

§ 1317. Definitions.

For purposes of this chapter, unless the context requires otherwise,

(1) “Incapacitated” means a state where an individual cannot make rational, reasonable decisions because of mental or physical helplessness, sleep, unconsciousness, or lack of awareness that sexual activity is taking place;

(2) “Mentally incapable” means suffering from a mental disease, defect or disorder that renders the person incapable of understanding the nature or consequences of the person’s conduct, including the potential for harm to that person;

(3) “Sexual act” means sexual penetration or sexual contact;

(4) “Sexual Contact” is the intentional touching of the victim’s body or actor’s intimate parts which include but are not limited to the primary genital area, groin, inner thigh, mouth, anus, buttock, or breast of a human being or the intentional touching of the clothing covering the immediate area of the victim’s or actor’s intimate parts, if that intentional touching can reasonably be construed as being for the purpose of sexual arousal or stimulation. Sexual contact also means a perpetrator forces a victim to touch his/her body and/or intimate parts.

(5) “Sexual penetration” means

(A)(i) genital intercourse, fellatio, anal intercourse, or an intrusion, however slight, of an object or any part of a person’s body into the genital or anal opening of another person’s body; and

(ii) cunnilingus or anilingus, whether or not actual penetration has occurred.

(B) but “sexual penetration” does not include acts performed for the purpose of administering a recognized and lawful form of treatment that is reasonably adapted to promoting the physical or mental health of the person being treated;

(6) “Victim” means the person alleged to have been subjected to sexual assault, sexual abuse of a minor, child abuse, neglect, or voyeurism in any degree;

(7) “Voyeurism” or “Voyeuring” shall mean:

(A) the act of a person gaining sexual pleasure from watching others when they are naked, in a state of undress or partial dress, or engaged in sexual activity and/or secretly records such activity; and/or

(B) the act of a person who gains sexual pleasure from secretly watching other people in sexual situations, or (more generally) a person who watches other people’s private lives.

(8) “Consent” means:

(A) A person’s behavior, including words and conduct, that communicates the person’s willingness to engage in a specific act of sexual penetration or sexual contact.

(B) Neither verbal nor physical resistance is required to establish the absence of consent; the person’s behavior must be assessed in the context of all the circumstances to determine whether the person has consented.

(C) Consent may be revoked any time before or during the act of sexual penetration or sexual contact, by behavior communicating that the person is no longer willing.

TITLE 6: CRIMES AND CRIMINAL PROCEDURE
DIVISION 1: CRIMES AGAINST THE PERSON

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Source: PL 12-82, § 4 (1317); subsection (7) amended by PL 18-3, § 9 (Mar. 15, 2013); amended by PL 24-08, § 8 (Aug. 5, 2025).

Commission Comment: See comment to [6 CMC § 1301](#) regarding PL 12-82. The Commission inserted quotation marks around the term “Sexual Contact” in subsection (7) pursuant to [1 CMC § 3806\(g\)](#).