

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

**§ 1317. Definitions.**

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

(1) “Health care worker” includes a person who is or purports to be an anesthesiologist, acupuncturist, chiropractor, dentist, health aide, hypnotist, massage therapist, mental health counselor, midwife, nurse, nurse practitioner, osteopath, naturopath, physical therapist, physical therapy assistant, physician, physician assistant, psychiatrist, psychologist, psychological associate, radiologist, religious healing practitioner, surgeon, x-ray technician, or a substantially similar position;

(2) “Incapacitated” means temporarily incapable of appraising the nature of one’s own conduct or physically unable to express unwillingness to act;

(3) “Legal guardian” means a person who is under a duty to exercise general supervision over a minor or other person committed to the custody of the Department of Public Health and Environmental Services under the civil or criminal commitment laws of the Commonwealth as a result of a court order, statute, or regulation, and includes Department of Public Health and Environmental Services employees, foster parents, and staff members and other employees of group homes or youth facilities where the minor or other person is placed as a result of a court order or the action of the Department of Public Health and Environmental Services, and police officers, probation officers, and social workers when those persons are exercising custodial control over a minor or other person;

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

(5) “Position of authority” means an employer, youth leader, scout leader, coach, teacher, counselor, school administrator, religious leader, doctor, nurse, psychologist, guardian ad litem, babysitter, or a substantially similar position, and a police officer or probation officer other than when the officer is exercising custodial control over a minor;

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

(7) “Sexual Contact” is the intentional touching of the victim’s or actor’s intimate parts which include but are not limited to the primary genital area, groin, inner thigh, 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 gratification.

(8) “Sexual penetration” means

(A) genital intercourse, cunnilingus, 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;

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(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;

(C) each party to any of the acts defined as “sexual penetration” is considered to be engaged in sexual penetration;

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

(10) “Without consent” means that a person

(A) with or without resisting, is coerced by the use of force against a person or property, or by the express or implied threat of death, imminent physical injury, or kidnaping to be inflicted on anyone; or

(B) is incapacitated as a result of an act of the defendant.

**Source:** PL 12-82, § 4 (1317); subsection (7) amended by PL 18-3, § 9 (March 15, 2013).

**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).