

- (1) appraising the nature of the individual's conduct;
- (2) resisting vaginal intercourse, a sexual act, or sexual contact; or
- (3) communicating unwillingness to submit to vaginal intercourse, a sexual act, or sexual contact.

~~[(e)] (D)~~ "Mentally incapacitated individual" means an individual who, because of the influence of a drug, narcotic, or intoxicating substance, or because of an act committed on the individual without the individual's consent or awareness, is rendered substantially incapable of:

- (1) appraising the nature of the individual's conduct; or
- (2) resisting vaginal intercourse, a sexual act, or sexual contact.

~~[(d)] (E)~~ "Physically helpless individual" means an individual who:

- (1) is unconscious; or
- (2) (i) does not consent to vaginal intercourse, a sexual act, or sexual contact; and
- (ii) is physically unable to resist, or communicate unwillingness to submit to, vaginal intercourse, a sexual act, or sexual contact.

~~[(e)] (F)~~ (1) "Sexual act" means any of the following acts, regardless of whether semen is emitted:

- (i) analingus;
- (ii) cunnilingus;
- (iii) fellatio;
- (iv) anal intercourse, including penetration, however slight, of the anus; or
- (v) an act:
 1. in which an object penetrates, however slightly, into another individual's genital opening or anus; and
 2. that can reasonably be construed to be for sexual arousal or gratification, or for the abuse of either party.

(2) "Sexual act" does not include:

- (i) vaginal intercourse; or
- (ii) an act in which an object penetrates an individual's genital opening or anus for an accepted medical purpose.