

Lesson 3

Consent

Activity 6

Reading and Discussion: Age and Consent

As we learned in the previous section, the ability to consent is affected by alcohol. The ability to consent is also affected by age. Can you think of reasons why age is an important factor in whether or not a person is able to consent to sex? Some cultures do not have age. If we didn't have age, what would we use as an indicator of the ability to consent?

Statutory Rape

When it was announced in 2008 that Jamie Lynn Spears, the 16-year-old sister of Britney Spears and star of Nickelodeon's "Zoey 101", was pregnant, it left some wondering whether her boyfriend, Casey Aldridge, was guilty of "statutory rape." Statutory rape is a term used to describe sexual intercourse in which one of the participants is under the age required to give consent for sex. In the United States, it is illegal to have sexual intercourse with, or to sexually penetrate, someone who is not considered to be old enough by state law. This is because, according to state law, they are not yet at an age in which they are able to consent. Aldridge was reportedly 18 years old at the time of conception.

What do you think? Is it illegal or unethical for an 18 year old to have sex with a 16 year old?

Since it is unknown where Spears and Aldridge's child was conceived, it is unknown whether they broke the law, because laws about the legal age of consent vary across states. 16 is the most common age of consent, although this varies. In addition, many states have what is called an "age gap provision." This means that if you are similar in age to the victim, it is not considered a crime, or it is considered a lesser crime. Let's examine the laws in the states where Spears and Aldridge's child may have been conceived.

In Louisiana, where Spears lived between taping sessions, the age of consent is 17 and it is illegal to have sexual intercourse with someone between age 12 and 17 when the person is 19 or older. Verdict? **NOT GUILTY.**

In Mississippi, where Aldridge lives, the age of consent is 16. Verdict? **NOT GUILTY.**

In California, where "Zoey 101" is taped, the age of consent is 18. There is no age gap provision in California, although the type of offense and punishment decrease when the offender is close in age to the minor. Verdict? **GUILTY.**

Case closed.

Ask your teacher what the laws for age of consent and age gap provision are in your state.

There are other important laws and legal trends that pertain to age of consent. First, the behavior that is considered illegal for those under the age of consent varies. Dating, hugging, kissing, and holding hands are not illegal in any states, while sexual intercourse or penetration is illegal for those under the age of consent in all states. However, there are some interesting differences between state laws:

- Several state laws establish that groping through clothes, fondling, or oral sex is also illegal for persons under the age of consent.
- Some states determine that sex between same-sex partners is illegal under all circumstances, even when both partners are above the age of consent.
- Some states have an exception for age of consent laws when the two partners are married or live together.

What do you think these laws say about the state's view of what is considered to be ethical sex?
