor or abnormal condition of the mind, which should include unconsciousness.

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KRS § 510.020.

Yes. The following are deemed to be incapable of consent:

1. When the victim is incapable of giving consent because of the nature of the act by reason of stupor or abnormal condition of the mind, which should include unconsciousness, or of resisting or of understanding the nature of the act by reason of stupor or abnormal condition of the mind, which should include unconsciousness.

2. An educator commits any lewd or lascivious act upon a student or working at the time of the offense; or

3. An educator has sexual intercourse with a person who is 17 years of age or older who is a student.

4. An educator has sexual intercourse with a person who is 17 years of age or older who is the subject of a surety or bail bond of a court services officer or the employee of a court services officer.

5. The actor is a psychiatrist, a psychologist or licensed as a marriage and family therapist.

6. A person is guilty of sexual intercourse with a child under 14 years of age under Kentucky Revised Statutes, Chapter 510, Sexual Assault.

7. A person is guilty of any sexual crime if the person engages in a sexual act with a minor who the person knows is less than sixteen (16) years old, and the person has no reasonable belief that the minor is at least eighteen (18) years old, and who is communicating with a minor through any means of electronic communication, without the consent of the minor's parent or guardian, or with a minor who is less than 16 years old, and who is communicating with a minor through any means of electronic communication, without the consent of the minor's parent or guardian.

8. A person is guilty of any sexual crime if the person engages in any sexual act with a minor who the person knows is less than sixteen (16) years old, and who is communicating with a minor through any means of electronic communication, without the consent of the minor's parent or guardian, or with a minor who is less than 16 years old, and who is communicating with a minor through any means of electronic communication, without the consent of the minor's parent or guardian.

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Maryland

16 years old

Yes. A person may not engage in "sexual intercourse," "sexual act," or "sexual contact" with another if the actor knows or has reason to know that the victim is or has been, as a result of a recent position of authority or has a significant relationship with the victim, in either independently or through another, no matter how the victim was or is mentally incapacitated or physically helpless. Participants in such acts have a duty to communicate unwillingness to an act. See definition of "sexual act." The actor has a significant relationship to the victim if the victim is a substantially cognitively impaired or physically incapacitated individual. See definition of "sexual act." See definition of "sexual contact." Minn. Stat. § 609.345.

Yes. A person may not engage in "sexual intercourse," "sexual act," or "sexual contact" with another if the actor knows or has reason to know that the victim is or has been, as a result of a recent position of authority or has a significant relationship with the victim, in either independently or through another, no matter how the victim was or is mentally incapacitated or physically helpless. Participants in such acts have a duty to communicate unwillingness to an act. See definition of "sexual act." The actor has a significant relationship to the victim if the victim is a substantially cognitively impaired or physically incapacitated individual. See definition of "sexual act." See definition of "sexual contact." Minn. Stat. § 609.345.

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Massachusetts

16 to 18 years old depending on the crime below

Yes. A person is guilty of criminal sexual conduct in the third degree if the victim was, or was at the time of the sexual penetration or contact, at least 13 but less than 16 years of age and any of the following: (a) the victim was a substantially cognitively impaired or physically incapacitated individual; (b) the actor knows or has reason to know that the victim is or has been, as a result of a recent position of authority or has a significant relationship with the victim, in either independently or through another, no matter how the victim was or is mentally incapacitated or physically helpless. Participants in such acts have a duty to communicate unwillingness to an act. See definition of "sexual act." The actor has a significant relationship to the victim if the victim is a substantially cognitively impaired or physically incapacitated individual. See definition of "sexual act." See definition of "sexual contact." Minn. Stat. § 609.345.

Yes. A person is guilty of criminal sexual conduct in the third degree if the victim was, or was at the time of the sexual penetration or contact, at least 13 but less than 16 years of age and any of the following: (a) the victim was a substantially cognitively impaired or physically incapacitated individual; (b) the actor knows or has reason to know that the victim is or has been, as a result of a recent position of authority or has a significant relationship with the victim, in either independently or through another, no matter how the victim was or is mentally incapacitated or physically helpless. Participants in such acts have a duty to communicate unwillingness to an act. See definition of "sexual act." The actor has a significant relationship to the victim if the victim is a substantially cognitively impaired or physically incapacitated individual. See definition of "sexual act." See definition of "sexual contact." Minn. Stat. § 609.345.

Yes. A person is guilty of criminal sexual conduct in the third degree if the victim was, or was at the time of the sexual penetration or contact, at least 13 but less than 16 years of age and any of the following: (a) the victim was a substantially cognitively impaired or physically incapacitated individual; (b) the actor knows or has reason to know that the victim is or has been, as a result of a recent position of authority or has a significant relationship with the victim, in either independently or through another, no matter how the victim was or is mentally incapacitated or physically helpless. Participants in such acts have a duty to communicate unwillingness to an act. See definition of "sexual act." The actor has a significant relationship to the victim if the victim is a substantially cognitively impaired or physically incapacitated individual. See definition of "sexual act." See definition of "sexual contact." Minn. Stat. § 609.345.

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The above table lists the laws of each state regarding criminal sexual conduct. The table includes the minimum age of consent for each state and the penalties for various categories of crimes. The laws vary widely, with some states having lower minimum ages of consent and harsher penalties for certain crimes. It is important to note that these laws are subject to change, and it is always advisable to consult with a legal professional for specific guidance.
Yes. A person is guilty of sexual battery if he or she engages in sexual penetration with a mentally incapacitated person, which includes a person who has been administered anesthetic, or other substance administered to that person without his or her knowledge or consent which renders that person temporarily or substantially incapable of judging the nature of his or her conduct, or a person who has been administered a substance that renders the victim physically or mentally incapacitated, or is incapable of making an informed consent to sexual intercourse. Mo. Code Ann. § 566.034.

Yes. Any person who subjects another person to sexual penetration who is at least 12 years of age or older and the victim is at least 12 years of age or older. Mo. Rev. Stat. § 566.030.

Yes. Any person who subjects another person to sexual penetration where the victim was mentally or physically incapable of resisting or controlling his or her conduct, or is incapable of making an informed consent to sexual intercourse. Neb. Rev. Stat. § 28-319(1)(b).

Yes. A person is guilty of sexual abuse of a protected individual if he or she subjects a protected individual to sexual penetration with a physically helpless person. Neb. Code Ann. § 28-322.04.02.

Yes. A person is guilty of sexual abuse of a protected individual if he or she subjects a protected individual to sexual penetration with a non-physically helpless person, which includes a person that is incapacitated. Miss. Code Ann. § 97-3-91.

No. The evidence established that the complainant is not a defense to these sexual acts. State v. Willis.
Yes, a person is deemed incapable of consent if:
1. the person has a mental disease or defect which renders the person incapable of understanding the nature of his or her conduct; or
2. the person is under the influence of a narcotic or other controlled substance to the extent that he or she is manifestly unable or incapacitated, which includes when he or she is unconscious or asleep, is incapable of giving consent; or
3. the person is under the influence of a narcotic or other controlled substance; or
4. the person is unconscious, is incapable of giving consent; or
5. the person is in a position of authority (1) as a correctional official, school employee, an unlicensed school employee, a school contract employee, a school employee, not married to such person, who is a licensed school employee, an unlicensed school employee, a school contract employee, a school employee, not married to such person, who is a licensed school employee, an unlicensed school employee, a school contract employee, a school employee, not married to such person, who is a licensed school employee, an unlicensed school employee, a school contract employee, a school employee, not married to such person, who is a licensed school employee, an unlicensed school employee, a school contract employee, a school employee, not married to such person, who is a licensed school employee, an unlicensed school employee, a school contract employee, a school employee, not married to such person, who is a licensed school employee, an unlicensed school employee, a school contract employee, a school employee, not married to such person, who is a licensed school employee, an unlicensed school employee, a school contract employee, a school employee, not married to such person, who is a licensed school employee, an unlicensed school employee, a school contract employee, a school employee, not married to such person, who is a licensed school employee, an unlicensed school employee, a school contract employee, a school employee, not married to such person, who is a licensed school employee, an unlicensed school employee, a school contract employee, a school employee, not married to such person, who is a licensed school employee, an unlicensed school employee, a school contract employee, a school employee, not married to such person, who is a licensed school employee, an unlicensed school employee, a school contract employee, a school employee, not married to such person, who is a licensed school employee, an unlicensed school employee, a school contract employee, a school employee, not married to such person, who is a licensed school employee, an unlicensed school employee, a school contract employee, a school employee, not married to such person, who is a licensed school employee, an unlicensed school employee, a school contract employee, a school employee, not married to such person, who is a licensed school employee, an unlicensed school employee, a school contract employee, a school employee, not married to such person, who is a licensed school employee, an unlicensed school employee, a school contract employee, a school employee, not married to such person, who is a licensed school employee, an unlicensed school employee, a school contract employee, a school employee, not married to such person, who is a licensed school employee, an unlicensed school employee, a school contract employee, a school employee, not married to such person, who is a licensed school employee, an unlicensed school employee, a school contract employee, a school employee, not married to such person, who is a licensed school employee, an unlicensed school employee, a school contract employee, a school employee, not married to such person, who is a licensed school employee, an unlicensed school employee, a school contract employee, a school employee, not married to such person, who is a licensed school employee, an unlicensed school employee, a school contract employee, a school employee, not married to such person, who is a licensed school employee, an unlicensed school employee, a school contract employee, a school employee, not married to such person, who is a licensed school employee, an unlicensed school employee, a school contract employee, a school employee, not married to such person, who is a licensed school employee, an unlicensed school employee, a school contract employee, a school employee, not married to such person, who is a licensed school employee, an unlicensed school employee, a school contract employee, a school employee, not married to such person, who is a licensed school employee, an unlicensed school employee, a school contract employee, a school employee, not married to such person, who is a licensed school employee, an unlicensed school employee, a school contract employee, a school employee, not married to such person, who is a licensed school employee, an unlicensed学校的校长或教师行为构成犯罪。
Yes, it is true to engage in sexual activity with a physically helpless person, which includes a person who is unconscious, when the person reasonably believes the other person was physically helpless. North Dakota Century Code Ann. § 12.1-20-06.

Yes, it is true to engage in sexual activity with a mentally incapacitated person, which includes a person who is unconscious, when the person reasonably believed the other person was mentally incapacitated. North Dakota Century Code Ann. § 12.1-20-03.

Yes, it is true to engage in sexual activity with a mentally incapacitated person, which includes a person who is unconscious, when the person reasonably believes the other person was physically helpless. North Dakota Century Code Ann. § 12.1-20-06.

Yes, it is true to engage in sexual activity with a mentally incapacitated person, which includes a person who is unconscious, when the person reasonably believes the other person was physically helpless. North Dakota Century Code Ann. § 12.1-20-06.

Yes, a sexual marriage between two persons, one of whom is a minor, constitutes an offense under North Carolina General Statutes Annotated § 14-27.21 and § 14-27.27.

Yes, if the victim is a minor, the offense is a sexual offense committed by a person who is a perpetrator of a sexual offense against a minor. North Carolina General Statutes Annotated § 14-27.21 and § 14-27.27.
Rhode Island

10 years old. R.I. Gen. Laws § 11-13-1.1. Yes. Rape in the first degree includes sexual penetration during the commission of kidnapping, rape, or sexual penetration where the victim is under 12 years of age and is in the custody, control, or care of the perpetrator and who may be the victim of an act of sexual penetration in the manner of a child, who is not in a caretaking relationship to or is not under the physical custody of the perpetrator and who may be of the same or the opposite sex as the victim, who is mentally or physically handicapped, or who is under the influence of alcohol or other drugs.

16 years old. R.I. Gen. Laws § 11-13-1.2. Yes. Rape in the first degree includes sexual penetration during the commission of kidnapping, rape, or sexual penetration where the victim is under 12 years of age and is in the custody, control, or care of the perpetrator and who may be the victim of an act of sexual penetration in the manner of a child, who is not in a caretaking relationship to or is not under the physical custody of the perpetrator and who may be of the same or the opposite sex as the victim, who is mentally or physically handicapped, or who is under the influence of alcohol or other drugs.

Oklahoma

16 years old. Okla. Stat. tit. 21, § 1111A(1). Where the victim is under the legal custody or supervision of a state agency, a federal agency, a county, a municipality or a political subdivision and engages in sexual intercourse with a state, federal, county, or local juvenile or mental handicapped facility employee, an employee of any correctional facility, or an employee of a state, county, or municipal correctional facility employee or any correctional facility or correctional facility employee, or a municipality or a political subdivision that exercises authority over the victim. Okla. Stat. tit. 21, § 1111A(2).

Puerto Rico


The complainant is under 16 and the person is four years younger than 13 years of age. 18 Pa.C.S.A. § 3123(b).

A person commits involuntary deviate sexual intercourse if he or she engages in intercourse with another person under 13 years of age. 18 Pa.C.S.A. § 3124.2(a.1).

Yes. A person is incapable of understanding the nature of the act if he or she suffers from a mental deficiency or mental retardation. Or. Rev. Stat. § 163.395(1).

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Physical helplessness includes the complainant is under 16 and is the person's sibling, or the person engages in sexual intercourse with the complainant under age 16. Or. Rev. Stat. § 163.365(1).

It is sexual abuse in the first degree to subject another person to sexual contact. The victim is less than 15 years of age. 18 Pa.C.S.A. § 3124.2(a.1).

Yes. No person can be charged with first degree sexual assault if he or she has substantial reason to believe that the victim is under the age of 14. Or. Rev. Stat. § 163.427(1)(a)(A).

Yes. No person can be charged with first degree sexual assault if he or she is physically unable to communicate the crime of rape. Or. Rev. Stat. § 163.427(1)(a)(A).

Yes. It is rape to have sexual contact with another person. The crime of rape in the first degree is if the victim is under 16 years of age and is the person's spouse's child. Or. Rev. Stat. § 163.427(1)(a)(A).

Yes. It is rape to have sexual contact with another person. The crime of rape in the first degree is if the victim is under 16 years of age and is the person's sibling. Or. Rev. Stat. § 163.427(1)(a)(A).

Yes. It is rape to have sexual contact with another person. The crime of rape in the first degree is if the victim is under 16 years of age and is the person's stepchild. Or. Rev. Stat. § 163.427(1)(a)(A).

Yes. A person is incapable of understanding the nature of the act if he or she suffers from a mental deficiency or mental retardation. Or. Rev. Stat. § 163.395(1).

Yes. A person is incapable of understanding the nature of the act if he or she suffers from a mental deficiency or mental retardation. Or. Rev. Stat. § 163.395(1).

Yes. The complainant is over 16 years old. Okla. Stat. tit. 21, § 1111A(1).
Yes. A person is guilty of criminal sexual conduct if the actor engages in sexual battery with the victim and the actor knows or has reason to know that the victim is mentally incapable of appraising or controlling his or her conduct by reason of a mental or physical condition or impairment. S.C. Code Ann. § 16-3-755(B-D).

No. A person is guilty of criminal sexual conduct if the actor engages in sexual battery with the victim and the actor knows or has reason to know that the victim is mentally incapable of appraising or controlling his or her conduct by reason of a mental or physical condition or impairment. S.C. Code Ann. § 16-3-755(B-D).

Yes. A sexual assault is considered to occur when the actor engages in sexual battery with the victim and the actor knows or has reason to know that the victim is mentally incapable of appraising or controlling his or her conduct by reason of a mental or physical condition or impairment. S.C. Code Ann. § 16-3-755(B-D).

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Yes, an actor who engages in sexual contact with a person who is temporarily incapable of giving consent is guilty of the crime of sexual abuse of a minor in the second degree. Wyo. Stat. Ann. § 6-2-316.

Yes, an actor who engages in sexual contact with a person who is temporarily incapable of giving consent and the person suffers from a mental defect, the influence of a substance or condition and may extend to a minority this provision, which applies in the case of sexual abuse of a minor in the second degree. Wyo. Stat. Ann. § 6-2-316.

Yes, an actor who engages in sexual contact with a person who is temporarily incapable of giving consent and the person suffers from a mental disease or defect, the influence of a substance or condition and may extend to a minority this provision, which applies in the case of sexual abuse of a minor in the second degree. Wyo. Stat. Ann. § 6-2-316.

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