

# Article 120 – Issues 1-11

	1. Is the current definition of consent unclear or ambiguous?	2. Should consent and mistake of fact as to consent be defenses in the statute?	3. Should the statute define “incapable of consenting?”	4. Is the definition of the administration of drug or intoxicant overbroad?	5. Does the definition of “bodily harm” require clarification?	6. Is the definition of “threatening wrongful action” ambiguous or too narrow?
Code Section	<ul style="list-style-type: none"> <li>• 120(g)(8)</li> </ul>	<p>These defenses do not appear in the 2012 statute.</p>	<ul style="list-style-type: none"> <li>• 120(b)(3)</li> </ul>	<ul style="list-style-type: none"> <li>• 120(a)(5)</li> </ul>	<ul style="list-style-type: none"> <li>• 120(b)(1)(B)</li> <li>• 120(d)</li> <li>• 120(g)(3)</li> </ul>	<ul style="list-style-type: none"> <li>• 120(g)(7)</li> </ul>
Issue	Should “consent” as used in Art. 120 be modified?	The statute removed these defenses, which were listed in the previous version.	There is no definition of “Incapable of Consenting.”	There is no requirement that the accused’s acts be intentional or done with the purpose of impairing the victim.	Does “Bodily Harm” mean sexual intercourse “without consent” or a sexual act/contact with an additional offensive touching beyond that of penetration or sexual contact?	Should the definition be modified?
Yes/ Support Modification	Grammel Thielemann Pickands Zimmermann Pitvorec Walker Spilman	Grammel Orr Ward Pickands Zimmermann Kostik Spilman	Grammel Maksym Pickands Rosenow Payne Zimmermann Pitvorec Kostik Federico Walker Wilkinson	Grammel	Grammel Pitvorec	Pickands Spilman
No Change	Rosenow Wilkinson	Rosenow Pitvorec Walker	Thielemann Kirkby	Pickands Rosenow Spilman	Pickands Thielemann Rosenow Spilman Walker	Grammel Rosenow

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	7. How should “fear” be defined to acknowledge both subjective and objective factors?	8. Is the definition of “force” too narrow?	9. Are the definitions of sexual “act” and “contact” too narrow, or are they overbroad?	10. Should the accused’s knowledge of a victim’s capacity to consent be a required element of sexual assault?	11. Should the offense of “indecent acts” be added to the UCMJ as an enumerated offense?	
Code Section	<ul style="list-style-type: none"> <li>• 120(g)(7)</li> </ul>	<ul style="list-style-type: none"> <li>• 120(g)(5)</li> </ul>	<ul style="list-style-type: none"> <li>• 120(g)(2)</li> </ul>	<ul style="list-style-type: none"> <li>• 120(b)(2)</li> <li>• 120(b)(3)</li> </ul>	N/A	
Issue	Should the definition of “fear” be changed?	Is “force” too narrowly defined?	Should either definition be amended?	Should the statute be amended to remove the requirement that an accused knows of the victim’s incapacity to consent?	The 2012 statute does not have an offense of indecent acts. If added, should it go under 120 or 134?	
Yes/ Supporting Change	Orr	Payne	Grammel Rosenow Kostik Federico Stephens Walker Spilman		Ward Pickands Rosenow	
No Change	Grammel Pickands Rosenow Spilman	Grammel Pickands Rosenow Spilman	Pickands Kirkby	Grammel Pickands Rosenow Spilman	Grammel Spilman	