

1. THE CHILD'S HOME OR USUAL PLACE OF ABODE; OR
2. THE CUSTODY AND CONTROL OF THE CHILD'S PARENT OR LEGAL GUARDIAN; OR

(III) WITH THE INTENT OF DEPRIVING THE CHILD'S PARENT OR LEGAL GUARDIAN, OR ANY PERSON LAWFULLY POSSESSING THE CHILD, OF THE CUSTODY, CARE, AND CONTROL OF THE CHILD, KNOWINGLY SECRETE OR HARBOR A CHILD UNDER THE AGE OF 12 YEARS.

(2) IN ADDITION TO THE PROHIBITIONS PROVIDED UNDER PARAGRAPH (1) OF THIS SUBSECTION, A PERSON MAY NOT, BY FORCE OR FRAUD, KIDNAP, STEAL, TAKE, OR CARRY AWAY A CHILD UNDER THE AGE OF 16 YEARS.

(B) PENALTY.

(1) A PERSON WHO VIOLATES SUBSECTION (A)(1) OF THIS SECTION IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 20 YEARS.

(2) (I) EXCEPT AS PROVIDED UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH, A PERSON, OTHER THAN A PARENT OF THE CHILD, WHO VIOLATES SUBSECTION (A)(2) OF THIS SECTION IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 30 YEARS.

(II) 1. IF A PERSON CONVICTED UNDER SUBSECTION (A)(2) OF THIS SECTION IS CONVICTED IN THE SAME PROCEEDING OF RAPE OR A FIRST DEGREE SEXUAL OFFENSE UNDER SUBTITLE 3 OF THIS TITLE, THE PERSON IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING LIFE WITHOUT THE POSSIBILITY OF PAROLE.

2. IF THE STATE INTENDS TO SEEK A SENTENCE OF IMPRISONMENT FOR LIFE WITHOUT THE POSSIBILITY OF PAROLE UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE STATE SHALL NOTIFY THE PERSON IN WRITING OF THE STATE'S INTENT AT LEAST 30 DAYS BEFORE TRIAL.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27, § 338 and the first sentence of § 2.

In the introductory language of subsection (a)(1) of this section, the former references to "accessor[ies]" and to "his counsellors, aiders or abettors" are deleted as included in the reference to a "person" in light of the abrogation of the distinction between principals and accessories before the fact to a crime. See General Revisor's Note to article and CP § 4-204. The Criminal Law Article Review Committee believes that the reference to being an "accessory" to child kidnapping under former Art. 27, § 2 refers only to being an "accessory before the fact", not to being an accessory after the fact. Accordingly, no reference to being an accessory of any kind is retained. The Committee calls this matter to the attention of the General Assembly.

In subsection (a)(1) of this section, the former references to "parents" and "guardians" are deleted in light of Art. 1, § 8, which provides that the