

(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) (1) **[A] 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[**

(1)] imprisonment not exceeding life[; or].

(2) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF THE FELONY OF RAPE IN THE FIRST DEGREE AND UPON ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING LIFE WITHOUT THE POSSIBILITY OF PAROLE IF:

(I) [if] the person is convicted in the same proceeding of violating § 3-503(a)(2) of this article and the victim was a child under the age of 16 [years,] YEARS; OR

(II) THE DEFENDANT WAS PREVIOUSLY CONVICTED OF VIOLATING THIS SECTION OR §§ ~~2-304, 2-305, OR 2-306~~ § ~~2-304, 2-305, OR 2-306~~ OF THIS ARTICLE AND THE VICTIM IN THE PREVIOUS VIOLATION WAS A CHILD UNDER THE AGE OF 16 YEARS § 3-305 OF THIS SUBTITLE [imprisonment not exceeding life without the possibility of parole].

(c) 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.

~~3-304.~~

~~(a) 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~~