

Del. Code Ann. tit. 11, § 773. Rape in the first degree

(a) A person is guilty of rape in the first degree when the person intentionally engages in sexual intercourse with another person and any of the following circumstances exist:

(1) The sexual intercourse occurs without the victim's consent and during the commission of the crime, or during the immediate flight following the commission of the crime, or during an attempt to prevent the reporting of the crime, the person causes physical injury or serious mental or emotional injury to the victim; or

(2) The sexual intercourse occurs without the victim's consent and it was facilitated by or occurred during the course of the commission or attempted commission of:

- a. Any felony; or
- b. Any of the following misdemeanors: reckless endangering in the second degree; assault in the third degree; terroristic threatening; unlawfully administering drugs; unlawful imprisonment in the second degree; coercion; or criminal trespass in the first, second or third degree; or

(3) In the course of the commission of rape in the second, third or fourth degree, or while in the immediate flight therefrom, the defendant displayed what appeared to be a deadly weapon or represents by word or conduct that the person is in possession or control of a deadly weapon or dangerous instrument; or

(4) The sexual intercourse occurs without the victim's consent, and a principal-accomplice relationship within the meaning set forth in § 271 of this title existed between the defendant and another person or persons with respect to the commission of the crime; or

(5) The victim has not yet reached that victim's twelfth birthday, and the defendant has reached that defendant's eighteenth birthday; or

(6) The victim has not yet reached that victim's sixteenth birthday and the defendant stands in a position of trust, authority or supervision over the child, or is an invitee or designee of a person who stands in a position of trust, authority or supervision over the child.

(b) Nothing contained in this section shall preclude a separate charge, conviction and sentence for any other crime set forth in this title, or in the Delaware Code.

(c) Notwithstanding any law to the contrary, a person convicted of rape in the first degree shall be sentenced to life imprisonment without benefit of probation, parole or any other reduction if:

- (1) The victim had not yet reached that victim's sixteenth birthday at the time of the offense and the person inflicts serious physical injury on the victim; or
- (2) The person intentionally causes serious and prolonged disfigurement to the victim permanently, or intentionally destroys, amputates or permanently disables a member or organ of the victim's body; or
- (3) The person is convicted of rape against 3 or more separate victims; or
- (4) The person has previously been convicted of unlawful sexual intercourse in the first degree, rape in the second degree or rape in the first degree, or any equivalent offense under the laws of this State, any other state or the United States.