

**§109. Consent**

1. It is a defense that, when a defendant engages in conduct which would otherwise constitute a crime against the person or property of another, such other consented to the conduct and an element of the crime is negated as a result of such consent.

[PL 1981, c. 324, §27 (NEW).]

2. When conduct is a crime because it causes or threatens bodily injury, consent to such conduct or to the infliction of such injury is a defense only if:

A. Neither the injury inflicted nor the injury threatened was such as to endanger life or to cause serious bodily injury; [PL 1981, c. 324, §27 (NEW).]

B. The conduct and the injury are reasonably foreseeable hazards of joint participation in a lawful athletic contest or competitive sport; or [PL 1981, c. 324, §27 (NEW).]

C. The conduct and the injury are reasonably foreseeable hazards of an occupation or profession or of medical or scientific experimentation conducted by recognized methods, and the persons subjected to such conduct or injury have been made aware of the risks involved prior to giving consent. [PL 1981, c. 324, §27 (NEW).]

[PL 1981, c. 324, Pt. 27 (NEW).]

3. Consent is not a defense within the meaning of this section if:

A. It is given by a person who is declared by a statute or by a judicial decision to be legally incompetent to authorize the conduct charged to constitute the crime, and such incompetence is manifest or known to the actor; [PL 1981, c. 324, §27 (NEW).]

B. It is given by a person who, by reason of intoxication, physical illness, mental illness or mental defect, including, but not limited to, dementia and other cognitive impairments, or youth, is manifestly unable, or known by the defendant to be unable, to make a reasonable judgment as to the nature or harmfulness of the conduct charged to constitute the crime; or [PL 2013, c. 414, §1 (AMD).]

C. It is induced by force, duress or deception or undue influence. [PL 2013, c. 414, §2 (AMD).]  
[PL 2013, c. 414, §§1, 2 (AMD).]

4. As used in this section, "undue influence" means the misuse of real or apparent authority or the use of manipulation by a person in a trusting, confidential or fiduciary relationship with a person who is an incapacitated adult as defined in Title 22, section 3472, subsection 10 or is a dependent adult as defined in Title 22, section 3472, subsection 6 and who is wholly or partially dependent upon that person or others for care or support, either emotional or physical.

[PL 2013, c. 414, §3 (NEW).]

**SECTION HISTORY**

PL 1981, c. 324, §27 (NEW). PL 2013, c. 414, §§1-3 (AMD).

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