

Model Penal Code, Sexual Assault and Related Offenses, Tentative Draft No. 6 for consideration at May 2022 ALI Meeting (excerpt)

SECTION 213.0. GENERAL PRINCIPLES OF LIABILITY; DEFINITIONS ****

(2) *Definitions*

In this

Article, unless a different definition is plainly required: ****

(e) “Consent”

(i) “Consent” for purposes of Article 213 means a person’s willingness to engage in a specific act of sexual penetration, oral sex, or sexual contact.

(ii) Neither verbal nor physical resistance is required to establish that consent is lacking. Consent may be express or it may be inferred from behavior—both action and inaction—in the context of all the circumstances.

(iii) Notwithstanding subsection (2)(e)(ii) of this Section, consent is ineffective when given by a person incompetent to consent or under circumstances precluding the free exercise of consent, as provided in Sections 213.1, 213.2, 213.3, 213.4, 213.5, 213.7, 213.8, and 213.9.

(iv) Consent may be revoked or withdrawn any time before or during the act of sexual penetration, oral sex, or sexual contact. A clear verbal refusal—such as “No,” “Stop,” or “Don’t”—establishes the lack of consent or the revocation or withdrawal of previous consent. Lack of consent or revocation or withdrawal of consent may be overridden by subsequent consent given prior to the act of sexual penetration, oral sex, or sexual contact.
