

THE SEXUAL ABUSE, HEALTH, AND SAFETY OF PERSONS WITH DISABILITIES

By

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APPENDIX

- 50-State Survey of the Criminal Statutes Concerning the Sexual Abuse of Persons with Disabilities
- List of State Child Protective Services Contact Information
- 50-State Survey of the Statutes and Case Law Governing the Sterilization of Persons with Disabilities
- Nora J. Baladerian, “A Guide on Responding to Suspected Abuse of People with Developmental Disabilities.” *Abuse of People with Disabilities: Victims and Their Families Speak Out*, page 3 (2013) (with express permission)
- Nora J. Baladerian, “Guía Para Responder Al Sospechar Abuso De Personas Con Descapacidades De Desarrollo.” *Abuse of People with Disabilities: Victims and Their Families Speak Out*, page 3 (2013) (Spanish Language Version)(with express permission)
- Additional Resources Regarding the Sexual Abuse, Health, and Safety of Persons with Disabilities
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50-State Survey of the Criminal Statutes Concerning the Sexual Abuse of Persons with Disabilities

State	Statutory Language	Classification/Punishment of Crime	Consent Defined	Cognitive Disability/Incapacity and Consent	Physical Disability/Incapacity/Helplessness and Consent
Alabama	<p><u>Rape 1st Degree:</u> ALA. CODE § 13A-6-61</p> <p>(2) He or she engages in sexual intercourse with a member of the opposite sex who is incapable of consent by reason of being physically helpless or mentally incapacitated;</p> <p><u>Rape 2nd Degree:</u> ALA. CODE § 13A-6-62</p> <p>Sexual intercourse with a member of the opposite sex who is incapable of consent by reason of being “mentally defective.”</p> <p><u>Sodomy 1st Degree</u> ALA. CODE § 13A-6-63</p> <p>Deviate sexual intercourse with a person who is incapable of consent by reason of being physically</p>	<p><u>Rape 1st Degree:</u></p> <p>Class A felony</p> <ul style="list-style-type: none"> •Not imprisoned more than 99 years or less than 10 years. ALA. CODE § 13A-5-6. •Fine not exceeding \$60,000. ALA. CODE § 13A-5-11. <p><u>Rape 2nd Degree:</u></p> <p>Class B felony</p> <ul style="list-style-type: none"> •Not imprisoned more than 20 years or less than 2 years. ALA. CODE § 13A-5-6 •Fine not exceeding \$30,000 ALA. CODE § 13A-5-11 <p><u>Sodomy 1st Degree</u></p> <p>Class A felony</p> <ul style="list-style-type: none"> •Not imprisoned more than 99 years or less than 10 years ALA. CODE § 13A-5-6. •Fine not exceeding \$60,000. ALA. CODE § 13A-5-11. <p><u>Sodomy 2nd Degree</u></p> <p>Class B felony</p>	<p>Consent has been interpreted to mean “acquiescence or compliance [with the proposition of another].” <i>Ex parte Gordon</i>, 706 So. 2d 1160, 1162 (Ala. 1997).</p> <p>(a) Whether or not specifically stated, [lack of consent] is an element of every offense defined in this article, with the exception of [deviate sexual intercourse with another person under circumstances [not] covered by [§ 13A-6-63 Sodomy in the first degree] and [§ 13A-6-64. Sodomy in the second degree.]</p> <p>Lack of consent results from:</p> <ol style="list-style-type: none"> 1. forcible compulsion; 2. incapacity to consent; <p>or</p>	<p>Yes, a person is deemed incapable of consenting if he or she is mentally defective or mentally incapacitated. ALA. CODE § 13A-6-70(c).</p> <p>“Mentally defective” means that a person suffers from a mental disease or defect which renders him incapable of appraising the nature of his conduct. ALA. CODE § 13A-6-60(5).</p> <p>“Mentally incapacitated” means that a person is rendered temporarily incapable of appraising or controlling his or her conduct owing to the influence of a narcotic or intoxicating substance administered to him without his consent, or to any other incapacitating act committed upon him without his consent. ALA. CODE § 13A-6-60(6).</p>	<p>Yes, a person is deemed incapable of consenting if he or she is physically helpless. ALA. CODE § 13A-6-70(c).</p>

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	<p>helpless or mentally incapacitated</p> <p><u>Sodomy 2nd Degree</u> ALA. CODE § 13A-6-64</p> <p>Deviate sexual intercourse with another person who is incapable of consent by reason of being “mentally defective”</p>	<p>•Not imprisoned more than 20 years or less than 2 years. ALA. CODE § 13A-5-6.</p> <p>•Fine not exceeding \$30,000 ALA. CODE § 13A-5-11.</p>	<p>3. if the offense charged is sexual abuse, any circumstances, in addition to forcible compulsion or incapacity to consent, in which the victim does not expressly or impliedly acquiesce in the actor’s conduct. ALA. CODE § 13A-6-70(b).</p> <p>“Forcible compulsion” means physical force that overcomes earnest resistance or a threat, express or implied, that places a person in fear of immediate death or serious physical injury to himself or another person. ALA. CODE § 13A-6-60(8).</p>		
Arizona	<p><u>Sexual Assault</u> ARIZ. REV. STAT. ANN. §13-1404</p> <p>“intentionally or knowingly engaging in sexual intercourse or oral sexual contact” without consent</p> <p><u>Sexual Abuse</u> ARIZ. REV. STAT. ANN. §13-1406</p>	<p><u>Sexual Assault</u> Class 2 felony</p> <p>Incarceration term ranges from 5.25 to 28 years. If the sexual assault involved the intentional infliction of serious physical injury or is under 12 years old, the offender may be sentenced to</p>	<p>“Without consent” includes any of the following:</p> <ol style="list-style-type: none"> 1. the victim is coerced by the immediate use or threatened use of force against a person or property; 2. the victim is incapable of consent by reason of 	<p>Yes, a victim can be incapable of consent by reason of mental disorder, mental defect, or any other similar impairment of cognition as long as such condition is known or should have reasonably been known to the</p>	<p>No.</p>

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	<p>“intentionally or knowingly engaging in sexual contact with any person” more than 15 years old without consent</p>	<p>life imprisonment. ARIZ. REV. STAT. ANN. §13-702.</p> <p><u>Sexual Abuse</u> Class 5 felony</p> <p>Incarceration term ranges 0.5 years and 2.5 years. ARIZ. REV. STAT. ANN. §13-702.</p> <p>Note: Arizona has detailed sentencing standards for felonies and convicted persons face longer periods of incarceration if they have been convicted multiple times, if the crime was a dangerous one against children, if sexual assault involved the use of date-rape drugs, or if their crime was a “dangerous” one (involved a dangerous weapon or inflicted serious harm on a victim).</p>	<p>mental disorder, mental defect, drugs, alcohol, sleep or any other similar impairment of cognition and such condition is known or should have reasonably been known to the defendant;</p> <p>3. the victim is intentionally deceived as to the nature of the act; or</p> <p>4. the victim is intentionally deceived to erroneously believe that the person is the victim’s spouse.</p> <p>ARIZ. REV. STAT. ANN. § 13-1401.</p>	<p>defendant. ARIZ. REV. STAT. ANN. § 13-1401.</p> <p>“Mental defect” means the victim is unable to comprehend the distinctively sexual nature of the conduct or is incapable of understanding or exercising the right to refuse to engage in the conduct with another. ARIZ. REV. STAT. ANN. § 13-1401.</p>	
Arkansas	<p><u>Rape</u> ARK. CODE ANN. § 5-14-103</p> <p>A person commits rape if he or she engages in sexual intercourse or deviate sexual activity with another person: •The victim is incapable of consent by reason of being</p>	<p><u>Rape</u></p> <p>Class Y felony</p> <ul style="list-style-type: none"> •Not imprisoned less than 10 years and not more than 30 years, or life. ARK. CODE ANN. § 5-4-401 •If the victim is less than 14 years of age, the minimum 	<p>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,</p>	<p>Yes, a person can be incapable of consent because he or she is mentally defective or mentally incapacitated.</p> <p>ARK. CODE ANN. §§ 5-14-103(2); 5-14-125(2).</p>	<p>Yes, a person can be incapable of consent because he or she is physically helpless.</p> <p>ARK. CODE ANN. §§ 5-14-103(2); 5-14-125(2).</p>

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	<p>physically helpless, mentally defective, or mentally incapacitated.</p> <p><u>Sexual Assault 2nd Degree</u> ARK. CODE ANN. §5-14-125</p> <ul style="list-style-type: none"> Engages in sexual contact with another person by forcible compulsion. Engages in sexual contact with another person who is incapable of consent because he or she is physically helpless, mentally defective, or mentally incapacitated 	<p>sentence is 25 years. ARK. CODE ANN. § 5-4-401</p> <p><u>Sexual Assault 2nd Degree</u></p> <p>Class B felony</p> <ul style="list-style-type: none"> Not imprisoned for less than 5 years nor more than 20 years. ARK. CODE ANN. § 5-4-401. Fine not exceeding \$15,000 ARK. CODE ANN. § 5-4-201. 	<p>mentally defective or mentally incapacitated.</p> <p>ARK. CODE ANN. §§ 5-14-103; 5-14-125.</p>	<p>“Mentally defective” means that a person suffers from a mental disease or defect that renders the person:</p> <ul style="list-style-type: none"> incapable of understanding the nature and consequences of a sexual act; or unaware a sexual act is occurring <p>ARK. CODE ANN. § 5-14-101.</p> <p>“Mentally incapacitated” means that a person is temporarily incapable of appreciating or controlling the person’s conduct as a result of the influence of a controlled or intoxicating substance:</p> <ul style="list-style-type: none"> administered to the person without the person’s consent; or that renders the person unaware a sexual act is occurring. <p>ARK. CODE ANN. § 5-14-101</p>	<p>“Physically helpless” means that a person is:</p> <ul style="list-style-type: none"> unconscious; physically unable to communicate a lack of consent; or rendered unaware that a sexual act is occurring. <p>ARK. CODE ANN. § 5-14-101</p>
California	<p><u>Rape</u> CAL. PENAL CODE § 261(a)(1)</p>	<p><u>Rape</u> The prison sentence for rape</p>	<p>“Consent” is defined to mean positive cooperation in act or</p>	<p>Yes, a person can be incapable of giving legal consent because of a</p>	<p>Yes, a person can be incapable of giving legal consent because of a</p>

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	<p>Engaging in sexual intercourse with someone other than the spouse and “the victim is incapable of giving consent because of a mental disorder or developmental or physical disability, and this is known or reasonably should be known to the person committing the act”</p> <p><u>Sodomy</u> CAL. PENAL CODE § 286(g)</p> <p>Engaging in sexual conduct consisting of contact between the penis of one person and the anus of another person where the victim is incapable of giving consent because of a mental disorder or developmental or physical disability, and this is known or reasonably should be known to the person committing the act;</p> <p><u>Forcible Acts of Sexual Penetration</u> CAL. PENAL CODE § 289(b)</p> <p>An offender commits the crime of forcible acts of</p>	<p>•Punishable by imprisonment for 3, 6, or 8 years unless other circumstances exist including the age of the victim and the nature of the crime</p> <p><u>Sodomy</u></p> <p>•Where the victim is incapable of giving consent due to mental disorder or physical or developmental disability and the offender knows or should reasonably have known that the victim is unable to consent: punishable by 3, 6, or 8 years imprisonment</p> <p>•Where the victim is incapable of giving consent due to mental disorder or physical or developmental disability but both the offender and victim were institutionalized for the treatment of mental disorders: punishable by no more than 1 year imprisonment CAL. PENAL CODE § 286(h)</p> <p><u>Forcible Acts of Sexual Penetration</u></p> <p>•Where the victim is incapable of giving consent due to mental disorder or</p>	<p>attitude pursuant to the exercise of free will. The person must act freely and voluntarily and have knowledge of the nature of the act or transaction involved.</p> <p>CAL. PENAL CODE § 261.6</p>	<p>mental disorder or developmental disability.</p> <p>CAL. PENAL CODE § 261.</p>	<p>physical disability.</p> <p>CAL. PENAL CODE § 261.</p>

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	<p>sexual penetration by committing an act of sexual penetration under any of the following circumstances:</p> <ul style="list-style-type: none"> •Where the victim is incapable of giving consent because of a mental disorder or developmental or physical disability, and this is known or reasonably should be known to the person committing the act; •Where the victim is incapable of giving consent because of a mental disorder or developmental or physical disability, and both the victim and offender are confined in a state hospital for treatment of the mentally disordered; <p><u>Oral Copulation</u> CAL. PENAL CODE § 288a(g)</p> <p>The crime of oral copulation involves copulating the mouth of one person the with sexual organ or anus of another person, under the following circumstances:</p> <ul style="list-style-type: none"> •Where the victim is incapable of giving consent because of a mental disorder 	<p>physical or developmental disability and the offender knows or should reasonably have known that the victim is unable to consent: punishable by 3, 6, or 8 years imprisonment;</p> <ul style="list-style-type: none"> •Where the victim is incapable of giving consent due to mental disorder or physical or developmental disability but both the offender and victim were institutionalized for the treatment of mental disorders: punishable by no more than 1 year imprisonment; <p>CAL. PENAL CODE § 289(c)</p> <p><u>Oral Copulation</u></p> <ul style="list-style-type: none"> •Where the victim is incapable of giving consent due to mental disorder or physical or developmental disability and the offender knows or should reasonably have known that the victim is unable to consent: punishable by 3, 6, or 8 years imprisonment; •Where the victim is incapable of giving consent due to mental disorder or physical or developmental disability but both the 			

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	<p>or developmental or physical disability;</p>	<p>offender and victim were institutionalized for the treatment of mental disorders: punishable by no more than 1 year imprisonment; CAL. PENAL CODE § 288a(g) Institutionalized: “a person who is located voluntarily or involuntarily in a hospital, medical treatment facility, nursing home, acute care facility, or mental hospital.”</p> <p>Note: California has detailed and complicated sentencing guidelines for sex offenses. Under certain circumstances, sex offenses are considered felonies and may be subject to so-called “One Strike” laws, which carry a maximum sentence of life imprisonment. An individual defendant’s prison sentence depends on things like: prior convictions; age of the victim; the use of force, threats, violence, or deadly weapons; number of victims; and the relationship of the victim and the offender. (See §§ 288, 261, 262, 264, 264.1, 269, 288.7, 667.61)</p>			

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Colorado	<p><u>Sexual Assault</u></p> <p>A person knowingly inflicts sexual intrusion or sexual penetration on a victim that the actor knows that the victim is incapable of appraising the nature of the conduct; or is in custody of law or detained in a hospital or other institution and the actor has supervisory or disciplinary authority over the victim and uses this position of authority to coerce the victim to submit, unless the act is incident to a lawful search.</p> <p>COLO. REV. STAT. ANN. §18-3-402</p> <p><u>Unlawful sexual contact</u></p> <p>A person knowingly inflicts sexual contact on a victim that is incapable of appraising the nature of the victim's conduct, is physically helpless and known to be physically helpless and the victim has not consented,; or is in custody of law or detained in a hospital or other institution and the actor has supervisory</p>	<p><u>Sexual assault</u></p> <p>Class 4 felony</p> <ul style="list-style-type: none"> •Punishable by 2–6 years of incarceration and 3 years of parole •Up to \$500,000 fine, COLO. REV. STAT. ANN. §18-1.3-401 <p><u>Unlawful sexual contact</u></p> <p>Class 2 felony</p> <ul style="list-style-type: none"> •Punishable by 8-24 years of incarceration, 5 years of parole, •Up to \$1,000,000 fine COLO. REV. STAT. ANN. §18-1.3-401 <p>Note: Sexual assault may be subject to increased penalties as a “crime of violence” under COLO. REV. STAT. ANN.. § 18-1.3-406.</p> <p><i>See</i> certain increased penalties for sexual offenses in COLO. REV. STAT. ANN. § 18-1.3-1004</p>	<p>“Consent” means cooperation in act or attitude pursuant to an exercise of free will and with knowledge of the nature of the act. COLO. REV. STAT. ANN. § 18-3-401</p>	<p>Yes, the actor may be guilty of sexual assault and/or unlawful sexual contact when the victim is incapable of appraising the nature of the victim’s conduct. COLO. REV. STAT. ANN. § 18-3-402; 18-3-404.</p>	<p>Yes, the actor may be guilty of sexual assault and/or unlawful sexual contact when the victim is “physically helpless” and the actor knows the victim is physically helpless and the victim has not consented. COLO. REV. STAT. ANN. § 18-3-402; 18-3-404.</p> <p>“Physically helpless” means unconscious, asleep, or otherwise unable to indicate willingness to act. COLO. REV. STAT. ANN. § 18-3-401.</p>

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	<p>or disciplinary authority over the victim and uses this position of authority, unless incident to a lawful search, to coerce the victim to submit</p> <p>COLO. REV. STAT. ANN. §18-3-402</p>				
<p>Connecticut</p>	<p><u>Sexual Assault 2nd Degree</u> CONN. GEN. STAT. ANN. § 53a-71 Person engages in sexual intercourse with another person who is impaired because of (2) mental disability or disease to the extent that such other person is unable to consent to such sexual intercourse, or (3) is physically helpless;</p> <p>(6) Person, who is a psychotherapist, engages in sexual intercourse with a patient or former patient and the act occurs during a psychotherapy session, while the patient is emotionally dependent on the actor, or by means of therapeutic deception;</p>	<p><u>Sexual Assault 2nd Degree</u> Class C felony •Punishable by 1-10 years of imprisonment. CONN. GEN. STAT. ANN. § 53a-35a •Fines up to \$10,000 CONN. GEN. STAT. ANN. § 53a-41</p> <p><u>Sexual Assault 4th Degree</u> Class A misdemeanor •punishable by less than 1 year of imprisonment. CONN. GEN. STAT. ANN. § 53a-36 •fines up to \$2,000 CONN. GEN. STAT. ANN. § 53a-42</p>	<p>Lack of consent to sexual activity exists where: 1.the accused compels the victim to engage in sexual activity by the use or threat of force against the victim; 2.the victim is mentally incapacitated or mentally defective to the extent that the person is unable to consent to sexual activity; or 3.the victim is physically helpless.</p> <p>CONN. GEN. STAT. ANN. §§ 53a-65; 53a-70; 53a-71; 53a-72a; 53a-73a.</p>	<p>Yes, a person can be mentally incapacitated or mentally defective to the extent that the person is unable to consent to sexual activity.</p> <p>CONN. GEN. STAT. ANN. §§ 53a-65; 53a-70; 53a-71; 53a-72a; 53a-73a.</p> <p>However, there is an affirmative defense that the actor, at the time of the conduct constituting the criminal offense, did not know of such condition of the victim.</p> <p>CONN. GEN. STAT. ANN. § 53a-67.</p> <p>“Mentally defective” or “impaired because of mental disability or</p>	<p>Yes, engaging in sexual activity with another person when that other person is physically helpless is a criminal offense. CONN. GEN. STAT. ANN. §§ 53a-65; 53a-70; 53a-71; 53a-72a; 53a-73a.</p> <p>However, there is an affirmative defense that the actor, at the time of the conduct constituting the criminal offense, did not know of such condition of the victim. CONN. GEN. STAT. ANN. § 53a-67.</p> <p>“Physically helpless” means that a person is unconscious or for any other reason is physically unable to resist an act of sexual intercourse or</p>

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	<p><u>Sexual Assault in the Fourth Degree</u> CONN. GEN. STAT. ANN. § 53a-73a</p> <p>Person engages in sexual intercourse with another person who is (3) mentally incapacitated or impaired because of mental disability or disease to the extent that such other person is unable to consent to such sexual contact; or (4) physically helpless;</p>			<p>disease” means that a person suffers from a mental disease or defect which renders such person incapable of appraising the nature of such person’s conduct. CONN. GEN. STAT. ANN. § 53a-65.</p>	<p>sexual contact or to communicate unwillingness to an act of sexual intercourse or sexual contact. CONN. GEN. STAT. ANN. § 53a-65.</p>
Delaware	<p><u>Rape 1st Degree</u> DEL. CODE ANN. tit. 11, § 773</p> <p>Intentionally engaging in sexual intercourse with another person and . . . occurs without the victim’s consent and during the commission of the crime, or during the immediate flight following the crime, or during an attempt to prevent the reporting of the crime, the defendant causes physical injury or serious mental or emotional injury to the victim”</p>	<p><u>Rape 1st degree</u></p> <p>Class A felony •Incarceration for a minimum of 15 years up to life imprisonment, to be served at Level V. •Court may impose fines as it deems fit.</p> <p>DEL. CODE ANN. tit. 11, § 4205</p> <p><u>Rape 2d degree</u></p> <p>Class B felony. •Incarceration of not less than 2 years up to 25 years to be served at Level V.</p>	<p>“Without consent” means any of the following: •The defendant compelled the victim to submit by an act of coercion as defined in §§ 791 and 792, or by force, by gesture, or by threat of death, physical injury, pain or kidnapping to be inflicted upon the victim or a third party, or by any other means which would compel a reasonable person under the circumstances to submit. The victim need</p>	<p>Yes, a person can be incapable of consenting or appraising the nature of the sexual conduct if the victim suffered from a cognitive disability, mental illness or mental defect and the defendant knew of such condition. DEL. CODE ANN. TIT. 11, § 761.</p>	<p>No.</p>

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	<p><u>Rape 2nd Degree</u> DEL. CODE ANN. tit. 11, § 772</p> <p>“Intentionally engaging in sexual intercourse with another person, and the intercourse occurs without the victim’s consent”</p> <p>“(3) Intentionally engaging in sexual penetration with another person and . . .occurs without the victim’s consent;”</p> <p><u>Unlawful Sexual Contact 3rd Degree</u> DEL. CODE ANN. tit. 11, § 767</p> <p>Engaging in sexual contact with another person or causing the victim to have sexual contact with defendant or a 3d person and defendant knows that the contact is either offensive to the victim or occurs without the victim’s consent.</p>	<p>•Court may impose fines as it deems fit.</p> <p>DEL. CODE ANN. tit. 11, § 4205</p> <p><u>Unlawful sexual contact 3d Degree</u></p> <p>•Class A misdemeanor punishable by incarceration for up to 1 year at Level V</p> <p>•Fine up to \$2,300, restitution, or other conditions as the court deems appropriate.</p> <p>DEL. CODE ANN. tit. 11, § 4206</p>	<p>resist only to the extent that it is reasonably necessary to make the victim’s refusal to consent known to the defendant, unless such resistance would be futile or foolhardy.</p> <p>•The defendant knew the victim was unconscious, asleep or otherwise unaware that a sexual act was being performed.</p> <p>•The defendant knew the victim suffered from a cognitive disability, mental illness or mental defect which rendered the victim incapable of appraising the nature of the sexual conduct or incapable of consenting.</p> <p>•Where the defendant is a health professional, or a minister, priest, rabbi or other member of a religious organization engaged in pastoral counseling, the commission of acts of sexual contact, sexual penetration or sexual intercourse by such person shall be deemed</p>		

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			<p>to be without consent of the victim where such acts are committed under the guise of providing professional diagnosis, counseling or treatment and where at the times of such acts the victim reasonably believed the acts were for medically or professionally appropriate diagnosis, counseling or treatment, such that resistance by the victim could not reasonably have been manifested.</p> <ul style="list-style-type: none"> •The defendant had substantially impaired the victim's power to appraise or control the victim's own conduct by administering or employing without the other person's knowledge or against the other person's will, drugs, intoxicants or other means for the purpose of preventing resistance. <p>DEL. CODE ANN. TIT. 11, § 761.</p>		

State	Statutory Language	Classification/Punishment of Crime	Consent Defined	Cognitive Disability/Incapacity and Consent	Physical Disability/Incapacity/Helplessness and Consent
<p>District of Columbia</p>	<p><u>Second degree sexual abuse</u> (2) Where the person knows or has reason to know that the other person is: (A) Incapable of appraising the nature of the conduct; (B) Incapable of declining participation in that sexual act; or (C) Incapable of communicating unwillingness to engage in that sexual act <u>D.C. CODE § 22-3003</u></p> <p>(2) Where the person knows or has reason to know that the other person is: (A) Incapable of appraising the nature of the conduct; (B) Incapable of declining participation in that sexual contact; or (C) Incapable of communicating unwillingness to engage in that sexual contact. <u>D.C. CODE § 22-3005</u></p> <p><u>Misdemeanor Sexual Abuse</u> Whoever engages in a sexual act or sexual contact with another person and who should have knowledge or reason to know that the act was committed without that other person's permission</p>	<p><u>Second degree sexual abuse</u> A person shall be imprisoned for not more than 20 years and may be fined not more than the amount set forth in § 22-3571.01, if that person engages in or causes another person to engage in or submit to a sexual act in the following manner <u>D.C. CODE § 22-3003</u></p> <p><u>Fourth Degree Sexual Abuse</u> A person shall be imprisoned for not more than 5 years and, in addition, may be fined not more than the amount set forth in § 22-3571.01, if that person engages in or causes sexual contact with or by another person in the following manner <u>D.C. CODE § 22-3005</u></p> <p><u>Misdemeanor sexual abuse</u> Shall be imprisoned for not more than 180 days and, in addition, may be fined not more than the amount set forth in § 22-3571.01. <u>D.C. CODE § 22-3006</u></p> <p><u>Fines for Criminal Offenses</u> (b) An individual who has been found guilty of such an offense may be fined not</p>	<p>(4) "Consent" means words or overt actions indicating a freely given agreement to the sexual act or contact in question. Lack of verbal or physical resistance or submission by the victim, resulting from the use of force, threats, or coercion by the defendant shall not constitute consent. <u>D.C. CODE § 22-3001</u></p>	<p>A person shall be imprisoned for not more than 20 years and may be fined not more than the amount set forth in § 22-3571.01, if that person engages in or causes another person to engage in or submit to a sexual act in the following manner...(2) Where the person knows or has reason to know that the other person is: (A) Incapable of appraising the nature of the conduct <u>D.C. CODE § 22-3003</u></p>	<p>A person shall be imprisoned for not more than 20 years and may be fined not more than the amount set forth in § 22-3571.01, if that person engages in or causes another person to engage in or submit to a sexual act in the following manner...(2) Where the person knows or has reason to know that the other person is...(B) Incapable of declining participation in that sexual act; or (C) Incapable of communicating unwillingness to engage in that sexual act <u>D.C. CODE § 22-3003</u></p>

State	Statutory Language	Classification/Punishment of Crime	Consent Defined	Cognitive Disability/Incapacity and Consent	Physical Disability/Incapacity/Helplessness and Consent
	<p><u>D.C. CODE § 22-3006</u></p>	<p>more than the greatest of...(4) \$1,000 if the offense is punishable by imprisonment for 180 days, or 6 months, or less but more than 90 days ... (6) \$12,500 if the offense is punishable by imprisonment for 5 years or less but more than 1 year...(10) \$50,000 if the offense is punishable by imprisonment for 20 years or less but more than 15 years. <u>D.C. CODE § 22-3571.01</u></p>			
Florida	<p><u>Sexual Battery</u> FLA. STAT. ANN. § 794.011</p> <p>Sexual battery means oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object; however, sexual battery does not include an act done for a bona fide medical purpose.</p>	<p><u>Sexual Battery</u></p> <p>Felony in the first degree</p> <ul style="list-style-type: none"> •Punishable by a term of imprisonment not exceeding 30 years FLA. STAT. ANN. § 775.082, •Fine of no more than \$10,000 FLA. STAT. ANN. § 775.083 	<p>“Consent” means intelligent, knowing, and voluntary consent and does not include coerced submission.</p> <p>“Consent” shall not be deemed or construed to mean the failure by the alleged victim to offer physical resistance to the offender.</p> <p>FLA. STAT. ANN. § 794.011</p>	<p>Yes, any developmental disability and/or mental incapacity may impair the victim’s ability to intelligently, knowingly, and voluntarily consent. FLA. STAT. ANN. § 794.011.</p> <p>In addition, there are increased penalties for a sexual battery carried out on a victim that the accused either knows or has reason to believe is mentally defective.</p> <p>“Mentally defective” means a mental disease or</p>	<p>Yes, a person that is physically helpless may not be able to provide intelligent, knowing, and voluntary consent. FLA. STAT. ANN. § 794.011.</p> <p>“Physically helpless” means unconscious, asleep, or for any other reason physically unable to communicate unwillingness to an act. FLA. STAT. ANN. § 794.011</p>

State	Statutory Language	Classification/Punishment of Crime	Consent Defined	Cognitive Disability/Incapacity and Consent	Physical Disability/Incapacity/Helplessness and Consent
				<p>defect which renders a person temporarily or permanently incapable of appraising the nature of his or her conduct.</p> <p>FLA. STAT. ANN. § 794.011</p>	
<p>Georgia</p>	<p><u>Sexual Assault</u> O.C.G.A. § 16-6-5.1</p> <p>A person who has supervisory or disciplinary authority over another individual and:</p> <ul style="list-style-type: none"> ◦Is an employee or agent of a correctional facility, juvenile detention facility, facility providing services to a person with a disability, or a facility providing child welfare and youth services, who engages in sexual contact with such other individual who the actor knew or should have known is in the custody of such facility. <p>A person who is an actual or purported practitioner of psychotherapy commits sexual assault when he or she engages in sexual contact</p>	<p><u>Sexual Assault</u></p> <p>Defendant will be punished by imprisonment for not less than one nor more than 20 years.</p>	<p>The State of Georgia does not define consent in reference to sexual activity. However, consent has been implicitly interpreted as the “permission” of a person who is capable of giving such permission.</p> <p>O.C.G.A. § 16-6-1</p>	<p>Yes, a victim who has a developmental disability or lacks the mental capacity to make ordinary judgments on his or her own is unable to give consent to sexual acts. <i>Drake v. State</i>, 239 Ga. 232 (1977); <i>Baise v. The State</i>, 502 S.E.2d 492, 232 Ga. App. 556 (1998)</p>	<p>Yes, for a victim who is physically or mentally incompetent of knowingly and intelligently giving consent to sexual acts, the requirement of force is found in what is called constructive force. <i>Durr v. State</i>, 493 S.E.2d 210 (Ga. App. 1997)</p>

State	Statutory Language	Classification/Punishment of Crime	Consent Defined	Cognitive Disability/Incapacity and Consent	Physical Disability/Incapacity/Helplessness and Consent
	with another individual who the actor knew or should have known is the subject of the actor's actual or purported treatment or counseling or the actor uses the treatment or counseling relationship to facilitate sexual contact between the actor and such individual				
Hawaii	<p><u>Sexual Assault First Degree:</u> Defendant knowingly subjects to sexual penetration another person who is mentally defective. HAW. REV. STAT. § 707-730</p> <p><u>Sexual Assault Second Degree:</u> Defendant knowingly subjects to sexual penetration another person who is mentally incapacitated or physically helpless. HAW. REV. STAT. § 707-731</p> <p><u>Sexual Assault Third Degree:</u> Defendant knowingly subjects to sexual contact another person who is</p>	<p><u>Sexual Assault First Degree:</u> Class A Felony</p> <p><u>Sexual Assault Second Degree:</u> Class B Felony</p> <p><u>Sexual Assault Third Degree:</u> Class C Felony</p>	<p>Consent is not specifically defined by statute.</p> <p>However, "Consent signifies voluntary agreement or concurrence . . . [c]onsent may be express or implied." <u>State v. Adams</u>, 10 Haw. App. 593, 605, 880 P.2d 226, 234 (1994).</p>	<p>"Mentally defective" means a person suffering from a disease, disorder, or defect which renders the person incapable of appraising the nature of the person's conduct. HAW. REV. STAT. §§ 707-700.</p>	<p>Yes, "Physically helpless" means a person who is unconscious or for any other reason physically unable to communicate unwillingness to an act. HAW. REV. STAT. §§ 707-700; <i>See</i> Sexual Assault Second and Third Degree.</p>

State	Statutory Language	Classification/Punishment of Crime	Consent Defined	Cognitive Disability/Incapacity and Consent	Physical Disability/Incapacity/Helplessness and Consent
	<p>mentally defective, mentally incapacitated, or physically helpless, or causes such a person to have sexual contact with the actor. HAW. REV. STAT. § 707-732</p>				
Idaho	<p><u>Rape:</u> Where the victim is incapable, through any unsoundness of mind, due to any cause including, but not limited to, mental illness, mental disability or developmental disability (temporary or permanent), of giving legal consent; Where the victim is at the time unconscious of the nature of the act; IDAHO CODE ANN. § 18-6101</p>	<p><u>Rape:</u> Rape is punishable by imprisonment in the state prison for a term not less than one year. The District Judge, at his/her discretion, may extend the imprisonment to life.</p>	Consent is not specifically defined.	<p>“Unconscious of the nature of the act” means incapable of resisting because the victim: Was unconscious or asleep; or Was not aware, knowing, perceiving, or cognizant that the act occurred. IDAHO CODE ANN. § 18-6101</p>	<p>Yes, a person commits a sex crime if the victim is a “vulnerable adult.” “Vulnerable adult” means “a person eighteen (18) years of age or older who is unable to protect himself from abuse, neglect or exploitation due to physical or mental impairment which affects the person's judgment or behavior to the extent that he lacks sufficient understanding or capacity to make or communicate or implement decisions regarding his person, funds, property or resources.” IDAHO CODE ANN. § 18-6101</p>
Illinois	<p><u>Criminal Sexual Assault:</u> An act of sexual penetration and defendant: Knows that the victim is unable to</p>	<p><u>Criminal Sexual Assault:</u> Class 1 Felony</p>	<p>“Consent” means a freely given agreement to the act of sexual penetration or sexual</p>	N/A	<p>No, but the crime and punishment is more severe if the victim is a person with a physical disability.</p>

State	Statutory Language	Classification/Punishment of Crime	Consent Defined	Cognitive Disability/Incapacity and Consent	Physical Disability/Incapacity/Helplessness and Consent
	<p>understand the nature of the act or is unable to give knowing consent; Ch. 720 Ill. COMP. STAT. 5/11-1.20</p> <p><u>Aggravated criminal sexual assault</u>: (A) Committing criminal sexual assault and any of the following aggravating circumstances exist during the commission of the offense or as part of the same course of conduct as the commission of the offense: The victim has a physical disability; (c) An act of sexual penetration with a victim with a severe or profound intellectual disability. Ch. 720 Ill. COMP. STAT. 5/11-1.30</p>	<p><u>Aggravated criminal sexual assault</u>: Class X Felony</p>	<p>conduct in question. Lack of verbal or physical resistance or submission by the victim resulting from the use of force or threat of force by the accused shall not constitute consent. The manner of dress of the victim at the time of the offense shall not constitute consent. A person who initially consents to sexual penetration or sexual conduct is not deemed to have consented to any sexual penetration or sexual conduct that occurs after he or she withdraws consent during the course of that sexual penetration or sexual conduct. 720 Ill. COMP. STAT. 5/11-1.70.</p>		<p>720 Ill. COMP. STAT. 5/11-1.30; 720 ILCS 5/11-1.60.</p>
Indiana	<p><u>Rape</u>: Knowingly or intentionally having sexual intercourse with another person or knowingly or intentionally causing another person to perform or submit to other sexual conduct when: The other person is so</p>	<p><u>Rape</u>: Level 3 Felony</p> <p><u>Sexual Battery</u>: Level 6 Felony</p>	<p>Consent is not specifically defined by statute.</p> <p>However, capacity to consent presupposes an intelligence capable of understanding the act, its</p>	N/A	No.

State	Statutory Language	Classification/Punishment of Crime	Consent Defined	Cognitive Disability/Incapacity and Consent	Physical Disability/Incapacity/Helplessness and Consent
	<p>mentally disabled or deficient that consent to sexual intercourse or other sexual contact cannot be given. IND. CODE § 35-42-4-1</p> <p><u>Sexual Battery</u>: With intent to arouse or satisfy defendant’s own sexual desires or the sexual desires of another person, defendant: So mentally disabled or deficient that consent to the touching cannot be given. IND. CODE § 35-42-4-8</p>		<p>nature, and possible consequences. <u>Stafford v. State</u>, 455 N.E.2d 402, 406 (Ind. Ct. App. 1983).</p>		
Iowa	<p><u>Sexual Abuse in the Third Degree</u>: Performing a sex act under any of the following: The other person is suffering from a mental defect or incapacity which precludes giving consent; The act is performed while the other person is mentally incapacitated, physically incapacitated, or physically helpless. IOWA CODE ANN. § 709.4</p>	<p><u>Sexual Abuse in the Third Degree</u>: Class C Felony</p>	<p>Consent is not specifically defined by statute.</p> <p>However, It is not necessary to establish physical resistance by a person in order to establish that an act of sexual abuse was committed by force or against the will of the person. However, the circumstances surrounding the commission of the act may be considered in</p>	N/A	<p>Yes a person commits a sex crime if: the sex act is performed while the other person is physically incapacitated or physically helpless. I.C.A. § 709.4.</p> <p>“Physically helpless” means that a person is unable to communicate an unwillingness to act because the person is unconscious, asleep, or is otherwise physically limited. I.C.A. § 709.1A.</p>

State	Statutory Language	Classification/Punishment of Crime	Consent Defined	Cognitive Disability/Incapacity and Consent	Physical Disability/Incapacity/Helplessness and Consent
			determining whether or not the act was done by force or against the will of the other. IOWA CODE ANN. § 709.5.		“Physically incapacitated” means that a person has a bodily impairment or handicap that substantially limits the person’s ability to resist or flee. IOWA CODE ANN. § 709.1A.
Kansas	<p><u>Rape</u>: Knowingly engaging in sexual intercourse with another person who does not consent when: The victim is unconscious or physically powerless; Knowingly engaging in sexual intercourse with another person when that person is incapable of giving consent because of mental deficiency or disease. K.S.A. 21-5503.</p> <p><u>Aggravated Sexual Battery</u>: The touching of a nonconsenting victim who is 16 or more years of age with the intent to arouse or satisfy the sexual desires of the offender or another when: The victim is incapable of giving consent because of mental deficiency or is physically powerless. KAN. STAT. ANN. § 21-5505</p>	<p><u>Rape</u>: Level 1 Felony</p> <p><u>Aggravated Sexual Battery</u>: Class A misdemeanor</p>	<p>Consent is not specifically defined by statute.</p> <p>However, If an individual can comprehend the sexual nature of the proposed act, can understand he or she has the right to refuse to participate, and possesses a rudimentary grasp of the possible results arising from participation in the act, he or she has the capacity to consent. <u>State v. Ice</u>, 27 Kan. App. 2d 1, 5, 997 P.2d 737, 740 (2000).</p>	N/A	Yes. A person commits a sex crime where the person otherwise meets the elements of the sex crime and the victim is unconscious or physically powerless. KAN. STAT. ANN. § 21-5503.

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Kentucky	<p><u>Rape in the First Degree:</u> Sexual intercourse with someone who cannot consent because they are physically helpless. KY. REV. STAT. ANN. § 510.040</p> <p><u>Rape in the Second Degree:</u> When someone who is 18 or older has intercourse with someone who is mentally incapacitated. KY. REV. STAT. ANN. § 510.050</p> <p><u>Sodomy in the Second Degree:</u> Deviate sexual intercourse with someone who is mentally incapacitated. KY. REV. STAT. ANN. § 510.080</p> <p><u>Sodomy in the Third Degree:</u> Deviate sexual intercourse with someone who is incapable of consent because of an intellectual disability. KY. REV. STAT. ANN. § 510.090</p> <p><u>Sexual Abuse in the First Degree:</u> A person subjects another person to sexual contact by forcible compulsion; or Subjects another person to</p>	<p><u>Rape in the First Degree:</u> Class B Felony</p> <p><u>Rape in the Second Degree:</u> Class C Felony</p> <p><u>Sodomy in the Second Degree:</u> Class C Felony</p> <p><u>Sodomy in the Third Degree:</u> Class D Felony</p> <p><u>Sexual Abuse in the First Degree:</u> Class D Felony</p> <p><u>Sexual Abuse in the Second Degree:</u> Class A Misdemeanor</p>	<p>“Lack of Consent” results from: (1)forcible compulsion; (2) incapacity to consent; (3) if the offence charged is sexual abuse, any circumstances in addition to forcible compulsion or incapacity to consent in which the victim does not expressly or impliedly acquiesce in the actor’s conduct. KY. REV. STAT. ANN. § 510.020.</p>	<p>A person is also “deemed incapable of consent” when he or she is: an individual with an intellectual disability or an individual that suffers from mental illness; mentally incapacitated; and physically helpless. KY. REV. STAT. ANN. § 510.020.</p> <p>“Individual with an intellectual disability” means a person with significantly sub-average general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period. KY. REV. STAT. ANN. § 510.010.</p> <p>“Mental illness” means a diagnostic term that covers many clinical categories, typically including behavioral or psychological symptoms, or both, along with impairment of personal</p>	<p>Yes, a person is deemed incapable of consent when they are physically helpless. “Physically helpless” means that a person is unconscious or for any other reason is physically unable to communicate unwillingness to act.” KY. REV. STAT. ANN. § 510.010.</p>

State	Statutory Language	Classification/Punishment of Crime	Consent Defined	Cognitive Disability/Incapacity and Consent	Physical Disability/Incapacity/Helplessness and Consent
	<p>sexual contact who is incapable of consent because he or she: Is physically helpless; or mentally incapacitated. KY. REV. STAT. ANN. § 510.110</p> <p><u>Sexual Abuse in the Second Degree:</u> When someone subjects another person to sexual contact who is incapable of consent because he or she is an individual with an intellectual disability. KY. REV. STAT. ANN. § 510.120</p>			<p>and social function, and specifically defined and clinically interpreted through reference to criteria contained in the Diagnostic and Statistical Manual of Mental Disorders (Third Edition) and any subsequent revision thereto, of the American Psychiatric Association. KY. REV. STAT. ANN. § 510.010.</p>	
Louisiana	<p><u>First Degree Rape:</u> First degree rape is a rape committed upon a person 65 or older or where the anal, oral, or vaginal sexual intercourse is deemed to be without lawful consent of the victim because it is committed under any one or more of the following circumstances: When the victim is prevented from resisting the act because the victim suffers from a physical or mental infirmity preventing such resistance. LA. REV. STAT. ANN. §§ 14.41, 14.42</p>	<p><u>First Degree Rape:</u> Life imprisonment at hard labor without parole.</p> <p><u>Third Degree Rape:</u> Imprisoned, with or without hard labor, without benefit of parole, probation, or suspension of sentence, for not more than twenty-five years.</p> <p><u>Sexual Battery:</u> Imprisoned, with or without hard labor, without benefit of parole, probation, or suspension of sentence, for not more than ten years.</p>	Consent is not specifically defined.	N/A	Yes. <i>See</i> statutory language section for sexual battery.

State	Statutory Language	Classification/Punishment of Crime	Consent Defined	Cognitive Disability/Incapacity and Consent	Physical Disability/Incapacity/Helplessness and Consent
	<p><u>Third Degree Rape</u>: Anal, oral, or vaginal sexual intercourse without the lawful consent of a victim because it is committed under any one or more of the following circumstances: The victim, through unsoundness of mind, is temporarily or permanently incapable of understanding the nature of the act and the offender knew or should have known of the victim's incapacity. LA. REV. STAT. ANN. §§ 14.43</p> <p><u>Sexual Battery</u>: Intentional touching of the anus or genitals of the victim by the offender using any instrumentality or any part of the body of the offender, or the touching of the anus or genitals of the offender by the victim using any instrumentality or any part of the body of the victim, when any of the following occur: The act is without consent of the victim, and the victim is prevented from resisting the act because either of the following conditions exist:</p>	<p><u>Oral Sexual Battery</u>: Imprisoned, with or without hard labor, without benefit of parole, probation, or suspension of sentence, for not more than ten years.</p>			

State	Statutory Language	Classification/Punishment of Crime	Consent Defined	Cognitive Disability/Incapacity and Consent	Physical Disability/Incapacity/Helplessness and Consent
	<p>The victim has paraplegia, quadriplegia, or otherwise is physically incapable of preventing the act due to a physical disability; the victim is incapable through unsoundness of mind, of understanding the nature of the act, and the offender knew or should have known of victim's disability. LA. REV. STAT. ANN. §§ 14.43.1</p> <p><u>Oral Sexual Battery:</u> Intentional touching of the anus or genitals of the victim by the offender using the mouth or tongue of the offender, or the touching of the anus or genitals of the offender by the victim using the mouth or tongue of the victim, when any of the following occur: The offender is 17 or older and any of the following exist: The act is without the consent of the victim, and the victim is prevented from resisting the act because either of the following conditions exist:</p>				

State	Statutory Language	Classification/Punishment of Crime	Consent Defined	Cognitive Disability/Incapacity and Consent	Physical Disability/Incapacity/Helplessness and Consent
	<p>The victim has paraplegia, quadriplegia, or otherwise is physically incapable of preventing the act due to a physical disability; the victim is incapable through unsoundness of mind, of understanding the nature of the act, and the offender knew or should have known of victim's disability. LA. REV. STAT. ANN. §§ 14.43.3</p>				
Maine	<p><u>Gross Sexual Assault</u>: Sexual act with another person and: The other person suffers from mental disability that is reasonably apparent or known to the actor, and which in fact renders the other person substantially incapable of appraising the nature of the contact involved or of understanding that the person has the right to deny or withdraw consent; The other person is unconscious or otherwise physically incapable of resisting and has not consented to the sexual act. ME. REV. STAT. tit. 17A, § 253</p>	<p><u>Gross Sexual Assault</u>: Class A Crime <u>Unlawful Sexual Conduct</u>: <i>See Statute.</i></p>	Consent is not specifically defined.	N/A	Yes. <i>See</i> statutory language section.

State	Statutory Language	Classification/Punishment of Crime	Consent Defined	Cognitive Disability/Incapacity and Consent	Physical Disability/Incapacity/Helplessness and Consent
	<p><u>Unlawful Sexual Conduct:</u> Intentionally subjecting another person to any sexual contact and: the other person is unconscious or otherwise physically incapable of resisting and has not consented to the sexual contact (a Class D crime unless the contact includes penetration, in which case the offense is a class C crime); The other person suffers from a mental disability that is reasonably apparent or known to the actor that in fact renders the other person substantially incapable of appraising the nature of the contact involved or of understanding that the other person has the right to deny or withdraw consent (a Class D crime unless the contact includes penetration, in which case the offense is a Class C crime); ME. REV. STAT. tit. 17A, § 255-A</p>				
Maryland	<p><u>Rape in the Second Degree:</u> Vaginal intercourse or a sexual act with another: By</p>	<p><u>Rape in the Second Degree:</u> Felony Rape</p>	<p>Consent is not specifically defined by statute.</p>	<p>“Mentally incapacitated individual” means an individual who, because</p>	<p>Yes. “Physically helpless individual” means an individual who:</p>

State	Statutory Language	Classification/Punishment of Crime	Consent Defined	Cognitive Disability/Incapacity and Consent	Physical Disability/Incapacity/Helplessness and Consent
	<p>force, or the threat of force, without the consent of the other; If the victim is a substantially cognitively impaired individual, a mentally incapacitated individual, or a physically helpless individual, and the person performing the act knows or reasonably should know that the victim is a substantially cognitively impaired individual, etc.; MD. CODE. ANN. CRIM. LAW § 3-304</p> <p><u>Sexual Offense in the Third Degree</u>: Engaging in sexual contact with another without the consent of the other; and: Engaging in sexual contact with another if the victim is a substantially cognitively impaired individual, a mentally incapacitated individual, or a physically helpless individual, and the person performing the act knows or reasonably should know the victim is a substantially cognitively impaired individual, a mentally incapacitated individual, or a physically helpless individual;</p>	<p><u>Sexual Offense in the Third Degree</u>: Felony Sexual Offense</p>	<p>However, In the case of a conscious and competent victim, mere passivity on the victim's part will not establish the absence of consent. The law looks for express negation or implicit negation as evidenced by some degree of physical resistance or an explanation of why the will to resist was overcome by force or fear of harm. <u>Travis v. State</u>, 218 Md. App. 410, 428, 98 A.3d 281, 291 (2014).</p>	<p>of the influence of a drug, narcotic, or intoxicating substance, or because of an act committed on the individual without the individual's consent or awareness, is rendered substantially incapable of:</p> <p>(1) appraising the nature of the individual's conduct; or</p> <p>(2) resisting vaginal intercourse, a sexual act, or sexual contact. MD Code, Criminal Law, § 3-301.</p> <p>“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:</p> <p>(1) appraising the nature of the individual’s conduct;</p> <p>(2) resisting vaginal intercourse, a sexual act, or sexual contact; or</p> <p>(3) communicating unwillingness to submit to</p>	<p>(1) Is unconscious</p> <p>(2) Is physically unable to resist or communicate unwillingness to participate.</p> <p>MD. CODE. ANN. CRIM. LAW, § 3-301.</p>

State	Statutory Language	Classification/Punishment of Crime	Consent Defined	Cognitive Disability/Incapacity and Consent	Physical Disability/Incapacity/Helplessness and Consent
	MD. CODE. ANN. CRIM. LAW § 3-307			vaginal intercourse, a sexual act, or sexual contact. MD. CODE ANN. CRIM. LAW § 3-301.	
Massachusetts	<p><u>Indecent assault and battery on person fourteen or older</u> MASS. GEN. LAWS ANN. ch. 265 § 13H</p> <p>A person commits an indecent assault and battery on a person with a disability, as defined by 13K.</p> <p><u>Indecent assault and battery on a person with an intellectual disability</u> MASS. GEN. LAWS ANN. ch. 265 § 13F</p> <p>A person commits an indecent assault and battery on a person with an intellectual disability knowing such a person to have an intellectual disability.</p> <p><u>Assault and battery upon an elderly or disabled person; definitions</u></p>	<p><u>Indecent assault and battery on person fourteen or older</u> MASS. GEN. LAWS ANN. ch. 265 § 13H</p> <p>Unclassified</p> <p>Imprisonment in state prison for not more than 10 years, or imprisonment in the house of corrections for not more than 2 ½ years.</p> <p>Whoever commits second or subsequent offense shall be punished by imprisonment in the state prison for not more than 20 years.</p> <p><u>Indecent assault and battery on a person with an intellectual disability</u> MASS. GEN. LAWS ANN. ch. 265 § 13F</p> <p>If assault and battery is committed with “knowledge” of person’s disability, person</p>	<p>Consent: Not specifically defined.</p> <p>But victim does not consent:</p> <p>If the victim was incapable of consenting due to such developmental disability and/or mental incapacity. <i>Com. v. Fuller</i>, 845 N.E.2d 434, 66 Mass.App.Ct. 84 (2006).</p>	<p>Yes, if the victim was incapable of consenting due to such developmental disability and/or mental incapacity. <i>Com. v. Fuller</i>, 845 N.E.2d 434, 66 Mass.App.Ct. 84 (2006).</p> <p>The punishment for indecent assault and battery on a person with a disability is more severe. MASS. GEN. LAWS ANN. ch. 265, §13H.</p> <p>Person with disability: a person with a permanent or long-term physical or mental impairment that prevents or restricts the individual’s ability to provide his or her own care or protection. <u>MASS. GEN. LAWS ANN. ch. 265 § 13K</u></p>	Yes.

State	Statutory Language	Classification/Punishment of Crime	Consent Defined	Cognitive Disability/Incapacity and Consent	Physical Disability/Incapacity/Helplessness and Consent
	<p>MASS. GEN. LAWS ANN. ch. 265 § 13K</p>	<p>shall for the first offense be punished by imprisonment in the state prison for not less than 4 years or not more than 10 years.</p> <p>For the second or subsequent offense, by imprisonment in the state prison for not less than 10 years.</p>			
<p>Michigan</p>	<p><u>1st degree criminal sexual conduct</u> MICH. COMP. LAWS ANN. § 750.520b</p> <p>Sexual penetration AND the actor is aided or abetting by one or more other persons and knows that victim is mentally incapable, incapacitated or physically helpless; or</p> <p>Causes personal injury and knows the victim is mentally incapable, mentally incapacitated, or physically helpless; or</p> <p>Victim is mentally incapable, mentally disabled, mentally</p>	<p><u>1st degree criminal sexual conduct</u> MICH. COMP. LAWS ANN. § 750.520b</p> <p>Felony in the 1st degree</p> <p>Imprisonment for life or for any term of years.</p> <p>If the violation is committed by an individual 17 years or older against individual that is less than 13 years old, imprisonment for life or any term, but not less than 25 years.</p> <p>If violator is 17 or older and committed crime against 13 or younger, imprisonment for</p>	<p>Consent: consent is not specifically defined.</p> <p>Resistance: victim need not resist for a punishable crime to have occurred. MICH. COMP. LAWS ANN. § 750.529i.</p> <p>In the context of the criminal sexual conduct statutes, consent can be utilized as a defense to negate the elements of force or coercion. <i>People v. Waltonen</i>, 728 N.W.2d 881, 272 Mich.App. 678 (2006).</p>	<p>Yes; A person is guilty of criminal sexual conduct if the person engages in sexual penetration or contact and the actor knows or has reason to know that the victim is mentally incapable, mentally incapacitated, or physically helpless. MICH. COMP. LAWS ANN. § 750.520d(1)(c) and MICH. COMP. LAWS ANN. § 750.520e(1)(c).</p> <p>Developmental disability: an impairment of general intellectual functioning or adaptive behavior that meets all of the following</p>	<p>Yes; A person is guilty of criminal sexual conduct if the person engages in sexual penetration or contact and the actor knows or has reason to know that the victim is physically helpless. MICH. COMP. LAWS ANN. § 750.520d(1)(c) and MICH. COMP. LAWS ANN. § 750.520e(1)(c).</p>

State	Statutory Language	Classification/Punishment of Crime	Consent Defined	Cognitive Disability/Incapacity and Consent	Physical Disability/Incapacity/Helplessness and Consent
	<p>incapacitated, or physically helpless and actor is related to the victim or is in a position of authority and uses it to coerce the victim to submit</p> <p><u>2nd degree criminal sexual conduct (unclassified felony):</u> MICH. COMP. LAWS ANN. § 750.520c Sexual contact where:</p> <p>The actor is aided or abetting by one or more other persons and knows that victim is mentally incapable, incapacitated or physically Helpless; or</p> <p>Causes personal injury and knows the victim is mentally incapable, mentally incapacitated, or physically helpless; or</p> <p>Victim is mentally incapable, mentally disabled, mentally incapacitated, or physically helpless and actor is related to the victim or is in a position of authority and</p>	<p>life without possibility of parole if repeat offender.</p> <p><u>2nd degree criminal sexual conduct</u> Mich. Comp. Laws Ann. § 750.520c Felony in the 2nd degree Imprisonment of not more than 15 years & lifetime electronic monitoring. <u>3rd degree criminal sexual conduct</u> MICH. COMP. LAWS ANN. § 750.520d Felony of the 3rd degree Imprisonment for not more than 15 years.</p> <p><u>4th degree criminal sexual conduct</u> MICH. COMP. LAWS ANN. § 750.520e Misdemeanor Imprisonment for not more than 2 years or a fine not more than \$500, or both.</p>		<p>criteria: (i) it originated before the person became 18 years of age; (ii) it has continued since its origination or can be expected to continue indefinitely; (iii) it constitutes a substantial burden to the impaired person's ability to perform in society; (iv) it is attributable to 1 or more of the following: (a) intellectual disability, cerebral palsy, epilepsy, or autism; (b) any other condition of a person that produces a similar impairment or requires treatment and services similar to those required for a person described in this subdivision. MICH. COMP. LAWS ANN. § 750.520a (b).</p> <p>Intellectual disability: terms defined in section 100b of the mental health code; <u>1974 PA 258, MCL 330.1110b, 750.520a (d).</u></p> <p>Mental illness: a substantial disorder of thought or mood that</p>	

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	<p>uses it to coerce the victim to submit.</p> <p><u>3rd degree criminal sexual conduct (unclassified felony):</u> MICH. COMP. LAWS ANN. § 750.520d</p> <p>Sexual penetration AND</p> <p>The actor knows or has reason to know that the victim is mentally incapable, mentally incapacitated, or physically helpless.</p> <p><u>4th degree criminal sexual conduct (misdemeanor):</u> MICH. COMP. LAWS ANN. § 750.520e</p> <p>Sexual contact AND</p> <p>Actor knows the victim is mentally incapable, mentally incapacitated, or physically helpless.</p>	<p><u>Subsequent offenders:</u> MICH. COMP. LAWS ANN. § 750.520f</p> <p>Subsequent offenses under 520b, 520c, 520d, mandatory minimum sentence of 5 years.</p>		<p>significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life. MICH. COMP. LAWS ANN. § 750.520a (h).</p> <p>Mentally disabled: a person has a mental illness, is intellectually disabled, or has a developmental disability. MICH. COMP. LAWS ANN. § 750.520a (i).</p> <p>Mentally incapable: means that a person suffers from a mental disease or defect that renders that person temporarily or permanently incapable of appraising the nature of his or her conduct. MICH. COMP. LAWS ANN. § 750.520a(j).</p> <p>Physically helpless: means that a person is unconscious, asleep, or for any other reason is physically unable to communicate</p>	

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				unwillingness to an act. MICH. COMP. LAWS ANN. § 750.520a(m).	
Minnesota	<p><u>Criminal sexual conduct in the 1st degree:</u> MINN. STAT. § 609.342</p> <p>Sexual penetration of person under 13 AND</p> <p>Actor causes personal injury and knew or should have known complainant was mentally impaired, mentally incapacitated, or physically helpless.</p> <p><u>Criminal sexual conduct in the 2nd degree:</u> MINN. STAT. § 609.343</p> <p>Sexual contact AND</p> <p>Actor causes personal injury and actor used force or coercion in contact or actor knew victim was mentally impaired, mentally incapacitated, or physically</p>	<p><u>Criminal sexual conduct in the 1st degree:</u> MINN. STAT. § 609.342</p> <p>Unclassified</p> <p>Imprisonment for not more than 30 years or payment of a fine not more than \$40,000 or both.</p> <p>Heightened penalties for inhumane crimes, 609.3455.</p> <p><u>Criminal sexual conduct in the 2nd Degree</u> MINN. STAT. § 609.343.</p> <p>Unclassified</p> <p>Imprisonment for not more than 25 years or payment of not more than \$35,000, or both.</p>	<p>Consent: means words or overt actions by a person indicating a freely given present agreement to perform a particular sexual act with the actor.</p> <p>A person who is mentally incapacitated or physically helpless cannot consent. MINN. STAT. § 609.341 (4).</p>	<p>Yes; if the person is mentally impaired, mentally incapacitated, or physically helpless they cannot consent. MINN. STAT. § 609.341.</p> <p>It constitutes criminal sexual conduct if the actor commits sexual penetration or contact and knows or has reason to know that the complainant is mentally impaired, mentally incapacitated, or physically helpless. MINN. STATE. § 609.342, MINN. STAT. § 609.343.</p> <p>Mentally impaired: means a person, as a result of inadequately developed or impaired intelligence or a substantial psychiatric disorder of thought or mood, lacks the judgment</p>	<p>Yes; a person who is physically helpless, by definition, cannot consent. MINN. STAT. § 609.341.</p> <p>It constitutes criminal sexual conduct if the actor commits sexual penetration or contact and knows or has reason to know that the complainant is mentally impaired, mentally incapacitated, or physically helpless. MINN. STAT. § 609.342, MINN. STAT. § 609.343.</p> <p><i>See previous column.</i></p> <p>Physically helpless: means that a person is (a) asleep or not conscious, (b) unable to withhold consent or to withdraw consent because of a physical condition, or (c) unable to communicate nonconsent and the condition is known</p>

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	<p>helpless.</p> <p><u>Criminal sexual conduct in the 3rd degree:</u> MINN. STAT. § 609.344</p> <p>Sexual penetration AND</p> <p>Actor knew victim was mentally impaired, mentally incapacitated, or physically helpless.</p> <p><u>Criminal sexual conduct in the 4th degree:</u> MINN. STAT. § 609.345.</p> <p>Sexual contact AND</p> <p>Actor knew victim was mentally impaired, mentally incapacitated, or physically helpless.</p>	<p>Heightened penalties if inhumane crimes, 609.3455 or 609.109.</p> <p><u>Criminal sexual conduct in the 3rd degree:</u> MINN. STAT. § 609.344</p> <p>Unclassified</p> <p>Imprisonment for not more than 15 years or payment of a fine not more than \$30,000, or both; or</p> <p>If the person was convicted under Subdivision 1, paragraph (b) and if the actor was no more than 48 months older than the complainant, imprisonment for not more than 5 years or a fine of not more than \$30,000, or both.</p> <p>Heightened penalties for inhumane crimes: MINN. STAT. § 609.3455.</p> <p><u>Criminal sexual conduct in the 4th Degree</u></p> <p>Unclassified</p>		<p>to give a reasoned consent to sexual contact or to sexual penetration. MINN. STAT. § 609.341.</p> <p>Mentally incapacitated:</p> <p>a person under the influence of alcohol, a narcotic, anesthetic, or any other substance, administered to that person without the person's agreement, lacks the judgment to give a reasoned consent to sexual contact or sexual penetration. MINN. STAT. § 609.341.</p> <p>Physically helpless: means that a person is (a) asleep or not conscious, (b) unable to withhold consent or to withdraw consent because of a physical condition, or (c) unable to communicate nonconsent and the condition is known or</p>	<p>or reasonably should have been known to the actor. MINN. STAT. § 609.341.</p>

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		<p>Imprisonment for not more than 10 years or payment of a fine of not more than \$20,000, or both.</p> <p>Other penalties for inhumane crimes: MINN. STAT. § 609.3455.</p>		<p>reasonably should have been known to the actor. MINN. STAT. § 609.341.</p>	
Mississippi	<p><u>Rape; assault w/intent to ravish</u> MISS. CODE ANN. § 97-3-71</p> <p>Any person who assaults with intent to forcibly ravish any female of previous chaste character.</p> <p><u>Sexual battery:</u> MISS. CODE ANN. § 97-3-95</p> <p>Sexual penetration AND</p> <p>Without consent OR</p> <p>With a mentally defective, incapacitated or physically helpless person.</p>	<p><u>Rape; assault w/intent to ravish</u> MISS. CODE ANN. § 97-3-71</p> <p>Unclassified.</p> <p>Imprisonment for life, or for such shorter time as may be fixed by the jury, or by the court upon the entry of a plea of guilty.</p> <p><u>Sexual battery penalties:</u> MISS. CODE ANN. § 97-3-95</p> <p>Unclassified</p> <p><u>97-3-95(1)(a), (b) or (2) penalties:</u> (without consent; a mentally defective, mentally incapacitated, or physically helpless person; position of trust or authority)</p>	<p>Consent: not defined.</p> <p>Consent is a defense to a charge of sexual battery committed with a person 14 years of age or older. <i>Coates v. State</i>, 495 So. 2d 464 (Miss. 1986).</p>	<p>Yes; if a person engages in sexual penetration with a mentally defective, mentally incapacitated, or physically helpless person, they are guilty of sexual battery. MISS. CODE ANN. § 97-3-95.</p> <p>Mentally defective person: one who suffers from a mental disease, defect or condition which renders that person temporarily or permanently incapable of knowing the nature and quality of his or her conduct. MISS. CODE ANN. § 97-3-97(b)</p> <p>Mentally incapacitated person: one rendered</p>	<p>Yes; is a person engages in sexual penetration with a physically helpless person, they are guilty of sexual battery. MISS. CODE ANN. § 97-3-95.</p> <p>Physically helpless person: one who is unconscious or one who for any other reason is physically incapable of communicating an unwillingness to engage in an act. MISS. CODE ANN. § 97-3-97.</p>

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		<p>•Imprisonment in State Penitentiary for a period of not more than 30 years, and for a second or subsequent offense, not more than 40 years.</p>		<p>incapable of knowing or controlling his or her conduct, or incapable of resisting an act due to the influence of any drug, narcotic, anesthetic, or other substance administered to that person without his or her consent. MISS CODE ANN. § 97-3-97(c).</p>	
<p>Missouri</p>	<p><u>First degree rape:</u> MO. REV. STAT. § 566.030</p> <p>Such person has sexual intercourse with another person who is incapacitated,</p> <p>Incapable of consent; or</p> <p>Lacks the capacity to consent; or</p> <p>By the use of forcible compulsion.</p> <p><u>Second degree rape</u> MO. REV. STAT. § 566.031</p> <p>Such person has sexual intercourse with another</p>	<p><u>First degree rape:</u> MO. REV. STAT. § 566.030</p> <p>Felony</p> <p>Life imprisonment of a term of years or less than 5 years; unless: (i) the offense is an aggravated sexual offense, in which case the authorized term of imprisonment if life imprisonment or a term of years not less than 15 years; (ii) the person is persistent or predatory sexual offender and subjected to an extended term of imprisonment; (iii) the victim is a child less than 12 years of age, in which case the required terms of imprisonment is life</p>	<p>Consent: not defined, but rape in the first degree occurs when 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. MO. REV. STAT. § 566.030.</p>	<p>Yes; if a person has sexual intercourse with another person who is incapacitated, incapable of consent, or lacks the capacity to consent, or by the use of forcible compulsion, they commit rape in the first degree. MO REV. STAT. § 566.030.</p>	<p>Yes, a person commits the offense of rape in the first degree if he or she has sexual intercourse with another person who is incapacitated, incapable of consent, or lacks the capacity to consent, or by the use of forcible compulsion. MO. REV. STAT. § 566.030.</p>

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	<p>person knowing that he or she does so without that person's consent.</p> <p><u>Sodomy (First & Second Degree)</u> MO. REV. STAT. § 566.060 & § 566.061</p> <p><u>First degree:</u></p> <p>Such person has deviate sexual intercourse with another person who is incapacitated, incapable of consent, or by the use of forcible compulsion.</p> <p><u>Second degree:</u></p> <p>Such person has deviate sexual intercourse with another person knowing that he or she does so without that person's consent.</p> <p><u>Sexual abuse</u> MO. REV. STAT. § 566.100 & 101</p> <p><u>First degree:</u></p> <p>Sexual contact when that person is incapacitated, incapable of consent, or lacks the capacity to consent,</p>	<p>imprisonment; or (iv) the victim is less than 12 years old and rape was outrageously or wantonly vile and inhumane, in which case required term is life imprisonment.</p> <p><u>Second degree rape:</u> MO. REV. STAT. § 566.031</p> <p>Class D felony</p> <p>Maximum imprisonment of 7 years and maximum fine \$10,000.</p> <p><u>Sodomy (First & Second Degree)</u> Mo. Rev. Stat. § 566.060 & 566.061</p> <p>Felony</p> <p>First degree: life imprisonment or no less than 5 years.</p> <p>Second degree: maximum imprisonment of 7 years and maximum fine of \$10,000.</p> <p><u>Sexual abuse</u> MO. REV. STAT.</p>			

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	<p>or by the use of forcible compulsion.</p> <p><u>Second degree:</u></p> <p>Purposely subjects another person to sexual contact without that person's consent.</p>	<p>§ 566.100 & 101</p> <p><u>1st degree:</u> Class C felony</p> <p>maximum of 10 years and not less than 3 years imprisonment and maximum fine of \$10,000, unless in the course thereof the actor inflicts serious physical injury or displays a deadly weapon or dangerous instrument in a threatening manner or subjects the victim to sexual contact with more than one person or the victim is less than 14, in which case it is a class B felony for which a sentence of a max of 15 years and not less than 5 years imprisonment may be imposed.</p> <p><u>2nd degree:</u> Class A misdemeanor</p> <p>Max of 1 year imprisonment and a fine of \$2,000 may be imposed, unless it is an aggravated sexual offense in which case it is a class E felony for which a sentence of a max of 4 years of</p>			

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		imprisonment and a fine of \$10,000 may be imposed.			
Montana	<p><u>Sexual Intercourse without consent</u> MONT. CODE ANN. § 45-5-503</p> <p>A person who knowingly has sexual intercourse without consent with another person.</p> <p><u>Sexual assault</u> MONT. CODE ANN. § 45-5-502</p> <p>A person knowingly subjects another person to any sexual contact without consent.</p>	<p><u>Sexual Intercourse without consent</u> MONT. CODE ANN. § 45-5-503</p> <p>Unclassified</p> <p>Life imprisonment, or imprisonment for a term not more than 20 years and may be fined not more than \$50,000.</p> <p>If the victim is less than 16 years old and the offender is 4 or more years older than the victim or if the offender inflicts bodily injury on anyone in the course of committing sexual intercourse without consent, the offender shall be punished:</p> <ul style="list-style-type: none"> •By life imprisonment, or •By imprisonment for a term of not less than 4 years or more than 100 years and may be fined not more than \$50,000, except as provided otherwise. <p><u>Sexual Assault</u></p>	<p>Consent: words or overt actions indicated a freely given agreement to have sexual intercourse or sexual contact and is further defined but not limited by the following:</p> <p>(i) an expression of lack of consent through words or conduct means there is not consent or that consent has been withdrawn; (ii) a current or previous dating or social or sexual relationship by itself or the manner of dress of the person involved with the accused in the conduct at issue does not constitute consent; and (iii) lack of consent may be inferred based on all of the surrounding circumstances and must be considered in determining whether a person gave consent.. MONT. CODE ANN. § 45-5-501.</p>	<p>Yes; “without consent” means the victim is incapable of consent because the victim is mentally disordered or incapacitated. MONT. CODE ANN. § 45-5-501(1)(b)(i).</p> <p><u>Incapacity:</u> “Incapable of consent because...mentally defective or incapacitated; physically helpless; overcome by deception, coercion, or surprise; under 16 years old; or incarcerated.”</p>	<p>Yes; “without consent” means the victim is incapable of consent because the victim is physically helpless. MONT. CODE ANN. § 45-5-501(1)(b)(ii).</p>

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		<p>MONT. CODE ANN. § 45-5-502</p> <p>Unclassified</p> <p>First conviction: fined not more than \$500 or imprisonment for a term not exceeding 6 months, or both.</p> <p>Second conviction: shall be fined no more than \$1,000 or be imprisoned no more than 1 year, or both.</p> <p>Third conviction: fined no more than \$10,000 or be imprisoned for no more than 5 years, or both.</p>	<p>A person cannot give consent if: (i) mentally disordered or incapacitated; (ii) physically helpless; (iii) overcome by deception, coercion, or surprise; (iv) less than 16 years old. MONT. CODE ANN. § 45-5-501.</p>		
Nebraska	<p><u>Sexual assault; first degree</u> NEB. REV. STAT. § 28-319.</p> <p>Sexual penetration; and</p> <p>Perpetrator knew or should have known that the victim was mentally or physically incapable of resisting or appraising the nature of his or her conduct.</p> <p><u>Sexual assault in the second & third degree</u></p>	<p><u>Sexual assault; first degree</u> NEB. REV. STAT. § 28-319</p> <p>Class II felony</p> <p>Minimum of 1 year and maximum of 50 years imprisonment.</p> <p>Subsequent offender, minimum of 25 years of imprisonment.</p>	<p>Consent: consent is not defined but “without consent” means:</p> <p>(a)(i) the victim was compelled to submit due to the use or threat of force or coercion, or (ii) the victim expressed a lack of consent through words, or (iii) the victim expressed a lack of consent through conduct, or (iv) the</p>	<p>Yes; any person who subjects another person to sexual penetration who knew or should have known that the victim was mentally or physically incapable of resisting or appraising the nature of his or her conduct is guilty of sexual assault in the first degree. NEB. REV. STAT. § 28-319(1)(b).</p>	<p>Yes; a victim need not resist verbally or physically where it would be useless or futile to do so. NEB. REV. STAT. § 28-318(8)(c).</p> <p>Any person who subjects another person to sexual contact who knew or should have known that the victim was mentally or physically incapable of resisting or appraising the nature of his or her</p>

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	<p>NEB. REV. STAT. § 28-320</p> <p>A person who subject another person to sexual contact;</p> <p>Without consent of the victim; or</p> <p>Who knew that the victim was physically or mentally incapable of resisting appraising the nature of his or her conduct.</p>	<p><u>Sexual assault in the second & third degree</u> NEB. REV. STAT. § 28-320</p> <p>Class II felony if personal injury; Class I misdemeanor if not personal injury</p> <p>No minimum years and a maximum of 20 years imprisonment if the actor caused serious personal injury to the victim.</p> <p>Maximum of 1 year imprisonment or \$1,000 fine, or both if the actor shall not have caused serious personal injury to the victim.</p>	<p>consent, if any was actually given, was the result of the actor’s deception as to the identity of the actor or the nature or purpose of the act on the part of the actor; (b) the victim need only resist, either verbally or physically, so as to make the victim’s refusal to consent genuine and real and so as to reasonably make known to the actor the victim’s refusal to consent; (c) the victim need not resist verbally or physically where it would be useless or futile to do so. NEB. REV. STAT. § 28-318(9).</p>	<p>Any person who subjects another person to sexual contact who knew or should have known that the victim was mentally or physically incapable of resisting or appraising the nature of his or her conduct is guilty of sexual assault in either the second degree or third degree. NEB. REV. STAT. § 28-320(1)(b).</p> <p><u>Incapacity:</u> “under conditions in which the perpetrator knows or should know that the victim is mentally or physically incapable of resisting or understanding the nature of his conduct.”</p> <p>Nebraska criminal law is consistent with the legal test for effective consent which examines whether an adult cannot give effective consent because the person suffers from a temporary or permanent abnormality. The abnormality may be an inability to resist or the</p>	<p>conduct is guilty of sexual assault in either the second degree or third degree. NEB. REV. STAT. § 28-320(1)(b).</p> <p>Nebraska criminal law is consistent with the legal test for effective consent which examines whether an adult cannot give effective consent because the person suffers from a temporary or permanent abnormality. The abnormality may be an inability to resist or the lack of understanding of the nature of sexual relations. <i>State v. Collins</i>, 7 Neb. App. 187, 197 (1998).</p>

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				lack of understanding of the nature of sexual relations. <i>State v. Collins</i> , 7 Neb. App. 187, 197 (1998).	
Nevada	<p><u>Sexual assault</u> NEV. REV. STAT. ANN. § 200.366</p> <p>The person subjects another person to sexual penetration,</p> <p>Or forces another person to make a sexual penetration on himself or herself or another,</p> <p>When the perpetrator knows or should know that the victim is mentally or physically incapable of resisting or understanding the nature of his or her conduct.</p>	<p><u>Sexual assault</u> NEV. REV. STAT. ANN. § 200.366</p> <p>Category A felony</p> <p>If substantial bodily harm to the victim results from the actions of the defendant committed in connection with or as a part of the sexual assault, imprisonment in state prison: (i) for life; or (ii) for life with possibility of parole after a minimum of 15 years served.</p> <p>If no substantial bodily harm to the victim results, by imprisonment for life with the possibility of parole after a minimum of 10 years has been served.</p> <p>A person who commits a sexual assault against a child under the age of 16 years is</p>	<p>Consent: lack of consent results from:</p> <p>(i) force; (ii) threat of force; or (iii) physical or mental incapacity of the victim. NEV. REV. STAT. ANN. § 200.366(1).</p>	<p>Yes; a person is deemed incapable of consent if he or she is “mentally ... incapable of resisting or understanding the nature of his or her conduct.” NEV. REV. STAT. ANN. § 200.366(1).</p>	<p>Yes. A person is deemed incapable of consent if he or she is “mentally or physically incapable of resisting or understanding the nature of his or her conduct.” NEV. REV. STAT. ANN. § 200.366(1).</p>

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		<p>guilty of a category A felony and shall be punished:</p> <ul style="list-style-type: none"> •If the crime results in substantial bodily harm to the child, by imprisonment in the state prison for life without the possibility of parole. •Except as otherwise provided below, if the crime does not result in substantial bodily harm to the child, by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of 25 years has been served. •If the crime is committed against a child under the age of 14 years and does not result in substantial bodily harm to the child, by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of 35 years has been served. <p>A person who commits a sexual assault against a child under the age of 16 years and who has been previously convicted of:</p>			

State	Statutory Language	Classification/Punishment of Crime	Consent Defined	Cognitive Disability/Incapacity and Consent	Physical Disability/Incapacity/Helplessness and Consent
		<ul style="list-style-type: none"> •A sexual assault pursuant to this section or any other sexual offense against a child; or •An offense committed in another jurisdiction that, if committed in Nevada, would constitute a sexual assault pursuant to this section or any other sexual offense against a child, is guilty of a category A felony and shall be punished by imprisonment in the state prison for life without the possibility of parole. 			
<p>New Hampshire</p>	<p><u>Aggravated Felonious Sexual Assault</u> N.H. REV. STAT. ANN. § 632-A:2</p> <p>Sexual penetration when</p> <p>The actor overcomes the victim through the actual application of physical force, physical violence or superior physical strength, or</p>	<p><u>Aggravated Felonious Sexual Assault</u> N.H. REV. STAT. ANN. § 632-A:10-a; N.H. REV. STAT. ANN. § 632-A:2</p> <p>Felony</p> <p>In general, person may be imprisoned for 10-20 years with the possibility of longer sentences and lifetime supervision if they have previously been convicted.</p> <p><u>Felonious Sexual Assault</u></p>	<p>Consent for aggravated felonious sexual assault: lack of consent can result from:</p> <p>(1) physical force; (2) physical helplessness to resist; (3) coercion through physical force or threat of force; (4) coercion through threat of retaliation; (5) false imprisonment, kidnapping, or extortion; (6) administration of any intoxicating substance</p>	<p>Yes; a person is deemed unable to consent if he or she has a disability that renders him or her incapable of freely arriving at an independent choice as to whether or not to engage in sexual conduct, and the actor knows or has reason to know that the victim has such a disability. N.H. REV. STAT. ANN. § 632-A:2(h).</p>	<p>Yes. A person is deemed unable to consent if he or she is physically helpless to resist. N.H. REV. STAT. ANN. § 632-A:2(b).</p>

State	Statutory Language	Classification/Punishment of Crime	Consent Defined	Cognitive Disability/Incapacity and Consent	Physical Disability/Incapacity/Helplessness and Consent
	<p>When the victim is physically helpless to resist, or</p> <p>When the actor coerces the victim to submit by threatening to use physical violence or superior physical strength on the victim, and the victim believes that the actor has the present ability to execute those threats; or</p> <p>When the actor coerces the victim to submit by threatening to retaliate against the victim, or any other person, and the victim believes that the actor has the ability to execute these threats in the future, or</p> <p>When the actor, without prior knowledge or consent of the victim, administers or has knowledge of another person administering the victim any intoxicating substance which mentally incapacitated the victim, or</p> <p>When the actor provides therapy, medical treatment, or examination of the victim in the course of that therapeutic or treating</p>	<p>N.H. REV. STAT. ANN. § 632-A:3; N.H. REV. STAT. ANN. § 632-A:10-a</p> <p>Class B felony</p> <p>Minimum of 1 year imprisonment, max 7 years</p> <p><u>Sexual Assault</u> N.H. REV. STAT. ANN. § 632-A:4</p> <p>Class A misdemeanor</p> <p>Max 1 year imprisonment.</p>	<p>which mentally incapacitated the victim; (7) coercion during the course of therapy, medical treatment, or examination; (8) disability; (9) concealment or surprise; (10) filial affinity; (11) authority over victim; (12) age. N.H. REV. STAT. ANN. § 632-A:2.</p> <p>Consent for felonious sexual assault and sexual assault: lack of consent can be shown from: (1) age; or (2) coercion by a person in position of authority. N.H. REV. STAT. ANN. § 632-A:3; 632-A:4.</p>		

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	<p>relationship within one year of termination of that therapeutic or treating relationship, acts in a manner of for purposes which are not professionally recognized as ethical or acceptable, or uses this position as such provider to coerce the victim to submit, or</p> <p>When the victim has a disability that renders him or her incapable of freely arriving at an independent choice as to whether or not to engage in sexual conduct, when the actors knows or has reason to know that the victim has such a disability.</p> <p><u>Felonious Sexual Assault</u> N.H. REV. STAT. ANN. § 632-A:2</p> <p>Subjects a person to sexual contact and causes serious personal injury to the victim under any of the circumstances in N.H. REV. STAT. ANN. § 632-A:2.</p> <p><u>Sexual Assault</u></p>				

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	<p>N.H. REV. STAT. ANN. § 632-A:4</p> <p>Actor subjects another person who is 13 years of age or older to sexual contact under any circumstances named in N.H. REV. STAT. ANN. § 632-A:2.</p>				
New Jersey	<p><u>Aggravated Assault in the First Degree</u> N.J. STAT. ANN. § 2C:14-2(a),(d)</p> <p>Sexual penetration; and</p> <p>Victim was physically helpless, mentally defective, or mentally incapacitated and actor knew.</p> <p><u>Aggravated criminal sexual contact:</u> N.J. STAT. ANN. § 2C:14-3(a)</p> <p>Sexual contact and victim was physically helpless, mentally defective, or</p>	<p><u>Aggravated Assault in the First Degree</u> N.J. STAT. ANN. § 2C:14-2(a),(d)</p> <p>Crime of 1st degree For convictions where the victim is less than 13 years old:</p> <ul style="list-style-type: none"> •25 years to life in prison, provided that at least 25 years are served before eligible for parole. •the prosecutor, in consideration of the interests of the victim, may offer a negotiated plea agreement in which the defendant would be sentenced to a specific term of imprisonment of not less than 15 years, during which 	<p>Consent: Lack of consent results from:</p> <ol style="list-style-type: none"> (1) physical force or coercion; (2) use or threat of weapons; (3) physical helplessness or incapacity; (4) victim's minor status (under the age of 16); (5) intellectual or mental incapacity; (6) supervisory or disciplinary power over victim; (7) the actor stands in loco parentis. <p>N.J. STAT. ANN. § 2C:14-2.</p>	<p>Yes; it is aggravated sexual assault to commit an act of sexual penetration with a person that the actor knew or should have known was intellectually or mentally incapacitated, or has a mental disease or defect which renders the victim temporarily or permanently incapable of understanding the nature of his conduct, including, but not limited to, being incapable of providing consent. N.J. STAT. ANN. § 2C:14-2(a)(7).</p>	<p>Yes, it is aggravated sexual assault to commit an act of sexual penetration with a person that the actor knew or should have known was physically helpless or incapacitated. N.J. STAT. ANN. § 2C:14-2(a)(7).</p> <p>Physically helpless includes when a person is unconscious or is physically unable to flee or is physically unable to communicate unwillingness to act. N.J. STAT. ANN. § 2C:14-1(g).</p>

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	mentally incapacitated and actor knew.	<p>the defendant shall not be eligible for parole</p> <ul style="list-style-type: none"> •Otherwise, between 10 years and 20 years imprisonment. <p><u>Aggravated criminal sexual contact:</u> N.J. STAT. ANN.§ 2C:14-3(a)</p> <p>Crime of the 4th degree</p> <p>3-5 years in prison</p>			
New Mexico	<p><u>Criminal Sexual Penetration</u></p> <p>(F) Criminal sexual penetration in the third degree consists of all criminal sexual penetration perpetrated through the use of force or coercion not otherwise specified in this section N.M. STAT. ANN. § 30-9-11</p>	<p><u>Sentencing authority; noncapital felonies; basic sentences and fines; parole authority; meritorious deductions</u></p> <p>(A)(11) For a third degree felony, three years imprisonment (B)(11) For a third degree felony, \$5000 fine N.M. STAT. ANN. § 31-18-15</p>	<p>(A)Force or coercion means... (4) the perpetration of criminal sexual penetration or criminal sexual contact when the perpetrator knows or has reason to know that the victim is unconscious, asleep or otherwise physically helpless or suffers from a mental condition that renders the victim incapable of understanding the nature or consequences of the act N.M. STAT. ANN. § 30-9-10</p>	<p>(A)(4) Force or coercion means... (4) the perpetration of criminal sexual penetration or criminal sexual contact when the perpetrator knows or has reason to know that the victim...suffers from a mental condition that renders the victim incapable of understanding the nature or consequences of the act N.M. STAT. ANN. § 30-9-10</p>	<p>(A)(4) Force or coercion means... (4) the perpetration of criminal sexual penetration or criminal sexual contact when the perpetrator knows or has reason to know that the victim is unconscious, asleep or otherwise physically helpless N.M. STAT. ANN. § 30-9-10</p>

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New York	<p><u>Rape in the Second Degree</u> A person is guilty of rape in the second degree when: (2) he or she engages in sexual intercourse with another person who is incapable of consent by reason of being mentally disabled or mentally incapable. N.Y. PENAL §130.30</p> <p><u>Criminal Sexual Act in the Second Degree</u> A person is guilty of criminal sexual act in the second degree when: (2) he or she engages in oral sexual conduct or anal conduct with another person who is incapable of consent by reason of being mentally disabled or mentally incapacitated. N.Y. PENAL §130.45</p> <p><u>Aggravated Sexual Abuse in the Third Degree</u> 2. A person is guilty of aggravated sexual abuse in the third degree when he or she inserts a foreign object into the vagina, urethra, penis, rectum or anus of another person causing physical injury to such</p>	<p><u>Rape in the Second Degree</u> Rape in the second degree is a class D felony. N.Y. PENAL §130.30</p> <p><u>Criminal Sexual Act in the Second Degree</u> Criminal sexual act in the second degree is a class D felony. N.Y. PENAL §130.45</p> <p><u>Aggravated Sexual Abuse in the Third Degree</u> Aggravated sexual abuse in the third degree is a class D felony. N.Y. PENAL § 130.66</p> <p><u>Sentences of Imprisonment for Conviction of a Felony Sex Offense</u> (4) (iii) For a class D felony, the term must be at least three and one-half years and must not exceed fifteen years; N.Y. PENAL §70.80</p>	<p>(2) Lack of consent results from: (a) forcible compulsion; or (b) incapacity to consent; or (c) where the offense charged is sexual abuse or forcible touching, any circumstances, in addition to forcible compulsion or incapacity to consent, in which the victim does not expressly or impliedly acquiesce on the actor’s conduct; or (d) Where the offense charged is rape in the third degree as defined in subdivision three of section 130.25, or criminal sexual act in the third degree as defined in subdivision three of section 130.40, in addition to forcible compulsion, circumstances under which, at the time of the act of intercourse, oral sexual conduct or anal sexual conduct, the victim clearly expressed that he or she did not consent to engage in such act, and a</p>	<p>(3) A person is deemed incapable of consent when he or she is...(b) mentally disabled; or (c) mentally incapacitated N.Y. PENAL §130.00</p> <p>(5) “Mentally disabled” means that a person suffers from a mental disease or defect which renders his or her conduct incapable of appraising the nature of his or her conduct N.Y. PENAL §130.00</p> <p>(6) “Mentally incapacitated” means that a person is rendered temporarily incapable of appraising or controlling his conduct owing to the influence of a narcotic or intoxicating substance administered to him without his consent, or to any other act committed upon him without his consent. N.Y. PENAL §130.00</p>	<p>(3) A person is deemed incapable of consent when he or she is...(d) physically helpless N.Y. PENAL §130.05</p> <p>(7) “Physically helpless” means that a person is unconscious or for any other reason is physically unable to communicate unwillingness to act. N.Y. PENAL §130.00</p>

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	<p>person and such person is incapable of consent by reason of being mentally disabled or mentally incapacitated. N.Y. PENAL §130.66</p>		<p>reasonable person in the actor's situation would have understood such person's words and acts as an expression of lack of consent to such act under all the circumstances. N.Y. PENAL §130.05</p>		
<p>North Carolina</p>	<p><u>Second Degree Forcible Rape</u> (A) A person is guilty of second-degree forcible rape if the person engages in vaginal intercourse with another person... (2) who has a mental disability or who is mentally incapacitated or physically helpless, and the person performing the act knows or should reasonably know the other person, has a mental disability or is mentally incapacitated or physically helpless. N.C. GEN STAT. § 14-27.22 (2018-47 S.B. 768)</p> <p>(A) A person is guilty of second degree forcible sexual offense if the person engages in a sexual act with</p>	<p><u>Second Degree Forcible Rape</u> (b) Any person who commits the offense defined in this section is guilty of a Class C felony. N.C. GEN. STAT. § 14-27.22</p> <p><u>Second Degree Forcible Sexual Offense</u> (b) Any person who commits the offense defined in this section is guilty of a Class C felony. N.C. GEN. STAT. § 14-27.27 (2018-47 S.B. 768)</p> <p><u>Sexual Battery</u> (b) Any person who commits the offense defined in this section is guilty of a Class A1 misdemeanor. N.C. GEN. STAT. §14-27.33 (2018-47 S.B. 768)</p>	<p>“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.” <i>State v. Morrison</i>, 94 N.C. App. 517, 523 (1989);</p> <p>“Consent induced by violence or fear of violence is not effective to preclude a rape conviction.” <i>State v. Keane</i>, No. COA140171, 2014 WL 4072076 at *7 (2014).</p>	<p>(2) Mentally Incapacitated—A victim who due to (i) any act committed upon the victim or (ii) a poisonous or controlled substance provided to the victim without knowledge or consent to the victim is rendered substantially incapable of either appraising the nature of his or her conduct or resisting the act of vaginal intercourse or a sexual act. N.C. GEN. STAT. § 14-27.20 (2018-47 S.B. 768)</p> <p>(2a) Person who has a mental disability. —A victim who has an intellectual disability or a</p>	<p>(3) Physically helpless. – Any of the following: (a) a victim who is unconscious (b) a victim who is physically unable to resist an act of vaginal intercourse or a sexual act or communicate unwillingness to submit to an act of vaginal intercourse or a sexual act. N.C. GEN. STAT. § 14-27.20 (2018-47 S.B. 768)</p>

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	<p>another person: (2) Who has a mental disability or who is mentally incapacitated or physically helpless, and the person is performing the act knows or should reasonably know that the other person, has a mental disability or is mentally incapacitated or physically helpless. N.C. GEN. STAT. § 14-27.27 (2018-47 S.B. 768)</p> <p><u>Sexual Battery</u> (A) A person is guilty of sexual battery if the person, for the purpose of sexual arousal, sexual gratification, or sexual abuse, engages in sexual contact with another person: (2) who has a mental disability or who is mentally incapacitated or physically helpless, and the person performing the act knows or should reasonably know that the other person, has a mental disability or is mentally incapacitated or physically helpless. N.C. GEN. STAT. §14-27.33 (2018-47 S.B. 768)</p>			<p>mental disorder that temporarily or permanently renders the victim substantially incapable of appraising the nature of his or her conduct, or of resisting the act of vaginal intercourse or a sexual act, or of communicating unwillingness to submit to the act of vaginal intercourse of a sexual act. N.C. GEN. STAT. § 14-27.20 (2018-47 S.B. 768)</p>	

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North Dakota	<p><u>Gross Sexual Imposition — Penalty</u> (1) A person who engages in a sexual act with another, or who causes another to engage in a sexual act, is guilty of an offense if: (e) That person knows or has reasonable cause to believe that the other person suffers from a mental disease or defect which renders him or her incapable of understanding the nature of his or her conduct. N.D. CENT. CODE § 12.1-20-03</p> <p><u>Sexual Assault</u> (1) A person who knowingly has sexual contact with another person, or who causes another person to have sexual contact with that person, is guilty of an offense if: (b) that person knows or has reasonable cause to believe that the other person suffers from a mental disease or defect which renders that other person incapable of understanding the nature of that other person’s conduct.</p>	<p><u>Gross Sexual Imposition — Penalty</u> (3)(a) An offense under this section is a class AA felony if in the course of the offense the actor inflicts serious bodily injury upon the victim, if the actor's conduct violates subdivision a of subsection 1, or if the actor's conduct violates subdivision d of subsection 1 and the actor was at least twenty-two years of age at the time of the offense. For any conviction of a class AA felony under subdivision of subsection 1, the court shall impose a minimum sentence of twenty years' imprisonment, with probation supervision to follow the incarceration. The court may deviate from the mandatory sentence if the court finds that the sentence would impose a manifest injustice and the defendant has accepted responsibility for the crime or cooperated with law enforcement. However, a defendant convicted of a class AA felony under this section may not be sentenced to serve less than five years of</p>	<p>(1) “Coercion” means to exploit fear or anxiety through intimidation, compulsion, domination, or control with the intent to compel conduct or compliance. N.D. CENT. CODE §12.1-20-02</p>	<p>(1) A person who engages in a sexual act with another, or who causes another to engage in a sexual act, is guilty of an offense if: (e) That person knows or has reasonable cause to believe that the other person suffers from a mental disease or defect which renders him or her incapable of understanding the nature of his or her conduct. N.D. CENT. CODE § 2.1-20-03</p>	N/A

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	N.D. CENT. CODE §12.1-20-07	<p>incarceration. (b) Otherwise the offense is a class A felony. N.D. CENT. CODE § 12.1-20-03</p> <p><u>Sexual Assault</u> (2) the offense is: (a) A class C felony if the actor's conduct violates subdivision b, c, d, or e of subsection 1, or subdivision f of subsection 1 if the adult is at least twenty-two years of age; or (b) A class A misdemeanor if the actor's conduct violates subdivision f of subsection 1 if the adult is at least eighteen years of age and not twenty-two years of age or older, or if the actor's conduct violates subdivision a of subsection 1. N.D. CENT. CODE §12.1-20-07</p>			
Ohio	<p><u>Rape; evidence; marriage or cohabitation not defenses to rape charges</u> (A)(1) No person shall engage in sexual conduct with another who is not the spouse of the offender but is living separate and apart from the offender, when any of the following applies...(c)</p>	<p><u>Rape; evidence; marriage or cohabitation not defenses to rape charges</u> (B) Whoever violates this section is guilty of rape, a felony in the first degree. OHIO REV. CODE ANN. § 2907.02</p> <p><u>Prison Terms</u></p>	“Submitted out of fear is sufficient evidence to show that she was a victim of criminally injurious conduct in the nature of a sexual assault. Force need not be overt and physically brutal, but can be subtle and psychological. As	(A)(1) No person shall engage in sexual conduct with another who is not the spouse of the offender or who is the spouse of the offender but is living separate and apart from the offender, when any of the following applies...(c) The other person’s ability	(A)(1) No person shall engage in sexual conduct with another who is not the spouse of the offender or who is the spouse of the offender but is living separate and apart from the offender, when any of the following applies...(c) The other person’s ability to

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	<p>the other person’s ability to resist or consent is substantially impaired because of a mental or physical condition or because of advanced age, and the offender knows or has reasonable cause to believe that the other person’s ability to resist or consent is substantially impaired because of a mental or physical condition or because of advanced age. OHIO REV. CODE ANN. § 2907.02</p> <p><u>Gross Sexual Imposition</u> (A) No person shall have sexual contact with another, not the spouse of the offender; cause another, not the spouse of the offender, to have sexual contact with the offender; or cause two or more other persons to have sexual contact when any of the following applies...(5) The ability of the other person to resist or consent or the ability of one of the other persons to resist or consent in substantially impaired because of a mental or physical conduction or</p>	<p>(A)(1) For a felony of the first degree, the prison term shall be three, four, five, six, seven, eight, nine, ten or eleven years. OHIO REV. CODE ANN. § 2929.14</p> <p><u>Gross Sexual Imposition</u> Except as otherwise provided in this section, gross sexual imposition committed in violation of division (A)(1), (2), (3), or (5) of this section is a felony of the fourth degree. OHIO REV. CODE ANN. § 2907.05</p>	<p>long as it can be shown that the rape victim’s will was overcome by fear or duress, the forcible element of rape can be established.” <i>In re Adams</i>, 580 N.E.2d 861, 863 (1990).</p> <p>(A)(2) No person shall engage in sexual conduct with another when the offender purposefully compels the other person to submit by force or threat of force. OHIO REV. CODE ANN. § 2907.02</p>	<p>to resist or consent is substantially impaired because of a mental or physical condition because of advanced age, and the offender knows or has reasonable cause to believe that the other person’s ability to resist or consent is substantially impaired because of a mental or physical condition or because of advanced age. OHIO REV. CODE ANN. § 2907.02</p>	<p>resist or consent is substantially impaired because of a mental or physical condition because of advanced age, and the offender knows or has reasonable cause to believe that the other person’s ability to resist or consent is substantially impaired because of a mental or physical condition or because of advanced age. OHIO REV. CODE ANN. § 2907.02</p>

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	<p>because of advanced age, and the offender knows or has reasonable cause to believe that the ability to resist or consent of the other person or of one of the other persons is substantially impaired because of a mental or physical condition or because of advanced age. OHIO REV. CODE ANN. § 2907.05</p>				
Oklahoma	<p><u>Rape in the First Degree—Second Degree</u> (A) Rape or rape by instrumentation in the first degree shall include... (2) Rape committed upon a person incapable through mental illness or any unsoundness of mind of giving legal consent regardless of the age of the person committing the crime; OKLA. STAT. tit. 21 § 1114</p> <p><u>Forcible Sodomy</u> (B) The crime of forcible sodomy shall include: (2) Sodomy committed upon a person incapable through mental illness or any unsoundness of mind of giving legal consent</p>	<p><u>Punishment for rape in the first degree</u> Rape in the first degree is a felony punishable by death or imprisonment in the State Penitentiary, not less than five (5) years, except as provided in Section 3 of this act,¹ in the discretion of the jury, or in case the jury fails or refuses to fix the punishment then the same shall be pronounced by the court. OKLA. STAT. tit. 21 § 1115</p> <p><u>Forcible Sodomy</u> (A) Any person who forces another person to engage in the detestable and abominable crime against nature, pursuant to Section 886 of this title,</p>	<p>“The act of sexual intercourse is against the female’s will or without her consent when, for any cause, she is not in a position to exercise any judgment about the matter.” <i>Ex parte Childers</i>, 310 P.2d 776, 778 (O.K. Cr. Ct. App. 1957).</p>	<p>(A) Rape is an act of sexual intercourse involving vaginal or anal penetration accomplished with a male or female who is not the spouse of the perpetrator and who may be of the same or the opposite sex as the perpetrator under any of the following circumstances... (2) Where the victim is incapable through mental illness or any other unsoundness of mind, whether temporary or permanent, of giving legal consent; OKLA. STAT. tit. 21 § 1111</p>	N/A

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	<p><i>regardless of the age of the person committing the crime;</i> OKLA. STAT. tit. 21 § 888</p>	<p>upon conviction, is guilty of a felony punishable by imprisonment in the custody of the Department of Corrections for a period of not more than twenty (20) years. Except for persons sentenced to life or life without parole, any person sentenced to imprisonment for two (2) years or more for a violation of this subsection shall be required to serve a term of post-imprisonment supervision. OKLA. STAT. tit. 21 § 888</p>		<p>(B) The crime of forcible sodomy shall include: (2) Sodomy committed upon a person incapable through mental illness or any unsoundness of mind of giving legal consent regardless of the age of the person committing the crime; OKLA. STAT. tit. 21 § 888</p>	
Oregon	<p><u>Rape in the first degree</u> (1) A person who has sexual intercourse with another person commits the crime of rape in the first degree if (d) the victim is incapable of consent by reason of mental defect, mental incapacitation or physical helplessness. OR. REV. STAT. § 163. 375</p> <p><u>Sodomy in the first degree</u> (1) A person who engages in oral or anal sexual intercourse with another person or causes another to engage in oral or anal sexual</p>	<p><u>Rape in the first degree</u> (2) Rape in the first degree is a Class A felony. OR. RV. STAT. § 163. 375</p> <p><u>Sodomy in the first degree</u> (2) Sodomy in the first degree is a Class A felony. OR. REV. STAT. § 163. 405</p> <p><u>Unlawful sexual penetration in the first degree</u> (2) Unlawful sexual penetration in the first degree is a Class A felony. OR. REV. STAT. § 163.411</p>	<p>(1) A person is considered incapable of consenting to a sexual act if the person is: (a) under 18 years of age; (b) mentally defective; (c) mentally incapacitated; or (d) physically helpless. OR. REV. STAT. § 163.315</p>	<p>(2) “Mentally defective” means that a person suffers from a qualifying mental disorder that renders the person incapable of appraising the nature of the conduct of the person. OR. REV. STAT. § 163.305</p> <p>(3) “Mentally incapacitated” means that a person is rendered incapable of appraising or controlling the conduct of</p>	<p>(5) “Physically helpless” means that a person is unconscious or for any other reason is physically unable to communicate unwillingness to an act. OR. REV. STAT. § 163.305</p>

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	<p>intercourse commits the crime of sodomy in the first degree if... (d) The victim is incapable of consent by reason of mental defect, mental incapacitation or physical helplessness. OR. REV. STAT. § 163.405</p> <p><u>Unlawful sexual penetration in the first degree</u> (1) A person commits the crime of unlawful sexual penetration in the first degree if the person penetrates the vagina, anus or penis of another with any object other than the penis or mouth of the actor and... (c) the victim is incapable of consent by reason of mental defect, mental incapacitation or physical helplessness. OR. REV. STAT. § 163.411</p> <p><u>Sexual abuse in the first degree</u> (1) A person commits the crime of sexual abuse in the first degree when that person: (a) Subjects another person to sexual contact and... (c) The victim is incapable of consent by reason of being mentally</p>	<p><u>Sexual abuse in the first degree</u> (2) Sexual abuse in the first degree is a Class B felony. OR. REV. STAT. § 163.427</p>		<p>the person at the time of the alleged offense. OR. REV. STAT. § 163.305</p>	

State	Statutory Language	Classification/Punishment of Crime	Consent Defined	Cognitive Disability/Incapacity and Consent	Physical Disability/Incapacity/Helplessness and Consent
	defective, mentally incapacitated.				
Pennsylvania	<p><u>Rape</u> (a) A person commits a felony of the first degree when the person engages in sexual intercourse with a complainant...(3) who is unconscious or where the person knows that he complainant is unaware that the sexual intercourse is occurring...(5) who suffers from a mental disability which renders the complainant incapable of consent. 18 PA. CONS. STAT. § 3121</p> <p><u>Aggravated indecent assault</u> (a) A person who engages in penetration, however slight, of the genitals or anus of a complainant with a part of the person's body for any purpose other than good faith medical, hygienic or law enforcement procedures commits aggravated indecent assault if...(6) the complainant suffers from a mental disability which</p>	<p><u>Sentence of imprisonment for felony</u> (1) In the case of a felony of the first degree, for a term which shall be fixed by the court of not more than 20 years. (2) In the case of a felony of the second degree, for a term which shall be fixed by the court at not more than 20 years. 18 PA. CONS. STAT. § 1103</p> <p><u>Aggravated indecent assault</u> (c)(1) An offense under subsection (a) is a felony of the second degree 18 PA. CONS. STAT. § 3125</p> <p><u>Indecent assault</u> (b)(2) An offense under subsection...(a)(6) is a misdemeanor of the first degree. 18 PA. CONS. STAT. § 3126</p> <p><u>Sentence of imprisonment for felonies</u> A person who has been convicted of a misdemeanor may be sentenced to</p>	<p>“Forcible Compulsion.” Compulsion by use of physical, intellectual, moral, emotional or psychological force, either express of implied. The term includes, but is not limited to, compulsion resulting in another person's death, whether the death occurred before, during or after sexual intercourse. 18 PA. CONS. STAT. § 3101</p> <p>(a) A person commits a felony of the first degree when the person engages in sexual intercourse with a complainant...(5) who suffers from a mental disability which renders the complainant incapable of consent. 18 Pa. Cons. Stat. § 3121</p>	<p>(a) A person commits a felony of the first degree when the person engages in sexual intercourse with a complainant...(3) who is unconscious or where the person knows that he complainant is unaware that the sexual intercourse is occurring...(5) who suffers from a mental disability which renders the complainant incapable of consent. 18 PA. CONS. STAT. § 3121</p>	<p>(a) A person commits a felony of the first degree when the person engages in sexual intercourse with a complainant...(3) who is unconscious or where the person knows that he complainant is unaware that the sexual intercourse is occurring. 18 PA CONS. STAT. § 3121</p>

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	<p>renders him or her incapable of consent 18 PA. CONST. STAT. § 3125</p> <p><u>Indecent assault</u> (a) A person is guilty of indecent assault if the person has indecent contact with the complainant, causes the complainant to have indecent contact with the person or intentionally causes the complainant to come into contact with seminal fluid, urine or feces for the purpose of arousing sexual desire in the person or the complainant and...(6) the complainant suffers from a mental disability which renders the complainant incapable of consent 18 PA. CONS. STAT. § 3126</p>	<p>imprisonment for a definite term which shall be fixed by the court and shall be not more than (1) Five years in the case of a misdemeanor of the first degree. 18 PA. CONS. STAT. § 1104</p>			
Rhode Island	<p><u>First degree sexual assault</u> A person is guilty of first degree sexual assault if he or she engages in sexual penetration with another person, and if any of the following circumstances exist: (1) The accused, not</p>	<p><u>Penalty for first degree sexual assault</u> Every person who shall commit sexual assault in the first degree shall be imprisoned for a period not less than ten (10) years and may be imprisoned for life.</p>	(2) “Force of Coercion” means when the accused does any of the following: (i) Uses or threatens to use a weapon, or any article used or fashioned in a manner to lead the	(4) “Mentally disabled” means a person who has a mental impairment which renders that person incapable of appraising the nature of the act. R.I. GEN. LAWS 1956, § 11-37-1	(6) “Physically helpless” means a person who is unconscious, asleep, or for any other reason is physically unable to communicate unwillingness to act.

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	<p>being the spouse, knows or has reason to know that the victim is mentally incapacitated, mentally disabled, or physically helpless. R.I. GEN. LAWS 1956, § 11-37-2 <u>Second degree sexual assault</u> A person is guilty of a second-degree sexual assault if he or she engages in sexual contact with another person and if any of the following circumstances exist: (1) The accused knows or has reason to know that the victim is mentally incapacitated, mentally disabled, or physically helpless. R.I. GEN. LAWS 1956, § 11-37-4</p>	<p>R.I. GEN. LAWS 1956, § 11-37-3 <u>Penalty for second degree sexual assault</u> Every person who shall commit sexual assault in the second degree shall be imprisoned for not less than three (3) years and not more than fifteen (15) years. R.I. GEN. LAWS 1956, § 11-37-5</p>	<p>victim to reasonably believe it to be a weapon. (ii) Overcomes the victim through the application of physical force or physical violence. (iii) Coerces the victim to submit by threatening to use force or violence on the victim and the victim reasonably believes that the accused has the present ability to execute these threats. (iv) Coerces the victim to submit by threatening to at some time in the future murder, inflict serious bodily injury upon or kidnap the victim or any other person and the victim reasonably believes that the accused has the ability to execute this threat. R.I. GEN. LAWS 1956, § 11-37-1</p>	<p>(5) “Mentally incapacitated” means a person who is rendered temporarily incapable of appraising or controlling his or her conduct due to the influence of a narcotic, anesthetic, or other substance administered to that person without his or her consent, or who is mentally unable to communicate unwillingness to engage in the act. R.I. GEN LAWS 1956, § 11-37-1</p>	<p>R.I. GEN. LAWS 1956, § 11-37-1</p>
<p>South Carolina</p>	<p><u>Criminal sexual conduct in the first degree</u> (1) A person is guilty of criminal sexual conduct in</p>	<p><u>Criminal sexual conduct in the first degree</u> (2) Criminal sexual conduct in the first degree is a felony</p>	<p>(b) “Aggravated coercion” means that the actor threatens to use force or violence of a</p>	<p>(e) “Mentally defective” means that a person suffers from a mental disease or defect which</p>	<p>(g) “Physically helpless” means that a person is unconscious, asleep, or for any other reason</p>

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	<p>the first degree if the actor engages in sexual battery with the victim and if any one or more of the following circumstances are proven...(c) the actor causes the victim, without the victim's consent, to become mentally incapacitated or physically helpless by administering, distributing, dispensing, delivering, or causing to be administered, distributed, dispensed, or delivered a controlled substance, a controlled analogue, or any intoxicating substance. S.C. CODE ANN. § 16-3-652</p> <p><u>Criminal sexual conduct in the third degree</u> (1) A person is guilty of criminal sexual conduct in the third degree if the actor engages in sexual battery with the victim and if any one or more of the following circumstances are proven...(b) The actor knows or has reason to know that the victim is mentally defective, mentally incapacitated, or physically</p>	<p>punishable by imprisonment for not more than thirty years, according to the discretion of the court. S.C. CODE ANN. § 16-3-652</p> <p><u>Criminal sexual conduct in the third degree</u> (2) Criminal sexual conduct in the third degree is a felony punishable by imprisonment for not more than ten years, according to the discretion of the court. S.C. CODE ANN. § 16-3-654</p>	<p>high and aggravated nature to overcome the victim or another person, if the victim reasonably believes that the actor has the present ability to carry out the threat, or threatens to retaliate in the future by the infliction of physical harm, kidnapping or extortion, under circumstances of aggravation, against the victim or any other person.</p> <p>(c) "Aggravated force" means that the actor uses physical force or physical violence of a high and aggravated nature to overcome the victim or includes the threat of the use of a deadly weapon. S.C. CODE ANN. § 16-3-651</p>	<p>renders the person temporarily or permanently incapable of appraising the nature of his or her conduct. (f) "Mentally incapacitated" means that a person is rendered temporarily incapable of appraising or controlling his or her conduct whether the condition is produced by illness, defect, the influence of a substance or from some other cause. S.C. CODE ANN. § 16-3-651</p>	<p>physically unable to communicate unwillingness to an act. S.C. CODE ANN. § 16-3-651</p>

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	<p>helpless and aggravated force or aggravated coercion was not used to accomplish sexual battery. S.C. CODE ANN. § 16-3-654</p>				
<p>South Dakota</p>	<p><u>Rape in the third degree</u> An act of sexual penetration if: the victim is incapable, because of physical or mental incapacity, of giving consent to such act; or the victim is incapable of giving consent because of any intoxicating, narcotic, or anesthetic agent or hypnosis. S.D. CODIFIED LAWS § 22-22-1(3) & (4).</p> <p><u>Sexual contact with a person incapable of consenting</u> Knowingly engaging in sexual contact with a person who is 16 or older who is incapable because of physical or mental incapacity of consenting to sexual contact, where the actor is 15 or older. S.D. CODIFIED LAWS § 22-22-7.2.</p>	<p><u>Rape in the third degree</u> Class 2 Felony. Maximum penalty of 25 years imprisonment and \$50,000 fine. The court, in the event the victim is a child, may as part of the sentence, order that the defendant not reside within 1 mile of the victim's residence, knowingly or willfully come within 1,000ft of the victim, attend the same school as the victim, or have any contact with the victim, whether direct or indirect or through a third party. Conditions will no longer apply once the victim reaches the age of majority. Violation of such a condition is a Class 6 felony: maximum penalty of 2 years imprisonment and \$4,000 fine. S.D. CODIFIED LAWS § 22-22-7.5.</p>	<p>South Dakota does not provide a definition for consent, but it provides that no consent exists for an act of sexual penetration accomplished with any person under the following circumstances: (1) If the victim is less than thirteen years of age; (2) Through the use of force, coercion, or threats of immediate and great bodily harm against the victim or other persons within the victim's presence, accompanied by apparent power of execution; (3) If the victim is incapable, because of physical or mental</p>	<p>Yes, a person can be deemed incapable of consenting to sexual contact because of mental incapacity. S.D. CODIFIED LAWS § 22-22-7.2.</p>	<p>Yes, a person can be deemed incapable of consenting to sexual contact because of physical incapacity. S.D. CODIFIED LAWS § 22-22-7.2; 22-22-1(3) & (4).</p>

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		<p><u>Sexual contact with a person incapable of consenting</u></p> <p>Class 4 Felony. Maximum penalty of 10 years imprisonment and \$20,000 fine. The court, in the event the victim is a child, may as part of the sentence, order that the defendant not reside within 1 mile of the victim's residence, knowingly or willfully come within 1,000ft of the victim, attend the same school as the victim, or have any contact with the victim, whether direct or indirect or through a third party. Conditions will no longer apply once the victim reaches the age of majority. Violation of such a condition is a Class 6 felony: maximum penalty of 2 years imprisonment and \$4,000 fine. S.D. CODIFIED LAWS § 22-22-7.5.</p>	<p>incapacity, of giving consent to such act; (4) If the victim is incapable of giving consent because of any intoxicating, narcotic, or anesthetic agent or hypnosis; or (5) If the victim is 13 years of age, but less than 16 years of age, and the perpetrator is at least 3 years older than the victim. S.D. CODIFIED LAWS § 22-22-1.</p>		
Tennessee	<p><u>Aggravated Rape</u> Sexual penetration and any of the following: (...); or The defendant is helped by one or more people and knows or has reason to know that the victim is mentally defective,</p>	<p><u>Aggravated Rape</u> Class A Felony: 15-60 years imprisonment; maximum fine of \$50,000; community supervision for life.</p>	<p>Tennessee does not provide a definition for consent, but it provides that rape is unlawful sexual penetration of a victim by the defendant or of the</p>	<p>Yes. "Mentally defective" means that a person suffers from a mental disease or defect which renders that person</p>	<p>Yes. "Physically helpless" means that a person is unconscious, asleep or for any other reason physically or verbally</p>

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	<p>mentally incapacitated or physically helpless. TENN. CODE ANN. § 39-13-502.</p> <p><u>Rape</u> Sexual penetration and any of the following: Force or coercion is used; The sexual penetration is accomplished without the consent of the victim and the defendant knows or has reason to know at the time of the penetration that the victim did not consent; The defendant knows or has reason to know that the victim is mentally defective, mentally incapacitated or physically helpless; or The sexual penetration is accomplished by fraud. TENN. CODE ANN. § 39-13-503.</p> <p><u>Aggravated Sexual Assault</u> Sexual contact and any of the following: (...); The defendant is helped by one or more people and knows or has reason to know that the victim is mentally defective, mentally incapacitated or physically helpless; or the victim is less than 13 years old. TENN. CODE ANN.</p>	<p><u>Rape</u> Class B felony: 8-30 years imprisonment; maximum fine of \$25,000; community supervision for life.</p> <p><u>Aggravated Sexual Assault</u> Class A Felony: 15-60 years imprisonment; maximum fine of \$50,000; community supervision for life.</p> <p><u>Sexual Battery</u> Class E felony: 1-6 years imprisonment; maximum fine of \$3,000.</p> <p><u>Rape</u></p> <p><u>Rape of a child</u> Class A Felony, Range II-III, 25-60 years imprisonment; maximum fine of \$50,000; community supervision for life.</p> <p><u>Aggravated rape of a child</u> Class A Felony, Range III, 40-60 years imprisonment; maximum fine of \$50,000;</p>	<p>defendant by a victim accompanied by any of the following circumstances: (1) Force or coercion is used to accomplish the act; (2) The sexual penetration is accomplished without the consent of the victim and the defendant knows or has reason to know at the time of the penetration that the victim did not consent; (3) The defendant knows or has reason to know that the victim is mentally defective, mentally incapacitated or physically helpless; or (4) The sexual penetration is accomplished by fraud. TENN. CODE ANN. § 39-13-503.</p> <p>Sexual battery is unlawful sexual contact with a victim by the defendant or the defendant by a victim</p>	<p>temporarily or permanently incapable of appraising the nature of the person's conduct. TENN. CODE ANN. § 39-13-502.</p> <p>“Mentally incapacitated” means that a person is rendered temporarily incapable of appraising or controlling the person's conduct due to the influence of a narcotic, anesthetic or other substance administered to that person without the person's consent, or due to any other act committed upon that person without the person's consent. TENN. CODE ANN. § 39-13-501.</p>	<p>unable to communicate unwillingness to do an act. TENN. CODE ANN. § 39-13-502.</p>

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	<p>§ 39-13-504.</p> <p><u>Sexual Battery</u> Sexual contact and any of the following: Force or coercion is used; The sexual contact is accomplished without the consent of the victim and the defendant knows or has reason to know at the time of the contact that the victim did not consent; The defendant knows or has reason to know that the victim is mentally defective, mentally incapacitated or physically helpless; or The sexual contact is accomplished by fraud. TENN. CODE ANN. § 39-13-505.</p> <p><u>Statutory Rape</u> Sexual battery by an authority figure is when an authority figure has sexual contact with a victim and any of the following: (...); or The victim was mentally defective, mentally incapacitated, or physically helpless regardless of age and the defendant was in a position of trust or had a</p>	<p>community supervision for life.</p> <p><u>Mitigated statutory rape</u> Class E Felony, 1-6 years imprisonment; maximum fine of \$3,000.</p> <p><u>Statutory rape</u> Class E Felony, 1-6 years imprisonment; maximum fine of \$3,000.</p> <p><u>Aggravated statutory rape</u> Class D Felony, 2-12 years imprisonment; maximum fine of \$5,000.</p> <p><u>Aggravated sexual battery</u> Class B Felony, 8-30 years imprisonment; maximum fine of \$25,000.</p> <p><u>Sexual contact by an authority figure</u> Class A misdemeanor, maximum 11 months twenty-nine days imprisonment; mandatory minimum fine of</p>	<p>accompanied by any of the following circumstances: (1) Force or coercion is used to accomplish the act; (2) The sexual contact is accomplished without the consent of the victim and the defendant knows or has reason to know at the time of the contact that the victim did not consent; (3) The defendant knows or has reason to know that the victim is mentally defective, mentally incapacitated or physically helpless; or (4) The sexual contact is accomplished by fraud. TENN. CODE ANN. § 39-13-505.</p>		

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	<p>supervisory or disciplinary power over the minor by virtue of the defendant's legal, professional, or occupational status and used the position to accomplish the sexual act or the defendant had parental or custodial authority over the minor and used the authority to accomplish the sexual act. TENN.CODE ANN. §§ 39-13-506, 39-13-504, 39-13-509, 39-13-522, 39-13-524, 39-13-527, 39-13-531, 39-13-532,</p>	<p>\$1,000; maximum fine of \$2,500.</p> <p><u>Sexual battery by an authority figure</u></p> <p>Class C Felony, 3-15 years imprisonment; maximum fine of \$10,000.</p> <p><u>Statutory rape by an authority figure</u></p> <p>Class B Felony, 8-30 years imprisonment; maximum fine of \$25,000.</p>			
Texas	<p><u>Aggravated Sexual Assault</u> Intentionally or knowingly causing any of the following or acts in concert with one who intentionally or knowingly causes: Penetration of the anus or sexual organ of another by any means without that person's consent; (...); or The victim is an elderly or disabled individual. TEX. PENAL CODE ANN. § 22.021.</p>	<p><u>Aggravated Sexual Assault</u> First degree felony: 5-99 years imprisonment; maximum fine of \$10,000. Minimum sentence increased to 25 years imprisonment if: the victim is under 6 years old or the victim is younger than 14 years old or the offense is "against a child".</p>	<p>Under Texas law, sexual assault "without the consent" of the other person arises when: (...) (3) the other person has not consented and the actor knows the other person is unconscious or physically unable to resist; (4) the actor knows that as a result of mental disease or defect the other person is at the</p>	<p>Yes.</p> <p>"Disabled individual" means a person older than 13 years of age who by reason of age or physical or mental disease, defect, or injury is substantially unable to protect the person's self from harm or to provide food, shelter, or medical care for the person's self.</p>	<p>Yes.</p>

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	<p><u>“Against a child”</u> Intentionally or knowingly causing any of the following: (...); or the victim is disabled; Unless: the conduct consisted of medical care for the child and did not include any contact between the anus or sexual organ of the child and the mouth, anus, or sexual organ of the actor or a third party. TEX. PENAL CODE ANN. § 22.021.</p>		<p>time of the sexual assault incapable either of appraising the nature of the act or of resisting it; (...) (9) the actor is a mental health services provider or a health care services provider who causes the other person, who is a patient or former patient of the actor, to submit or participate by exploiting the other person's emotional dependency on the actor; (...) (11) the actor is an employee of a facility where the other person is a resident, unless the employee and resident are formally or informally married to each other under the Texas Family Code. TEX. PENAL CODE ANN. § 22.011(b).</p> <p>A sexual assault is considered to occur without the consent of the other person where the actor knows that as a result of mental disease or defect the other</p>		

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			<p>person is at the time of the sexual assault either incapable of appraising the nature of the act or of resisting it. TEX. PENAL CODE ANN. § 22.011(b)(4).</p>		
Utah	<p><u>Rape</u> When the actor has sexual intercourse with another person without the victim’s consent. (...) or the actor is a health professional or religious counselor, the act is committed under the guise of providing professional diagnosis, counseling, or treatment, and at the time of the act the victim reasonably believed that the act was for medically or professionally appropriate diagnosis, counseling, or treatment to the extent that resistance by the victim could not reasonably be expected to have been manifested. UTAH CODE ANN. § 76-5-402.</p> <p><u>Object Rape</u> A person who, without the victim's consent, causes the penetration, however slight,</p>	<p><u>Rape</u> First degree felony: Imprisonment not less than 5 years, may be for life. If actor caused serious bodily injury to another, or was younger than 18 years of age and was previously convicted of a grievous sexual offense: Imprisonment not less than 15 years, may be for life. If actor was previously convicted of a grievous sexual offense (but was not younger than 18 years old at the time of the offense): Imprisonment for life without parole. Other details may affect this penalty. See UTAH CODE ANN. § 76-5-402.</p> <p><u>Object rape</u> First degree felony:</p>	<p>Under Utah law, sexual offenses “without consent” of the victim arise when (whether or not the victim is married to the actor): (...); (6) the actor knows that as a result of mental disease or defect, or for any other reason the victim is at the time of the act incapable either of appraising the nature of the act or of resisting it; (...); (10) the victim is younger than 18 years of age and at the time of the offense the actor was the victim's parent, stepparent, adoptive parent, or legal guardian or occupied a position of special trust in relation to the victim; (...); or (12) the actor is a health professional or religious counselor, the act is</p>	Yes.	Yes

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	<p>of the genital or anal opening of another person who is 14 years of age or older, by any foreign object, substance, instrument, or device, including a part of the human body other than the mouth or genitals, with intent to cause substantial emotional or bodily pain to the victim or with the intent to arouse or gratify the sexual desire of any person. Other provisions apply. See § 76-5-406.</p> <p>(“Sexual offenses against the victim without consent of victim – Circumstances”). UTAH CODE ANN. § 76-5-402.2.</p>	<p>Imprisonment not less than 5 years, may be for life. If actor caused serious bodily injury to another or was younger than 18 years of age and was previously convicted of a grievous sexual offense: Imprisonment not less than 15 years, may be for life. If previously convicted of a grievous sexual offense (and not less than 18 years of age at the time of the offense): Imprisonment for life without parole. Other details may affect this penalty. UTAH CODE ANN. § 76-5-402.2.</p>	<p>committed under the guise of providing professional diagnosis, counseling, or treatment, and at the time of the act the victim reasonably believed that the act was for medically or professionally appropriate diagnosis, counseling, or treatment to the extent that resistance by the victim could not reasonably be expected to have been manifested. UTAH CODE ANN. § 76-5-406.</p> <p>A sexual offense is considered to occur without consent of the victim if the actor knows that as a result of mental disease or defect the victim is, at the time of the act, incapable either of appraising the nature of the act or of resisting it. UTAH CODE ANN. § 76-5-406(6).</p>		
Vermont	<u>Sexual Assault</u>	<u>Sexual Assault</u>	“Consent” means words or actions by a person	Yes.	Yes.

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	<p>No person shall engage in a sexual act with another person and compel the other person to participate in the sexual act: without the consent of the other person, (...). 13 VT. STAT. ANN. §§ 3252 & 3254.</p> <p><u>Aggravated Sexual Assault</u> A person commits the crime of aggravated sexual assault if the person commits sexual assault under any of the following circumstances: (...); or The victim is subjected by the actor to repeated non-consensual sexual acts as part of the same occurrence or the victim is subjected to repeated non-consensual sexual acts as part of the actor’s common scheme and plan. 13 VT. STAT. ANN. § 3253.</p>	<p>Imprisonment not less than 3 years; maximum imprisonment for life; may be fined not more than \$25,000. If convicted of “Statutory Rape”, imprisonment for no more than 20 years; may be fined not more than \$10,000</p> <p><u>Aggravated Sexual Assault</u> Imprisonment not less than 10 years; maximum imprisonment for life; may be fined not more than \$50,000 (may not be suspended, deferred, or served as a supervised sentence; defendant shall not be eligible for probation, parole, furlough, or any other type of early release until the expiration of the 5 or 10 year term of imprisonment; provided that may depart downwardly from 10 year term, but not less than 5 years, upon certain findings of the court).</p>	<p>indicating a voluntary agreement to engage in a sexual act. 13 VT. STAT. ANN. § 3251(3).</p> <p>Additionally, a person will be deemed to have acted without the consent of the other person where the actor: (A) knows that the other person is mentally incapable of understanding the nature of the sexual act or lewd and lascivious conduct; or (B) knows that the other person is not physically capable of resisting, or declining consent to, the sexual act or lewd and lascivious conduct; or (C) knows that the other person is unaware that a sexual act or lewd and lascivious conduct is being committed; or (D) knows that the other person is mentally incapable of resisting, or declining consent to, the sexual act or lewd and lascivious conduct, due to a mental condition or</p>		

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			<p>a psychiatric or developmental disability. 13 VT. STAT. ANN. § 3254.</p> <p>A person acts without consent of the victim where the actor knows that the other person is mentally incapable of understanding the nature of the sexual act or lewd and lascivious conduct or knows that the other person is mentally incapable of resisting, or declining consent to, the sexual act or lewd and lascivious conduct, due to a mental condition or a psychiatric or developmental disability. 13 VT.STAT. ANN. § 3254.</p>		
Virginia	<p><u>Rape</u> Engaging in sexual intercourse with a victim, whether or not his/her spouse, or causing a victim, whether or not his/her spouse, to engage in sexual</p>	<p><u>Rape</u> Felony punishable by imprisonment for life or for any term not less than 5 years; and if the victim is under the age of 13 years and defendant is more than 3</p>	<p>Virginia does not provide a definition for consent, but defines rape and sexual battery as sexual intercourse or sexual abuse, respectively, of a complaining witness</p>	<p>Yes. “Mental incapacity” means that condition of the complaining witness existing at the time of an offense which prevents the complaining witness</p>	<p>Yes. “Physical helplessness” means unconsciousness or any other condition existing at the time of an offense which otherwise rendered the complaining</p>

State	Statutory Language	Classification/Punishment of Crime	Consent Defined	Cognitive Disability/Incapacity and Consent	Physical Disability/Incapacity/Helplessness and Consent
	<p>intercourse with any other person and such act is: Against the victim's will, by force, threat, or intimidation of or against the victim or another person; Through the use of the victim's mental incapacity or physical helplessness; or With a child under the age of 13 years as the victim. VA. CODE ANN. § 18.2-61.</p> <p><u>Forcible Sodomy</u> Engaging in cunnilingus, fellatio, anilingus, or anal intercourse with a victim, whether or not his/her spouse, or causing a victim, whether or not his/her spouse, to engage in such acts with any other person, and: The complaining witness is less than 13 years of age; or The act is accomplished against the will of the victim, by force, threat or intimidation of or against the victim or another person, or through the use of the victim's mental incapacity or physical helplessness. VA. CODE ANN. § 18.2-67.1.</p>	<p>years older than the victim, and the rape is done in the commission of, or as part of the same course of conduct as, or as part of a common scheme/plan of any kidnapping, burglary, or assault, then the punishment must include a mandatory minimum term of 25 years; or If the victim is under the age of 13 years and defendant was 18 years of age or older at the time of the offense, the punishment must include a mandatory minimum term of life imprisonment.</p> <p><u>Forcible Sodomy</u> Felony punishable by imprisonment for life or for any term not less than 5 years; and If the victim is under the age of 13 years and defendant is more than 3 years older than the victim, and the forcible sodomy is done in the commission of, or as part of the same course of conduct as, or as part of a common scheme/plan of any kidnapping, burglary, or assault, then the punishment</p>	<p>against her will. VA. CODE ANN. §§18.2-61; 18.2-67.4.</p>	<p>from understanding the nature or consequences of the sexual act involved in such offense and about which the accused knew or should have known. A person is guilty of rape if the person has sexual intercourse with a complaining witness through the use of the complaining witness' mental incapacity or physical helplessness. VA. CODE ANN. §§ 18.2-61; 67.10(3).</p>	<p>witness physically unable to communicate an unwillingness to act and about which the accused knew or should have known. A person is guilty of rape if the person has sexual intercourse with a complaining witness through the use of the complaining witness' physical helplessness. VA CODE ANN. §§ 18.2-61; 67.10(4).</p>

State	Statutory Language	Classification/Punishment of Crime	Consent Defined	Cognitive Disability/Incapacity and Consent	Physical Disability/Incapacity/Helplessness and Consent
		<p>must include a mandatory minimum term of 25 years; or If the victim is under the age of 13 years and defendant was 18 years of age or older at the time of the offense, the punishment must include a mandatory minimum term of life imprisonment.</p>			
Washington	<p>Rape In The Second Degree Under circumstances not constituting rape in the first degree, defendant engages in sexual intercourse with another person: By forcible compulsion; When the victim is incapable of consent by reason of being physically helpless or mentally incapacitated; When the victim is a person with a developmental disability and the defendant is a person who is not married to the victim and who: Has supervisory authority over the victim; or Was providing transportation, within the course of his or her employment, to the victim at the time of the offense;</p>	<p><u>Rape In The Second Degree</u> is a Class A felony. Maximum life imprisonment and/or fine of \$50,000.</p>	<p>Consent requires that there are actual words or conduct indicating freely given agreement to have sexual intercourse or sexual contact at the time of the act. WASH REV. CODE ANN. § 9A.44.010(7).</p> <p>" An actor is guilty of rape in the second degree if they have sexual intercourse with a person who is mentally incapacitated. WASH. REV. CODE ANN. §§ 9A.44.010; A.44.050.</p>	<p>Yes.</p> <p>“Mental incapacity” is that condition existing at the time of the offense which prevents a person from understanding the nature or consequences of the act of sexual intercourse whether that condition is produced by illness, defect, the influence of a substance or from some other cause.</p> <p>A person who is unable to understand the nature or consequences of sexual intercourse at the time of the offense, whether that condition is produced by illness, defect, the influence of a substance or from some other cause,</p>	<p>Yes.</p> <p>“Physically helpless” means a person who is unconscious or for any other reason is physically unable to communicate unwillingness to an act.</p>

State	Statutory Language	Classification/Punishment of Crime	Consent Defined	Cognitive Disability/Incapacity and Consent	Physical Disability/Incapacity/Helplessness and Consent
	<p>When the defendant is a health care provider, the victim is a client or patient, and the sexual intercourse occurs during a treatment session, consultation, interview, or examination. Exception if the defendant can prove by a preponderance of the evidence that the client or patient consented to the sexual intercourse with the knowledge that the sexual intercourse was not for the purpose of treatment;</p> <p>When the victim is a resident of a facility for persons with a mental disorder or chemical dependency and the defendant is a person who is not married to the victim and has supervisory authority over the victim; or</p> <p>When the victim is a frail elder or vulnerable adult and the defendant is a person who is not married to the victim and who: Has a significant relationship with the victim; or</p> <p>Was providing transportation, within the course of his or her employment, to the victim at</p>			<p>is "mentally incapacitated".</p>	

State	Statutory Language	Classification/Punishment of Crime	Consent Defined	Cognitive Disability/Incapacity and Consent	Physical Disability/Incapacity/Helplessness and Consent
	the time of the offense. WASH. REV. CODE ANN. § 9a.44.050.				
West Virginia	<p><u>Sexual Assault In The Second Degree</u> A person is guilty of sexual assault in the second degree when: Such person engages in sexual intercourse or sexual intrusion with another person without the person’s consent, and the lack of consent results from forcible compulsion, or such person engages in sexual intercourse or sexual intrusion with another person who is physically helpless. W. VA. CODE ANN. § 61-8B-4.</p> <p><u>Sexual Assault In The Third Degree</u> A person is guilty of sexual assault in the third degree when: The person engages in sexual intercourse or sexual intrusion with another person who is mentally defective or mentally incapacitated, or</p>	<p><u>Sexual Assault in the Second Degree</u> Felony Imprisonment not less than 10 years. Maximum imprisonment not more than 25 years. Fine not less than \$1,000. Fine not more than \$10,000. Or both imprisonment and fine. Other mandatory sentencing may apply: W. VA. CODE ANN. § 61-8B-9a, “Mandatory sentence for person committing certain sex offenses against Children.” W. VA. CODE ANN. § 61-8B-9b, “Enhanced penalties for subsequent offenses committed by those previously convicted of sexually violent offenses against children.”</p> <p><u>Sexual Assault in the Third Degree</u></p>	<p>Lack of consent results from forcible compulsion, incapacity to consent, or any circumstances in addition to the forcible compulsion or incapacity to consent in which the victim does not expressly or impliedly acquiesce in the actor's conduct. W. VA. CODE ANN. § 61-8B-2(b).</p> <p>A person cannot consent to sexual intercourse if they are less than 16 years old, rendered temporarily incapable of appraising or controlling his or her conduct as a result of the influence of a controlled or intoxicating substance administered to that person without his or her consent, or suffer from a mental disease or defect which renders the person</p>	<p>Yes. Mentally defective: That a person suffers from a mental disease or defect which renders that person incapable of appraising the nature of his or her conduct.</p> <p>Mentally incapacitated: That a person is rendered temporarily incapable of appraising or controlling his or her conduct as a result of the influence of a controlled or intoxicating substance administered to that person without his or her consent or as a result of any other act committed upon that person without his or her consent. W. VA. CODE ANN. § 61-8B-5.</p> <p>A person who is rendered temporarily incapable of appraising or controlling his or her conduct as a result of the influence of a controlled or intoxicating</p>	<p>No.</p> <p>Physically helpless: That a person is unconscious, or For any reason is physically unable to communicate unwillingness to an act.</p>

State	Statutory Language	Classification/Punishment of Crime	Consent Defined	Cognitive Disability/Incapacity and Consent	Physical Disability/Incapacity/Helplessness and Consent
	<p>The person, being 16 years old or more, engages in sexual intercourse or sexual intrusion with another person who is less than 16 years old and who is at least 4 years younger than the defendant and is not married to the defendant. W. Va. Code § 61-8B-5.</p>	<p>Felony Imprisonment not less than 1 year. Imprisonment not more than 5 years. Fine not more than \$10,000. Or both imprisonment and fine. Other mandatory sentencing may apply: W. Va. Code § 61-8B-9a, “Mandatory sentence for person committing certain sex offenses against children.” W. VA. CODE ANN. § 61-8B-9b, “Enhanced penalties for subsequent offenses committed by those previously convicted of sexually violent offenses against children.”</p>	<p>incapable of appraising the nature of his or her conduct. W. VA. CODE ANN. § 61-8B-2(c).</p>	<p>substance administered to that person without his or her consent, or if the person suffers from a mental disease or defect which renders that person incapable of appraising the nature of his or her conduct, that person is incapable of giving consent for sexual intercourse or sexual intrusion. W. VA. CODE ANN. §§ 61-8B-1(3) & (4), 61-8B-2(c).</p>	
<p>Wisconsin</p>	<p><u>Sexual Assault In The First Degree</u> Whoever: (...), or (b) Has sexual contact or sexual intercourse with another person without consent of that person by use or threat of use of a dangerous weapon or any article used or fashioned in a manner to lead the victim reasonably to believe it to be a dangerous weapon, or Is aided or abetted by one or more other persons and has sexual contact or sexual</p>	<p><u>Sexual Assault in the First Degree</u> Class B felony: Imprisonment not to exceed 60 years. <u>Sexual Assault in the Second Degree</u> Class C felony: Imprisonment not to exceed 40 years, fine not to exceed \$ 100,000 or both.</p>	<p>Consent: Words or overt actions by a person who is competent to give informed consent indicating a freely given agreement to have sexual intercourse or sexual contact. A person suffering from a mental illness or defect which impairs capacity to appraise personal conduct and a person who is unconscious or for any other reason is physically unable to</p>	<p>Yes. A person suffering from a “mental illness or defect” is presumed incapable of consent. Wis. Stat. Ann. § 940.225(4). “Mental illness or defect” is not defined in the statute, but has a “meaning within the common understanding of the jury” under Wisconsin case law. <u>State v. Perkins (App. 2004) 689 N.W.2d 684, 277 Wis.2d 243.</u></p>	<p>Yes.</p>

State	Statutory Language	Classification/Punishment of Crime	Consent Defined	Cognitive Disability/Incapacity and Consent	Physical Disability/Incapacity/Helplessness and Consent
	<p>intercourse with another person without consent of that person by use or threat of force or violence. WIS. STAT. § 940.225(1).</p> <p><u>Sexual Assault in the Second Degree</u> Whoever: (...), (b) Has sexual contact or sexual intercourse with another person without consent of that person and causes injury, illness, disease or impairment of a sexual or reproductive organ, or mental anguish requiring psychiatric care for the victim. (c) Has sexual contact or sexual intercourse with a person who suffers from a mental illness or deficiency which renders that person temporarily or permanently incapable of appraising the persons conduct, and the defendant knows of such condition. (...) (f) Is aided or abetted by one or more other persons and has sexual contact or sexual intercourse with another person without the consent of that person. WIS. STAT.</p>		<p>communicate unwillingness to an act are presumed incapable of consent.</p>		

State	Statutory Language	Classification/Punishment of Crime	Consent Defined	Cognitive Disability/Incapacity and Consent	Physical Disability/Incapacity/Helplessness and Consent
	<p>§ 940.225(2).</p> <p>See definitions under Sexual Assault in the First Degree, above.</p>				
Wyoming	<p><u>Sexual Assault In The First Degree</u> (...) The victim is physically helpless, and the actor knows or reasonably should know that the victim is physically helpless and has not consented; or The actor knows or reasonably should know that the victim, through a mental illness, mental deficiency, or developmental disability, is incapable of appraising the nature of the victim’s conduct. WYO. STAT. ANN. § 6-2-302.</p> <p><u>Sexual Assault In The Second Degree</u> (...) The victim is physically helpless, and the actor knows or reasonably should know that the victim is physically helpless and has not consented; The actor knows or reasonably should know that the victim, through a mental illness, mental deficiency, or developmental</p>	<p><u>Sexual Assault In The First Degree</u> Felony punishable by imprisonment for 5-50 years. Repeat offenders felony punishable by imprisonment for not less than 25 years or for life, or life imprisonment without parole for prior sexual abuse of a minor. Shall be punishable by life imprisonment without parole if actor has two or more previous convictions for sexual assault or sexual abuse of a minor.</p> <p><u>Sexual Assault In The Second Degree</u> Felony punishable by imprisonment for 2-20 years. Repeat offenders felony punishable by imprisonment for not less than 25 years or for life, or life imprisonment without parole for prior sexual abuse of a minor. Shall be punishable by life</p>	<p>Consent is not defined by statute. However, case law suggests that in order for a person to consent to sexual intercourse, the person must be in a position to exercise independent judgment about the matter. <u>Wilson v. State, 655 P.2d 1246 (Wyo. 1982).</u></p>	<p>Yes.</p>	<p>No.</p> <p>“Physically helpless” means unconscious, asleep or otherwise physically unable to communicate unwillingness to act.</p>

State	Statutory Language	Classification/Punishment of Crime	Consent Defined	Cognitive Disability/Incapacity and Consent	Physical Disability/Incapacity/Helplessness and Consent
	<p>disability, is incapable of appraising the nature of the victim's conduct; (...) Consent of the victim is not a defense. WYO. STAT. ANN. § 6-2-303.</p> <p><u>Sexual Assault In The Third Degree</u> Subjecting a victim to sexual contact, without inflicting sexual intrusion on the victim and without causing serious bodily injury to the victim and not constituting sexual assault in the first degree or sexual assault in the second degree if: (...); The victim is physically helpless, and the actor knows or reasonably should know that the victim is physically helpless and has not consented; The actor knows or reasonably should know that the victim, through a mental illness, mental deficiency, or developmental disability, is incapable of appraising the nature of the victim's conduct; Consent of the victim is not a defense. WYO. STAT. ANN. § 6-2-304.</p>	<p>imprisonment without parole if actor has two or more previous convictions for sexual assault or sexual abuse of a minor.</p> <p><u>Sexual Assault In The Third Degree</u> Felony punishable by imprisonment for not more than 15 years. Repeat offenders felony punishable by imprisonment for not less than 25 years or for life, or life imprisonment without parole for prior sexual abuse of a minor. Shall be punishable by life imprisonment without parole if actor has two or more previous convictions for sexual assault or sexual abuse of a minor.</p>			

State	Statutory Language	Classification/Punishment of Crime	Consent Defined	Cognitive Disability/Incapacity and Consent	Physical Disability/Incapacity/Helplessness and Consent
Guam	<p><u>First Degree Criminal Sexual Conduct</u> (...) the actor is aided or abetted by one or more other persons and either (i) the actor knows or has reason to know that the victim is mentally defective, mentally incapacitated or physically helpless, (...); or the actor causes personal injury to the victim, and the actor knows or has reason to know that the victim is mentally defective, mentally incapacitated or physically helpless. 9 G.C.A. Ch. 25, § 25.15; § 25.10.</p> <p><u>Second Degree Criminal Sexual Conduct</u> (...) the actor is aided or abetted by one or more other persons and either (i) the actor knows or has reason to know that the victim is mentally defective, mentally incapacitated or physically helpless, or (ii) the actor uses force or coercion to accomplish the sexual contact. (...) or the actor causes personal injury to the victim and the actor knows or has reason to know that</p>	<p><u>First degree criminal sexual conduct</u> is a felony in the first degree. If convicted, the defendant shall be sentenced to a minimum of 15 years imprisonment and a maximum of life without the possibility of parole. A defendant sentenced to imprisonment is not eligible for work release or education programs outside the prison.</p> <p><u>Second degree sexual conduct</u> is a felony in the first degree, for which the court shall impose a sentence of not less than 5 years and not more than 20 years. A defendant sentenced to imprisonment is not eligible for work release or education programs outside the prison.</p> <p><u>Third degree criminal sexual conduct</u> is a felony of the second degree, punishable by imprisonment for not less than three years and not more than ten years.</p>	<p>Consent is not specifically defined. However, Guam law provides that a person commits a sex crime if the person engages in sexual penetration or sexual contact with another person and: (1) force or coercion is used to accomplish the sexual penetration or sexual contact; or (2) the actor knows or has reason to know that the victim is mentally defective, mentally incapacitated, or physically helpless.</p> <p>9 G.C.A. §§ 25.15; 25.20; 25.25; 25.30.</p>	<p>Yes.</p> <p>A person commits a sex crime if the person engages in sexual penetration or sexual contact with another person and the actor knows or has reason to know that the victim is mentally defective or mentally incapacitated. 9 G.C.A. §§ 25.15; 25.20; 25.25; 25.30.</p> <p>“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 his or her conduct.</p> <p>“Mentally incapacitated” means that a person is rendered temporarily incapable of appraising or controlling his or her conduct due to the influence of a narcotic, anesthetic or other substance administered to that person without his or</p>	<p>Yes.</p> <p>“Physically helpless” means that a person is unconscious, asleep or for any other reason is physically unable to communicate unwillingness to an act.</p>

State	Statutory Language	Classification/Punishment of Crime	Consent Defined	Cognitive Disability/Incapacity and Consent	Physical Disability/Incapacity/Helplessness and Consent
	<p>the victim is mentally defective, mentally incapacitated or physically helpless. 9 G.C.A. Ch. 25, § 25.20.</p> <p><u>Third Degree Criminal Sexual Conduct</u> Engaging in sexual penetration with another person where any of the following circumstances exists: (...) or the actor knows or has reason to know that the victim is mentally defective, mentally incapacitated or physically helpless. 9 G.C.A. Ch. 25, § 25.25.</p> <p><u>Fourth Degree Criminal Sexual Conduct</u> Engaging in sexual contact with another person where either of the following circumstances exists: (...) the actor knows or has reason to know that the victim is mentally defective, mentally incapacitated or physically helpless. 9 G.C.A. Ch. 25, § 25.35.</p>	<p><u>Fourth degree criminal sexual conduct</u></p> <p>is a felony of the third degree, for which the court may impose a sentence of not less than five years. For first offenders, however, criminal sexual conduct in the fourth degree is a misdemeanor.</p>		her consent, or due to any other act committed upon that person without his or her consent.	
Puerto Rico	<u>Sexual Assault</u> : Any person who performs sexual	<u>Sexual Assault</u> : Severe Second Degree Felony	Consent is not defined.	N/A	No.

State	Statutory Language	Classification/Punishment of Crime	Consent Defined	Cognitive Disability/Incapacity and Consent	Physical Disability/Incapacity/Helplessness and Consent
	<p>penetration, whether vaginal, anal, oral-genital, digital or instrumental under any of the following circumstances commits a severe second degree felony if due to mental disability or illness, whether temporary or permanent, the victim is unable to understand the nature of the act at the time of its commission. P.R. LAWS ANN. 33 § 4770.</p> <p><u>Lewd Acts</u>: Any person who without the intention to consummate the crime of sexual assault submits another person to an act that tends to awaken, excite or satisfy the sexual passion or desire of the accused, under any of the following circumstances: When the victim, due to mental disease or a temporary or permanent disability was unable to understand the nature of the act; P.R. LAWS ANN. 33 § 4772.</p>	<p><u>Lewd Acts</u>: Third Degree Felony</p>			
U.S. Virgin Islands	<u>Unlawful Sexual Contact in the First Degree</u>	<u>Unlawful Sexual Contact in the First Degree</u>	Consent: consent is not specifically defined.	Yes, an actor who engages in sexual contact	Yes; an actor who engages in sexual contact with a

State	Statutory Language	Classification/Punishment of Crime	Consent Defined	Cognitive Disability/Incapacity and Consent	Physical Disability/Incapacity/Helplessness and Consent
	V.I. CODE ANN. § 1708. An actor who engages in sexual contact with a person that the actor knows has a mental defect or incapacity, is physically helpless or unconscious, is guilty of unlawful sexual contact in the first degree.	V.I. CODE ANN. § 1708 Unclassified Imprisonment of not more than 15 years.	However, there is not consent when: (i) a person’s resistance is prevented by fear of immediate and great bodily harm (<i>Williams v. Virgin Islands</i> , No. CRIM. 2007-0008, 2011 WL 4072738 (V.I. Sept. 12, 2011)); or (ii) either force, intimidation, or abuse of a position of authority is used to accomplish a sexual act. <i>Francis v. People</i> , No. S. CT. CRIM. 2015-0002, 2015 WL 6460074 (V.I. Oct. 23, 2015).	with a person that the actor knows has a mental defect or incapacity, is physically helpless or unconscious, is guilty of unlawful sexual contact in the first degree. 14 V.I. CODE ANN. § 1708.	person that the actor knows has a mental defect or incapacity, is physically helpless or unconscious, is guilty of unlawful sexual contact in the first degree. 14 V.I. CODE ANN. § 1708.

*The information in this chart was derived in large part from the Rape, Abuse and Incest National Network (RAINN),¹ National Crime Victim Law Institute’s Sexual Assault Statute Survey,² and Westlaw statute searches.

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¹ *State Law Data Base*, RAPE, ABUSE AND INCEST NATIONAL NETWORK, <https://apps.rainn.org/policy/>. (last visited June 6, 2018).

² National Crime Victim Law Institute & National Women’s Law Center, *Sexual Assault Statutes in the United States*, LEWIS AND CLARK L. SCHOOL (2006), <http://law.lclark.edu/live/files/19776-national-survey-sexual-assault-statutes-in-the>.

List of State Child Protective Services Contact Information

STATE	CPS PHONE NUMBER	24/7	WEBSITE
Alabama	County-specific, see website for details.	No	http://dhr.alabama.gov/counties/county_select.aspx
Alaska	1-800-478-4444	Yes	http://dhss.alaska.gov/ocs/Pages/Offices/map.aspx
Arizona	1-888-767-2445	Yes	https://dcs.az.gov/services/suspect-abuse-report-it-now
Arkansas	1-800-482-5964	Yes	https://humanservices.arkansas.gov/
California	County-specific, see website for details.	Varies	http://www.cdss.ca.gov/Reporting/Report-Abuse/Child-Protective-Services/Report-Child-Abuse
Colorado	1-844-264-5437	Yes	https://www.colorado.gov/pacific/cdhs/colorado-child-abuse-and-neglect-hotline-reporting-system
Connecticut	1-800-842-2288	Yes	http://www.ct.gov/dcf/site/default.asp
Delaware	1-800-292-9582	Yes	http://kids.delaware.gov/fs/child-abuse-intervention.shtml
District of Columbia	202-671-7233 or 1-877-671-7233	Yes	https://cfsa.dc.gov/service/report-child-abuse-and-neglect
Florida	1-800-962-2873	Yes	http://www.myfamilies.com/service-programs/abuse-hotline
Georgia	1-855-422-4453	Yes	https://dfcs.georgia.gov/child-abuse-neglect
Hawaii	1-808-832-5300 or 1-800-494-3991	Yes	http://humanservices.hawaii.gov/bessd/child-care-program/child-care-licensing/reporting-child-care-complaints-and-investigations/
Idaho	1-855-552-5437	Yes	http://healthandwelfare.idaho.gov/Children/AbuseNeglect/ChildProtectionContactPhoneNumbers/tabid/475/Default.aspx
Illinois	1-800-252-2873	Yes	https://www.illinois.gov/dcf/safekids/reporting/Pages/index.aspx
Indiana	1-800-800-5556	Yes	http://www.in.gov/dcs/2971.htm
Iowa	1-800-362-2178	Yes	http://dhs.iowa.gov/report-abuse-and-fraud
Kansas	1-800-922-5330	Yes	http://www.dcf.ks.gov/services/PPS/Pages/KIPS/KIPSWebIntake.aspx
Kentucky	1-877-597-2331	Yes	https://chfs.ky.gov
Louisiana	1-855-452-5437	Yes	http://dss.louisiana.gov/index.cfm?md=pagebuilder&tmp=home&pid=109
Maine	1-800-452-1999	Yes	http://www.maine.gov/dhhs/ocfs/hotlines.htm
Maryland	County-specific, see website for details.	Varies	http://dhr.maryland.gov/child-protective-services/
Massachusetts	1-800-792-5200	Yes	http://www.mass.gov/eohhs/gov/departments/dcf/child-abuse-neglect/reporting-abuse.html
Michigan	1-855-444-3911	Yes	http://www.michigan.gov/mdhhs/0,5885,7-339-73971_7119--,00.html
Minnesota	County-specific, see website for details.	No	https://mn.gov/dhs/
Mississippi	1-800-222-8000	Yes	http://www.mdhs.state.ms.us/#
Missouri	1-800-392-3738	Yes	http://dss.mo.gov/cd/can.htm
Montana	1-866-820-5437	Yes	http://dphhs.mt.gov/CFSD
Nebraska	1-800-652-1999	Yes	http://dhhs.ne.gov/children_family_services/Pages/children_family_services.aspx
Nevada	702-399-0081 (Clark County) 775-785-8600 (Washoe County)	Varies	http://dcfs.nv.gov/Programs/CWS/Contact_CWS/
	1-800-992-5757 (All other counties, in state only)	Varies	http://dcfs.nv.gov/Programs/CWS/Contact_CWS/
New Hampshire	1-800-894-5533	Yes	http://www.dhhs.nh.gov/dcyf/cps/contact.htm

STATE	CPS PHONE NUMBER	24/7	WEBSITE
New Jersey	1-877-652-2873	Yes	http://www.nj.gov/dcf/reporting/how/index.html
New Mexico	1-855-333-7233	Yes	https://cyfd.org/contact-us
New York	1-800-342-3720	Yes	http://ocfs.ny.gov/main/cps/Default.asp
North Carolina	County-specific, see website for details.	No	https://www2.ncdhs.gov/dss/cps/index.htm
North Dakota	County-specific, see website for details.	No	http://www.nd.gov/dhs/services/childfamily/cps/#reporting
Ohio	County-specific, see website for details.	No	http://jfs.ohio.gov/ocf/reportchildabuseandneglect.stm
Oklahoma	1-800-522-3511	Yes	http://www.okdhs.org/library/newsltr/Pages/ReportingonChildAbuse.aspx
Oregon	1-855-503-7233	Yes	http://www.oregon.gov/DHS/CHILDREN/CHILD-ABUSE/Pages/Reporting-Numbers.aspx
Pennsylvania	1-800-932-0313	Yes	http://www.dhs.pa.gov/citizens/reportabuse/
Puerto Rico	1-800-981-8333 (in state) 787-749-1333 (out of state)	Yes	http://www2.pr.gov
Rhode Island	1-800-742-4453	Yes	http://www.dcyf.ri.gov/child_welfare/index.php
South Carolina	1-888-227-3487	No	https://dss.sc.gov/contact/
South Dakota	1-877-244-0864	No	https://dss.sd.gov/childprotection/reporting.aspx
Tennessee	1-877-237-0004	Yes	https://www.tn.gov/dcs
Texas	1-800-252-5400	Yes	https://www.dfps.state.tx.us/Contact_Us/report_abuse.asp
Utah	1-855-323-3237	Yes	https://dcfs.utah.gov/contact/
Vermont	1-800-649-5285	Yes	http://dcf.vermont.gov/protection/reporting
Virgin Islands	1-340-774-0930 (St. Thomas) 1-340-773-2323 (St. Croix) 1-340-776-6334 (St. John)	Yes Yes Yes	https://www.vi.gov/ https://www.vi.gov/ https://www.vi.gov/
Virginia	1-800-552-7096	Yes	http://www.dss.virginia.gov/family/cps/index.cgi
Washington	1-866-363-4276	Yes	https://www.dshs.wa.gov/ca/child-safety-and-protection/how-report-child-abuse-or-neglect?2=
West Virginia	1-800-352-6513	Yes	http://www.dhhr.wv.gov/bcf/Pages/default.aspx
Wisconsin	County-specific, see website for details.	No	https://dcf.wisconsin.gov/reportabuse
Wyoming	County-specific, see website for details.	No	https://sites.google.com/a/wyo.gov/dfsweb/social-services/child-protective-services

50-State Survey of the Statutes and Case Law Governing the Sterilization of Persons with Disabilities

CHART OF STATUTES AND CASES*

State	Can a guardian consent to sterilization on behalf of a ward?	Citation	Notes
Alabama	No, Alabama Code does not specifically authorize sterilization.	<i>Hudson v. Hudson</i> , 373 So. 2d 310 (Ala. 1979)	Without statutory authorization, Alabama courts could not order the sterilization of a minor with a disability.
Alaska	No, “except when necessary to preserve the life or prevent serious impairment of the physical health of the ward”	ALASKA STAT. ANN. § 13.26.316	
Arizona	No statute directly on issue	ARIZ. REV. STAT. ANN. § 14-5312	General parent or legal guardianship statute that permits parent or legal guardians to make healthcare decisions
Arkansas	No available information. Yes, with court order	ARK. CODE ANN. § 20-49-101 <i>et seq.</i>	§ -201 requires that a parent or legal guardian ad litem be appointed for the person with a disability. § -204 provides a right to counsel for the person with a disability.
California	Yes, with court order, but the process is highly complex	CAL. PROB. CODE § 1950 <i>et seq.</i>	§ 1954.5 requires appointment of a facilitator for the person named in the petition § 1955 requires investigation and report by regional center for the developmentally disabled § 1959 states “the fact that, due to the nature or severity of his or her disability, a person for whom an authorization to consent to sterilization is sought may be vulnerable to sexual conduct by others that would be deemed unlawful, shall not be considered by the court in determining whether sterilization is to be authorized under this chapter.” § 1969 states “nothing in this chapter shall infringe on the right of persons with developmental disabilities who are capable of giving consent to sterilization

State	Can a guardian consent to sterilization on behalf of a ward?	Citation	Notes
			to give that consent without the necessity of a court order or substitute decisionmaker.”
Colorado	Yes, with court order	COLO. REV. STAT. ANN. § 25.5-10-231 <i>et seq.</i>	<p>§ -233(2) requires that the court appoint an attorney to represent the person with a disability and order a physician’s evaluation of the person.</p> <p>§ 233(6) lists six criteria that must be satisfied to order sterilization, including that the sterilization be medically necessary to preserve the life or health of the person with a disability.</p>
Connecticut	Yes, with court order	CONN. GEN. STAT. ANN. § 45a-690 <i>et seq.</i>	§ 45a-694 requires that counsel be appointed for any unrepresented respondent and that appointed counsel will from a panel of attorneys provided by the Probate Court Administrator
Delaware	Yes, with court order	16 DEL. CODE ANN. § 5701 <i>et seq.</i>	<p>§ 5707 requires affidavits from a psychologist or psychiatrist (subsection b) and one or more physicians (subsection c)</p> <p>§ 5709 requires appointment of parent or legal guardian ad litem, attorney, or both for the ward</p>
District of Columbia Florida	Yes, with court order	D.C. CODE § 21-2047.01	
	Yes, with court order	FLA. STAT. ANN. § 744.3215, 744.3725	<p>§ 744.3215 prohibits parent or legal guardians from allowing sterilization without a court order.</p> <p>§ 744.3725 requires the court to appoint counsel for the person who is incapacitated, meet personally with the person who is incapacitated, find by clear and convincing evidence that the person who is incapacitated cannot consent to the procedure, and find by clear and convincing evidence that the sterilization is in the best interest of the person who is incapacitated.</p> <p>§ 744.3725 specifically states that there is no right to a sterilization procedure.</p>
Georgia	Yes, with court order	O.C.G.A. § 31-20-3	§ -3(c)(2) requires that a team comprised of an independent

State	Can a guardian consent to sterilization on behalf of a ward?	Citation	Notes
Hawaii	Yes, with court order	HAW. REV. STAT. § 560:5-601 <i>et seq.</i>	<p>psychologist/psychiatrist and an independent physician examine the person to be sterilized and determine whether sterilization is appropriate and what less permanent contraceptive methods may be more appropriate. § -3(c)(3) requires that a committee from the hospital where the sterilization will be performed approve the procedure.</p> <p>§ -3(c)(7) provides a right to counsel.</p> <p>§ 604 requires that a parent or legal guardian ad litem be appointed for the ward.</p> <p>§ 608 requires that the sterilization be in the best interest of the person with a disability. Also provides six criteria for courts to consider when ruling on whether sterilization is in the best interest of the person with a disability.</p>
Idaho	Yes, with court order	IDAHO CODE ANN. § 39-3901 <i>et seq.</i>	<p>§ 39-3905 provides for counsel for the person to be sterilized at all stages of the litigation.</p> <p>§ -3909 sets out eight criteria that must be satisfied for a court to order sterilization. Also requires sterilization to be in the best interest of the individual with a disability.</p> <p>§ -3010 prohibits sterilization by hysterectomy or castration unless medically necessary.</p> <p>§ -3912 establishes an evaluation committee comprised of healthcare professionals to advise courts on sterilization petitions.</p>
Illinois	Yes, with court order	755 Ill. COMP. STAT. 5/11a-17.1	<p>§ -17.1(c) requires the appointment of a parent or legal guardian ad litem.</p> <p>§ -17.1(e) requires a medical and psychological evaluation of the person to be sterilized.</p>

State	Can a guardian consent to sterilization on behalf of a ward?	Citation	Notes
			<p>§ -17.1(g) requires the court to enter an order for sterilization if the person to be sterilized indicates a clear desire to be sterilized.</p> <p>§ -17.1(h) lists five factors, including that sterilization is in the best interest of the person to be sterilized, that must be satisfied for the court to order sterilization.</p>
Indiana	Yes, with court order	IND. CODE § 16-36-1-8, <i>Lulos v. State</i> , 548 N.E.2d 173, 173 (Ind. Ct. App. 1990)	<p>§ 16-36-1-8 allows parent or legal guardians to bring petitions in probate court to consent to medical care on behalf of an adult capable of consent.</p> <p><i>Lulos</i> permitted the sterilization of an adult incapable of consent. To permit sterilization, petitioners must act “in good faith and the sterilization [must be] in the best interest of the incompetent adult.”</p>
Iowa	Yes, with court order	IOWA CODE ANN. § 633.635, <i>In re Parent or legal guardianship of Kennedy</i> , 845 N.W.2d 707, 715 (Iowa 2014)	<p>§ 633.635 requires parent or legal guardians to seek court approval before arranging major medical procedures.</p> <p><i>Kennedy</i> held that a vasectomy is a major medical procedure, indicating that courts must authorize sterilization procedures.</p>
Kansas	Yes, with court order	KAN. STAT. ANN. § 59-3075	<p>§ 59-3075 mandates a court appointed attorney on behalf of the ward</p>
Kentucky	Yes, with court order	KY. REV. STAT. ANN. 387.660	
Louisiana	Yes, with court order	LA. CODE CIV. PROC. ANN. art. 4566	
Maine	Yes, with court order	34-B ME. REV. STAT. ANN. § 7001 <i>et seq.</i>	<p>§ 7007(a) provides counsel for persons with disabilities who cannot afford counsel.</p> <p>§ 7013 permits court ordered sterilization of persons who cannot give informed consent to the procedure but for whom sterilization is their best interest. Sterilization must be necessary to preserve the physical or mental health of the disabled person and other</p>

State	Can a guardian consent to sterilization on behalf of a ward?	Citation	Notes
Maryland	Yes, with court order	MD. CODE, Est. & Trusts § 13-708, <i>Wentzel v. Montgomery Gen. Hosp., Inc.</i> , 293 Md. 685, 447 A.2d 1244 (1982)	contraceptive methods must be unworkable. § 13-708 provides that parent or legal guardians have power to consent to medical care, but does not mention sterilization. <i>Wentzel</i> held that a parent or legal guardian could consent to a sterilization for a minor ward with developmental disabilities. However, the court found this power not in §13-708, but in the court’s general <i>parens patriae</i> authority. § 12W states that physicians are not permitted to perform sterilizations without written consent from the person to be sterilized.
Massachusetts	Yes, with court order	MASS. GEN. LAWS ANN. ch. 112, § 12W <i>Matter of Moe</i> , 385 Mass. 555, 432 N.E.2d 712 (1982)	However, <i>Moe</i> held that courts could order sterilization. The court named several factors – including the medical necessity of sterilization and the effectiveness of other methods of birth control – as relevant to determining whether sterilization is appropriate.
Michigan	Yes, with court order	MICH. COMP. LAWS § 330.1629	§ 330.1629 requires that the parent or legal guardian act in consultation with the ward’s physician, in good faith, and be non-negligent.
Minnesota	Yes, with court order	MINN. STAT. § 524.5-313	§ 524.5-313 requires a written medical report for the court to consider. For wards with developmental disabilities the court shall appoint a physician, psychologist, and social worker to evaluate the ward and provide a written report.
Mississippi	No statute directly on issue	MISS. CODE ANN. § 41-41-213	General parent or legal guardianship statute that permits parent or legal guardians to make healthcare decisions Mississippi had sterilization statutes until their repeal in 2008.
Missouri	No, Missouri Code does not specifically authorize sterilization	<i>In Interest of M. K. R.</i> , 515 S.W.2d 467 (Mo. 1974)	Without statutory authorization, Missouri courts could not order the sterilization of a minor with a disability.

State	Can a guardian consent to sterilization on behalf of a ward?	Citation	Notes
Montana	No statute directly on issue	MONT. CODE ANN. § 72-5-321	General parent or legal guardianship statute that permits parent or legal guardians to make healthcare decisions/.
Nebraska	No statute directly on issue	NEB. REV. STAT. ANN. § 30-2628	General parent or legal guardianship statute that permits parent or legal guardians to make healthcare decisions
Nevada	Yes, with court order	NEV. REV. STAT. § 159.0805	
New Hampshire	Yes, with court order	N.H. REV. STAT. § 464-A:25	
New Jersey	Yes, with court order	N.J. STAT. § 30:6D-5 <i>Matter of Grady</i> , 85 N.J. 235, 426 A.2d 467 (1981)	§ 30:6D-5 provides that no person with a developmental disability receiving inpatient treatment for their disability can be sterilized without the consent of a parent or legal guardian ad litem appointed specifically to consent to the procedure. However, <i>Grady</i> held that § 30:6D-5 did not apply to petitions for sterilization brought when the person with a disability was not receiving inpatient treatment. Rather, the court held that trial courts have the power to order sterilization under the <i>parens patriae</i> authority.
New Mexico	No statute directly on issue	N.M. STAT. ANN. § 45-5-312	General parent or legal guardianship statute that permits parent or legal guardians to make healthcare decisions
New York	Yes, with court order	N.Y. Mental Hyg. Law § 81.22	§ 81.22 authorizes parent or legal guardians of incapacitated persons to consent to medical care. Courts have interpreted this to permit sterilization. <i>See, e.g., In re Parent or legal guardianship of B.</i> , 190 Misc. 2d 581, 738 N.Y.S.2d 528 (Co. Ct. 2002).
North Carolina	Yes, with clerk's order	N.C. GEN. STAT. § 35A-1245	§ 35A-1245 requires that sterilization be “medically necessary and not for the sole purpose of sterilization or for the purpose of hygiene or convenience.” The person to be sterilized must also consent to the procedure or be unable to understand the implications of the procedure.

State	Can a guardian consent to sterilization on behalf of a ward?	Citation	Notes
North Dakota	Yes, with court order	N.D. CENT. CODE § 30.1-28-12	
Ohio	No, unless the person with a disability can consent to the procedure	Ohio REV. CODE § 5123.86	§ 5123.86 states “no resident shall be subjected to sterilization without the resident’s informed consent.” In <i>Wade v. Bethesda Hosp.</i> , the court held that there is “no set of circumstances or conditions under Ohio law which would permit [a court] to order . . . sterilization.” 337 F. Supp. 671, 674 (S.D. Ohio 1971).
Oklahoma	No statute directly on issue, but parent or legal guardianship statute prohibits consent to removal of bodily organs and abortion without court order	OKLA. STAT. ANN. tit. 30, § 3-119	
Oregon	Yes, with court order	OR. REV. STAT. § 436.205 <i>et seq.</i>	§ 436.265 provides a right to counsel and requires the court to appoint counsel for persons with disabilities unable to afford counsel. If the person with a disability is unable to request counsel, the court must appoint counsel. § 436.275 requires the court to use, as evidence, reports from a team of physicians and psychologists with knowledge of the disability. § 436.295(2) states “if the court determines by clear and convincing evidence that the respondent lacks the ability to give informed consent for sterilization, the court shall retain its jurisdiction and continue the hearing to determine whether sterilization is in the best interests of the respondent.” § 436.305 permits the court to order sterilization only when sterilization is in the best interest of the person with a disability.
Pennsylvania	Yes, with a court order	<i>Matter of Terwilliger</i> , 304 Pa. Super. Ct. 553, 450 A.2d 1376 (1982)	No relevant statute. Sterilization power derived from Orphan’s Court’s <i>parens patriae</i> powers.

State	Can a guardian consent to sterilization on behalf of a ward?	Citation	Notes
			Sterilization must be in the best interest of the person with a disability and must not be done for expedience of caretakers.
Rhode Island	No statute directly on issue	33 R.I. GEN. LAWS ANN. § 33-15-29	General parent or legal guardianship statute that permits parent or legal guardians to make healthcare decisions.
South Carolina	Yes, with court order	<i>See Brode v. Brode</i> , 278 S.C. 457, 298 S.E.2d 443 (1982)	While not directly ruling on sterilization, the South Carolina Supreme Court in <i>Brode</i> upheld a lower court order permitting the sterilization of a minor with a disability.
South Dakota	No statute directly on issue	S.D. CODIFIED LAWS § 29A-5-402	General parent or legal guardianship statute that permits parent or legal guardians to make healthcare decisions.
Tennessee	No statute directly on issue, but parent or legal guardianship statute permits right to grant or withhold treatment for wards.	TENN. CODE ANN. § 34-3-107	
Texas	No, Texas Probate Code does not specifically authorize sterilization.	<i>Frazier v. Levi</i> , 440 S.W.2d 393 (Tex. Civ. App. 1969)	Without statutory or constitutional authorization, Texas courts cannot order sterilization.
Utah	Yes, with court order	UTAH CODE ANN. 1953 § 62A-6-101 <i>et seq</i>	<p>§ -108 lists nine non-exhaustive factors for courts to consider when ruling on petitions for sterilization. Also requires the court to meet with the individual to be sterilized and to determine whether sterilization is in the best interest of that individual.</p> <p>§ -111 requires the appointment of counsel to represent the individual to be sterilized.</p> <p>§ -112 provides a right to a jury in cases petitioning for sterilization.</p>
Vermont	Yes, with court order	18 VT. STAT. ANN. § 8705 <i>et seq.</i>	<p>§ 8705 prohibits the sterilization of minors.</p> <p>§ 8710 requires counsel for the individual to be sterilized and permits the appointment of a parent or legal guardian ad litem.</p>

State	Can a guardian consent to sterilization on behalf of a ward?	Citation	Notes
Virginia	Yes, with court order	VA. CODE ANN. § 54.1-2976	<p>§ 8711 requires that the court find that sterilization is the most effective means of contraception for the needs of the person with a disability.</p> <p>§ 54.1-2976 requires appointment of counsel for the person to be sterilized. Also requires that a full description of the procedure is given to the person with a disability and their parent or parent or legal guardian, and that the court take into account the views of the person to be sterilized.</p>
Washington	Yes, with court order	<i>Matter of Parent or legal guardianship of Hayes</i> , 93 Wash. 2d 228, 608 P.2d 635 (1980)	<p>No relevant statute.</p> <p>The sterilization must be clearly in the best interest of the person with a disability. There is a strong presumption against sterilization. All less severe means of contraception must be futile, and the proposed method must be the least invasive means.</p>
West Virginia	No statute directly on issue	W. VA. CODE ANN. § 44A-3-1	<p>General parent or legal guardianship statute that permits parent or legal guardians to make healthcare decisions</p> <p>West Virginia formerly had sterilization statutes until their repeal in 2013.</p>
Wisconsin	No, Wisconsin Code does not specifically authorize sterilization.	<i>Matter of Parent or legal guardianship of Eberhardy</i> , 102 Wis. 2d 539, 307 N.W.2d 881 (1981)	<p>Without specific statutory authorization, Wisconsin courts could not order the sterilization of a minor with a disability. This was a question of public policy, and the court held that the judiciary was not the proper venue to decide matters of policy.</p>
Wyoming	Yes, with court order	WYO. STAT. ANN. § 3-2-202	

* We are ever grateful to Derek M. Andre, currently (*i.e.* September 2018) in his third year of law school at Duke University School of Law, for his tremendous work researching these laws and creating this chart during his time as a summer associate with Smith, Gambrell & Russell, LLP in Atlanta, Georgia.

A Guide on Responding to Suspected Abuse
of People with Developmental Disabilities

Ten Tips for Parents or Family Members Whose Loved One Receives School, Residential,
Transportation, Day Program, Vocational, or Other Direct or Support Services

By Nora J. Baladerian, Ph.D.

1. Know and believe that abuse can happen to your loved one.
2. Become familiar with the signs of abuse. Any signs of injury, changes in behavior, mood, communication, sleep, or eating patterns are included.
3. When you suspect something is wrong, honor your feeling and take action immediately. See #4.
4. When you suspect abuse, call a Child or Adult Protective Services agency and the police.
5. Do not discuss your suspicions with anyone at the program where you believe abuse is occurring. They may deny any problem, punish your loved one, and attempt to destroy evidence that may exist.
6. Remove your loved one from the program immediately.
7. If there are injuries or physical conditions, take your loved one to a physician, not only to diagnose and treat the condition, but create documentation of your visit and the findings. Take your loved one to a mental health practitioner who can document the changes in his or her behavior and mood and who can document what your loved one's memories are of the abuse.
8. Create a document in which you write all of your activities. Begin with when you first suspected abuse or neglect. What were the signs or signals you noticed? Write the dates of these, and if there were injuries, detail what they were, their appearance, and where on the body you saw them. If staff gave an explanation, record this in your file. Write down when you called the police or protective services agency, the name of the representative, time and date of the call, and what was said. If a staff member discussed this with you, write down what they said and their name and the date and time of the discussion.
9. Notify the Regional Center representative of your findings, suspicions, and actions, or your disability program in your state.
10. Get a police report. Contact the Victims of Crime program in your area and seek their support for reimbursement of costs and therapy for the family.

Produced by the Disability and Abuse Project of Spectrum Institute
www.disabilityandabuse.org

([Spanish Language Version of this Guide](http://disabilityandabuse.org/resources/ten-tips-in-spanish.pdf) is found at <http://disabilityandabuse.org/resources/ten-tips-in-spanish.pdf>)

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**GUIA PARA RESPONDER AL SOSPECHAR ABUSO
DE PERSONAS CON DESCAPACIDADES DE DESARROLLO –
10 Informes Criticas Para Padres o Familiares**

1. Saber y creer que su querido puede llegar a ser victima de abuso.
2. Saber y poder reconocer senas de abuso. Cualquier sena de heridas, cambios en comportamiento, humor, comunicacion, dormir o patrones de comer, vestirse o conducta social.
3. Cuando Ud. sospecha que algo malo ha pasado, creer sus instintos. Tome accion inmediatamente. (Ver #4.)
4. Al sospechar maltrato de su hijo/a llame a la policia. Tambien puede llamar al Depto. de Proteccion de Ninos o Adultos.
5. No reclame ni platica con los empleados donde Ud. sospecha han abusado a su querido sobre el asunto. Ellos pueden tomar acciones para esconder evidencia, pueden negar lo que paso, o pueden (amenazar) o castigar a su hijo/a si sigue asistiendo el programa.
6. Saque su querido del programa inmediatamente, sea un programa residencial, diurno, social vocacional o de salud actividad social, o otro. No obstante lo que recomienda Centro Regional.
7. Si hay heridas fisicas, lleve su querido a un medico, no unicamente para proveer tratamiento y diagnosticar el dano, sino crear documentacion de la visita y lo que vieron. Tambien, lleve su querido a un professional de salud mental quien puede documentar los cambios en su humor, conducta y otros senales. Ellos pueden documentar lo que dice su querido sobre lo que paso.
8. Empiece un diario en lo cual escribe todo lo que ha visto, a todas sus actividades. Cuales fueron los senales o cambios que Ud. noto? Escribe las fechas, y si habian senales de abuso fisico, escribe cuales son, donde en el cuerpo, cuantos son, como parecian (imagen de una mano, mordida, etc). Si los empleados le dio alguna explicacion de lo que causo las senas, apunte lo que le dijeron. Incluye los nombres, la hora y dia de esta conversacion. Apunte cuando Ud. llamo a la policia, el telefono que marco, nombre del representante, dia y fecha de la llamada y un resumen de la conversacion.
9. Notificar al Centro Regional, principalmente el trabajador de su caso, o el Centro en su estado que provee servicios a personas con discapacidades.
10. Ir a la estacion de policia y consigue una copia de su reporte. Haga eso dentro de la semana de su llamada. Si no hay reporte, haga otro reporte, y adquiere una copia con el numero del reporte. Haga una aplicacion en nombre de su hijo al programa de Victims of Crime (Victimas de Crimen), y mandarlo junto con una copia del reporte de la policia. Este programa paga los costos de psicoterapia, mudar casa, perdida de ganancias debido al crimen entre otros servicios.

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ADDITIONAL RESOURCES REGARDING THE SEXUAL ABUSE, HEALTH, AND SAFETY OF PERSONS WITH DISABILITIES

CENTER FOR RESEARCH ON WOMEN WITH DISABILITIES, BAYLOR COLLEGE OF MEDICINE <http://www.bcm.edu/crowd/> (last visited September 12, 2018).

Dr. Nora J. Baladerian, *A Risk Reduction Workbook for Parents and Service Providers: How to Reduce the Risk of Abuse, Including Sexual Abuse* (2014) (available at <http://norabaladerian.com/books.htm>, last visited September 12, 2018).

Dr. Nora J. Baladerian, *A Risk Reduction Workbook for People With Developmental Disabilities: How to Reduce the Risk of Abuse, Including Sexual Abuse* (2014) (available at <http://norabaladerian.com/books.htm>, last visited September 12, 2018).

Dr. Nora J. Baladerian, *SURVIVOR: For People with Developmental Disabilities Who Have Been Sexually Assaulted, Book I: For Those Who Read Best With Few Words* (1985) (available at <http://norabaladerian.com/books.htm>, last visited September 12, 2018).

Dr. Nora J. Baladerian, *SURVIVOR: For People with Developmental Disabilities Who Have Been Sexually Assaulted, Book II: For People with Disabilities and Their Advocates* (1985) (available at <http://norabaladerian.com/books.htm>, last visited September 12, 2018).

Dr. Nora J. Baladerian, *SURVIVOR: For People with Developmental Disabilities Who Have Been Sexually Assaulted, Book III: For Family Members, Advocates and Care-Providers* (1985) (available at <http://norabaladerian.com/books.htm>, last visited September 12, 2018).

Dr. Nora J. Baladerian, *The Rules of Sex: Social and Legal Guidelines for Those Who Have Never Been Told* (2006) (available at <http://norabaladerian.com/books.htm>, last visited September 12, 2018).

ELEVATUS TRAINING, *Talking With Your Kids: Developmental Disability and Sexuality: An Engaging Online Course to Help Parents Bridge the Gap*, <https://www.elevatustraining.com/workshops-and-products/talking-with-your-kids/> (last visited September 12, 2018).

LOVE ROLLS ON, <http://loverollson.com> (last visited September 12, 2018).

MILESTONES AUTISM RESOURCES, *Self-Advocacy & Self-Determination*, <http://milestones.org/individuals-with-asd/self-advocacy/> (last visited September 12, 2018).

NATIONAL COUNCIL ON DISABILITY, *Rocking the Cradle: Ensuring the Rights of Parents with Disabilities and Their Children* (September 27, 2012), https://ncd.gov/rawmedia_repository/89591c1f_384e_4003_a7ee_0a14ed3e11aa.pdf (last visited September 12, 2018).

NATIONAL COUNCIL ON INDEPENDENT LIVING, <http://www.ncil.org/> (last visited September 12, 2018).

PARENTS WITH DISABILITIES ONLINE, <http://www.disabledparents.net> (last visited September 12, 2018).

RAPE, ABUSE, AND INCEST NATIONAL NETWORK (RAINN), <https://www.rainn.org/> (last visited September 12, 2018).

THROUGH THE LOOKING GLASS, <http://www.lookingglass.org> (last visited September 12, 2018).

**50-STATE SURVEY OF INDECENT EXPOSURE AND
PUBLIC LEWDNESS LAWS***

STATE	CITATION	STATUTORY LANGUAGE
ALABAMA	ALA. CODE § 13A-6-68	Indecent Exposure
ALASKA	ALASKA STAT. ANN. § 11.41.460	Indecent Exposure
ARIZONA	ARIZ. REV. STAT. ANN. § 13-1402	Indecent Exposure
ARKANSAS	ARK. CODE ANN. § 5-14-112	Indecent Exposure
CALIFORNIA	CAL. PENAL CODE § 314	Lewd or Obscene Conduct; Indecent Exposure; Obscene Exhibitions
COLORADO	CO. REV. STAT. ANN. § 18-7-301 CO. REV. STAT. ANN. § 18-7-302	Public Indecency Indecent Exposure
CONNECTICUT	CONN. GEN. STAT. ANN. § 53a-186	Public Indecency
DELAWARE	DEL. CODE ANN. TIT. 11 § 764 DEL. CODE ANN. TIT. 11 § 765	Indecent Exposure in the Second Degree Indecent Exposure in the First Degree; Unclassified Misdemeanor
DISTRICT OF COLUMBIA	D.C. CODE § 22-1312	Lewd, Indecent, or Obscene Acts
FLORIDA	FLA. STAT. ANN. § 800.03	Exposure of Sexual Organs
GEORGIA	GA. CODE ANN. § 16-6-8	Public Indecency
HAWAII	HAW. REV. STAT. § 707-734	Indecent Exposure
IDAHO	IDAHO CODE ANN. § 18-4116	Indecent Exposure
ILLINOIS	720 ILCS § 5/11-30	Public Indecency
INDIANA	IND. CODE § 35-45-4-1	Public Indecency; Indecent Exposure
IOWA	IOWA CODE ANN. § 709.9	Indecent Exposure
KANSAS	KAN. STAT. ANN. § 21-5513	Lewd and Lascivious Behavior
KENTUCKY	KY. STAT. ANN. § 510.150 KY. STAT. ANN. § 510.148	Indecent Exposure in the Second Degree Indecent Exposure in the First Degree
LOUISIANA	LA. REV. STAT. ANN. § 14:106	Obscenity
MAINE	ME. REV. STAT. TIT. 17-A § 854	Indecent Conduct
MARYLAND	MD. CRIM. LAW CODE § 11-107	Indecent Exposure
MASSACHUSETTS	MASS. GEN. LAWS ANN. CH. 272 § 53	Penalty for Certain Offenses
MICHIGAN	MICH. COMP. LAWS ANN. § 750.335a	Indecent Exposure
MINNESOTA	MINN. STAT. § 617.23	Indecent Exposure; Penalties
MISSISSIPPI	MISS. CODE ANN. § 97-29-31	Indecent Exposure
MISSOURI	MO. REV. STAT. § 566.093	Sexual Misconduct, First Degree
MONTANA	MONT. CODE ANN. § 45-5-504	Indecent Exposure
NEBRASKA	NEB. REV. STAT. § 28-806	Public Indecency
NEVADA	NEV. REV. STAT. ANN. § 201.220	Indecent or Obscene Exposure
NEW HAMPSHIRE	N.H. REV. STAT. ANN. § 645:1	Indecent Exposure and Lewdness
NEW JERSEY	N.J. STAT. ANN. § 2C:14-4	Lewdness
NEW MEXICO	N.M. STAT. ANN. § 30-9-14	Indecent Exposure
NEW YORK	N.Y. PENAL CODE § 245.00	Public Lewdness
NORTH CAROLINA	N.C. GEN. STAT. § 14-190.9	Indecent Exposure
NORTH DAKOTA	N.D. CENT. CODE § 12.1-20-12.1	Indecent Exposure
OHIO	OHIO REV. CODE ANN. § 2907.09	Public Indecency

STATE	CITATION	STATUTORY LANGUAGE
OKLAHOMA	OKLA. STAT. ANN. § 21-1021	Indecent Exposure-Indecent Exhibitions- Obscene Material or Child Pornography- Solicitation of Minors
OREGON	OR. REV. STAT. § 163.465	Public Indecency
PENNSYLVANIA	18 PA. C.S.A. § 3127	Indecent Exposure
RHODE ISLAND	R.I. STAT. § 11-45-2	Indecent Exposure-Disorderly Conduct
SOUTH CAROLINA	S.C. CODE ANN. § 16-15-130	Indecent Exposure
SOUTH DAKOTA	S.D. CODIFIED LAWS § 22-24-1.1 S.D. CODIFIED LAWS § 22-24-1.2	Public Indecency Indecent Exposure
TENNESSEE	TENN. CODE ANN. § 39-13-511	Indecent Exposure
TEXAS	TEX. PENAL CODE ANN. § 21.08	Indecent Exposure
UTAH	UTAH CODE ANN. § 76-9-702	Lewdness
VERMONT	VT. STAT. ANN. § 2601	Lewd and Indecent Conduct
VIRGINIA	VA. CODE ANN. § 18.2-387	Indecent Exposure
WASHINGTON	WASH. REV. CODE ANN. § 9A.88.010	Indecent Exposure
WEST VIRGINIA	W.VA. CODE ANN. § 61-8-9	Indecent Exposure
WISCONSIN	WIS. STAT. § 944.20	Lewd and Lascivious Behavior
WYOMING	WYO. STAT. ANN. § 6-4-201	Public Indecency

*Information obtained from Westlaw 50-state survey of “Indecent Exposure” laws and from *Nudity and Public Decency Laws in America*, found at [HG.org](https://www.hg.org), <https://www.hg.org/legal-articles/nudity-and-public-decency-laws-in-america-31193> (last visited on Sept. 9, 2019).