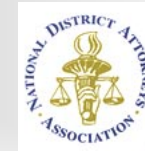


Sexual Assault Statutes in the United States Chart



A joint project of the National Crime Victim Law Institute and the National Women's Law Center; updated by the National District Attorneys Association & National Crime Victim Law Institute in 2016

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Sexual Assault Statutes in the United States

State	Statute	Physical Contact: Element Breakdown	Classification of Crime	Mental State Required	Forcible Compulsion / Consent / Incapacity
Alabama	AL ST §13A-6-60 §13A-6-61 §13A-6-62 §13A-6-63 §13A-6-64 §13A-6-65 §13A-6-65.1 §13A-6-66 §13A-6-67 §13A-6-70	<p><u>Rape 1st degree:</u></p> <ul style="list-style-type: none"> sexual intercourse with opposite sex by “forcible compulsion” OR with person “incapable of consent” because “physically helpless” or “mentally incapacitated” OR when perpetrator is ≥ 16 years old with person < 12 years old <p><u>Rape 2nd degree:</u></p> <ul style="list-style-type: none"> sexual intercourse with opposite sex when perpetrator is ≥ 16 years old and victim is older than 12 and less than 16 and the perpetrator is > 2 years older than the victim OR with person “incapable of consent by reason of being mentally defective” <p><u>Sodomy 1st degree:</u></p> <ul style="list-style-type: none"> deviate sexual intercourse by forcible compulsion OR with a person “incapable of consent” because the person is “physically helpless” or “mentally incapacitated” OR if the perpetrator is ≥ 16 years old and the victim is < 12 years old 	<p><u>Rape 1st degree:</u> Class A felony</p> <p><u>Rape 2nd degree:</u> Class B felony</p> <p><u>Sodomy 1st degree:</u> Class A felony</p>	<p>no explicit mens rea requirement; general intent¹; see Stokes v. State, 648 So.2d 1179 (Ala. Crim. App. 1994) (approving general intent as necessary mental state)</p> <p>no explicit mens rea requirement; general intent</p> <p>no explicit mens rea requirement; general intent</p>	<p><u>Forcible compulsion</u> “physical force that overcomes earnest resistance” OR “a threat, express or implied” placing the person in “fear of immediate death or serious physical injury to himself or another”</p> <p><u>Incapacity:</u> “mentally defective”: means “a person suffers from a mental disease or defect which renders him incapable of appraising the nature of his conduct”</p> <p>“mentally incapacitated”: “rendered temporarily incapable of appraising or controlling his conduct” because he is under the influence of a “narcotic or intoxicating substance administered to him without his consent” OR “any other incapacitating act committed upon him without his consent”</p> <p>“physically helpless”: “unconscious or...physically unable to communicate unwillingness to act”</p> <p><u>Consent defined:</u> no consent when: forcible compulsion; or incapacity to consent; or if the offense charged is sexual abuse, no consent when: forcible compulsion or incapacity to consent or any circumstance “in which the victim does not expressly or impliedly acquiesce in the actor’s conduct”</p> <p>a person is deemed incapable of consent if he is: < 16 years old; or mentally defective; or mentally incapacitated; or physically helpless”</p>

¹ When no mens rea appears explicitly in the statute there is a presumption that general intent applies where the actus reus proves the mens rea.

Sexual Assault Statutes in the United States

State	Statute	Physical Contact: Element Breakdown	Classification of Crime	Mental State Required	Forcible Compulsion / Consent / Incapacity
Alabama continued		<p><u>Sodomy 2nd degree:</u></p> <ul style="list-style-type: none"> • deviate sexual intercourse when perpetrator is ≥ 16 years old and victim is > 12 years old and < 16 years old OR • with a person who is “incapable of consent by reason of being mentally defective” <p><u>Sexual misconduct:</u></p> <ul style="list-style-type: none"> • if male: “he engages in sexual intercourse with a female without her consent” or where her consent was obtained by fraud or artifice OR • if female: “she engages in sexual intercourse with a male without his consent” OR • either male or female: engages in deviate sexual intercourse (consent is irrelevant) <p><u>Sexual torture:</u></p> <ul style="list-style-type: none"> • penetration of the vagina, anus or mouth with an inanimate object by “forcible compulsion” OR • with a person “incapable of consent” because of “physical helplessness or mental incapacity” OR • with a who is < 12 years old when the perpetrator ≥ 16 years 	<p><u>Sodomy 2nd degree:</u> Class B felony</p> <p><u>Sexual misconduct:</u> Class A misdemeanor</p> <p><u>Sexual torture:</u> Class A felony</p>	<p>no explicit mens rea requirement; general intent</p> <p>no explicit mens rea requirement; general intent</p> <p>specific intent: “with the intent to sexually torture or to sexually abuse”</p>	<p>consent by fraud or artifice is not consent</p> <p>• Williams v State, -- So.3d--, 2014 WL 267 (Ala. Crim. App. 2014). Section in Sexual misconduct statute stating consent is irrelevant is Unconstitutional.</p>

Sexual Assault Statutes in the United States

State	Statute	Physical Contact: Element Breakdown	Classification of Crime	Mental State Required	Forcible Compulsion / Consent / Incapacity
Alabama continued		old with intent to sexually torture or abuse <u>Sexual abuse 1st degree:</u> <ul style="list-style-type: none"> subjecting a person to sexual contact “by forcible compulsion” OR when a person is incapable of consent because “physically helpless or mentally incapacitated” OR 	<u>Sexual abuse 1st degree:</u> Class C felony	no explicit mens rea requirement; general intent	
		<u>Sexual abuse 2nd degree:</u> <ul style="list-style-type: none"> subjects a person to sexual contact and the person is incapable of consent for some reason other than being <16 years OR when the perpetrator is ≥ 19 years old and the victim is > 12 years old, but < 16 years old 	<u>Sexual abuse 2nd degree:</u> Class A misdemeanor unless this offense is the second sexual offense committed within one year, then Class C felony	no explicit mens rea requirement; general intent	

Sexual Assault Statutes in the United States

State	Statute	Physical Contact: Element Breakdown	Classification of Crime	Mental State Required	Forcible Compulsion / Consent / Incapacity
Alaska	AK ST §11.41.410 §11.41.420 §11.41.425	<p><u>Sexual assault 1st degree:</u></p> <ul style="list-style-type: none"> sexual penetration without consent OR “causes serious physical injury” while attempting sexual penetration without consent OR sexual penetration with person the perpetrator knows is “mentally incapable” and is “in the offender’s care by authority of law” or in a facility/program required to be “licensed by the state” OR “sexual penetration with a person who the offender knows is unaware that a sexual act is being committed” and the perpetrator is a health care worker and the act occurs “during the course of professional treatment of the victim” 	<p><u>Sexual assault 1st degree:</u> Unclassified felony</p>	<p>mens rea is not explicit and appears to be different for different subsections; in the first subsection, no explicit mens rea requirement; general intent; but see <i>Reynolds v. State</i>, 664 P.2d 621 (Alaska Ct. App. 1983) (holding recklessness to be necessary mental state where statute is silent); in the second subsection, it appears to be recklessness; in the third and fourth subsections, it appears to be knowingly</p>	<p><u>Consent</u> “sexual penetration without consent”</p> <p><u>Incapacity</u> “offender knows [the victim] is mentally incapable” “offender knows [the victim] is incapacitated” “who is in the offender’s care” “offender knows [the victim] is unaware that a sexual act is being committed”</p>
Alaska continued		<p><u>Sexual assault 2nd degree:</u></p> <ul style="list-style-type: none"> sexual contact without consent OR sexual contact with person the perpetrator knows is “mentally incapable” and is “in the offender’s care by authority of law” or in a facility/program required to be “licensed by the state” OR sexual penetration with a person the perpetrator knows is 	<p><u>Sexual assault 2nd degree:</u> Class B felony</p>	<p>no explicit mens rea requirement; general intent</p>	

Sexual Assault Statutes in the United States

State	Statute	Physical Contact: Element Breakdown	Classification of Crime	Mental State Required	Forcible Compulsion / Consent / Incapacity
Alaska continued		<p>“mentally incapable; incapacitated; or unaware that a sexual ac is being committed” OR</p> <ul style="list-style-type: none"> • “sexual contact with a person who the offender knows is unaware that a sexual act is being committed” and the perpetrator is a health care worker and the act occurs “during the course of professional treatment of the victim” <p><u>Sexual assault 3rd degree:</u></p> <ul style="list-style-type: none"> • sexual contact with a person the perpetrator knows is “mentally incapable; incapacitated; or unaware that a sexual act is being committed” OR • sexual penetration with a person committed to custody in the Department of Corrections and the perpetrator is employed in that facility 	<p><u>Sexual assault 3rd degree:</u> Class C felony</p>	<p>no explicit mens rea requirement; general intent</p>	

Sexual Assault Statutes in the United States

State	Statute	Physical Contact: Element Breakdown	Classification of Crime	Mental State Required	Forcible Compulsion / Consent / Incapacity
Arkansas continued		<p>< 21 and student at school (unless spouse)</p> <ul style="list-style-type: none"> Affirmative defense actor < 3 yrs. older than victim consent is not a defense to this section 	<p><u>Sexual Assault 2nd degree:</u> Class B felony, Class D felony if committed by a minor with another person who is <14 years old and/ or not the person’s spouse</p>	<p>no explicit mens rea requirement; general intent</p>	
		<p><u>Sexual Assault 2nd degree:</u></p> <ul style="list-style-type: none"> “sexual contact with sex organs of another person by forcible compulsion” OR with someone who is incapable of consent because he is physically helpless, mentally defective, or mentally incapacitated OR victim is < 14 years old and the perpetrator is ≥ 18 years old (unless spouse) who is < 18 years old and the perpetrator is in a position of trust or authority (ie. employee of Department of Corrections, mandated reporter, teacher, etc.) consent is not a defense actor <18 engages in sexual contact with victim <14 and not spouse; Affirmative defense: actor ≤ 3 yrs. older than victim who is < 12 OR actor < 4 yrs. older than victim who is ≥ 12. <p><u>Sexual Assault 3rd degree:</u></p> <ul style="list-style-type: none"> “sexual intercourse or deviate 			

Sexual Assault Statutes in the United States

State	Statute	Physical Contact: Element Breakdown	Classification of Crime	Mental State Required	Forcible Compulsion / Consent / Incapacity
		sexual activity” with a person “not the person’s spouse” AND <ul style="list-style-type: none"> • person in position of trust or authority (ie mandated reporter, or clergy) or is employed by the DOC and the victim is in custody of the DOC • actor <18 engages in sexual intercourse with victim <14 and not spouse; Affirmative defense: actor is a minor ≤ 3 yrs. older than victim who is < 14 • consent is not a defense to this section 			

Sexual Assault Statutes in the United States

State	Statute	Physical Contact: Element Breakdown	Classification of Crime	Mental State Required	Forcible Compulsion / Consent / Incapacity
Arizona	AZ ST §13-1401 §13-1404 §13-1406	<p><u>Sexual Assault:</u></p> <ul style="list-style-type: none"> “intentionally or knowingly engaging in sexual intercourse or oral sexual contact without consent” <p><u>Sexual Abuse</u></p> <ul style="list-style-type: none"> “intentionally or knowingly engaging in sexual contact with any person” ≥ 15 years old without consent OR with any person < 15 “if the sexual contact involves only the female breast” (consent not a defense to a prosecution if the other person was fifteen, sixteen or seventeen years of age and the defendant was in a position of trust) 	<p><u>Sexual Assault:</u> Class 2 felony</p> <p><u>Sexual Abuse:</u> Class 5 felony</p>	<p>intentionally or knowingly</p> <p>intentionally or knowingly</p>	<p><u>Consent</u></p> <p>“without consent includes”: “coerced by the immediate use or threatened use of force against a person or property,” “incapable of consent by reason of mental disorder, mental defect, drugs, alcohol, sleep or any other similar impairment of cognition and such condition is known or should have been reasonably known to the defendant,” and “victim is intentionally deceived as to the nature of the act” or erroneously believes the perpetrator is her spouse</p> <p><u>Incapacity</u></p> <p>“mental defect”: “unable to comprehend the distinctly sexual nature of the conduct or is incapable of understanding or exercising the right to refuse to engage in the conduct”</p>

Sexual Assault Statutes in the United States

State	Statute	Physical Contact: Element Breakdown	Classification of Crime	Mental State Required	Forcible Compulsion / Consent / Incapacity
California continued		<ul style="list-style-type: none"> • the person is institutionalized for medical purposes and is seriously disabled or medically incapacitated OR • the victim is not aware of “the nature of the act because the perpetrator fraudulently represented that the touching served a professional purpose” <p><u>Sodomy:</u></p> <ul style="list-style-type: none"> • “any penetration, however slight, is sufficient to complete the crime” • Sodomy “sexual conduct consisting of touching one person’s penis to the anus of another” • Sodomy with victim < 18; OR • Actor forces victim to engage in sodomy • person is incapable of giving legal consent OR • “accomplished against a person’s will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the person or another” OR • prevented from resistance by substance and defendant knew of condition OR • victim is unconscious or asleep OR • victim thought the accused was 	<p><u>Sodomy:</u> Unclassified</p>	<p>no explicit mens rea requirement; general intent</p>	

Sexual Assault Statutes in the United States

State	Statute	Physical Contact: Element Breakdown	Classification of Crime	Mental State Required	Forcible Compulsion / Consent / Incapacity
		<p>spouse OR</p> <ul style="list-style-type: none"> • perpetrator threatened retaliation <p><u>Unlawful sexual intercourse, sexual penetration, oral copulation, or sodomy:</u></p> <ul style="list-style-type: none"> • inducing another person to engage in sexual intercourse, sexual penetration, oral copulation, or sodomy by false or fraudulent pretense “made with the intent to create fear, and which does induce fear” and which causes the victim to act against her free will 	<p><u>Unlawful sexual intercourse, sexual penetration, oral copulation, or sodomy:</u> Unclassified</p>	<p>specific intent</p>	

Sexual Assault Statutes in the United States

State	Statute	Physical Contact: Element Breakdown	Classification of Crime	Mental State Required	Forcible Compulsion / Consent / Incapacity
Colorado	CO ST §18-3-401 §18-3-402 §18-3-404	<p><u>Sex assault class 4:</u></p> <ul style="list-style-type: none"> • sexual intrusion or penetration AND • causes submission by acts; “reasonably calculated to cause; submission against the victim’s will;” OR • victim is incapable of a apprising situation OR • actor knows the victim submits erroneously, believing the actor is spouse; OR • Victim < 15 and actor ≥ 4 years older & not spouse • Victim is 15 or 16 years old, and actor ≥ to 10 years older & not spouse • actor in position of authority, law enforcement, or medical professional 	<p><u>Sex assault class 4:</u> Class 4 felony</p>	knowingly	<p><u>Forcible Compulsion</u> sexual assault includes use of force</p>
		<p><u>Sex assault class 3:</u></p> <ul style="list-style-type: none"> • sexual intrusion or penetration AND • “actual application of physical force or physical violence; “OR • threats of “death, serious b • “bodily injury” or retaliation; OR • threatening “to retaliate in future and victim reasonably believes;” OR • “actor has substantially impaired the victim’s power to appraise or control the victim’s conduct” by 	<p><u>Sex assault class 3:</u> Class 3 felony</p>	knowingly	<p><u>Consent</u> “cooperation in act or attitude pursuant to an exercise of free will and with knowledge of the nature of the act”</p> <p>“current or previous relationship shall not be sufficient to constitute consent”</p> <p><u>Incapacity</u> “physically helpless”: “unconscious, asleep, or otherwise unable to indicate willingness to act</p>

Sexual Assault Statutes in the United States

State	Statute	Physical Contact: Element Breakdown	Classification of Crime	Mental State Required	Forcible Compulsion / Consent / Incapacity
Colorado continued		intoxicants without consent, OR <ul style="list-style-type: none"> • “victim is physically helpless, the actor knows victim helpless and the victim has not consented” <u>Sex assault class 2:</u> <ul style="list-style-type: none"> • sexual intrusion or penetration AND • actor is aided • victim suffers serious bodily injury • use of a weapon 	<u>Sex assault class 2:</u> Class 2 felony	knowingly	
		<u>Unlawful sexual contact class 4:</u> <ul style="list-style-type: none"> • victim compelled to consent to any sexual contact by “force, intimidation, or threat” AND • actor knows the victim did not consent OR • actor knows victim is incapable of appraising conduct OR • victim is physically helpless and actor knows victim has not consented OR • “actor has substantially impaired the victim’s power to appraise or control the victim’s conduct” by intoxicants without consent; OR • actor in position of authority or law enforcement; OR • actor examines victim for reasons other than medical purpose; OR • coerces a child to engage in 	<u>Unlawful sexual contact class 4:</u> Class 4 felony	knowingly	

Sexual Assault Statutes in the United States

State	Statute	Physical Contact: Element Breakdown	Classification of Crime	Mental State Required	Forcible Compulsion / Consent / Incapacity
		sexual contact <u>Unlawful sexual contact</u> : <ul style="list-style-type: none"> • actor knows the victim did not consent OR • actor knows victim is incapable of appraising conduct OR • victim is physically helpless and actor knows victim has not consented OR • “actor has substantially impaired the victim’s power to appraise or control the victim’s conduct” by intoxicants without consent OR • actor in position of authority or law enforcement; OR • actor examines victim for reasons other than medical purpose; OR • coerces a child to engage in sexual contact 	<u>Unlawful sexual contact</u> : Class 1 misdemeanor	knowingly	

Sexual Assault Statutes in the United States

State	Statute	Physical Contact: Element Breakdown	Classification of Crime	Mental State Required	Forcible Compulsion / Consent / Incapacity
Connecticut	CT ST §53a-65 §53a-70 §53a-70a §53a-71 §53a-72a §53a-72b §53a-73a	<p><u>Aggravated Sexual Assault 1st degree:</u></p> <ul style="list-style-type: none"> person commits sexual assault in the 1st degree AND person uses, displays, represents deadly weapon OR “intent to disfigure” OR shows “extreme indifference to human life” OR “person is aided by two or more” <p><u>Sexual Assault 1st degree:</u></p> <ul style="list-style-type: none"> compelling a person to have sexual intercourse by: force or threat of force OR commits sexual assault in the 2nd degree but is aided by 2 or more people; OR victim <13 and actor > 2 yrs. older; OR victim is mentally incapacitated to such an extent that she is unable to consent <p><u>Sexual Assault 2nd degree:</u></p> <ul style="list-style-type: none"> engaging in sexual intercourse with another AND victim is 13, 14 or 15 and actor > 3 yrs. older ; OR victim is mentally defective to such an extent that she is unable to consent OR physically helpless OR victim <18 and actor guardian; OR 	<p><u>Aggravated sexual assault 1st degree:</u> Class B felony unless victim is <16 yrs. age → Class A felony</p> <p><u>Sexual assault 1st degree:</u> Class B felony unless victim is <16 yrs. age → Class A felony</p> <p><u>Sexual assault 2nd degree:</u> Class C felony</p>	<p>no explicit mens rea requirement; general intent (individual subsection may require specified intent)</p> <p>no explicit mens rea requirement; general intent</p> <p>no explicit mens rea requirement; general intent</p>	<p><u>Forcible Compulsion</u> “use of a dangerous instrument or use of actual physical force or violence or superior physical strength against the victim”</p> <p><u>Consent</u> lack of consent can be established by use of force or when the victim is mentally incapacitated or emotionally dependent on a psychotherapist</p> <p><u>Incapacity</u> “Impaired because of mental disability or disease” “”: person who suffers from a mental disease or defect rendering the person “incapable of appraising the nature of such person’s conduct”</p> <p>“Mentally incapacitated” rendered temporarily incapable of appraising or controlling conduct due to influence of an intoxicating substance administered without consent, or other act committed without consent.</p> <p>“physically helpless”: unconscious or unable to resist act of sexual intercourse, or communicate an unwillingness to act</p>
Connecticut continued					

Sexual Assault Statutes in the United States

State	Statute	Physical Contact: Element Breakdown	Classification of Crime	Mental State Required	Forcible Compulsion / Consent / Incapacity
<p>Connecticut continued</p>		<ul style="list-style-type: none"> • actor is in position of authority, medical professional, in charge of supervision or law enforcement <p><u>Sexual assault 3rd degree:</u></p> <ul style="list-style-type: none"> • “compels another to submit to sexual contact”: • by force or threat of force OR • with related person <p><u>Sexual assault 4th degree:</u></p> <ul style="list-style-type: none"> • engaging in sexual contact with another AND • victim <13 and actor > 2 yrs. older; OR • victim is mentally defective to such an extent that she is unable to consent OR • physically helpless OR • victim <18 and actor guardian; OR • actor is in position of authority or law enforcement; OR sexual contact with animal dead body; OR • Psychiatrist and patient; OR • subjecting another to sexual contact: <ul style="list-style-type: none"> • without consent • by person in position of authority or law enforcement • by false representation; OR • school employee & victim < 18 	<p><u>Sexual assault 3rd degree:</u> Class C felony</p> <p>If victim <16, : Class B felony</p> <p><u>Sexual assault 4th degree:</u> Misdemeanor</p>	<p>no explicit mens rea requirement; general intent</p> <p>no explicit mens rea requirement; general intent</p>	

Sexual Assault Statutes in the United States

State	Statute	Physical Contact: Element Breakdown	Classification of Crime	Mental State Required	Forcible Compulsion / Consent / Incapacity
Delaware	DE ST Title 11 §761 Title 11 §767 Title 11 §768 Title 11 §769 Title 11 §770 Title 11 §771 Title 11 §772 Title 11 §773	<p><u>Rape 1st degree:</u></p> <ul style="list-style-type: none"> • sexual intercourse without consent and, during the crime, the person causes “serious physical injury or serious mental or emotional injury to the victim” OR • sexual intercourse without consent during the commission of a felony or listed misdemeanors • use of deadly weapon while committing rape in the 2nd degree, rape in the 3rd degree, or rape in the 4th degree; or • sexual intercourse without consent AND principal/accomplice relationship existed, or victim <12 and actor ≥18 	<p><u>Rape 1st degree:</u> Class A felony</p>	intentionally	<p><u>Consent</u> “without consent”: “compelled the victim to submit by any act of coercion... by force, by gesture, or by threat of death, physical injury, pain or kidnapping” or “any other means which would compel a reasonable person under the circumstances to submit,” knowledge that the victim was “unconscious, asleep or otherwise unaware,” knowledge that victim “suffered from a mental illness or mental defect,” or “defendant had substantially impaired the victim’s power to appraise or control...conduct” by administering drugs or intoxicants without the victim’s knowledge or against her will “for the purpose of preventing resistance”</p> <p>“victim must resist... to the extent that it is reasonably necessary to make the victim’s refusal to consent known to the defendant”</p>
Delaware continued		<p><u>Rape 2nd degree:</u></p> <ul style="list-style-type: none"> • sexual intercourse without consent, during commission of a crime, during any felony or the following misdemeanors: “reckless endangering in the second degree; assault in the third degree; terroristic threatening; unlawfully administering drugs; unlawful imprisonment in second degree; coercion or criminal trespass in the first, second or third degree” OR sexual intercourse without 	<p><u>Rape 2nd degree:</u> Class B felony</p>	intentionally	<p><u>Incapacity</u></p>

Sexual Assault Statutes in the United States

State	Statute	Physical Contact: Element Breakdown	Classification of Crime	Mental State Required	Forcible Compulsion / Consent / Incapacity
		<p>consent and the victim <16 & serious physical injury occurs, or</p> <ul style="list-style-type: none"> • sexual penetration without consent, and actor displays deadly weapon , or • victim <16 and actor displays deadly weapon , or • sexual penetration AND principal/accomplice relationship, or • victim <12 and actor ≥18 <p><u>Rape 3rd degree:</u></p> <ul style="list-style-type: none"> • victim <16 and actor ≥10 older, or victim <14 and actor ≥ <u>19 years</u> • sexual penetration without consent and, during the crime, the person causes “serious physical injury or serious mental or emotional injury to the victim or victim <16 and during crime person causes “serious mental or emotional injury <p><u>Rape 4th degree:</u></p> <ul style="list-style-type: none"> • penetration without consent • penetration with victim < 16 • intercourse with victim <16; • intercourse with victim <18, and actor ≥ 30 (not unlawful if married at time); 	<p><u>Rape 3rd degree:</u> Class B felony</p> <p><u>Rape 4th degree:</u> Class C felony</p>	<p>intentionally</p> <p>intentionally</p>	

Sexual Assault Statutes in the United States

State	Statute	Physical Contact: Element Breakdown	Classification of Crime	Mental State Required	Forcible Compulsion / Consent / Incapacity
District of Columbia	DC Code §22-3001 §22-3002 §22-3003 §22-3004 §22-3005 §22-3006 §22-3023 §22-3101	<u>Sexual abuse 1st degree:</u> <ul style="list-style-type: none"> • causing to engage in or submit to a sexual act by: • force OR • “threatening or placing... in reasonable fear that any person will be subjected to death, bodily injury or kidnapping” OR • rendering the victim unconscious OR • by administering intoxicants by use of force or threat of force 	<u>Sexual abuse 1st degree:</u> Class A felony	no explicit mens rea requirement; general intent	<u>Consent</u> “words or overt actions indicating a freely given agreement to the sexual act or contact in question,” or “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>Sexual abuse 2nd degree:</u> <ul style="list-style-type: none"> • causing to engage in or submit to a sexual act by: • “threatening or placing the person in reasonable fear” OR • where the actor knows or should have knowledge that the victim is “incapable of appraising the nature of the conduct” or “incapable of declining participation in that sexual act” or “incapable of communicating unwillingness to engage in that sexual act” 	<u>Sexual abuse 2nd degree:</u> Unclassified	no explicit mens rea requirement; general intent	<u>Force</u> “use or threatened use of a weapon, the use of such physical strength or violence as is sufficient to overcome, restrain, or injure a person, or the use of a threat of harm sufficient to coerce or compel submission by the victim”
		<u>Sexual abuse 3rd degree:</u> <ul style="list-style-type: none"> • “engages in or causes sexual contact by: • force OR • “threatening or placing... in reasonable fear that any person will be subjected to death, bodily 	<u>Sexual abuse 3rd degree:</u> Unclassified	no explicit mens rea requirement; general intent	

Sexual Assault Statutes in the United States

State	Statute	Physical Contact: Element Breakdown	Classification of Crime	Mental State Required	Forcible Compulsion / Consent / Incapacity
<p>District of Columbia continued</p>		<p>injury or kidnapping” OR</p> <ul style="list-style-type: none"> • after rendering the victim unconscious OR • by administering intoxicants by use of force or threat of force <p><u>Sexual abuse 4th degree:</u></p> <ul style="list-style-type: none"> • “engages in or causes sexual contact by: • “threatening or placing the person in reasonable fear” OR • where the actor knows or should have knowledge that the victim is “incapable of appraising the nature of the conduct” or “incapable of declining participation in that sexual contact” or “incapable of communicating unwillingness to engage in that sexual contact” 	<p><u>Sexual abuse 4th degree:</u> Unclassified</p>	<p>no explicit mens rea requirement; general intent</p>	

Sexual Assault Statutes in the United States

State	Statute	Physical Contact: Element Breakdown	Classification of Crime	Mental State Required	Forcible Compulsion / Consent / Incapacity
Florida	FL ST §775.082 §775.083 §794.011	<p><u>Sexual battery in the 1st degree:</u></p> <ul style="list-style-type: none"> • actor commits sexual battery: “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” on a victim who is ≥ 12 years old, without consent AND • “victim is physically helpless” OR • offender coerces the victim by force or threats of force “likely to cause serious personal injury” OR • offender threatens retaliation OR • offender gives or knows the victim was given, without consent, intoxicants “which mentally or physically incapacitates the victim” OR • victim is mentally defective and offender knows OR • offender is law enforcement officer and acting as such OR • actor ≥ 18 commits sexual battery on minor ≥ 12 without consent, but does NOT use force “likely to cause serious injury” <p><u>Sexual battery in the 2nd degree:</u></p> <ul style="list-style-type: none"> • actor ≥ 18 commits sexual battery on victim ≥ 18 without 	<p><u>Sexual battery in the 1st degree:</u> Felony in 1st degree</p> <p><u>Other</u> If victim < 12 years old (and perpetrator ≥ 18 years old) and injury to sex organs occurs, capital felony</p> <p>If victim < 12 years old (and perpetrator < 18 years old) and injury to sex organs occurs, life felony</p> <p>If victim ≥ 12 years old and perpetrator “uses or threatens to use a deadly weapon or uses actual physical force likely to cause serious personal injury,” life felony</p> <p><u>Sexual battery in the 2nd degree:</u> Felony in 2nd degree</p>	<p>no explicit mens rea requirement; general intent; see also <i>Wright v. State</i>, 675 So.2d 1009 (Fla. App. 2 Dist. 1996) (no specific intent required)</p> <p>no explicit mens rea requirement; general intent</p>	<p><u>Consent</u> “intelligent, knowing, and voluntary consent and does not include coerced submission”</p> <p>“shall not be deemed or construed to mean the failure of the alleged victim to offer physical resistance to the offender”</p> <p><u>Incapacity</u> “mentally defective”: “mental disease or defect which renders a person temporarily or permanently incapable of appraising the nature of his or her conduct”</p> <p>“mentally incapacitated”: “temporarily incapable of appraising or controlling a person’s own conduct due to the influence of a narcotic, anesthetic, or intoxicating substance administered without his or her consent or due to any other act committed upon that person without his or her consent”</p> <p>“physically helpless”: “unconscious, asleep, or for any other reason physically unable to communicate unwillingness to act”</p> <p>“physically incapacitated”: “bodily impaired or handicapped and substantially limited in ability to resist or flee”</p>

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		consent, but does NOT use force “likely to cause serious injury”; OR <ul style="list-style-type: none"> • actor < 18 commits sexual battery upon victim ≥ 12 without consent, but does NOT use force “likely to cause serious injury”; OR • actor commits sexual battery on a victim who is ≥ 12 years old, without consent and NO force “likely to cause serious personal injury” was used; AND actor had previous conviction. 			

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Georgia	GA ST §16-6-1 §16-6-22.1 §16-6-22.2	<p><u>Rape:</u></p> <ul style="list-style-type: none"> “penetration of the female sex organ by the male sex organ”; “forcibly and against her will” <p>OR</p> <ul style="list-style-type: none"> if she is < 10 years old <p><u>Sexual battery:</u></p> <ul style="list-style-type: none"> “physical contact with the intimate parts of the body” without consent <p><u>Aggravated sexual battery:</u></p> <ul style="list-style-type: none"> penetration of the sex organ or anus of any person with a foreign object without consent 	<p><u>Rape:</u> Unclassified felony</p> <p><u>Sexual battery:</u> Misdemeanor “of a high and aggravated nature” Felony if victim < 16</p> <p><u>Aggravated sexual battery:</u> Unclassified felony</p>	<p>no explicit mens rea requirement; general intent</p> <p>intentionally</p> <p>intentionally</p>	
Hawaii	HI ST §702-233 §702-234 §702-235 §702-236 §707-700 §707-730 §707-731 (as amended) §707-732 (as amended) §707-733	<p><u>Sex assault 1st degree:</u></p> <ul style="list-style-type: none"> sexually penetrates another person using strong compulsion; <p>OR</p> <ul style="list-style-type: none"> Sexually penetrates victim < 14; <p>OR</p> <ul style="list-style-type: none"> Sexually penetrates 16 > victim ≤ 14, and actor ≥ 5 years older, and actor not married to victim; <p>OR</p> <ul style="list-style-type: none"> Sexually penetrates “mentally defective” victim; OR Sexually penetrates “mentally incapacitated or physically helpless as result of substance actor administers 	<p><u>Sex assault 1st degree:</u> Class A felony</p>	<p>knowingly</p>	<p><u>Forcible Compulsion</u> “compulsion:” “absence of consent, or a threat, express implied”</p> <p>“strong compulsion”: use or attempt to use: “a threat, express or implied” that creates a fear of bodily injury or kidnapping, “a dangerous instrument,” or “physical force”</p> <p><u>Consent</u> consent is a defense if it “negatives an element of the offense or precludes the infliction of the harm or evil sought to be prevented by the law”</p> <p>consent is legally ineffective if a person is "legally incompetent" or given by a person who "by reason of youth, mental disease, disorder, or defect, or intoxication is manifestly unable . . . to make a reasonable judgment as to the nature or harmfulness of the conduct alleged; or it is induced by force, duress or deception”</p>

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Hawaii continued		<p><u>Sex assault 2nd degree:</u></p> <ul style="list-style-type: none"> • subjects another person to an act of sexual penetration by compulsion;" OR • subjects to sexual penetration another person who is mentally defective, mentally incapacitated, or physically helpless;" OR • by a law enforcement officer, or employee of correctional facility <p><u>Sex assault 3rd degree:</u></p> <ul style="list-style-type: none"> • "person recklessly subjects another person to an act of sexual penetration by compulsion;" OR • "knowingly subjects to sexual contact another person who is < 14 years old;" OR • Knowingly engages in sexual contact with victim > 14 but less than 16 yrs. and actor >5 years older, and actor not married to the minor; OR • knowingly subjects to sexual contact another person who is mentally defective, mentally incapacitated, or physically helpless, or causes such a person to have sexual contact with the actor; or . . . if person is employed at state correctional facility, or law enforcement; OR • Actor knowingly by strong 	<p><u>Sex assault 2nd degree:</u> Class B felony</p> <p><u>Sex assault 3rd degree:</u> Class C felony</p>	<p>knowingly</p> <p>recklessly or knowingly</p>	<p><u>Incapacity</u> "mentally defective": "suffering from a disease, disorder, or defect" rendering the person "incapable of appraising the nature of the person's conduct"</p> <p>"mentally incapacitated": "rendered temporarily incapable of appraising or controlling the person's conduct owing to the influence substance administered without the person's consent"</p> <p>"physically helpless": "unconscious or for any other reason physically unable to communicate unwillingness to an act"</p>

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		<p>compulsion has sexual contact with another person</p> <p><u>Sex assault 4th degree:</u></p> <ul style="list-style-type: none"> • - “person knowingly subjects another person to sexual contact by compulsion or causes another person to have sexual contact with the actor by compulsion;” OR • “the person knowingly exposes the person’s genitals to another person under circumstances in which the actor’s conduct is likely to alarm the other person or put the other person in fear of bodily injury;” OR • “knowingly trespasses on property for the purpose of subjecting another person to surreptitious surveillance for the sexual gratification of the actor” 	<p><u>Sex assault 4th degree:</u> Misdemeanor</p>	<p>knowingly</p>	

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<p>Illinois</p> <p>Illinois continued</p>	<p>IL ST CH 720 §5/11/1.20 §5/11/1.30 §5/11/1.60 §5/11/1.70 §5/11/1.10</p>	<p><u>Criminal sexual assault:</u></p> <ul style="list-style-type: none"> • penetration by “use of force or threat of force” OR • knowledge that victim was “unable to understand the nature of the act or was unable to give knowing consent” OR • by a family member when victim < 18 years old OR • actor ≥ 17, holds position of trust, and the victim is between 13 and 17 <p><u>Aggravated criminal sexual assault:</u></p> <ul style="list-style-type: none"> • sexual assault AND • used or threatened to use deadly weapon OR • caused bodily harm OR • threatened to endanger or endangered life OR • in the course of a felony OR • victim is over 60 years OR • victim was physically handicapped OR • victim was “severely or profoundly mentally retarded” • perpetrator administered a controlled substance to the victim without consent OR • accused discharged a firearm during the offense <p><u>Criminal sexual abuse:</u></p> <ul style="list-style-type: none"> • “sexual conduct by the use of force or threat of force” OR 	<p><u>Criminal sexual assault:</u> Class 1 felony</p> <p><u>Aggravated criminal sexual assault:</u> Class 2 felony (time added for discharging a firearm)</p> <p><u>Criminal sexual abuse:</u> Class 4 felony</p>	<p>no explicit mens rea requirement; general intent; see <i>People v. Simms</i>, 736 N.E.2d 1092 (Ill. 2000) (approving general intent requirement)</p> <p>no explicit mens rea requirement; general intent</p> <p>no explicit mens rea requirement; general intent</p>	<p><u>Forcible Compulsion</u> “use of force or violence, or threat of force or violence” and belief that perpetrator had “the ability to execute that threat” or victim is overcome by “superior strength or size, physical restraint or physical confinement”</p> <p><u>Consent</u> “victim was unable to understand the nature of the act or was unable to give knowing consent” or the accused “knew that the victim was unable to understand the nature of the act or was unable to give knowing consent”</p> <p><u>Incapacity</u> victim was physically handicapped, or the victim was institutionalized severely or profoundly mentally retarded person</p>

A joint project of the National Crime Victim Law Institute (NCVLI) and the National Women’s Law Center (NWLIC); updated by the National District Attorneys Association (NDAA) & National Crime Victim Law Institute (NCVLI) in 2016

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		<ul style="list-style-type: none"> • sexual conduct when perpetrator knew that victim was “unable to understand the nature of the act or was unable to give knowing consent” <p><u>Aggravated criminal sexual abuse:</u></p> <ul style="list-style-type: none"> • criminal sexual abuse AND • used or threatened to use deadly weapon OR • caused bodily harm OR • threatened to endanger or endangered life OR • in the course of a felony OR • victim is over 60 years OR • victim was physically handicapped OR • victim was “severely or profoundly mentally retarded” • perpetrator administered a controlled substance to the victim without consent OR • actor < 18 yrs. and victim is a family member; OR • actor ≥ 17 and (i) victim <13 yrs, or (ii) victim at 13, 14, 15, or 16 and actor uses threat of force, OR • actor <17 yrs. and (i) victim <9, or (ii) victim ≥ 9 but under 17 yrs, and uses force or threat 	<p><u>Aggravated criminal sexual abuse:</u> Class 2 felony</p>	<p>no explicit mens rea requirement; general intent</p>	

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Indiana	IN ST §35-42-4-1 § §35-42-4-8	<p><u>Rape:</u></p> <ul style="list-style-type: none"> “knowingly or intentionally has sexual intercourse” AND victim is “compelled by force or imminent threat of force” OR victim is unaware of act OR victim is mentally disabled and cannot consent <p><u>Sexual battery:</u></p> <ul style="list-style-type: none"> victim is “compelled to submit to the touching” by use or threat of force OR victim is mentally disabled and cannot consent 	<p><u>Rape:</u> Class B felony, Class A if threatened or use of force, armed with a deadly weapon, results in serious bodily injury, or victim was given drug without consent or knowledge</p> <p><u>Sexual battery:</u> Class D felony, Class C if threatened or use of force, armed with a deadly weapon, or victim was given drug without consent or knowledge</p>	<p>knowingly or intentionally</p> <p>with intent to arouse</p>	<p><u>Consent</u> no consent if: “the other person is unaware the sexual intercourse is occurring” or “the other person is so mentally disabled or deficient that consent to sexual intercourse cannot be given”</p>
<p>Iowa</p> <p>Iowa continued</p>	IA ST §709.1 §709.1A §709.2 §709.3 §709.4 §709.5	<p><u>Sex abuse 1st degree:</u></p> <ul style="list-style-type: none"> “any sex act between persons” accomplished by force or against a person’s will or the person suffers from a “mental defect or incapacity” or” is a child”, AND act causes serious injury <p><u>Sex abuse 2nd degree:</u></p> <ul style="list-style-type: none"> “any sex act between persons” where the act is accomplished by force or against a person’s will or the person suffers from a 	<p><u>Sex abuse 1st degree:</u> Class A felony</p> <p><u>Sex abuse 2nd degree:</u> Class B felony</p>	<p>no explicit mens rea requirement; general intent</p> <p>no explicit mens rea requirement; general intent</p>	<p><u>Force</u> “it shall not be 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”</p> <p><u>Consent</u> no consent if: "procured by threats of violence . . . or if the act is done while the other is under the influence of a drug inducing sleep," victim is unconscious, the act is done against the will of the victim or the victim has a mental defect, is incapacitated, or is a child</p> <p><u>Incapacity</u></p>

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		<p>“mental defect or incapacity ” ” or” is a child”, AND</p> <ul style="list-style-type: none"> • displays a dangerous weapon • uses or threatens death or serious injury • victim is < 12 years old • perpetrator is aided <p><u>Sex abuse 3rd degree:</u></p> <ul style="list-style-type: none"> • sex act performed • by force or against will of the victim OR • between persons “who are not cohabitating” and victim has a mental defect, is 12-13 years old, is 14-15 and perpetrator is a member of the same household, related by blood, in a position of authority, is more than 4 years older OR • perpetrator knows victim is under influence of a controlled substance and this prevents consent OR • victim is mentally or physically incapacitated or physically helpless 	<p><u>Sex abuse 3rd degree:</u> Class C felony</p>	<p>no explicit mens rea requirement; general intent</p>	<p>“mentally incapacitated”: “temporarily incapable of apprising or controlling the person’s own conduct due to the influence of a narcotic, anesthetic, or intoxicating substance”</p> <p>“physically helpless”: “unable to communicate an unwillingness to act because the person is unconscious, asleep, or is otherwise physically limited”</p> <p>“physically incapacitated”: “bodily impairment or handicap that substantially limits the person's ability to resist or flee”</p>

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<p>Kansas continued</p>		<p>was aware of condition</p> <p><u>Sexual battery:</u></p> <ul style="list-style-type: none"> • intentional touching of another who is ≥ 16 years old, without consent AND • “not a spouse of the offender” AND • “with the intent to arouse or satisfy the sexual desires of the offender or another” <p><u>Criminal sodomy:</u></p> <ul style="list-style-type: none"> • Sodomy between persons > yrs & same sex, OR • Sodomy between person & animal OR • Sodomy with a child who is 14 or 15, OR • Causing child 14, or 15 to engage in sodomy <p><u>Aggravated criminal sodomy:</u></p> <ul style="list-style-type: none"> • Sodomy with child < 14; OR • Causing child <14 to engage in sodomy; OR • Sodomy with a victim who does not consent AND (i) victim overcome by force, or (ii) victim unconscious, or (iii) victim incapable of consent b/c of mental deficiency or b/c of intoxicant 	<p><u>Sexual battery:</u> Class A personal misdemeanor</p> <p><u>Criminal sodomy:</u> A personal misdemeanor</p> <p><u>Aggravated criminal sodomy:</u> Person felony, severity level 2</p>	<p>intentional</p> <p>no explicit mens rea requirement; general intent</p>	<p><u>Criminal sodomy section regarding same sex sodomy held Unconstitutional by State v. Franco, 319 P.3d 551 (Kan. App. 2014).</u></p>

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Kentucky	KY ST §510.010 §510.020 §510.030 §510.040 §510.050 §510.070 §510.080 §510.110 §510.130	<u>Rape 1st degree:</u> <ul style="list-style-type: none"> “sexual intercourse by forcible compulsion” OR with person incapable of consent because physically helpless OR victim < 12 yrs. old 	<u>Rape 1st degree:</u> Class B felony (unless the victim < 12 or receives serious physical injury→ Class A felony)	no explicit mens rea requirement; general intent	<u>Forcible Compulsion</u> “physical force or threat of physical force, express or implied, which places a person in fear of immediate death, physical injury to self or another person, fear of the immediate kidnap of self or another person.... physical resistance on the part of the victim shall not be necessary to meet this definition.”
		<u>Rape 2nd degree:</u> <ul style="list-style-type: none"> sexual intercourse with person who is mentally incapacitated OR perpetrator is ≥ 18 years old and victim is < 14 years old 	<u>Rape 2nd degree:</u> Class C felony	no explicit mens rea requirement; general intent	<u>Consent</u> “lack of consent results from forcible compulsion, incapacity to consent, or ... [in the case of sexual abuse,] any circumstance in addition to forcible compulsion or incapacity to consent in which the victim does not expressly or impliedly acquiesce in the actor’s conduct”
		<u>Rape 3rd degree:</u> <ul style="list-style-type: none"> sexual intercourse with person incapable of consent because he is mentally retarded OR actor is ≥ 21 years old and victim is < 16 years old Being a person in a position of authority or position of special trust, he or she engages in sexual intercourse with a minor under eighteen (18) years old with whom he or she comes into contact as a result of that position; or Being employee, of the Department of Corrections, Department of Juvenile Justice, , or of an entity under contract with either department, he or she subjects a person who he or she 	<u>Rape 3rd degree:</u> Class D felony	no explicit mens rea requirement; general intent	“a person is deemed incapable of consent when he is: less than 16 years old, mentally retarded or suffers from a mental illness, mentally incapacitated, or physically helpless”
		<ul style="list-style-type: none"> Being a person in a position of authority or position of special trust, he or she engages in sexual intercourse with a minor under eighteen (18) years old with whom he or she comes into contact as a result of that position; or Being employee, of the Department of Corrections, Department of Juvenile Justice, , or of an entity under contract with either department, he or she subjects a person who he or she 	<u>Sodomy 1st degree:</u> Class B felony; unless victim < 12 then Class A felony	no explicit mens rea requirement; general intent	<u>Incapacity</u> “mental illness”: “covers many clinical categories, typically including behavioral or psychiatric symptoms,” especially those covered in the DSM-III and any subsequent revisions “mentally retarded”: “significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior”
		<ul style="list-style-type: none"> Being a person in a position of authority or position of special trust, he or she engages in sexual intercourse with a minor under eighteen (18) years old with whom he or she comes into contact as a result of that position; or Being employee, of the Department of Corrections, Department of Juvenile Justice, , or of an entity under contract with either department, he or she subjects a person who he or she 	<u>Sodomy 2nd degree:</u> Class C felony	no explicit mens rea requirement; general intent	“mentally incapacitated”: “rendered temporarily incapable of appraising or controlling his conduct as a result of the influence of an intoxicating substance administered to him without his consent or as a result of some other act committed upon him without his consent”

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<p>Kentucky continued</p>		<p>knows is incarcerated, supervised, evaluated, or treated by the Department of Corrections, Department of Juvenile Justice, detention facility, or contracting entity, to sexual intercourse.</p> <p><u>Sodomy 1st degree:</u></p> <ul style="list-style-type: none"> • deviate sexual intercourse by forcible compulsion OR • with person incapable of consent because physically helpless OR • victim < 12 yrs. old <p><u>Sodomy 2nd degree:</u></p> <ul style="list-style-type: none"> • deviate sexual intercourse with person who is mentally incapacitated OR • perpetrator is ≥ 18 years old and victim is < 14 years old <p><u>Sodomy 3rd degree:</u></p> <ul style="list-style-type: none"> • deviate sexual intercourse with person incapable of consent because he is mentally retarded OR • actor is ≥ 21 years old and victim is < 16 years old <p><u>Sexual abuse 1st degree:</u></p> <ul style="list-style-type: none"> • “sexual contact by forcible compulsion” OR 	<p><u>Sodomy 3rd degree:</u> Class D felony</p> <p><u>Sexual abuse 1st degree:</u> Class D felony; unless victim < 12 then Class C felony</p> <p><u>Sexual abuse 2nd degree:</u> Class A misdemeanor</p>	<p>no explicit mens rea requirement; general intent</p> <p>no explicit mens rea requirement; general intent</p> <p>no explicit mens rea requirement; general intent</p> <p>no explicit mens rea requirement; general intent</p>	<p>“physically helpless”: “unconscious or for any other reason is physically unable to communicate unwillingness to act”</p> <p>it is a defense that the defendant did not know of the victim’s condition leading to his incapacity to consent</p>

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		<ul style="list-style-type: none"> • with person incapable of consent because physically helpless or mentally incapacitated OR actor > 21 AND • subjects victim < 16 yrs. old to sexual contact, or masturbation, or visual depictions of masturbation via electronic means • Being a person in a position of authority or position of special trust he or she, regardless of his or her age, subjects a minor < 18 to sexual contact or engages in masturbation in the presence of the minor and knows or has reason to know the minor is present or engages in masturbation while using the electronic communication device while communicating with a minor who the person knows is < 16 years old, and the minor can see or hear the person masturbate. <p><u>Sexual abuse 2nd degree:</u></p> <ul style="list-style-type: none"> • sexual contact with person incapable of consent because mentally retarded OR • with person < 14 years old OR • actor is law enforcement and acting in such capacity <p><u>Sexual abuse 3rd degree:</u></p>	<p><u>Sexual abuse 3rd degree:</u> Class B misdemeanor</p>		

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		<ul style="list-style-type: none"> • sexual contact without consent 			

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		touching the anus or genitals of either the victim or the perpetrator using a body part or instrumentality and intentionally inflicts serious bodily injury	<u>2nd Degree Sexual battery</u> : Unclassified	Intentionally	

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		<ul style="list-style-type: none"> • person is < 12 years old and actor is 3 years older and not the spouse OR • person is 14 or 15 years old and actor is 10 years older and not the spouse OR • victim suffers mental disability rendering him “substantially incapable of appraising the nature of the contact and offender knows OR • act committed by person in position of authority • submits as a result of compulsion 			

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Maryland continued		<p>without consent OR victim is substantially cognitively impaired, incapacitated or physically helpless and perpetrator reasonably should have known</p> <ul style="list-style-type: none"> victim is < 14 years old and actor is ≥ 4 years older <p><u>Sex offense 3rd degree:</u></p> <ul style="list-style-type: none"> sexual contact by force or threat of force, without consent AND use of a deadly weapon OR inflicts injury OR places in fear of imminent death, injury or kidnapping OR aided and abetted OR sexual contact by force or threat, without consent OR victim is substantially cognitively impaired, incapacitated or physically helpless and perpetrator reasonably should have known victim is < 14 years old and actor is ≥ 4 years older <p><u>Sex offense 4th degree:</u></p> <ul style="list-style-type: none"> sexual contact without consent 	<p><u>Sex offense 3rd degree:</u> Unclassified</p> <p><u>Sex offense 4th degree:</u> Unclassified</p>	<p>no explicit mens rea requirement; general intent</p> <p>no explicit mens rea requirement; general intent</p>	

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Massachusetts	MA ST 265 §22	<u>Rape:</u> <ul style="list-style-type: none"> • sexual intercourse by force and against victim’s will OR • actor compels submission by threat of bodily injury OR • results in bodily injury OR • committed by joint enterprise OR • during commission of certain crimes 	<u>Rape:</u> Unclassified	no explicit mens rea requirement; general intent	
Michigan	MI ST §750.520a §750.520b §750.520c §750.520d §750.520e §750.520i	<u>1st degree criminal sexual conduct:</u> <ul style="list-style-type: none"> • sexual penetration AND • victim is ≥ 13 years old but < 16 years old and the actor is a member of the same household, is related by blood or in a position of authority or actor is employee, contractor or volunteer at school, or day care, or foster home which victim attends; OR • act is committed during the commission of a felony OR • actor is aided and either knows that victim is mentally incapable, incapacitated or physically helpless or actor uses force or coercion OR • actor is armed OR • causes personal injury and uses force or coercion to achieve penetration OR • causes personal injury and knows the victim is mentally incapable, mentally 	<u>1st degree criminal sexual conduct:</u> Unclassified felony	no explicit mens rea requirement; general intent; see <i>People v. Brown</i> , 495 N.W.2d 812 (Mich. Ct. App. 1992) (per curiam) (affirming general intent requirement)	<u>Forcible Compulsion</u> “force or coercion includes but is not limited to”: “actual application of physical force or physical violence” “threatening to use force or violence on the victim” “threatening to retaliate in the future against the victim, or any other person... ‘to retaliate’ includes threats of physical punishment, kidnapping, or extortion” “actor engages in the medical treatment or examination of the victim in a manner or for purposes which are medically recognized as unethical or unacceptable” “when the actor, through concealment or the element of surprise, is able to overcome the victim” resistance is not necessary element of crime <u>Consent</u> no consent if under 13 years <u>Incapacity</u> “developmental disability”: “impairment of general intellectual functioning or adaptive behavior” which “originated before the person became 18 years of age,” “has continued since its origination or can be expected to continue indefinitely,” “constitutes a substantial burden to the impaired person’s ability to perform in society,” and is

Sexual Assault Statutes in the United States

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Michigan continued		<p>incapacitated, or physically helpless</p> <ul style="list-style-type: none"> • 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 uses it to coerce the victim to submit <p><u>2nd degree criminal sexual conduct:</u></p> <ul style="list-style-type: none"> • sexual contact (“intentional touching of intimate parts that can be reasonably construed as being for the purpose of sexual arousal or gratification, done for a sexual purpose, or in a sexual matter”) AND • victim is ≥ 13 years old but < 16 years old and the actor is a member of the same household, is related by blood or in a position of authority or actor is employee, contractor or volunteer at school, or day care which victim attends; OR • act is committed during the commission of a felony OR • actor is aided and either knows that victim is mentally incapable, incapacitated or physically helpless or actor uses force or coercion OR • actor is armed OR • causes personal injury and uses 	<p><u>2nd degree criminal sexual conduct:</u> Unclassified felony</p>	<p>intentional and for the purpose of “revenge,” “to inflict humiliation,” or out of anger” or for sexual gratification</p>	<p>attributable to “mental retardation, cerebral palsy, epilepsy or autism,” or another “condition of a person found to be closely related to mental retardation because it produces a similar impairment or requires treatment and services to those required for a person who is mentally retarded”</p> <p>“mental illness”: “substantial disorder of thought or mood which significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life”</p> <p>“mentally disability”: “mental illness, is mentally retarded, or has a developmental disability”</p> <p>“mentally incapable”: “mental disease or defect which renders that person temporarily or permanently incapable of appraising the nature of his conduct”</p> <p>“mentally incapacitated”: “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 due to any other act committed upon that person without his or her consent”</p> <p>“mentally retarded”: “significantly subaverage general intellectual functioning which originates during the developmental period and is associated with impairment in adaptive behavior”</p> <p>“physically helpless”: “unconscious, asleep, or for any other reason is physically unable to communicate unwillingness to an act”</p>

Sexual Assault Statutes in the United States

State	Statute	Physical Contact: Element Breakdown	Classification of Crime	Mental State Required	Forcible Compulsion / Consent / Incapacity
Michigan continued		<p>force or coercion to achieve the contact OR</p> <ul style="list-style-type: none"> • causes personal injury and knows the victim is mentally incapable, mentally incapacitated, or physically helpless • 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 uses it to coerce the victim to submit <p><u>3rd degree criminal sexual conduct:</u></p> <ul style="list-style-type: none"> • sexual penetration AND • victim is ≥ 13 years old but < 16 years old OR • force or coercion to achieve penetration OR • actor knows the victim is mentally incapable, mentally incapacitated, or physically helpless OR • actor is related to the victim OR • victim is ≥ 16 years old but < 18 and student at school or foster care where actor is employed, is a contractor, or volunteers. 	<p><u>3rd degree criminal sexual conduct:</u> Unclassified felony</p>	<p>no explicit mens rea requirement; general intent</p>	

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		<p>4th degree criminal sexual conduct:</p> <ul style="list-style-type: none"> • sexual contact AND • victim is ≥ 13 years old but < 16 years old and actor is ≥ 5 years older than victim OR • force or coercion to achieve contact OR • actor knows the victim is mentally incapable, mentally incapacitated, or physically helpless OR • actor is related to the victim OR • actor is mental health professional and act occurs within treatment period or within the 2 years following termination OR • victim is ≥ 16 years old but < 18 and student at school or foster care where actor is employed, is a contractor, or volunteers. 	<p>4th degree criminal sexual conduct: Misdemeanor</p>	<p>intentional and for the purpose of “revenge,” “to inflict humiliation,” or out of anger” or for sexual gratification</p>	

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State	Statute	Physical Contact: Element Breakdown	Classification of Crime	Mental State Required	Forcible Compulsion / Consent / Incapacity
Minnesota	MN ST §609.341 §609.342 §609.343 §609.344 §609.345 §609.3451	<u>Criminal sexual conduct in the 1st degree:</u> <ul style="list-style-type: none"> sexual penetration or sexual conduct with victim < 13 AND victim is < 13 and actor is > 3 yrs. older OR victim is ≥ 13 years old but < 16 years old and actor is ≥ 4 years older and in a position of authority OR victim has “reasonable fear of imminent great bodily harm” actor is armed with a dangerous weapon OR actor causes personal injury and actor used force or coercion in penetration or actor knew victim was mentally impaired, mentally incapacitated, or physically helpless OR actor is aided and the accomplice used force or coercion in penetration or accomplice is armed with a dangerous weapon OR actor has a significant relationship with the victim and victim is < 16 years old 	<u>Criminal sexual conduct in the 1st degree:</u> Unclassified	with sexual or aggressive intent	<u>Forcible compulsion</u> “force”: “the infliction, attempted infliction, or threatened infliction by the actor of bodily harm or commission or threat of any other crime by the actor against the complainant which (a) causes the complainant to reasonably believe that the actor has the present ability to execute the threat and (b) if the actor does not have a significant relationship to the complainant, also causes the complainant to submit” “coercion”: “words or circumstances that cause the complainant reasonably to fear that the actor will inflict bodily harm upon, or hold in confinement, the complainant or another, or force the complainant to submit to sexual penetration or contact, but proof of coercion does not require proof of a specific act or threat” <u>Consent</u> “words or overt actions by a person indicating a freely given present agreement to perform a particular sexual act with the actor” and “does not mean the existence of a prior or current social relationship between the actor and the complainant or that the complainant failed to resist a particular sexual act” person who is mentally incapacitated or physically helpless cannot consent corroboration is not required to show that the victim did not consent <u>Incapacity</u> “mentally impaired”: “person, as a result of inadequately
Minnesota continued		<u>Criminal sexual conduct in the 2nd degree:</u> <ul style="list-style-type: none"> sexual contact AND victim is < 13 and actor is > 3 yrs. older (prosecution does not have to prove coercion) 	<u>Criminal sexual conduct in the 2nd degree:</u> : Unclassified	with sexual or aggressive intent	

Sexual Assault Statutes in the United States

State	Statute	Physical Contact: Element Breakdown	Classification of Crime	Mental State Required	Forcible Compulsion / Consent / Incapacity
Minnesota continued		<ul style="list-style-type: none"> • victim is \geq 13 years old but < 16 years old and actor is \geq 4 years older and in a position of authority OR • victim has “reasonable fear of imminent great bodily harm” • actor is armed with a dangerous weapon OR • actor causes personal injury and actor used force or coercion in contact or actor knew victim was mentally impaired, mentally incapacitated, or physically helpless OR • actor is aided and the accomplice used force or coercion in contact or accomplice is armed with a dangerous weapon OR • actor has a significant relationship with the victim and victim is < 16 years old <p><u>Criminal sexual conduct in the 3rd degree:</u></p> <ul style="list-style-type: none"> • sexual penetration AND • victim is < 13 and actor is > 3 yrs. older OR • victim \geq 13 but less than 16 yrs. and actor > 2 yrs. older (if actor is less than 10 yrs. older, and actor reasonably believes victim 	<p><u>Criminal sexual conduct in the 3rd degree:</u> Unclassified</p>	<p>with sexual or aggressive intent</p>	<p>developed or impaired intelligence or a substantial psychiatric disorder of thought or mood, lacks the judgment to give a reasoned consent to sexual contact or sexual penetration”</p> <p>“mentally incapacitated”: “under 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”</p> <p>“physically helpless”: “asleep or not unconscious, unable to withhold consent or to withdraw consent because of physical condition, or unable to communicate nonconsent and the condition is known or reasonably should have been known to the actor”</p>

Sexual Assault Statutes in the United States

State	Statute	Physical Contact: Element Breakdown	Classification of Crime	Mental State Required	Forcible Compulsion / Consent / Incapacity
		<p>to be 16 is an affirmative defense)</p> <ul style="list-style-type: none"> • actor uses force or coercion in penetration OR • actor knew victim was mentally impaired, mentally incapacitated, or physically helpless OR • actor is a psychotherapist, clergy, agent of a transportation service, or affiliated with a correctional facility in which the victim is confined <p><u>Criminal sexual conduct in the 4th degree:</u></p> <ul style="list-style-type: none"> • sexual conduct AND • victim is < 13 and actor is > 3 yrs. older (prosecution does not have to prove coercion) • actor uses force or coercion in the act OR • victim is ≥ 16 years old but < 18 years old and actor is > 2 yrs. older and in position of authority • actor knew victim was mentally OR impaired, mentally incapacitated, or physically helpless OR • actor has significant relationship with victim is ≥ 16 years old but < 18 years old AND used coercion, victim is injured, or involved multiple acts, OR • actor is a psychotherapist, clergy, agent of a transportation service, 	<p><u>Criminal sexual conduct in the 4th degree:</u> Unclassified</p>	<p>with sexual or aggressive intent</p>	

Sexual Assault Statutes in the United States

State	Statute	Physical Contact: Element Breakdown	Classification of Crime	Mental State Required	Forcible Compulsion / Consent / Incapacity
		<p>or affiliated with a correctional facility in which the victim is confined</p> <p><u>Criminal sexual conduct in the 5th degree:</u></p> <ul style="list-style-type: none"> • nonconsensual sexual contact, or masturbation in the presence of a minor 	<p><u>Criminal sexual conduct in the 5th degree:</u> Unclassified</p>	<p>with sexual or aggressive intent</p>	

Sexual Assault Statutes in the United States

State	Statute	Physical Contact: Element Breakdown	Classification of Crime	Mental State Required	Forcible Compulsion / Consent / Incapacity
		<p><u>Second degree sodomy</u></p> <ul style="list-style-type: none"> • Actor has deviant sexual intercourse without victim's consent . <p><u>Sexual misconduct in the 1st degree:</u></p> <ul style="list-style-type: none"> • actor exposes genitals in circumstances likely to cause alarm; OR • Has sexual contact in the presence of a third person or persons under circumstances in likely to cause affront or alarm; OR • Has sexual intercourse or deviate sexual intercourse in a public place in the presence of a third person. <p><u>Sexual misconduct in the 2nd degree.</u></p> <ul style="list-style-type: none"> • Actor requests another person to engage in sexual conduct under circumstances in which he or she knows that such request or solicitation is likely to cause affront or alarm. <p><u>Sexual abuse in 1st degree:</u></p> <ul style="list-style-type: none"> • sexual contact with person who is incapacitated, incapable of consent, or lacks the capacity to consent, OR by forcible compulsion 	<p><u>Second degree sodomy:</u> Class D felony</p> <p><u>Sexual misconduct in the 1st degree:</u> Class A or Class B misdemeanor</p> <p><u>Sexual misconduct in the 2st degree:</u> Class C misdemeanor</p> <p><u>Sexual abuse in 1st degree:</u> Class C Felony; or Class B Felony if aggravated sexual offense</p>	<p>no explicit mens rea requirement; general intent</p> <p>knowing actions likely to alarm</p> <p>knowing actions likely to alarm</p> <p>no explicit mens rea requirement; general intent</p>	

Sexual Assault Statutes in the United States

State	Statute	Physical Contact: Element Breakdown	Classification of Crime	Mental State Required	Forcible Compulsion / Consent / Incapacity
		<u>Sexual abuse in 2nd degree:</u> <ul style="list-style-type: none"> • actor purposely subjects another person to sexual contact without that person's consent 	<u>Sexual abuse in 2nd degree:</u> Class A misdemeanor or Class E felony if aggravated sexual offense	Purposefully	

Sexual Assault Statutes in the United States

State	Statute	Physical Contact: Element Breakdown	Classification of Crime	Mental State Required	Forcible Compulsion / Consent / Incapacity
Montana	MT ST §45-5-501 §45-5-502 §45-5-503 §45-5-511	<u>Sexual Assault:</u> sexual contact without consent <u>Sexual Intercourse without consent:</u> sexual intercourse without consent	<u>Sexual assault:</u> Unclassified <u>Sexual Intercourse without consent:</u> Unclassified	knowingly knowingly	<u>Forcible compulsion</u> “the infliction, attempted infliction, or threatened infliction of bodily injury” or “the threat of substantial retaliatory action” <u>Consent</u> no consent where “compelled to submit by force” or incapable of consent because “mentally defective or incapacitated, physically helpless, overcome by deception, coercion or surprise, or incarcerated” resistance is not necessary to prove lack of consent <u>Incapacity</u> “incapable of consent because . . . mentally defective or incapacitated; physically helpless; overcome by deception, coercion, or surprise; < 16 years old; or incarcerated”
Nebraska	NE ST §28-318 §28-319 §28-320	<u>Sexual assault in the 1st degree:</u> <ul style="list-style-type: none"> • sexual penetration without consent OR • with someone who is mentally or physically unable to resist OR • when actor is ≥ 19 years old and victim is < 12 years old but less than 16 <u>Sexual assault in the 2nd or 3rd degree:</u> <ul style="list-style-type: none"> • sexual penetration without consent OR • with someone who is mentally or physically unable to resist 	<u>Sexual assault in the 1st degree:</u> Class II felony <u>Sexual assault in the 2nd or 3rd degree:</u> 2 nd degree is Class IIA felony; 3 rd degree is Class I misdemeanor	no explicit mens rea requirement; general intent intentional touching	<u>Forcible compulsion</u> “use of physical force which overcomes the victim’s resistance or the threat of physical force, express or implied, against the victim or a third person” <u>Consent</u> no consent where victim was compelled to submit through “use of force or threat of force or coercion,” “victim expressed a lack of consent through words,” “victim expressed a lack of consent through conduct”, consent was “the result of the actor’s deception” “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” unless it would be “useless or futile to do so”

Sexual Assault Statutes in the United States

State	Statute	Physical Contact: Element Breakdown	Classification of Crime	Mental State Required	Forcible Compulsion / Consent / Incapacity
					<u>Incapacity</u> “mentally or physically incapable of resisting”
Nevada	NV ST §200.364 §200.366	<u>Sexual assault:</u> <ul style="list-style-type: none"> • subjecting another to sexual penetration against the will of the victim OR • forcing “another person to make a sexual penetration on himself or another” OR • “under conditions in which the perpetrator knows ... the victim is mentally or physically incapable of resisting or understanding the nature of his conduct” OR • Commits sexual penetration on child < 14, or cause child to commit sexual penetration 	<u>Sexual assault:</u> Category A felony	no explicit mens rea requirement; general intent <i>McNair v. State</i> , 825 P.2d 571 (Nev. 1992) (proof of force unnecessary)	<u>Consent</u> “against the will of the victim” or when victim is incapacitated <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”

Sexual Assault Statutes in the United States

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New Hampshire	NH ST §632-A:1 §632-A:2 §632-A:3 §632-A:4 §651:2	<u>Aggravated felonious sexual assault:</u> <ul style="list-style-type: none"> • sexual penetration without where victim “indicates by speech or conduct” no consent OR AND • forcible compulsion OR • victim is physically helpless to resist OR • actor coerces victim OR • victim submits as a result of false imprisonment, kidnapping or extortion OR • victim is given intoxicant without knowledge or consent OR • actor (currently, or within one year of termination of treatment) provides therapy or medical treatment OR • victim is mentally defective and actor knows (unless married) OR • 13 ≤ victim <16 AND actor is household member; OR actor is related by blood (does not apply if married) OR • 13 ≤ victim <18 AND the actor is in position of authority to coerce victim (does not apply if married) OR • 13 > victim • actor uses concealment or surprise before victim can resist OR • actor in position of authority and uses it to coerce victim (consent 	<u>Aggravated felonious sexual assault:</u> Unclassified felony	no explicit mens rea requirement; general intent; but see <i>State v. Ayer</i> , 612 A.2d 923 (N.H. 1992) (holding that knowledge is required for conviction in order to adequately protect an innocent defendant from false conviction)	

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		<p>irrelevant in this instance)</p> <p><u>Felonious sexual assault:</u></p> <ul style="list-style-type: none"> • sexual contact and causing serious personal injury and any of the circumstances listed in aggravated felonious assault are present OR • sexual penetration with victim who is ≥ 13 years old, but < 16 years old and age difference between actor and victim ≥ 4 yrs. OR • actor in position of authority and uses it to coerce victim <p><u>Sexual assault:</u></p> <ul style="list-style-type: none"> • sexual contact with a person ≥ 13 years old and any of the circumstances listed in aggravated felonious assault are present OR • sexual contact AND $13 < \text{victim} < 16$ AND the age difference between actor and victim ≥ 5 yrs. (unless spouse) OR • absent any of the circumstances listed in aggravated felonious assault and sexual penetration of • victim 13 and older but under 16 AND the age difference between actor and victim < 5 yrs (unless spouse). 	<p><u>Felonious sexual assault:</u> Class B felony</p> <p><u>Sexual assault:</u> Class A Misdemeanor</p>	<p>intentional touching</p> <p>intentional touching</p>	

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New Jersey	NJ ST §2C:14-1 §2C:14-2 §2C:14-3 §2C:14-5 §2C:14-6	<u>Aggravated sexual assault:</u> <ul style="list-style-type: none"> • victim < 13 years; • 13 ≤ victim < 16 AND actor related to the victim, or has supervisory authority, or stands in parentis locus; OR • sexual penetration committed during certain crimes OR • actor is armed with dangerous weapon OR • actor is aided or abetted OR • actor uses physical force or coercion resulting in severe personal injury OR • sexual penetration and victim was physically helpless, mentally defective, or mentally incapacitated and actor knew 	<u>Aggravated sexual assault:</u> Crime of the 1 st degree	no explicit mens rea requirement; general intent	<u>Forcible compulsion</u> criminal coercion: “inflict bodily injury on anyone or commit any other offense; Accuse anyone of an offense: Expose any secret which would tend to subject any person to hatred, contempt or ridicule, or to impair his credit or business repute; Take or withhold action as an official, or cause an official to take or withhold action; Testify or provide information or withhold testimony or information with respect to another's legal claim or defense; or Perform any other act which would not in itself substantially benefit the actor but which is calculated to substantially harm another person with respect to his health, safety, business, calling, career, financial condition, reputation or personal relationships” proof of resistance not required
New Jersey continued		<u>Sexual assault:</u> <ul style="list-style-type: none"> • sexual penetration using physical force or coercion which does not result in severe personal injury OR • actor has authority over victim (because victim on parole/probation or is otherwise detained) and uses it to achieve penetration OR • victim is ≥ 16 years old but <18 years old and the actor is in a position of authority OR related to the victim, or in parentis locus in the household; OR • victim is ≥ 13 years old but <16 	<u>Sexual assault:</u> Crime of the 2 nd degree	no explicit mens rea requirement; general intent	<u>Incapacity</u> “physically helpless”: “unconscious or is physically unable to flee or is physically unable to communicate unwillingness to act” “mentally incapacitated”: “condition in which a person suffers from a mental disease or defect which renders that person temporarily or permanently incapable of understanding or controlling his conduct due to the influence of a . . . substance administered to that person without his prior knowledge or consent, or due to any other act committed upon that person which rendered that person incapable of appraising or controlling his conduct”

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		<p>years old and actor is ≥ 4 years older</p> <p><u>Aggravated criminal sexual contact:</u></p> <ul style="list-style-type: none"> sexual contact committed during certain crimes OR actor is armed with dangerous weapon OR actor is aided or abetted OR actor uses physical force or coercion resulting in severe personal injury OR sexual contact and victim was physically helpless, mentally defective, or mentally incapacitated and actor knew <p><u>Criminal sexual contact:</u></p> <ul style="list-style-type: none"> sexual contact committed during certain crimes 	<p><u>Aggravated criminal sexual contact:</u> Crime of the 3rd degree</p> <p><u>Criminal sexual contact:</u> Crime of the 4th degree</p>	<p>intentional touching</p> <p>intentional touching</p>	

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New Mexico	NM ST §30-9-10 §30-9-11 §30-9-12 §31-18-15	<p><u>Aggravated sexual penetration</u></p> <ul style="list-style-type: none"> criminal sexual penetration (causing “a person to engage in sexual intercourse, cunnilingus, fellatio or anal intercourse or the causing of penetration of the genital or anal openings of another”) with a child under 13 with intent to kill <p><u>Criminal sexual penetration 1st degree:</u></p> <ul style="list-style-type: none"> causing “a person to engage in sexual intercourse, cunnilingus, fellatio or anal intercourse or the causing of penetration of the genital or anal openings of another” AND using force or coercion causing great bodily harm or great mental anguish; OR with a victim under 13 yrs. <p><u>Criminal sexual penetration 2nd degree:</u></p> <ul style="list-style-type: none"> causing “a person to engage in sexual intercourse, cunnilingus, fellatio or anal intercourse or the causing of penetration of the genital or anal openings of another” AND using force or coercion causing personal injury OR “using force or coercion when perpetrator is aided or abetted” 	<p><u>Aggravated criminal sexual penetration 1st degree:</u> 1st Degree Felony</p> <p><u>Criminal sexual penetration 1st degree:</u> 1st Degree Felony</p> <p><u>Criminal sexual penetration 2nd degree:</u> 2nd Degree Felony</p>	<p>intentional</p> <p>intentional</p>	<p><u>Forcible Compulsion</u> force or coercion: use or threats of physical force or physical violence, use of threats of physical punishment, kidnapping, extortion, or retaliation against the victim or another, when actor knows the victim is incapacitated, or perpetrator is psychotherapist (unless treatment has been terminated for > 1 year)</p> <p><u>Incapacity</u> “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”</p>

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State	Statute	Physical Contact: Element Breakdown	Classification of Crime	Mental State Required	Forcible Compulsion / Consent / Incapacity
New Mexico continued		<p>OR</p> <ul style="list-style-type: none"> • on person \geq 13 years old, but < 18 years old when perpetrator is in position of authority and uses position to coerce OR • person is inmate and perpetrator in position of authority OR • during commission of felony OR • armed with deadly weapon <p><u>Criminal sexual penetration 3rd degree:</u></p> <ul style="list-style-type: none"> • causing “a person to engage in sexual intercourse, cunnilingus, fellatio or anal intercourse or the causing of penetration of the genital or anal openings of another” through force or coercion <p><u>Criminal sexual contact:</u></p> <ul style="list-style-type: none"> • “touching of or application of force, without consent, to the unclothed intimate parts of another” who is \geq 18 years old or causing another who is \geq 18 years old “to touch one’s intimate parts” AND • using force or coercion <p><u>Criminal sexual contact 4th degree:</u></p> <ul style="list-style-type: none"> • “touching of or application of 	<p><u>Criminal sexual penetration 3rd degree:</u> 3rd Degree Felony</p> <p><u>Criminal sexual contact:</u> Misdemeanor</p> <p><u>Criminal sexual</u></p>	<p>intentional</p> <p>intentional</p> <p>intentional</p>	

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		force, without consent, to the unclothed intimate parts of another” who is \geq 18 years old or causing another who is \geq 18 years old “to touch one’s intimate parts” AND <ul style="list-style-type: none"> • using force or coercion causing personal injury OR • armed with deadly weapon 	contact 4 th degree: 4 th degree felony		

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New York New York continued	NY PENAL §130.00 §130.05 §130.10 §130.20 §130.25 §130.30 §130.35 §130.40 §130.45 §130.50 §130.52 §130.55 §130.60 §130.65 §130.65-a §130.66 §130.67 §130.70 §70.00 §70.02 §70.15	<p><u>Sexual misconduct:</u></p> <ul style="list-style-type: none"> sexual intercourse or oral or anal sexual conduct without consent; OR engages in sexual conduct with dead body or animal <p><u>Rape 1st degree:</u></p> <ul style="list-style-type: none"> sexual intercourse by forcible compulsion OR with someone who is incapable of consent due to physical helplessness; OR victim less than 11 yrs. old; OR victim less than 13 yrs. old and actor ≥ 18 yrs. old <p><u>Rape 2nd degree:</u></p> <ul style="list-style-type: none"> sexual intercourse if perpetrator is ≥ 18 years old and person is < 15 OR where person is incapable of consent by reason of being mentally disabled or mentally incapacitated; affirmative defense actor is less than 4 yrs. older than victim <p><u>Rape 3rd degree:</u></p> <ul style="list-style-type: none"> sexual intercourse with person incapable of consent for reason other than being < 17 years old OR if perpetrator is ≥ 21 years old and person is < 17 OR 	<p><u>Sexual misconduct:</u> Class A misdemeanor</p> <p><u>Rape 1st degree:</u> Class B felony</p> <p><u>Rape 2nd degree:</u> Class D felony</p> <p><u>Rape 3rd degree:</u> Class E felony</p>	<p>no explicit mens rea requirement; general intent</p> <p>no explicit mens rea requirement; general intent</p> <p>no explicit mens rea requirement; general intent</p> <p>no explicit mens rea requirement; general intent</p>	<p><u>Forcible Compulsion</u> “to compel by either: use of physical force; or a threat, express or implied, which places a person in fear of immediate death or physical injury to himself, herself or another person, or in fear that he, she or another person will immediately be kidnapped”</p> <p><u>Consent</u> no consent where perpetrator uses forcible compulsion or when victim lacks capacity to consent</p> <p>if charge is sexual abuse: force or lack of consent required in addition to “any circumstances ... in which the victim does not expressly or impliedly acquiesce in the actor’s conduct”</p> <p>if charge is rape in the 3rd degree or sodomy in the 3rd degree: force and circumstances under which ... the victim clearly expressed that he or she did not consent to engage in such act, and a reasonable person in the actor’s situation would have understood</p> <p><u>Incapacity</u> a person lacks capacity when he or she suffers from a mental incapacity, mental disability, physical helplessness, when victim is under authority of perpetrator, when victim is < 17 years old, or when the perpetrator is in a position of authority or trust</p> <p>“mentally disabled”: “suffers from a mental disease or defect which renders him or her incapable of appraising the nature of his or her conduct”</p> <p>“mentally incapacitated”: “rendered temporarily incapable of appraising or controlling his conduct owing to the influence of a narcotic or intoxicating substance</p>

Sexual Assault Statutes in the United States

State	Statute	Physical Contact: Element Breakdown	Classification of Crime	Mental State Required	Forcible Compulsion / Consent / Incapacity
New York continued		<ul style="list-style-type: none"> if person lacks consent by reason of some factor other than incapacity to consent <p><u>Criminal Sexual Act 1st degree:</u></p> <ul style="list-style-type: none"> oral or anal sexual conduct by forcible compulsion OR with someone who is incapable of consent due to physical helplessness incapable of consent due to physical helplessness; OR victim < 11 yrs; OR victim < 13 yrs. and actor > 18 yrs. 	<p><u>Criminal Sexual Act 1st degree:</u> Class B felony</p>	no explicit mens rea requirement; general intent	<p>administered to him without his consent, or to any other act committed upon him without his consent”</p> <p>“physically helpless”: “unconscious or for any other reason is physically unable to communicate unwillingness to an act”</p> <p>it is an affirmative defense that the perpetrator did not know of victim’s incapacity</p>
		<p><u>Criminal Sexual Act 2nd degree:</u></p> <ul style="list-style-type: none"> deviate sexual intercourse if perpetrator is ≥ 18 years old and person is < 15 OR where person is incapable of consent by reason of being mentally disabled or mentally incapacitated affirmative defense actor < 4 yrs. older than victim 	<p><u>Criminal Sexual Act 2nd degree:</u> Class D felony</p>	no explicit mens rea requirement; general intent	
		<p><u>Criminal Sexual Act 3rd degree:</u></p> <ul style="list-style-type: none"> oral or sexual conduct with person incapable of consent for reason other than being < 17 years old OR if perpetrator is ≥ 21 years old and person is < 17 OR 	<p><u>Criminal Sexual Act 3rd degree:</u> Class E felony</p>	no explicit mens rea requirement; general intent	

Sexual Assault Statutes in the United States

State	Statute	Physical Contact: Element Breakdown	Classification of Crime	Mental State Required	Forcible Compulsion / Consent / Incapacity
<p>New York continued</p>		<ul style="list-style-type: none"> • if person lacks consent by reason of some factor other than incapacity to consent <p><u>Forcible touching:</u></p> <ul style="list-style-type: none"> • “intentionally, and for no legitimate purpose, forcibly touches the sexual or other intimate parts of another person: for the purpose of degrading or abusing such person or for the purpose of gratifying the actor's sexual desire” <ul style="list-style-type: none"> • <p><u>Sexual abuse 1st degree:</u></p> <ul style="list-style-type: none"> • sexual contact by forcible compulsion OR • when the other person is incapable of consent due to physical helplessness; OR • victim < 11 yrs. old; OR • victim < 13 and actor ≥ 21 <p><u>Sexual abuse 2nd degree:</u></p> <ul style="list-style-type: none"> • sexual contact with person incapable of consent <p><u>Sexual abuse 3rd degree:</u></p> <ul style="list-style-type: none"> • sexual contact without consent • affirmative defense to statutory rape that consent was given and actor ≤ 5yrs older than victim, and victim > 14 	<p><u>Forcible touching:</u> Class A misdemeanor</p> <p><u>Sexual abuse 1st degree:</u> Class D felony</p> <p><u>Sexual abuse 2nd degree:</u> Class A misdemeanor</p> <p><u>Sexual abuse 3rd degree:</u> Class B misdemeanor</p>	<p>intentionally and purposefully</p> <p>no explicit mens rea requirement; general intent</p> <p>no explicit mens rea requirement; general intent</p> <p>no explicit mens rea requirement; general intent</p>	

Sexual Assault Statutes in the United States

State	Statute	Physical Contact: Element Breakdown	Classification of Crime	Mental State Required	Forcible Compulsion / Consent / Incapacity
New York continued		<p><u>Aggravated sexual abuse 1st degree:</u></p> <ul style="list-style-type: none"> • inserting a foreign object in the vagina, urethra, penis or rectum of another person causing physical injury to such person AND • using forcible compulsion OR • when the other person is incapable of consent due to physical helplessness OR • victim < 11 yrs. 	<p><u>Aggravated sexual abuse 1st degree:</u> Class B felony</p>	<p>no explicit mens rea requirement; general intent</p>	
		<p><u>Aggravated sexual abuse 2nd degree:</u></p> <ul style="list-style-type: none"> • inserting a finger in the vagina, urethra, penis or rectum of another person causing physical injury to such person AND • using forcible compulsion OR • when the other person is incapable of consent due to physical helplessness OR • victim < 11 yrs. 	<p><u>Aggravated sexual abuse 2nd degree:</u> Class C felony</p>	<p>no explicit mens rea requirement; general intent</p>	
		<p><u>Aggravated sexual abuse 3rd degree:</u></p> <ul style="list-style-type: none"> • inserting a foreign object in the vagina, urethra, penis or rectum by forcible compulsion OR • when person is incapable of consent due to physical helplessness OR • when physical injury results and person is incapable of consent 	<p><u>Aggravated sexual abuse 3rd degree:</u> Class D felony</p>	<p>no explicit mens rea requirement; general intent</p>	

Sexual Assault Statutes in the United States

State	Statute	Physical Contact: Element Breakdown	Classification of Crime	Mental State Required	Forcible Compulsion / Consent / Incapacity
		<p>due to being mentally disabled or mentally incapacitated OR</p> <ul style="list-style-type: none"> • victim < 11 yrs. <p><u>Aggravated sexual abuse 4th degree:</u></p> <ul style="list-style-type: none"> • inserting a foreign object in the vagina, urethra, penis or rectum when a person is incapable of consent for reason other than being < 17 years old OR • inserting a foreign object in the vagina, urethra, penis or rectum causing physical injury when a person is incapable of consent for reason other than being < 17 years old 	<p><u>Aggravated sexual abuse 4th degree:</u> Class E felony</p>	<p>no explicit mens rea requirement; general intent</p>	

Sexual Assault Statutes in the United States

State	Statute	Physical Contact: Element Breakdown	Classification of Crime	Mental State Required	Forcible Compulsion / Consent / Incapacity
North Carolina	NC ST §14-27.1 §14-27.2 §14-27.3 §14-27.4 §14-27.5	<p><u>Rape 1st degree:</u></p> <ul style="list-style-type: none"> vaginal intercourse by force and against their will AND uses a dangerous weapon OR inflicts serious personal injury OR is aided and abetted <p><u>Rape 2nd degree:</u></p> <ul style="list-style-type: none"> vaginal intercourse by force and against their will OR with a person who is mentally disabled, mentally incapacitated, or physically helpless, and the perpetrator knows <p><u>Sexual offense 1st degree:</u></p> <ul style="list-style-type: none"> sexual act by force and against their will AND uses a dangerous weapon OR inflicts serious personal injury OR is aided and abetted <p><u>Sexual offense 2nd degree:</u></p> <ul style="list-style-type: none"> sexual act by force and against their will OR with a person who is mentally disabled, mentally incapacitated, or physically helpless, and the perpetrator knows 	<p><u>Rape 1st degree:</u> Class B1 felony</p> <p><u>Rape 2nd degree:</u> Class C felony</p> <p><u>Sexual offense 1st degree:</u> Class B1 felony</p> <p><u>Sexual offense 2nd degree:</u> Class C felony</p>	<p>no explicit mens rea requirement; general intent</p> <p>no explicit mens rea requirement; general intent</p> <p>no explicit mens rea requirement; general intent</p> <p>no explicit mens rea requirement; general intent</p>	<p><u>Incapacity</u> “mentally disabled”: a victim who suffers from mental retardation or a mental disorder, rendering the victim substantially incapable of appraising the nature of his or her conduct, resisting the act, or communicating unwillingness to submit to the act</p> <p>“mentally incapacitated”: “a victim who due to any act committed upon the victim is rendered substantially incapable of either appraising the nature of his or her conduct or resisting the act”</p> <p>“physically helpless”: a victim who is unconscious or physically unable to resist an act or communicate unwillingness to submit to an act</p>
North Carolina continued					

Sexual Assault Statutes in the United States

State	Statute	Physical Contact: Element Breakdown	Classification of Crime	Mental State Required	Forcible Compulsion / Consent / Incapacity

A joint project of the National Crime Victim Law Institute (NCVLI) and the National Women’s Law Center (NWLC); updated by the National District Attorneys Association (NDAA) & National Crime Victim Law Institute (NCVLI) in 2016

Sexual Assault Statutes in the United States

State	Statute	Physical Contact: Element Breakdown	Classification of Crime	Mental State Required	Forcible Compulsion / Consent / Incapacity
North Dakota	ND ST §12.1-20-02 §12.1-20-03 §12.1-20-04 §12.1-20-07 §12.1-32-01	<p><u>Gross sexual imposition:</u></p> <ul style="list-style-type: none"> • sexual act with another, or causing another to engage in a sexual act due to forcible compulsion or incapacity OR • actor has substantially impaired victim’s power to appraise via controlled substance; OR • actor knew victim unaware of sexual conduct; OR • victim < 15; OR • sexual contact with or causing another to engage in sexual contact due to forcible compulsion; OR • victim < 15 • The actor has reason to believe that the victim suffer from a mental defect <p><u>Sexual imposition:</u></p> <ul style="list-style-type: none"> • sexual act or sexual contact with or causing another to engage in a sexual act or sexual contact AND • compelling person to submit by any threat that would render a person of reasonable firmness incapable of resisting OR • committing act as a part of “induction, initiation, ceremony, pledge, hazing, or qualification to become a member or an associate of any criminal street gang” 	<p><u>Gross sexual imposition:</u> Class AA felony if actor inflicts serious bodily injury or uses forcible compulsion, otherwise it is a Class A felony</p> <p><u>Sexual imposition:</u> Class B felony</p>	<p>no explicit mens rea requirement; general intent; but see <i>State v. Cummins</i>, 347 N.W.2d 571 (N.D. 1984) (stating that where a statute is silent on the issue of culpability, the required mental state is willfully)</p> <p>no explicit mens rea requirement; general intent</p> <p>knowingly</p>	<p><u>Forcible compulsion</u> compelling the victim to submit by force or by threat of imminent death, serious bodily injury, or kidnapping, to be inflicted on any human being</p> <p><u>Incapacity</u> impairing the victim's power to appraise or controlling the victim's conduct by administering without the victim's knowledge intoxicants, or uses other means with intent to prevent resistance, victim is unaware that a sexual act is being committed, victim suffers from a mental disease or defect which renders him or her incapable of understanding the nature of his or her conduct, or victim is < 15 years old</p>
North Dakota continued					

Sexual Assault Statutes in the United States

State	Statute	Physical Contact: Element Breakdown	Classification of Crime	Mental State Required	Forcible Compulsion / Consent / Incapacity
		<p><u>Sexual assault:</u></p> <ul style="list-style-type: none"> • sexual contact with another person or causing another person to have sexual contact AND • perpetrator knows or has reason to know that the contact is offensive to the other person OR • victim has mental disease or defect OR • victim is unknowingly intoxicated to prevent resistance OR • victim is under authority of perpetrator OR • victim is minor > 15 yrs. and actor responsible or supervision; OR • actor is an adult and victim < 15 	<p><u>Sexual assault:</u> Class C felony; Class B misdemeanor</p>		

Sexual Assault Statutes in the United States

State	Statute	Physical Contact: Element Breakdown	Classification of Crime	Mental State Required	Forcible Compulsion / Consent / Incapacity
Ohio	OH ST §2907.01 §2907.02 §2907.03 §2907.04 §2907.05 §2907.06 §2929.14 §2929.21	<p><u>Rape:</u></p> <ul style="list-style-type: none"> • sexual conduct with another (spouse exempt) • due to administered intoxicants OR • with victim < 13 OR • with victim of advanced age who is unable to resist due to substantial mental or physical conditions OR • through forcible compulsion or threat <p><u>Sexual battery:</u></p> <ul style="list-style-type: none"> • sexual conduct with another (spouse exempt) AND • knowingly coercing the other person to submit by any means that would prevent resistance by a person of ordinary resolution OR • knowing that the other person's ability to appraise the nature of or control the other person's own conduct is substantially impaired OR • knowing that the other person submits because the other person is unaware that the act is being committed OR • knowing that the other person submits because the other person mistakenly identifies the 	<p><u>Rape:</u> 1st degree felony</p> <p><u>Sexual battery:</u> 3rd degree felony</p> <p>Unlawful sexual conduct with a minor: 2nd degree felony</p>	<p>purposefully <i>See State v. Martens</i>, 629 N.E.2d 462 (Ohio Ct. App. 1993) (approving definition of “purposeful” and noting proof of specific intent of purposeful compulsion required for conviction)</p> <p>knowingly or general intent if offender has authority over victim</p>	<p><u>Forcible compulsion</u> use of force or threat of force or purposefully administering any drug, intoxicant, or controlled substance to the other person surreptitiously to substantially impair the other person's judgment or control by or by force, threat of force, or deception</p> <p>physical resistance is not necessary</p> <p><u>Incapacity</u> victim's ability to resist or consent is substantially impaired because of a mental or physical condition or because of advanced age and offender knows or should know this</p>
Ohio continued					

Sexual Assault Statutes in the United States

State	Statute	Physical Contact: Element Breakdown	Classification of Crime	Mental State Required	Forcible Compulsion / Consent / Incapacity
		<ul style="list-style-type: none"> • clothing <p><u>Sexual imposition:</u></p> <ul style="list-style-type: none"> • having, causing another to have, or causing two or more other persons to have sexual contact AND • knowing that the sexual contact is offensive to the other person OR • knowing that the other person's mental abilities are substantially impaired OR • knowing that the other person submits because of being unaware of the sexual contact • victim is <u>13, 14, or 15 AND actor is at let 4 years older than the victim and older than 18</u> 	<p><u>Sexual imposition:</u> 3rd degree misdemeanor</p>		

Sexual Assault Statutes in the United States

State	Statute	Physical Contact: Element Breakdown	Classification of Crime	Mental State Required	Forcible Compulsion / Consent / Incapacity
Oklahoma	OK ST T.21 §1111 §1112 §1113 §1114 §1115 §1116	<u>Rape in the 1st degree:</u> <ul style="list-style-type: none"> • rape by instrumentation resulting in bodily harm, OR • rape by implementation upon victim < 14 • rape by/with • actor > 18 on victim < 14; OR • victim incapable of consent; OR • victim intoxicated by substance administer by actor; OR • unconscious victim; OR • by force, violence, or threats <u>Rape in the 2nd degree:</u> <ul style="list-style-type: none"> • rape or rape by instrumentation excluding the cases listed in 1st degree rape 	<u>Rape in the 1st degree:</u> Unclassified felony <u>Rape in the 2nd degree:</u> Unclassified felony	no explicit mens rea requirement; general intent no explicit mens rea requirement; general intent	<u>Forcible compulsion</u> force or violence is used or threatened any sexual penetration, however slight, is sufficient to complete the crime <u>Incapacity</u> victim is < 16 years old, incapable through mental illness or unsoundness of mind to give legal consent, intoxicated by a narcotic or anesthetic agent, administered by or with the privity of the accused as a means of forcing the victim to submit, at the time unconscious of the nature of the act and this fact is known to the accused, or submits to sexual intercourse under the belief that the person committing the act is a spouse, and this belief is induced by artifice, pretense, or concealment practiced by the accused

Sexual Assault Statutes in the United States

State	Statute	Physical Contact: Element Breakdown	Classification of Crime	Mental State Required	Forcible Compulsion / Consent / Incapacity
Oregon	OR ST §163.305 §163.315 §163.325 §163.355 §163.365 §163.375 §163.385 §163.395 §163.405 §163.408 §163.411 §163.415 §163.425 §163.427 §161.605 §161.615 §161.625 §161.635	<p><u>Rape in the 1st degree:</u></p> <ul style="list-style-type: none"> sexual intercourse by forcible compulsion OR where victim is < 12 years old OR victim is < 16 years old and is the actor's whole or half sibling, child, or spouse's child OR victim is incapable of consent by reason of mental defect, mental incapacitation or physical helplessness <p><u>Rape in the 2nd degree:</u></p> <ul style="list-style-type: none"> sexual intercourse: victim is < 14 years old <p><u>Rape in the 3rd degree:</u></p> <ul style="list-style-type: none"> sexual intercourse: victim is < 16 years old <p><u>Sodomy in the 1st degree:</u></p> <ul style="list-style-type: none"> deviant sexual intercourse by forcible compulsion OR where victim is < 12 years old OR victim is < 16 years old and is the actor's whole or half sibling, child, or spouse's child OR victim is incapable of consent by reason of mental defect, mental incapacitation or physical helplessness 	<p><u>Rape in the 1st degree:</u> Class A felony</p> <p><u>Rape in the 2nd degree:</u> Class B felony</p> <p><u>Rape in the 3rd degree:</u> Class C felony</p> <p><u>Sodomy in the 1st degree:</u> Class A felony</p>	<p>no explicit mens rea requirement; general intent</p> <p>no explicit mens rea requirement; general intent</p> <p>no explicit mens rea requirement; general intent</p> <p>no explicit mens rea requirement; general intent</p>	<p><u>Forcible compulsion</u> to compel by physical force or by a threat, express or implied, that causes fear of immediate or future death, physical injury, or kidnapping to/of self or another</p> <p>lack of resistance alone does not establish consent, but may be considered in evidence</p> <p><u>Incapacity</u> “mentally defective”: person suffers from a mental disease or defect renders person incapable of appraising the nature of their conduct</p> <p>“mentally incapacitated”: person is rendered incapable of appraising or controlling their conduct at the time of the alleged offense because of the influence of a controlled or other intoxicating substance administered without their consent</p> <p>“physical helplessness”: person is unconscious or for any other reason is physically unable to communicate unwillingness to an act</p> <p>victim is under 18</p>

Sexual Assault Statutes in the United States

State	Statute	Physical Contact: Element Breakdown	Classification of Crime	Mental State Required	Forcible Compulsion / Consent / Incapacity
Oregon continued		<p><u>Sodomy in the 2nd degree:</u></p> <ul style="list-style-type: none"> deviant sexual intercourse with a person < 14 years old <p><u>Sodomy in the 3rd degree:</u></p> <ul style="list-style-type: none"> deviant sexual intercourse with a person < 16 years old <p><u>Unlawful sexual penetration in 1st degree:</u></p> <ul style="list-style-type: none"> penetration with any object other than the penis or mouth of the actor by forcible compulsion OR where victim is < 12 years old OR victim is incapable of consent by reason of mental defect, mental incapacitation or physical helplessness <p><u>Unlawful sexual penetration in 2nd degree:</u></p> <ul style="list-style-type: none"> penetration with any object other than the penis or mouth of the actor and the victim is < 14 years old <p><u>Sexual abuse in 1st degree:</u></p> <ul style="list-style-type: none"> sexual contact by forcible compulsion OR 	<p><u>Sodomy in the 2nd degree:</u> Class B felony</p> <p><u>Sodomy in the 3rd degree:</u> Class C felony</p> <p><u>Unlawful sexual penetration in 1st degree:</u> Class A felony</p> <p><u>Unlawful sexual penetration in 2nd degree:</u> Class B felony</p> <p><u>Sexual abuse in 1st degree:</u> Class B felony</p>	<p>no explicit mens rea requirement; general intent</p> <p>no explicit mens rea requirement; general intent</p> <p>no explicit mens rea requirement; general intent</p> <p>no explicit mens rea requirement; general intent</p> <p>no explicit mens rea requirement; general intent</p>	

Sexual Assault Statutes in the United States

State	Statute	Physical Contact: Element Breakdown	Classification of Crime	Mental State Required	Forcible Compulsion / Consent / Incapacity
Oregon continued		<ul style="list-style-type: none"> • where victim is < 14 years old OR • the victim was subject to forcible compulsion; OR • victim is incapable of consent by reason of mental defect, mental incapacitation or physical helplessness; OR • intentionally causes a person under 18 to touch sex organs of an animal for purposes of gratifying sexual desire ; OR <p><u>Sexual abuse in 2nd degree:</u></p> <ul style="list-style-type: none"> • sexual intercourse, deviate sexual intercourse or penetration with any object other than the penis or mouth of the actor without consent OR • The person is 21 or older AND • At any time before the offense the person was the victims coach <p><u>Sexual abuse in 3rd degree:</u></p> <ul style="list-style-type: none"> • sexual contact without consent OR • where the victim is < 18 years old; OR • for the purpose of arousing sexual desire, the actor intentionally propels blood urine, feces, semen at the victim 	<p><u>Sexual abuse 2nd degree:</u> Class C felony</p> <p><u>Sexual abuse in 3rd degree:</u> Class A misdemeanor</p>	<p>no explicit mens rea requirement; general intent</p> <p>no explicit mens rea requirement; general intent</p>	

Sexual Assault Statutes in the United States

State	Statute	Physical Contact: Element Breakdown	Classification of Crime	Mental State Required	Forcible Compulsion / Consent / Incapacity
<p>Pennsylvania continued</p>		<p>actor is \geq 4 years older than the victim and the victim (unless married)</p> <p><u>Sexual assault:</u></p> <ul style="list-style-type: none"> • Except as provided above, a person commits sexual assault when that person engages in sexual intercourse or deviate sexual intercourse without consent <p><u>Aggravated indecent assault:</u></p> <ul style="list-style-type: none"> • Except as provided above, penetration without consent OR • by forcible compulsion OR • by threat of forcible compulsion OR • victim is unconscious or unaware of penetration OR • victim's power to appraise or control her conduct is impaired by drugs, intoxicants or other means to prevent resistance OR • victim suffers from a mental disability which renders him or her incapable of consent OR • victim is < 13 years old OR • victim is < 16 years old and the actor is \geq 4 years older than the victim and the victim (unless married) • A person commits aggravated indecent assault of a child when the person violates subsection 	<p><u>Sexual assault:</u> Felony in the 2nd degree</p> <p><u>Aggravated indecent assault:</u> <u>An offense under subsection (a) is a felony in the 1st degree</u> <u>An offense under subsection (a) is a felony 2nd degree</u></p>	<p>no explicit mens rea requirement; general intent</p> <p>no explicit mens rea requirement; general intent</p>	

Sexual Assault Statutes in the United States

State	Statute	Physical Contact: Element Breakdown	Classification of Crime	Mental State Required	Forcible Compulsion / Consent / Incapacity
<p>Pennsylvania continued</p>		<p>(a)(1), (2), (3), (4), (5) or (6) and the complainant is less than 13 years of age.</p> <p><u>Indecent assault:</u></p> <ul style="list-style-type: none"> • indecent contact or causing the victim to have indecent contact without consent OR intentionally causes victim to come in contact with seminal fluid, urine, feces for purposes of arousing sexual desire AND • without victim’s consent; OR • by forcible compulsion OR • by threat of forcible compulsion OR • victim is unconscious or unaware of indecent contact OR • victim’s power to appraise or control her conduct is impaired by drugs, intoxicants or other means to prevent resistance OR • victim suffers from a mental disability which renders him or her incapable of consent OR • victim is < 13 years old OR • victim is < 16 and the actor is ≥ 4 years older than the victim and the victim (unless married); 	<p><u>Indecent assault:</u> An offense under subsection (a)(1) or (8) is a 2nd degree misdemeanor, An offense under subsection (a)(2), (3), (4), (5), (6), or (7) is a 1st degree, misdemeanor An offense under subsection (a)(7) is a 3rd degree felony if the following apply: It is a second or subsequent offense, There has been a course of conduct of indecent assault by the person. The perpetrator touched the victim’s sexual or with or without intimate parts with their sexual parts.</p>	<p>no explicit mens rea requirement; general intent</p>	

Sexual Assault Statutes in the United States

State	Statute	Physical Contact: Element Breakdown	Classification of Crime	Mental State Required	Forcible Compulsion / Consent / Incapacity
Rhode Island	RI ST §11-37-1 §11-37-2 §11-37-3 §11-37-4 §11-37-5 §11-37-6 §11-37-7 §11-37-8	<p><u>Sexual assault in the 1st degree:</u></p> <ul style="list-style-type: none"> • sexual penetration where the accused knows or has reason to know that the victim is mentally incapacitated, mentally disabled, or physically helpless OR • by force or coercion OR • through concealment or by the element of surprise, is able to overcome the victim OR • medical treatment or examination of the victim for the purpose of sexual arousal, gratification, or stimulation <p><u>Sexual assault in the 2nd degree:</u></p> <ul style="list-style-type: none"> • sexual contact where the accused knows or has reason to know that the victim is mentally incapacitated, mentally disabled, or physically helpless OR • by force or coercion OR • medical treatment or examination of the victim for the purpose of sexual arousal, gratification, or stimulation <p><u>Sexual assault in the 3rd degree:</u></p> <ul style="list-style-type: none"> • sexual penetration when actor is > 18 years old and victim ≥ 14 years old and < 16 years old 	<p><u>Sexual assault in the 1st degree:</u> Unclassified</p> <p><u>Sexual assault in the 2nd degree:</u> Unclassified</p> <p><u>Sexual assault 3rd degree:</u> Unclassified</p>	<p>no explicit mens rea requirement</p> <p>no explicit mens rea requirement; general intent</p> <p>no explicit mens rea requirement; general intent</p>	<p><u>Forcible compulsion</u> use of a weapon or threat of a weapon, use of physical force or physical violence, threat of force or violence, threat to murder, inflict serious bodily injury upon, or kidnap the victim or any other person</p> <p><u>Incapacity</u> “mentally disabled”: having a mental impairment which renders him/her incapable of appraising the nature of the act</p> <p>“mentally incapacitated”: temporarily incapable of appraising or controlling her conduct due to the influence of a narcotic, anesthetic, or other substance administered without her consent, or mentally unable to communicate unwillingness to engage in the act</p> <p>“physically helpless”: unconscious, asleep, or physically unable to communicate unwillingness to an act</p>
Rhode Island continued					

Sexual Assault Statutes in the United States

State	Statute	Physical Contact: Element Breakdown	Classification of Crime	Mental State Required	Forcible Compulsion / Consent / Incapacity
		accomplish sexual battery OR <ul style="list-style-type: none"> • actor knows or has reason to know that the victim is mentally defective, mentally incapacitated, or physically helpless 			

Sexual Assault Statutes in the United States

State	Statute	Physical Contact: Element Breakdown	Classification of Crime	Mental State Required	Forcible Compulsion / Consent / Incapacity
South Dakota	SD ST §22-22-1 §22-22-2 §22-22-7.1 §22-22-7.2 §22-22-7.4 §22-22-30 §22-6-1 §22-6-2	<p><u>Rape in the 1st degree:</u></p> <ul style="list-style-type: none"> sexual penetration when the victim is < 13 years old <p><u>Rape in the 2nd degree:</u></p> <ul style="list-style-type: none"> sexual penetration using force, coercion, or threats of immediate and great bodily harm <p><u>Rape in the 3rd degree:</u></p> <ul style="list-style-type: none"> sexual penetration when: <ul style="list-style-type: none"> OR victim incapable of consent because of mental or physical capacity; OR <p><u>intoxicant</u></p> <p><u>Rape in the 4th degree:</u></p> <ul style="list-style-type: none"> sexual penetration when: victim ≥ 10 years old but < 16 years old and the perpetrator is ≥ 3 years older than the victim <p><u>Sexual contact without consent:</u></p> <ul style="list-style-type: none"> when an actor 15 or older engages in sexual contact without the victim's consent 	<p><u>Rape in the 1st degree:</u> Class C felony</p> <p><u>Rape in the 2nd degree:</u> Class 1 felony</p> <p><u>Rape in the 3rd degree:</u> Class 2 felony</p> <p><u>Rape in the 4th degree:</u> <u>Class 3 felony</u></p> <p><u>Sexual contact without consent:</u> Class 1 misdemeanor</p>	<p>no explicit mens rea requirement; general intent</p> <p>no explicit mens rea requirement; general intent</p> <p>no explicit mens rea requirement; general intent</p> <p>no explicit mens rea requirement; general intent “intent to arouse”</p> <p>no explicit mens rea requirement; general intent</p>	

Sexual Assault Statutes in the United States

State	Statute	Physical Contact: Element Breakdown	Classification of Crime	Mental State Required	Forcible Compulsion / Consent / Incapacity
Tennessee	TN ST §39-13-501 §39-13-502 §39-13-503 §39-13-504 §39-13-507	<p><u>Aggravated rape:</u></p> <ul style="list-style-type: none"> unlawful sexual penetration by force or coercion and the defendant is armed with a weapon or item that appeared to be a weapon OR defendant causes bodily injury to the victim OR defendant is aided or abetted and either force or coercion is used or defendant knows the victim is mentally defective, mentally incapacitated or physically helpless <p><u>Rape:</u></p> <ul style="list-style-type: none"> unlawful sexual penetration by force or coercion OR without consent OR defendant the victim is mentally defective, mentally incapacitated or physically helpless OR uses fraud <p><u>Aggravated sexual battery:</u></p> <ul style="list-style-type: none"> unlawful sexual contact by force or coercion and the defendant is armed with a weapon or item that appears to be a weapon OR defendant causes bodily injury to the victim OR defendant is aided or abetted and either force or coercion is used or defendant knows the victim is 	<p><u>Aggravated rape:</u> Class A felony</p> <p><u>Rape:</u> Class B felony; it is an aggravating factor that the defendant caused the victim to be mentally incapacitated or physically helpless by use of a controlled substance</p> <p><u>Aggravated sexual battery:</u> Class B felony</p>	<p>no explicit mens rea requirement; general intent</p> <p>no explicit mens rea requirement; general intent</p> <p>intentional</p>	<p><u>Forcible compulsion</u> “coercion”: the threat of kidnapping, extortion, force or violence to be performed immediately or in the future Or official authority over a child < 15 years of age</p> <p><u>Incapacity</u> “mentally defective”: a person suffering from a mental disease or defect which renders that person temporarily or permanently incapable of appraising the nature of such person's conduct</p> <p>“mentally incapacitated”: a person rendered temporarily incapable of appraising or controlling their conduct due to the influence of a narcotic, anesthetic or other substance administered without their consent, or due to any other act committed upon them without their consent</p> <p>“physically helpless”: a person is unconscious, asleep or for any other reason physically or verbally unable to communicate unwillingness to do an act</p>
Tennessee continued					

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		mentally defective, mentally incapacitated or physically helpless OR <ul style="list-style-type: none"> • victim is < 13 years old 			

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<p>Texas</p> <p>Texas continued</p>	TX PENAL §22.011 §22.021	<u>Aggravated sexual assault:</u> <ul style="list-style-type: none"> • sexual penetration, oral sex, or sodomy without consent AND • actor causes serious bodily injury or attempted to cause the death of the victim or another person OR • actor placed the victim in fear that death, serious bodily injury, or kidnapping would be imminently inflicted on any person OR • actor used or exhibited a deadly weapon OR • actor acted in concert with another who engaged in same conduct toward victim OR • actor administered or provided flunitrazepam, otherwise known as rohypnol, gamma hydroxybutyrate, or ketamine to the victim of the offense with the intent of facilitating the commission of the offense OR • victim is < 14 years old or > 64 years old <u>Sexual assault:</u> <ul style="list-style-type: none"> • sexual penetration of the victim by any means without consent • oral sex without consent • sodomy without consent 	<u>Aggravated sexual assault:</u> Felony in the 1 st degree <u>Sexual assault:</u> Felony in the 2 nd degree	<p>knowingly or intentionally</p> <p>knowingly or intentionally</p>	<u>Consent</u> no consent if any of the following exist: use of physical force or violence; threat to use force or violence against the victim or another; victim has not consented and the actor knows the victim is unconscious or physically unable to resist; actor knows that as a result of mental disease or defect the victim is at the time of the sexual assault incapable either of appraising the nature of the act or of resisting it; victim has not consented and the actor knows the victim is unaware that sexual assault is occurring; actor has intentionally impaired the victim's power to appraise or control her conduct by administering any substance without the victim's knowledge; actor is a public servant who coerces the victim to submit or participate; actor is a mental health services provider or a health care services provider who causes the victim, who is a patient or former patient of the actor, to submit or participate by exploiting the victim's emotional dependency on the actor; or actor is a clergyman who causes the victim to submit or participate by exploiting the victim's emotional dependency on the clergyman in the clergyman's professional character as spiritual adviser

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Utah	UT ST §76-5-402 §76-5-403 §76-5-404 §76-5-405 §76-5-406 §76-5-407 §76-3-203	<p><u>Rape:</u></p> <ul style="list-style-type: none"> sexual intercourse without the victim’s consent causing, without the victim's consent, the penetration, however slight, of the genital or anal opening of the victim who is at least 14, by any foreign object or substance, not including a part of the human body, with intent to cause substantial emotional or bodily pain to the victim or with the intent to gratify the sexual desire of any person <p><u>Sodomy:</u></p> <ul style="list-style-type: none"> any sexual act with a person who is 14 years of age or older involving the genitals of one person and mouth or anus of another person, regardless of the sex of either participant <p><u>Forcible sodomy:</u></p> <ul style="list-style-type: none"> committing sodomy upon another without their consent <p><u>Forcible sexual abuse:</u></p> <ul style="list-style-type: none"> occurs if the victim is at least 14 and, under circumstances not amounting to rape, object rape, sodomy, or attempted rape or sodomy, the actor touches the anus, buttocks, or any part of the 	<p><u>Rape:</u> Felony in the 1st degree</p> <p><u>Sodomy:</u> Class B misdemeanor</p> <p><u>Forcible sodomy:</u> Felony in the 1st degree</p> <p><u>Forcible sexual abuse:</u> Felony in the 2nd degree</p>	<p>no explicit mens rea requirement; general intent; but see <i>State v. Calamity</i>, 735 P.2d 39 (Utah 1987) (holding that because the statute does not specify necessary mental state, rape may be proven by either intentional, knowing or reckless mental state)</p> <p>“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”</p> <p>no explicit mens rea requirement; general intent</p> <p>no explicit mens rea requirement; general intent</p> <p>“intent to cause substantial emotional or bodily pain to any person or [or] with the intent to gratify the sexual desire of any person”</p>	<p><u>Forcible compulsion/lack of consent:</u> victim expresses lack of consent through words or conduct; actor overcomes the victim through the actual application of physical force or violence; actor is able to overcome the victim through concealment or by the element of surprise; actor coerces the victim to submit by threatening to retaliate in the future against the victim or any other person</p> <p><u>Incapacity/lack of consent:</u> victim has not consented and the actor knows the victim is unconscious, unaware that the act is occurring, or physically unable to resist; 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; actor knows that the victim submits or participates because the victim erroneously believes that the actor is the victim's spouse; actor intentionally impaired the power of the victim to appraise or control his or her conduct by administering any substance without the victim's knowledge; victim is under 14; victim is under 18 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; victim is between 14 and 17, and the actor is more than three years older than the victim and entices or coerces the victim to submit or participate, under circumstances not amounting to the force or threat; actor is a health professional or religious counselor, the act is committed under the guise of providing professional treatment, and the victim reasonably believed that the act was for medically or professionally appropriate treatment</p>

Sexual Assault Statutes in the United States

State	Statute	Physical Contact: Element Breakdown	Classification of Crime	Mental State Required	Forcible Compulsion / Consent / Incapacity
Utah continued		<p>genitals of another, or touches the breast of a female, or otherwise takes indecent liberties with another, or causes another to take indecent liberties with the actor or another, with intent to cause substantial emotional or bodily pain to any person or with the intent to gratify the sexual desire of any person, without the consent of the other</p> <p><u>Aggravated sexual assault:</u></p> <ul style="list-style-type: none"> • if in the course of a rape or attempted rape, object rape or attempted object rape, forcible sodomy or attempted forcible sodomy, or forcible sexual abuse or attempted forcible sexual abuse the actor: • causes bodily injury to the victim OR • uses or threatens the victim with use of a dangerous weapon OR • compels, or attempts to compel, the victim to submit to rape, object rape, forcible sodomy, or forcible sexual abuse, by threat of kidnapping, death, or serious bodily injury to be inflicted imminently on any person OR • is aided or abetted by one or more persons 	<p><u>Aggravated sexual assault:</u> Felony in the 1st degree</p>		

Sexual Assault Statutes in the United States

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<p>Vermont</p> <p>Vermont continued</p>	<p>VT ST T.13 §3251 §3252 §3253 §3254</p>	<p><u>Sexual assault:</u></p> <ul style="list-style-type: none"> • sexual act without consent OR • by threatening or coercing the victim OR • placing the victim in fear that any person will suffer imminent bodily injury OR • substantially impairing the ability of the victim to appraise or control conduct by administering or employing drugs or intoxicants without the knowledge or against the will of the victim OR • victim is < 16 years old (unless married and consensual, or actor <19 and victim ≥ 15) OR • victim is < 18 years old and is entrusted to the actor's care by authority of law or is the actor's child, grandchild, foster child, adopted child or step-child <p><u>Aggravated sexual assault:</u></p> <ul style="list-style-type: none"> • sexual assault AND • actor causes serious bodily injury to the victim or to another OR • actor is joined or assisted by one or more persons OR • actor commits the sexual act under circumstances which constitute the crime of kidnapping OR • actor was armed with a deadly weapon OR 	<p><u>Sexual assault:</u> Unclassified</p> <p><u>Aggravated sexual assault:</u> Unclassified</p>	<p>no explicit mens rea requirement; general intent</p> <p>no explicit mens rea requirement; general intent</p>	<p><u>Incapacity/lack of consent:</u> exists when the actor knows that the victim is one of the following: mentally incapable of understanding the nature of the sexual act or lewd and lascivious conduct, not physically capable of resisting, or declining consent to, the sexual act or lewd and lascivious conduct, unaware that a sexual act or lewd and lascivious conduct is being committed, mentally incapable of resisting, or declining consent to, the sexual act or lewd and lascivious conduct, due to mental illness or mental retardation</p>

Sexual Assault Statutes in the United States

State	Statute	Physical Contact: Element Breakdown	Classification of Crime	Mental State Required	Forcible Compulsion / Consent / Incapacity
		<ul style="list-style-type: none"> • actor threatened imminent serious bodily injury OR • used applied deadly force • victim < 13 and actor ≥ 18 • victim was subjected by the actor to repeated nonconsensual sexual acts as part of the same occurrence or as part of the actor's common scheme and plan 			

Sexual Assault Statutes in the United States

State	Statute	Physical Contact: Element Breakdown	Classification of Crime	Mental State Required	Forcible Compulsion / Consent / Incapacity
		<p>vulnerable adult and perpetrator is not married to victim and who has a significant relationship with victim, or</p> <ul style="list-style-type: none"> • was providing transport as course of employment to the victim <p><u>Rape in the 3rd degree:</u></p> <ul style="list-style-type: none"> • sexual intercourse without consent and lack of consent was clearly expressed by the victim's words or conduct OR • where there is threat of substantial unlawful harm to property rights of the victim 	<p><u>Rape in the 3rd degree:</u> Class C felony</p>	<p>no explicit mens rea requirement; general intent</p>	

Sexual Assault Statutes in the United States

State	Statute	Physical Contact: Element Breakdown	Classification of Crime	Mental State Required	Forcible Compulsion / Consent / Incapacity
West Virginia	WV ST §61-8B-1 §61-8B-2 §61-8B-3 §61-8B-4 §61-8B-5 §61-8B-6 §61-8B-7 §61-8B-8 §61-8B-9	<p><u>Sexual assault in the 1st degree:</u></p> <ul style="list-style-type: none"> sexual intercourse or sexual intrusion where actor inflicts serious bodily injury OR employs a deadly weapon in the commission of the act OR actor ≥ 14 engages in sexual intercourse with another person younger than 12 (and not married) <p><u>Sexual assault in the 2nd degree:</u></p> <ul style="list-style-type: none"> sexual intercourse or sexual intrusion without consent, and the lack of consent results from forcible compulsion OR engaging in sexual intercourse or sexual intrusion with another person who is physically helpless <p><u>Sexual assault in the 3rd degree:</u></p> <ul style="list-style-type: none"> sexual intercourse or sexual intrusion with another person who is mentally defective or mentally incapacitated OR actor, age 16 or older, engaging in sexual intercourse or sexual intrusion with another person who is under 16 and is at least 4 years younger than the actor <p><u>Sexual abuse in the 1st degree:</u></p> <ul style="list-style-type: none"> sexual contact without consent, and the lack of consent results from forcible compulsion; <i>or</i> 	<p><u>Sexual assault in the 1st degree:</u> Unclassified felony</p> <p><u>Sexual assault in the 2nd degree:</u> Unclassified felony</p> <p><u>Sexual assault in the 3rd degree:</u> Unclassified felony</p> <p><u>Sexual abuse in the 1st degree:</u> Unclassified felony</p>	<p>no explicit mens rea requirement; general intent</p> <p>no explicit mens rea requirement; general intent</p> <p>no explicit mens rea requirement; general intent</p> <p>intentional</p>	<p><u>Forcible compulsion</u> physical force that overcomes such earnest resistance as might reasonably be expected under the circumstances, threat or intimidation, expressed or implied, placing a person in fear of immediate death or bodily injury to herself or another person or in fear that she or another person will be kidnapped, or fear by a person under 16 caused by intimidation, expressed or implied, by another person who is at least 4 years older than the victim</p> <p>“resistance” includes physical resistance or any clear communication of the victim's lack of consent</p> <p><u>Consent</u> lack of consent results from: forcible compulsion, incapacity to consent, or if the offense charged is sexual abuse, 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</p> <p>a person is deemed incapable of consent when under 16 years old, mentally defective, mentally incapacitated, or physically helpless</p> <p><u>Incapacity</u> “mentally defective”: when a person suffers from a mental disease or defect which renders her incapable of appraising the nature of her conduct</p> <p>“mentally incapacitated”: when a person is rendered temporarily incapable of appraising or controlling her conduct as a result of the influence of a controlled or intoxicating substance administered to that person without</p>

Sexual Assault Statutes in the United States

State	Statute	Physical Contact: Element Breakdown	Classification of Crime	Mental State Required	Forcible Compulsion / Consent / Incapacity
West Virginia continued		<ul style="list-style-type: none"> subjecting a physically helpless person to sexual contact; <i>or</i> subjecting a person < 12 years old to sexual contact when the actor is 14 or older <p><u>Sexual abuse in the 2nd degree:</u></p> <ul style="list-style-type: none"> subjecting another person to sexual contact who is mentally defective or mentally incapacitated <p><u>Sexual abuse in the 3rd degree:</u></p> <ul style="list-style-type: none"> subjecting another person to sexual contact without the latter's consent, when lack of consent is due to the victim's incapacity to consent by reason of being under 16, <i>unless</i>: (a) actor is under 16; or (b) actor is < 4 years older than victim 	<p><u>Sexual abuse in the 2nd degree:</u> Misdemeanor</p> <p><u>Sexual abuse in the 3rd degree:</u> Misdemeanor</p>	<p>intentional</p> <p>intentional</p>	<p>her consent or as a result of any other act committed upon that person without her consent</p> <p>“physically helpless”: when a person is unconscious or for any reason is physically unable to communicate unwillingness to an act</p>

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Wisconsin continued		condition OR <ul style="list-style-type: none"> • with a person who the defendant knows is unconscious OR • when aided or abetted by one or more other persons OR • when an employee of a specific facility or program has sexual contact or sexual intercourse with a person who is a patient or resident of the facility or program OR • victim is in correctional facility or probation program and actor is employed by program 			
		<u>Sexual assault in the 3rd degree:</u> <ul style="list-style-type: none"> • sexual intercourse without consent OR • intentional penile ejaculation or intentional emission of urine or feces upon the victim without her consent if for the purpose of sexually degrading or sexually humiliating the victim or for sexually arousing or gratifying the defendant 	<u>Sexual assault in the 3rd degree:</u> Class G felony	no explicit mens rea requirement; general intent	
		<u>Sexual assault in the 4th degree:</u> <ul style="list-style-type: none"> • having sexual contact with a person without her consent 	<u>Sexual assault in the 4th degree:</u> Class A misdemeanor	no explicit mens rea requirement; general intent	

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Wyoming	WY ST §6-2-301 §6-2-302 §6-2-303 §6-2-304 §6-2-306 §6-2-307 §6-2-313	<p><u>Sexual assault in the 1st degree:</u></p> <ul style="list-style-type: none"> • sexual intrusion by physical force or forcible confinement OR • threat of death, serious bodily injury, extreme physical pain or kidnapping to be inflicted on anyone OR • victim is physically helpless, and the actor knows or reasonably should know that the victim is physically helpless and has not consented OR • 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 <p><u>Sexual assault in the 2nd degree:</u></p> <ul style="list-style-type: none"> • sexual intrusion by threatening to retaliate against the victim or the victim's family ("retaliation" includes threats of kidnapping, death, serious bodily injury or extreme physical pain) OR • by any means that would prevent resistance by a victim of ordinary resolution OR • actor administers, or knows that someone else administered to the victim, without the prior knowledge or consent of the 	<p><u>Sexual assault in the 1st degree:</u> Unclassified felony</p> <p><u>Sexual assault in the 2nd degree:</u> Unclassified felony</p>	<p>no explicit mens rea requirement; general intent</p> <p>no explicit mens rea requirement; general intent ("sexual contact" is "with the intention of sexual arousal, gratification or abuse")</p>	<p><u>Incapacity</u> "physically helpless": unconscious, asleep or otherwise physically unable to communicate unwillingness to act</p>
Wyoming					

Sexual Assault Statutes in the United States

State	Statute	Physical Contact: Element Breakdown	Classification of Crime	Mental State Required	Forcible Compulsion / Consent / Incapacity
continued		<p>victim, any substance which substantially impairs the victim's power to appraise or control her conduct OR</p> <ul style="list-style-type: none"> • actor knows or should reasonably know that the victim submits erroneously believing the actor to be the victim's spouse OR • actor is in a position of authority over the victim and uses this position of authority to cause the victim to submit OR • actor inflicts sexual intrusion in treatment or examination of a victim for purposes or in a manner substantially inconsistent with reasonable medical practices • OR • sexual contact causing serious bodily injury to the victim under any of the elements of sexual assault in the 1st degree <p><u>Sexual assault in the 3rd degree:</u></p> <ul style="list-style-type: none"> • sexual contact without causing serious bodily injury to the victim by physical force or forcible confinement OR • by threat to anyone of death, serious bodily injury, extreme physical pain or kidnapping OR • victim is physically helpless, and the actor knows or reasonably 	<p><u>Sexual assault in the 3rd degree:</u> Unclassified felony</p>	<p>no explicit mens rea requirement; general intent (“sexual contact” is “with the intention of sexual arousal, gratification or abuse”)</p>	

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State	Statute	Physical Contact: Element Breakdown	Classification of Crime	Mental State Required	Forcible Compulsion / Consent / Incapacity
Wyoming continued		<p>should have known and the victim has not consented OR</p> <ul style="list-style-type: none"> • 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 OR • by threatening to retaliate against the victim or the victim's family OR • by any means that would prevent resistance by a victim of ordinary resolution OR • actor administers, or knows that someone else administered to the victim, without the prior knowledge or consent of the victim, any substance which substantially impairs the victim's power to appraise or control her conduct OR • actor knows or should reasonably know that the victim submits erroneously believing the actor to be the victim's spouse OR • actor is in a position of authority over the victim and uses this position to cause victim to submit 			

Sexual Assault Statutes in the United States

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Wyoming continued		<u>Sexual battery:</u> <ul style="list-style-type: none"> • unlawfully subjecting another person to any sexual contact 	<u>Sexual battery:</u> Misdemeanor	“with the intention of sexual arousal, gratification or abuse”	