

Maryland

§ 11-301. Definitions.

(a) In general.- In this subtitle the following words have the meanings indicated.

Revisor's Note.

This subsection formerly was Art. 27, § 426(a).

No changes are made.

(b) Assignment.- "Assignment" means the making of an appointment or engagement for prostitution or any act in furtherance of the appointment or engagement.

Revisor's Note.

This subsection formerly was Art. 27, § 426(b).

The only changes are in style.

(c) Prostitution.- "Prostitution" means the performance of a sexual act, sexual contact, or vaginal intercourse for hire.

Revisor's Note.

This subsection formerly was Art. 27, § 426(c).

No changes are made.

(d) Sexual act.- "Sexual act" has the meaning stated in § 3-301 of this article.

Revisor's Note.

This subsection is new language derived without substantive change from former Art. 27, § 426(d), as it defined "sexual act".

(e) Sexual contact.- "Sexual contact" has the meaning stated in § 3-301 of this article.

Revisor's Note.

This subsection is new language derived without substantive change from former Art. 27, § 426(d), as it defined "sexual contact".

(f) Solicit.- "Solicit" means urging, advising, inducing, encouraging, requesting, or commanding another.

Revisor's Note.

This subsection formerly was Art. 27, § 426(e).

The former reference to another "person" is deleted for consistency within this article.

No other changes are made.

(g) Vaginal intercourse.- "Vaginal intercourse" has the meaning stated in § 3-301 of this article.

Revisor's Note.

This subsection is new language derived without substantive change from former Art. 27, § 426(d), as it defined "vaginal intercourse".

[An. Code 1957, art. 27, § 426; 2002, ch. 26, § 2.]

§ 3-301. Definitions.

(a) In general.- In this subtitle the following words have the meanings indicated.

Revisor's Note.

This subsection formerly was Art. 27, § 461(a).

In this section, the references to this "subtitle" are substituted for the former references to this "subheading", although this subtitle is derived, in part, from material outside of that contained in the former "Sexual Offenses" subheading in Article 27. Because the material revised in this subtitle that was not contained in the former "Sexual Offenses" subheading does not use the terms defined in this section in a manner contrary to the meanings set forth here, no substantive change results.

No other changes are made.

(b) Mentally defective individual.- "Mentally defective individual" means an individual who suffers from mental retardation or a mental disorder, either of which temporarily or permanently renders the individual substantially incapable of:

- (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.

Revisor's Note.

This subsection is new language derived without substantive change from former Art. 27, § 461(b).

The defined term "mentally defective individual" is substituted for the former defined term "mentally defective" for grammatical accuracy.

The references to an "individual" are substituted for the former references to a "victim" because, where the defined term "mentally defective individual" is applicable in this subtitle, the term "victim" is used in the substantive crime. See §§ 3-304(a)(2), 3-306(a)(2)(i), and 3-307(a)(2) of this subtitle.

The former redundant phrases "the act of" are deleted as implicit in the references to "vaginal intercourse".

(c) Mentally incapacitated individual.- "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.

Revisor's Note.

This subsection is new language derived without substantive change from former Art. 27, § 461(c).

The defined term "mentally incapacitated individual" is substituted for the former defined term "mentally incapacitated" for grammatical accuracy.

The references to an "individual" are substituted for the former references to a "victim" because, where the defined term "mentally defective individual" is applicable in this subtitle, the term "victim" is used in the substantive crime. See §§ 3-304(a)(2), 3-306(a)(2)(i), and 3-307(a)(2) of this subtitle.

The former redundant phrase "the act of" is deleted as implicit in the reference to "vaginal intercourse".

(d) Physically helpless individual.- "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.

Revisor's Note.

This subsection is new language derived without substantive change from former Art. 27, § 461(d).

The defined term "physically helpless individual" is substituted for the former defined term "physically helpless" for grammatical accuracy.

The references to an "individual" are substituted for the former references to a "victim" because, where the defined term "physically helpless individual" is applicable in this subtitle, the term "victim" is used in the substantive crime. See §§ 3-304(a)(2), 3-306(a)(2)(i), and 3-307(a)(2) of this subtitle.

The former redundant phrases "an act of" are deleted as implicit in the references to "vaginal intercourse".

(e) Sexual act.-

(1) "Sexual act" means any of the following acts, regardless of whether semen is emitted:

(i) anilingus;

(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.

Revisor's Note.

This subsection is new language derived without substantive change from former Art. 27, § 461(e).

In paragraph (1)(iv) of this subsection, the phrase "including penetration, however slight, of the anus" is substituted for the former inaccurate phrase "[p]enetration, however slight, is evidence of anal intercourse".
Defined Terms.

"Vaginal intercourse" § 3-301

(f) Sexual contact.-

(1) "Sexual contact", as used in §§ 3-307 and 3-308 of this subtitle, means an intentional touching of the victim's or actor's genital, anal, or other intimate area for sexual arousal or gratification, or for the abuse of either party.

(2) "Sexual contact" includes an act:

(i) in which a part of an individual's body, except the penis, mouth, or tongue, penetrates, however slightly, into another individual's genital opening or anus; and

(ii) that can reasonably be construed to be for sexual arousal or gratification, or for the abuse of either party.

(3) "Sexual contact" does not include:

(i) a common expression of familial or friendly affection; or

(ii) an act for an accepted medical purpose.

Revisor's Note.

This subsection is new language derived without substantive change from former Art. 27, § 461(f).

In paragraph (1) of this subsection, the former reference to "any part of" a genital, anal, or other intimate area is deleted because the specific reference to touching a part of a genital, anal, or other intimate area is included in the general reference to touching that area.

(g) Vaginal intercourse.-

(1) "Vaginal intercourse" means genital copulation, whether or not semen is emitted.

(2) "Vaginal intercourse" includes penetration, however slight, of the vagina.

Revisor's Note.

This subsection is new language derived without substantive change from former Art. 27, § 461(g).

In paragraph (1) of this subsection, the former reference to "ordinary meaning" is deleted as surplusage.

In paragraph (2) of this subsection, the phrase "includes penetration, however slight, of the vagina" is substituted for the former inaccurate phrase "[p]enetration, however slight, is evidence of vaginal intercourse" for clarity.

[An. Code 1957, art. 27, § 461; 2002, ch. 26, § 2.]

§ 3-303. Rape in the first degree.

(a) Prohibited.- A person may not:

(1) engage in vaginal intercourse with another by force, or the threat of force, without the consent of the other; and

(2) (i) employ or display a dangerous weapon, or a physical object that the victim reasonably believes is a dangerous weapon;

(ii) suffocate, strangle, disfigure, or inflict serious physical injury on the victim or another in the course of committing the crime;

(iii) threaten, or place the victim in fear, that the victim, or an individual known to the victim, imminently will be subject to death, suffocation, strangulation, disfigurement, serious physical injury, or kidnapping;

(iv) commit the crime while aided and abetted by another; or

(v) commit the crime in connection with a burglary in the first, second, or third degree.

(b) Penalty.-

(1) Except as provided in paragraph (2) of this subsection, a person who violates this section is guilty of the felony of rape in the first degree and on conviction is subject to imprisonment not exceeding life.

(2) A person who violates this section is guilty of the felony of rape in the first degree and on conviction is subject to imprisonment not exceeding life without the possibility of parole if:

(i) the person is convicted in the same proceeding of violating § 3-503(a) (2) of this title and the victim was a child under the age of 16 years; or

(ii) the defendant was previously convicted of violating this section or § 3-305 of this subtitle.

(c) Required notice.- If the State intends to seek a sentence of imprisonment for life without the possibility of parole under subsection (b)(2) of this section, the State shall notify the person in writing of the State's intention at least 30 days before trial.

[An. Code 1957, art. 27, § 462; 2002, ch. 26, § 2; ch. 187, § 1; 2003, ch. 21, § 1.]

§ 3-304. Rape in the second degree.

(a) Prohibited.- A person may not engage in vaginal intercourse with another:

(1) by force, or the threat of force, without the consent of the other;

(2) if the victim is a mentally defective individual, a mentally incapacitated individual, or a physically helpless individual, and the person performing the act knows or reasonably should know that the victim is a mentally defective individual, a mentally incapacitated individual, or a physically helpless individual; or

(3) if the victim is under the age of 14 years, and the person performing the act is at least 4 years older than the victim.

(b) Penalty.- A person who violates this section is guilty of the felony of rape in the second degree and on conviction is subject to imprisonment not exceeding 20 years.

[An. Code 1957, art. 27, § 463; 2002, ch. 26, § 2.]

§ 3-305. Sexual offense in the first degree.

(a) Prohibited.- A person may not:

(1) engage in a sexual act with another by force, or the threat of force, without the consent of the other; and

(2) (i) employ or display a dangerous weapon, or a physical object that the victim reasonably believes is a dangerous weapon;

(ii) suffocate, strangle, disfigure, or inflict serious physical injury on the victim or another in the course of committing the crime;

(iii) threaten, or place the victim in fear, that the victim, or an individual known to the victim, imminently will be subject to death, suffocation, strangulation, disfigurement, serious physical injury, or kidnapping;

(iv) commit the crime while aided and abetted by another; or

(v) commit the crime in connection with a burglary in the first, second, or third degree.

(b) Penalty.-

(1) Except as provided in paragraph (2) of this subsection, a person who violates this section is guilty of the felony of sexual offense in the first degree and on conviction is subject to imprisonment not exceeding life.

(2) A person who violates this section is guilty of the felony of sexual offense in the first degree and on conviction is subject to imprisonment not exceeding life without the possibility of parole if:

(i) the person is convicted in the same proceeding of violating § 3-503(a)(2) of this title and the victim was a child under the age of 16 years; or

(ii) the defendant was previously convicted of violating this section or § 3-303 of this subtitle.

(c) Required notice.- If the State intends to seek a sentence of imprisonment for life without the possibility of parole under subsection (b)(2) of this section, the State shall notify the person in writing of the State's intention at least 30 days before trial.

[An. Code 1957, art. 27, § 464; 2002, ch. 26, § 2; ch. 187, § 1; 2003, ch. 21, § 1.]

§ 3-306. Sexual offense in the second degree.

(a) Prohibited.- A person may not engage in a sexual act with another:

(1) by force, or the threat of force, without the consent of the other;

(2) if the victim is a mentally defective individual, a mentally incapacitated individual, or a physically helpless individual, and the person performing the sexual act knows or reasonably should know that the victim is a mentally defective individual, a mentally incapacitated individual, or a physically helpless individual; or

(3) if the victim is under the age of 14 years, and the person performing the sexual act is at least 4 years older than the victim.

(b) Penalty.- A person who violates this section is guilty of the felony of sexual offense in the second degree and on conviction is subject to imprisonment not exceeding 20 years.

[An. Code 1957, art. 27, § 464A; 2002, ch. 26, § 2.]

§ 3-307. Sexual offense in the third degree.

(a) Prohibited.- A person may not:

(1) (i) engage in sexual contact with another without the consent of the other; and

(ii) 1. employ or display a dangerous weapon, or a physical object that the victim reasonably believes is a dangerous weapon;

2. suffocate, strangle, disfigure, or inflict serious physical injury on the victim or another in the course of committing the crime;

3. threaten, or place the victim in fear, that the victim, or an individual known to the victim, imminently will be subject to death, suffocation, strangulation, disfigurement, serious physical injury, or kidnapping; or

4. commit the crime while aided and abetted by another;

(2) engage in sexual contact with another if the victim is a mentally defective individual, a mentally incapacitated individual, or a physically helpless individual, and the person performing the act knows or reasonably should know the victim is a mentally defective individual, a mentally incapacitated individual, or a physically helpless individual;

(3) engage in sexual contact with another if the victim is under the age of 14 years, and the person performing the sexual contact is at least 4 years older than the victim;

(4) engage in a sexual act with another if the victim is 14 or 15 years old, and the person performing the sexual act is at least 21 years old; or

(5) engage in vaginal intercourse with another if the victim is 14 or 15 years old, and the person performing the act is at least 21 years old.

(b) Penalty.- A person who violates this section is guilty of the felony of sexual offense in the third degree and on conviction is subject to imprisonment not exceeding 10 years.

[An. Code 1957, art. 27, § 464B; 2002, ch. 26, § 2.]

§ 3-308. Sexual offense in the fourth degree.

(a) Prohibited.- A person may not engage in:

(1) sexual contact with another without the consent of the other;

(2) except as provided in § 3-307(a)(4) of this subtitle, a sexual act with another if the victim is 14 or 15 years old, and the person performing the sexual act is at least 4 years older than the victim; or

(3) except as provided in § 3-307(a)(5) of this subtitle, vaginal intercourse with another if the victim is 14 or 15 years old, and the person performing the act is at least 4 years older than the victim.

(b) Penalty.-

(1) Except as provided in paragraph (2) of this subsection, a person who violates this section is guilty of the misdemeanor of sexual offense in the fourth degree and on conviction is subject to imprisonment not exceeding 1 year or a fine not exceeding \$1,000 or both.

(2) (i) On conviction of a violation of this section, a person who has been convicted on a prior occasion not arising from the same incident of a violation of §§ 3-303 through 3-312 or § 3-315 of this subtitle or § 3-602 of this title is subject to imprisonment not exceeding 3 years or a fine not exceeding \$1,000 or both.

(ii) If the State intends to proceed against a person under subparagraph (i) of this paragraph, it shall comply with the procedures set forth in the Maryland Rules for the indictment and trial of a subsequent offender.

[An. Code 1957, art. 27, § 464C; 2002, ch. 26, § 2; 2004, ch. 217.]

§ 3-324. Sexual solicitation of minor.

(a) "Solicit" defined.- In this section, "solicit" means to command, authorize, urge, entice, request, or advise a person by any means, including:

- (1) in person;
- (2) through an agent or agency;
- (3) over the telephone;
- (4) through any print medium;
- (5) by mail;
- (6) by computer or Internet; or
- (7) by any other electronic means.

(b) Prohibited.- A person may not, with the intent to commit a violation of § 3-304, § 3-306, or § 3-307 of this subtitle, knowingly solicit a minor, or a law enforcement officer posing as a minor, to engage in activities that would be unlawful for the person to engage in under § 3-304, § 3-306, or § 3-307 of this subtitle.

(c) Jurisdiction.- A violation of this section is considered to be committed in the State for purposes of determining jurisdiction if the solicitation:

- (1) originated in the State; or
- (2) is received in the State.

(d) Penalty.- A person who violates this section is guilty of a felony and on conviction is subject to imprisonment not exceeding 10 years or a fine not exceeding \$25,000 or both.

[2004, ch. 285.]

§ 11-305. Abduction of child under 16.

(a) Prohibited.- For purposes of prostitution or committing a crime under Title 3, Subtitle 3 of this article, a person may not:

(1) persuade or entice or aid in the persuasion or enticement of an individual under the age of 16 years from the individual's home or from the custody of the individual's parent or guardian; or

(2) knowingly secrete or harbor or aid in the secreting or harboring of an individual under the age of 16 years who has been persuaded or enticed in the manner described in item (1) of this subsection.

(b) Penalty.- A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 10 years or a fine not exceeding \$5,000 or both.

(c) Statute of limitations and in banc review.- A person who violates this section is subject to § 5-106(b) of the Courts Article.

[An. Code 1957, art. 27, § 430; 2002, ch. 26, § 2.]