

HB0081/722811/1

BY: House Judiciary Committee

AMENDMENTS TO HOUSE BILL 81  
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in the sponsor line, strike “and Palakovich Carr” and substitute “Palakovich Carr, Clippinger, Atterbeary, Cardin, Lopez, Shetty, and Williams”; in line 4, after “practice;” insert “making conforming changes; clarifying that certain evidence is not admissible as an infamous crime; providing that a certain conviction may not be expunged under certain circumstances;”; after line 4, insert:

“BY repealing and reenacting, with amendments,

Article – Courts and Judicial Proceedings

Section 3–801(aa) and 10–905(a)(1)

Annotated Code of Maryland

(2013 Replacement Volume and 2019 Supplement)”;

in line 5, after “repealing” insert “and reenacting, with amendments,”; in line 7, strike “3–321 and 3–322” and substitute “2–201(a)(4), 3–602(a)(4)(ii), 3–604(a)(9)(ii), and 3–809(a)(5)”; and after line 9, insert:

“BY repealing

Article – Criminal Law

Section 3–321 and 3–322

Annotated Code of Maryland

(2012 Replacement Volume and 2019 Supplement)”

BY adding to

Article - Criminal Law

Section 3-321

(Over)

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Annotated Code of Maryland  
(2012 Replacement Volume and 2019 Supplement)

BY repealing and reenacting, with amendments,

Article – Criminal Procedure

Section 10–105(a)(11) and (a–1), 11–701(q)(1), and 11–1007(a)(6)(ii)

Annotated Code of Maryland

(2018 Replacement Volume and 2019 Supplement)

BY adding to

Article - Criminal Procedure

Section 10-105(a-1)

Annotated Code of Maryland

(2018 Replacement Volume and 2019 Supplement)

BY repealing and reenacting, with amendments,

Article – Family Law

Section 5–701(z)

Annotated Code of Maryland

(2019 Replacement Volume)”.

AMENDMENT NO. 2

On page 1, after line 11, insert:

“Article – Courts and Judicial Proceedings

3–801.

(aa) “Sexual molestation or exploitation” includes:

(1) Allowing or encouraging a child to engage in:

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- (i) Obscene photography, films, poses, or similar activity;
- (ii) Pornographic photography, films, poses, or similar activity; or
- (iii) Prostitution;

(2) Incest;

(3) Rape;

(4) Sexual offense in any degree; AND

(5) [Sodomy; and

(6) Unnatural or perverted sexual practices] ANY OTHER SEXUAL CONDUCT THAT IS CRIMINALLY PROHIBITED.

10-905.

(a) (1) Evidence is admissible to prove the interest of a witness in any proceeding, or the fact of the witness's conviction of an infamous crime OTHER THAN THE COMMON LAW OFFENSE OF SODOMY AS IT EXISTED BEFORE OCTOBER 1, 2020.”;

after line 12, insert:

“2-201.

(a) A murder is in the first degree if it is:

(4) committed in the perpetration of or an attempt to perpetrate:

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- (i) arson in the first degree;
- (ii) burning a barn, stable, tobacco house, warehouse, or other outbuilding that:
  - 1. is not parcel to a dwelling; and
  - 2. contains cattle, goods, wares, merchandise, horses, grain, hay, or tobacco;
- (iii) burglary in the first, second, or third degree;
- (iv) carjacking or armed carjacking;
- (v) escape in the first degree from a State correctional facility or a local correctional facility;
- (vi) kidnapping under § 3-502 or § 3-503(a)(2) of this article;
- (vii) mayhem;
- (viii) rape;
- (ix) robbery under § 3-402 or § 3-403 of this article;
- (x) sexual offense in the first or second degree;
- (xi) sodomy AS THAT CRIME EXISTED BEFORE OCTOBER 1, 2020; or

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(xii) a violation of § 4-503 of this article concerning destructive devices.”;

and after line 15, insert:

**“3-321.**

**THE COMMON LAW CRIME OF SODOMY HAS BEEN REPEALED.”.**

AMENDMENT NO. 3

On page 2, after line 13, insert:

**“3-602.**

(a) (4) (ii) “Sexual abuse” includes:

1. incest;
2. rape;
3. sexual offense in any degree; AND
4. [sodomy; and
5. unnatural or perverted sexual practices] ANY OTHER SEXUAL CONDUCT THAT IS CRIMINALLY PROHIBITED.

**3-604.**

(a) (9) (ii) “Sexual abuse” includes:

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1. incest;
2. rape;
3. sexual offense in any degree; AND
4. [sodomy; and
5. unnatural or perverted sexual practices] ANY OTHER  
SEXUAL CONDUCT THAT IS CRIMINALLY PROHIBITED.

3-809.

(a) (5) “Sexual activity” means:

(i) sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;

[(ii) sodomy under § 3-321 of this title or an unnatural or perverted sexual practice under § 3-322 of this title;]

[(iii)] (II) masturbation; or

[(iv)] (III) sadomasochistic abuse.

Article – Criminal Procedure

10-105.

(a) A person who has been charged with the commission of a crime, including a violation of the Transportation Article for which a term of imprisonment may be

imposed, or who has been charged with a civil offense or infraction, except a juvenile offense, may file a petition listing relevant facts for expungement of a police record, court record, or other record maintained by the State or a political subdivision of the State if:

(11) EXCEPT AS PROVIDED IN SUBSECTION (A-1) OF THIS SECTION, the person was convicted of a crime and the act on which the conviction was based is no longer a crime; or

(A-1) AN EXPUNGEMENT MAY NOT BE OBTAINED UNDER SUBSECTION (A)(11) OF THIS SECTION FOR A CONVICTION FOR SODOMY OR UNNATURAL OR PERVERTED PRACTICE, AS THOSE OFFENSES EXISTED BEFORE OCTOBER 1, 2020, WHERE THE OFFENSE WAS COMMITTED:

(1) WITHOUT CONSENT;

(2) WITH A MINOR UNDER THE AGE OF 16;

(3) WITH ANYONE THE INDIVIDUAL COULD NOT MARRY UNDER § 2-202 OF THE FAMILY LAW ARTICLE;

(4) WITH A MENTALLY INCAPACITATED INDIVIDUAL, AS DEFINED IN § 3-301 OF THE CRIMINAL LAW ARTICLE;

(5) WITH A PHYSICALLY HELPLESS INDIVIDUAL, AS DEFINED IN § 3-301 OF THE CRIMINAL LAW ARTICLE; OR

(6) WITH A SUBSTANTIALLY COGNITIVELY IMPAIRED INDIVIDUAL, AS DEFINED IN § 3-301 OF THE CRIMINAL LAW ARTICLE.

(Over)

[(a-1)] (A-2) A person's attorney or personal representative may file a petition, on behalf of the person, for expungement under this section if the person died before disposition of the charge by nolle prosequi or dismissal.

11-701.

(q) "Tier III sex offender" means a person who has been convicted of:

(1) conspiring to commit, attempting to commit, or committing a violation of:

(i) § 2-201(a)(4)(viii), (x), or (xi) of the Criminal Law Article;

(ii) § 3-303, § 3-304, § 3-307(a)(1) or (2), § 3-309, § 3-310, § 3-311, § 3-312, § 3-315, § 3-323, or § 3-602 of the Criminal Law Article;

(iii) § 3-502 of the Criminal Law Article, if the victim is a minor;

(iv) § 3-502 of the Criminal Law Article, if the victim is an adult, and the person has been ordered by the court to register under this subtitle;

(v) the common law offense of sodomy or § 3-322 of the Criminal Law Article AS THOSE OFFENSES EXISTED BEFORE OCTOBER 1, 2020, if the offense was committed with force or threat of force; or

(vi) § 3-305 or § 3-306 of the Criminal Law Article as the sections existed before October 1, 2017;

11-1007.

(a) (6) (ii) "Sexual abuse" includes[:



- 1.] incest, rape, or sexual offense in any degree];
2. sodomy; and
3. unnatural or perverted sexual practices].

Article – Family Law

5-701.

(z) “Sexual molestation or exploitation” includes:

(1) allowing or encouraging a child to engage in:

(i) obscene photography, films, poses, or similar activity;

(ii) pornographic photography, films, poses, or similar activity; or

(iii) prostitution;

(2) incest;

(3) rape;

(4) sexual offense in any degree;

(5) [sodomy; and

(6) unnatural or perverted sexual practices] ANY OTHER SEXUAL CONDUCT THAT IS CRIMINALLY PROHIBITED.”.