

DETERMINE AGGRAVATED SEXUAL INTERCOURSE WITHOUT CONSENT

AGE OF THE SURVIVOR



Under the age of 16: Under Montana law, a person under the age of 16 is unable to consent.

Under the age of 12: Follow the Multi-Disciplinary Team protocol (MCA 52-2-211).

Under the age of 18: Report the matter to Centralized Intake at 1-866-820-5437.

Felony Offense: Be aware of survivor and public safety considerations that require immediate suspect apprehension.

CONSENT



Following the MCA 45-5-501's definition of consent, was the encounter consensual? If force was used, and it meets the statutory element, then consent is deemed to have not been given. The offense becomes an aggravated offense in violation of MCA 45-5-508.

PENETRATION



Any penetration of any orifice, however slight, is sufficient for this element to apply.

To be considered sexual intercourse without consent, the incident does not have to meet all the elements in the statute.

Your focus should be on documenting what elements did occur and determining whether the intercourse caused bodily injury, humiliation/degradation/harassment, arousal/gratification.

HUMILIATION, HARASSMENT, OR DEGRADATION

How does the survivor feel about the contact? Ask the survivor to describe their feelings about the contact and document the observations.



BODILY INJURY



Injury includes the feeling of pain, not just physical evidence of contacts such as bruising, swelling, or redness. Bodily injury can include illness, such as sexually transmitted disease.

AROUSAL OR GRATIFICATION

Sexual offenders seek to satisfy psychological and physical desires. Ask the survivor to describe how the suspect reacted to the sexual assault. Did the suspect show signs of arousal or gratification: heavy breathing, fondling of genitals, facial expressions, erection, ejaculation, comments or vocalizations made during the conduct, or other sexual responses.

