

State Laws Consent – South Carolina

Consent

Under South Carolina law, consent to sexual activity *cannot* be given by persons who are:

- forced, coerced, or threatened
- incapable of understanding the nature of their conduct due to a mental disease
- incapable of controlling their conduct or understanding the consequences of their actions due to illness, drugs or alcohol, or any other cause
- unconscious or asleep
- underage (generally, the age of consent is 16 years old)

Consent *cannot* be inferred based on a person's prior sexual conduct or reputation.

Statutes

South Carolina Law

Consent Statutes

TITLE 16. CRIMES AND OFFENSES CHAPTER 3. OFFENSES AGAINST THE PERSON ARTICLE 7. ASSAULT AND CRIMINAL SEXUAL CONDUCT

§ 16-3-651. Criminal sexual conduct: definitions.
For the purposes of §§ 16-3-651 to 16-3-659.1:

.... [Content omitted for clarity]

(b) "Aggravated coercion" means that the actor threatens to use force or violence of a high and aggravated nature to overcome the victim or another person, if the victim reasonably believes that the actor has the present ability to carry out the threat, or threatens to retaliate in the future by the infliction of physical harm, kidnapping or extortion, under circumstances of aggravation, against the victim or any other person.

(c) "Aggravated force" means that the actor uses physical force or physical violence of a high and aggravated nature to overcome the victim or includes the threat of the use of a deadly weapon.

.... [Content omitted for clarity]

(e) "Mentally defective" means that a person suffers from a mental disease or defect which renders the person temporarily or permanently incapable of appraising the nature of his or her conduct.

(f) "Mentally incapacitated" means that a person is rendered temporarily incapable of appraising or controlling his or her conduct whether this condition is produced by illness, defect, the influence of a substance or from some other cause.

(g) "Physically helpless" means that a person is unconscious, asleep, or for any other reason physically unable to communicate unwillingness to an act.

.... [Content omitted for clarity]

§ 16-3-659.1. Criminal sexual conduct: admissibility of evidence concerning victim's sexual conduct.

(1) Evidence of specific instances of the victim's sexual conduct, opinion evidence of the victim's sexual conduct, and reputation evidence of the victim's sexual conduct is not admissible in prosecutions under Sections 16-3-615 and 16-3-652 to 16-3-656; however, evidence of the victim's sexual conduct with the defendant or evidence of specific instances of sexual activity with persons other than the defendant introduced to show source or origin of semen, pregnancy, or disease about which evidence has been introduced previously at trial is admissible if the judge finds that such evidence is relevant to a material fact and issue in the case and that its inflammatory or prejudicial nature does not outweigh its probative value. Evidence of specific instances of sexual activity which would constitute adultery and would be admissible under rules of evidence to impeach the credibility of the witness may not be excluded.

.... [Content omitted for clarity]