

“deadly” weapon are deleted as included in the references to a “dangerous” weapon.

In subsection (a)(2)(iii) of this section, the reference to “an individual” is substituted for the former reference to “anyone else”, because only a human being may suffer death, suffocation, strangulation, disfigurement, serious physical injury, or kidnapping.

In subsection (a)(2)(iv) of this section, the reference to “another person” is substituted for the former reference to “one or more other persons” for clarity and in light of Art. 1, § 8, which provides that the singular generally includes the plural.

Subsection (b) of this section is revised in standard language used to establish a penalty.

Defined terms: “Person” § 1-101

“Sexual act” § 3-301

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.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27, § 464A.

In this section and throughout this subtitle, the references to “against the will” are deleted as included in the references to “without the consent”. The Court of Appeals has determined that “against the will” and “without the consent” are synonymous in the law of rape. *See, e.g., State v. Rusk*, 289 Md. 230 (1981).

In subsection (a)(2) and (3) of this section, the references to the “victim” are