

(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 instances of the former redundant phrase "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) (1) DOES NOT CONSENT TO VAGINAL INTERCOURSE, A SEXUAL ACT, OR SEXUAL CONTACT; AND