

HOUSE BILL 647

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CF SB 944

By: **Delegates Reznik, Barve, Chang, Dumais, Fraser-Hidalgo, Frick, Jalisi, Luedtke, McComas, Patterson, Platt, Queen, M. Washington, C. Wilson, and K. Young**

Introduced and read first time: February 1, 2017

Assigned to: Judiciary

Committee Report: Favorable

House action: Adopted

Read second time: March 7, 2017

CHAPTER _____

1 AN ACT concerning

2 **Criminal Law – Sexual Offenses – Classification**

3 FOR the purpose of reclassifying criminal conduct currently classified as sexual offense in
4 the first degree and sexual offense in the second degree as rape in the first degree
5 and rape in the second degree, respectively; repealing the crimes of sexual offense in
6 the first degree, sexual offense in the second degree, attempted sexual offense in the
7 first degree, and attempted sexual offense in the second degree; making conforming
8 changes; and generally relating to sexual offenses.

9 BY repealing and reenacting, with amendments,
10 Article – Correctional Services
11 Section 3–702, 9–201, and 11–502
12 Annotated Code of Maryland
13 (2008 Replacement Volume and 2016 Supplement)

14 BY repealing and reenacting, with amendments,
15 Article – Criminal Law
16 Section 3–303, 3–304, 3–308(d), 3–313, 3–314(f), 3–315 through 3–317, and 3–320
17 Annotated Code of Maryland
18 (2012 Replacement Volume and 2016 Supplement)

19 BY repealing
20 Article – Criminal Law

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Section 3–305, 3–306, 3–311, and 3–312
2 Annotated Code of Maryland
3 (2012 Replacement Volume and 2016 Supplement)

4 BY repealing and reenacting, with amendments,
5 Article – Criminal Procedure
6 Section 6–220(d)(3), 6–222(a), 11–304(b), 11–701(j) and (q), 11–704(c), 11–704.1,
7 11–723(a), and 11–922
8 Annotated Code of Maryland
9 (2008 Replacement Volume and 2016 Supplement)

10 BY repealing and reenacting, without amendments,
11 Article – Criminal Procedure
12 Section 11–701(a)
13 Annotated Code of Maryland
14 (2008 Replacement Volume and 2016 Supplement)

15 BY repealing and reenacting, with amendments,
16 Article – Family Law
17 Section 4–506(k)
18 Annotated Code of Maryland
19 (2012 Replacement Volume and 2016 Supplement)

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
21 That the Laws of Maryland read as follows:

22 Article – Correctional Services

23 3–702.

24 (a) Subject to subsections (b) and (c) of this section, § 3–711 of this subtitle, and
25 Title 7, Subtitle 5 of this article, an inmate committed to the custody of the Commissioner
26 is entitled to a diminution of the inmate’s term of confinement as provided under this
27 subtitle.

28 (b) An inmate who is serving a sentence for a violation of § 3–303[,] OR § 3–304
29 **OF THE CRIMINAL LAW ARTICLE INVOLVING A VICTIM WHO IS A CHILD UNDER THE**
30 **AGE OF 16 YEARS, OR AN INMATE WHO IS SERVING A SENTENCE FOR A VIOLATION OF**
31 **§ 3–305[,] or § 3–306 of the Criminal Law Article, AS THE SECTIONS EXISTED BEFORE**
32 **OCTOBER 1, 2017**, involving a victim who is a child under the age of 16 years, is not
33 entitled to a diminution of the inmate’s term of confinement as provided under this subtitle.

34 (c) An inmate who is serving a sentence for a violation of § 3–307 of the Criminal
35 Law Article involving a victim who is a child under the age of 16 years is not entitled to a
36 diminution of the inmate’s term of confinement as provided under this subtitle, if the
37 inmate was previously convicted of a violation of § 3–307 of the Criminal Law Article
38 involving a victim who is a child under the age of 16 years.

1 9–201.

2 (a) (1) In this section the following words have the meanings indicated.

3 (2) “Sexual offense” means:

4 (i) a violation of:

5 1. § 3–305[,] OR § 3–306[,] OF THE CRIMINAL LAW
6 ARTICLE AS THE SECTIONS EXISTED BEFORE OCTOBER 1, 2017; OR

7 2. § 3–307, § 3–308, § 3–309, § 3–310, § 3–311, or § 3–312 of
8 the Criminal Law Article; or

9 (ii) an attempt to violate:

10 1. § 3–305[,] OR § 3–306[,] OF THE CRIMINAL LAW
11 ARTICLE, AS THE SECTIONS EXISTED BEFORE OCTOBER 1, 2017, AS A PRINCIPAL OR
12 AN AIDER OR ABETTOR; OR

13 2. § 3–307[,] or § 3–308 of the Criminal Law Article as a
14 principal or an aider or abettor.

15 (3) “State correctional facility” does not include:

16 (i) the Patuxent Institution; or

17 (ii) the Baltimore City Detention Center.

18 (b) If an inmate is convicted of and sentenced to a term of imprisonment for a
19 sexual offense that was committed while the inmate was serving a sentence in a State or
20 local correctional facility, the sentence for the sexual offense shall run consecutive to the
21 sentence that the inmate was serving at the time of the sexual offense.

22 (c) (1) If an inmate is convicted of and sentenced to a term of imprisonment
23 for a sexual offense that was committed while the inmate was being held for a bail hearing,
24 arraignment, trial, or sentencing on another charge in a State or local correctional facility
25 and, before the imposition of the sentence for the sexual offense, the inmate was sentenced
26 to a term of imprisonment for the charge for which the inmate was being held at the time
27 of the sexual offense, the sentence imposed for the sexual offense shall run consecutive to
28 the sentence imposed for the charge for which the inmate was being held at the time of the
29 sexual offense.

30 (2) If an inmate is convicted of and sentenced to a term of imprisonment
31 for a sexual offense that was committed while the inmate was being held for a bail hearing,

1 arraignment, trial, or sentencing on another charge in a State or local correctional facility
 2 and, at the time that the sentence for the sexual offense is imposed, the inmate has not
 3 been sentenced on the other charge, any sentence of imprisonment eventually imposed for
 4 the other charge shall run consecutive to the sentence imposed for the sexual offense.

5 11-502.

6 (a) Except as provided in subsections (b) and (c) of this section, an inmate who
 7 has been sentenced to a term of imprisonment shall be allowed deductions from the
 8 inmate's term of confinement as provided under this subtitle for any period of presentence
 9 or postsentence confinement in a local correctional facility.

10 (b) (1) An inmate who is serving a sentence for a violation of § 3-303[,] **OR §**
 11 **3-304 OF THE CRIMINAL LAW ARTICLE INVOLVING A VICTIM WHO IS A CHILD UNDER**
 12 **THE AGE OF 16, OR AN INMATE WHO IS SERVING A SENTENCE FOR A VIOLATION OF §**
 13 **3-305[,] or § 3-306 of the Criminal Law Article, AS THE SECTIONS EXISTED BEFORE**
 14 **OCTOBER 1, 2017**, involving a victim who is a child under the age of 16 years, may not be
 15 allowed deductions from the inmate's term of confinement as provided under this subtitle
 16 for any period of presentence or postsentence confinement in a local correctional facility.

17 (2) This subsection may not be construed to require an inmate to serve a
 18 longer sentence of confinement than is authorized by the statute under which the inmate
 19 was convicted.

20 (c) (1) An inmate who is serving a sentence for a violation of § 3-307 of the
 21 Criminal Law Article involving a victim who is a child under the age of 16 years, who has
 22 previously been convicted of violating § 3-307 of the Criminal Law Article involving a
 23 victim who is a child under the age of 16 years, may not be allowed deductions from the
 24 inmate's term of confinement as provided under this subtitle for any period of presentence
 25 or postsentence confinement in a local correctional facility.

26 (2) This subsection may not be construed to require an inmate to serve a
 27 longer sentence of confinement than is authorized by the statute under which the inmate
 28 was convicted.

29 Article – Criminal Law

30 3-303.

31 (a) A person may not:

32 (1) **(I)** engage in vaginal intercourse with another by force, or the threat
 33 of force, without the consent of the other; **OR**

34 **(II) ENGAGE IN A SEXUAL ACT WITH ANOTHER BY FORCE, OR**
 35 **THE THREAT OF FORCE, WITHOUT THE CONSENT OF THE OTHER;** and

1 (2) (i) employ or display a dangerous weapon, or a physical object that
2 the victim reasonably believes is a dangerous weapon;

3 (ii) suffocate, strangle, disfigure, or inflict serious physical injury on
4 the victim or another in the course of committing the crime;

5 (iii) threaten, or place the victim in fear, that the victim, or an
6 individual known to the victim, imminently will be subject to death, suffocation,
7 strangulation, disfigurement, serious physical injury, or kidnapping;

8 (iv) commit the crime while aided and abetted by another; or

9 (v) commit the crime in connection with a burglary in the first,
10 second, or third degree.

11 (b) A person may not violate subsection (a) of this section while also violating §
12 3-503(a)(2) of this title involving a victim who is a child under the age of 16 years.

13 (c) A person 18 years of age or older may not violate subsection (a) of this section
14 involving a victim who is a child under the age of 13 years.

15 (d) (1) Except as provided in paragraphs (2), (3), and (4) of this subsection, a
16 person who violates subsection (a) of this section is guilty of the felony of rape in the first
17 degree and on conviction is subject to imprisonment not exceeding life.

18 (2) A person who violates subsection (b) of this section is guilty of the felony
19 of rape in the first degree and on conviction is subject to imprisonment not exceeding life
20 without the possibility of parole.

21 (3) A person who violates subsection (a) or (b) of this section is guilty of the
22 felony of rape in the first degree and on conviction is subject to imprisonment not exceeding
23 life without the possibility of parole if the defendant was previously convicted of violating
24 this section, or § 3-305 of this subtitle **AS IT EXISTED BEFORE OCTOBER 1, 2017**.

25 (4) (i) Subject to subparagraph (iv) of this paragraph, a person 18 years
26 of age or older who violates subsection (c) of this section is guilty of the felony of rape in the
27 first degree and on conviction is subject to imprisonment for not less than 25 years and not
28 exceeding life without the possibility of parole.

29 (ii) A court may not suspend any part of the mandatory minimum
30 sentence of 25 years.

31 (iii) The person is not eligible for parole during the mandatory
32 minimum sentence.

1 (iv) If the State fails to comply with subsection (e) of this section, the
2 mandatory minimum sentence shall not apply.

3 (e) If the State intends to seek a sentence of imprisonment for life without the
4 possibility of parole under subsection (d)(2), (3), or (4) of this section, or imprisonment for
5 not less than 25 years under subsection (d)(4) of this section, the State shall notify the
6 person in writing of the State's intention at least 30 days before trial.

7 3-304.

8 (a) A person may not engage in vaginal intercourse **OR A SEXUAL ACT** with
9 another:

10 (1) by force, or the threat of force, without the consent of the other;

11 (2) if the victim is a substantially cognitively impaired individual, a
12 mentally incapacitated individual, or a physically helpless individual, and the person
13 performing the act knows or reasonably should know that the victim is a substantially
14 cognitively impaired individual, a mentally incapacitated individual, or a physically
15 helpless individual; or

16 (3) if the victim is under the age of 14 years, and the person performing the
17 act is at least 4 years older than the victim.

18 (b) A person 18 years of age or older may not violate subsection (a)(1) or (2) of this
19 section involving a child under the age of 13 years.

20 (c) (1) Except as provided in paragraph (2) of this subsection, a person who
21 violates subsection (a) of this section is guilty of the felony of rape in the second degree and
22 on conviction is subject to imprisonment not exceeding 20 years.

23 (2) (i) Subject to subparagraph (iv) of this paragraph, a person 18 years
24 of age or older who violates subsection (b) of this section is guilty of the felony of rape in the
25 second degree and on conviction is subject to imprisonment for not less than 15 years and
26 not exceeding life.

27 (ii) A court may not suspend any part of the mandatory minimum
28 sentence of 15 years.

29 (iii) The person is not eligible for parole during the mandatory
30 minimum sentence.

31 (iv) If the State fails to comply with subsection (d) of this section, the
32 mandatory minimum sentence shall not apply.

1 (d) If the State intends to seek a sentence of imprisonment for not less than 15
2 years under subsection (c)(2) of this section, the State shall notify the person in writing of
3 the State's intention at least 30 days before trial.

4 [3-305.

5 (a) A person may not:

6 (1) engage in a sexual act with another by force, or the threat of force,
7 without the consent of the other; and

8 (2) (i) employ or display a dangerous weapon, or a physical object that
9 the victim reasonably believes is a dangerous weapon;

10 (ii) suffocate, strangle, disfigure, or inflict serious physical injury on
11 the victim or another in the course of committing the crime;

12 (iii) threaten, or place the victim in fear, that the victim, or an
13 individual known to the victim, imminently will be subject to death, suffocation,
14 strangulation, disfigurement, serious physical injury, or kidnapping;

15 (iv) commit the crime while aided and abetted by another; or

16 (v) commit the crime in connection with a burglary in the first,
17 second, or third degree.

18 (b) A person may not violate subsection (a) of this section while also violating §
19 3-503(a)(2) of this title involving a victim who is a child under the age of 16 years.

20 (c) A person 18 years of age or older may not violate subsection (a) of this section
21 involving a victim who is a child under the age of 13 years.

22 (d) (1) Except as provided in paragraphs (2), (3), and (4) of this subsection, a
23 person who violates subsection (a) of this section is guilty of the felony of sexual offense in
24 the first degree and on conviction is subject to imprisonment not exceeding life.

25 (2) A person who violates subsection (b) of this section is guilty of the felony
26 of sexual offense in the first degree and on conviction is subject to imprisonment not
27 exceeding life without the possibility of parole.

28 (3) A person who violates subsection (a) or (b) of this section is guilty of the
29 felony of sexual offense in the first degree and on conviction is subject to imprisonment not
30 exceeding life without the possibility of parole if the defendant was previously convicted of
31 violating this section or § 3-303 of this subtitle.

32 (4) (i) Subject to subparagraph (iv) of this paragraph, a person 18 years
33 of age or older who violates subsection (c) of this section is guilty of the felony of sexual

1 offense in the first degree and on conviction is subject to imprisonment for not less than 25
2 years and not exceeding life without the possibility of parole.

3 (ii) A court may not suspend any part of the mandatory minimum
4 sentence of 25 years.

5 (iii) The person is not eligible for parole during the mandatory
6 minimum sentence.

7 (iv) If the State fails to comply with subsection (e) of this section, the
8 mandatory minimum sentence shall not apply.

9 (e) If the State intends to seek a sentence of imprisonment for life without the
10 possibility of parole under subsection (d)(2), (3), or (4) of this section, or imprisonment for
11 not less than 25 years under subsection (d)(4) of this section, the State shall notify the
12 person in writing of the State's intention at least 30 days before trial.]

13 [3-306.

14 (a) A person may not engage in a sexual act with another:

15 (1) by force, or the threat of force, without the consent of the other;

16 (2) if the victim is a substantially cognitively impaired individual, a
17 mentally incapacitated individual, or a physically helpless individual, and the person
18 performing the sexual act knows or reasonably should know that the victim is a
19 substantially cognitively impaired individual, a mentally incapacitated individual, or a
20 physically helpless individual; or

21 (3) if the victim is under the age of 14 years, and the person performing the
22 sexual act is at least 4 years older than the victim.

23 (b) A person 18 years of age or older may not violate subsection (a)(1) or (2) of this
24 section involving a child under the age of 13 years.

25 (c) (1) Except as provided in paragraph (2) of this subsection, a person who
26 violates this section is guilty of the felony of sexual offense in the second degree and on
27 conviction is subject to imprisonment not exceeding 20 years.

28 (2) (i) Subject to subparagraph (iv) of this paragraph, a person 18 years
29 of age or older who violates subsection (b) of this section is guilty of the felony of sexual
30 offense in the second degree and on conviction is subject to imprisonment for not less than
31 15 years and not exceeding life.

32 (ii) A court may not suspend any part of the mandatory minimum
33 sentence of 15 years.

1 (iii) The person is not eligible for parole during the mandatory
2 minimum sentence.

3 (iv) If the State fails to comply with subsection (d) of this section, the
4 mandatory minimum sentence shall not apply.

5 (d) If the State intends to seek a sentence of imprisonment for not less than 15
6 years under subsection (c)(2) of this section, the State shall notify the person in writing of
7 the State's intention at least 30 days before trial.]

8 3-308.

9 (d) (1) Except as provided in paragraph (2) of this subsection, a person who
10 violates this section is guilty of the misdemeanor of sexual offense in the fourth degree and
11 on conviction is subject to imprisonment not exceeding 1 year or a fine not exceeding \$1,000
12 or both.

13 (2) (i) On conviction of a violation of this section, a person who has been
14 convicted on a prior occasion not arising from the same incident of a violation of §§ 3-303
15 through **3-310 OF THIS SUBTITLE, § 3-311 OR § 3-312 OF THIS SUBTITLE AS THE**
16 **SECTIONS EXISTED BEFORE OCTOBER 1, 2017, [or] § 3-315 of this subtitle, or § 3-602**
17 **of this title is subject to imprisonment not exceeding 3 years or a fine not exceeding \$1,000**
18 or both.

19 (ii) If the State intends to proceed against a person under
20 subparagraph (i) of this paragraph, it shall comply with the procedures set forth in the
21 Maryland Rules for the indictment and trial of a subsequent offender.

22 [3-311.

23 (a) A person may not attempt to commit a sexual offense in the first degree.

24 (b) A person who violates this section is guilty of a felony and on conviction is
25 subject to imprisonment not exceeding life.]

26 [3-312.

27 (a) A person may not attempt to commit a sexual offense in the second degree.

28 (b) A person who violates this section is guilty of a felony and on conviction is
29 subject to imprisonment not exceeding 20 years.]

30 3-313.

31 (a) On conviction of a violation of § 3-304, [§ 3-306,] § 3-307, **OR** § 3-310[, or §
32 3-312] of this subtitle, a person who has been convicted on a prior occasion not arising from

1 the same incident of any violation of [§]§ 3–303 [through 3–306] **OR § 3–304 OF THIS**
2 **SUBTITLE, OR § 3–305 OR § 3–306** of this subtitle **AS THE SECTIONS EXISTED BEFORE**
3 **OCTOBER 1, 2017**, is subject to imprisonment not exceeding life.

4 (b) If the State intends to proceed against a person under this section, it shall
5 comply with the procedures set forth in the Maryland Rules for the indictment and trial of
6 a subsequent offender.

7 3–314.

8 (f) A sentence imposed for violation of this section may be separate from and
9 consecutive to or concurrent with a sentence for another crime under §§ 3–303 through
10 [3–312] **3–310 OF THIS SUBTITLE, OR § 3–305, § 3–306, § 3–311, OR § 3–312** of this
11 subtitle **AS THE SECTIONS EXISTED BEFORE OCTOBER 1, 2017**.

12 3–315.

13 (a) A person may not engage in a continuing course of conduct which includes
14 three or more acts that would constitute violations of § 3–303, § 3–304, [§ 3–305, § 3–306,]
15 or § 3–307 of this subtitle, **OR VIOLATIONS OF § 3–305 OR § 3–306 OF THIS SUBTITLE**
16 **AS THE SECTIONS EXISTED BEFORE OCTOBER 1, 2017**, over a period of 90 days or more,
17 with a victim who is under the age of 14 years at any time during the course of conduct.

18 (b) (1) A person who violates this section is guilty of a felony and on conviction
19 is subject to imprisonment not exceeding 30 years.

20 (2) A sentence imposed under this section may be separate from and
21 consecutive to or concurrent with a sentence under § 3–602 of this title.

22 (c) In determining whether the required number of acts occurred in violation of
23 this section, the trier of fact:

24 (1) must determine only that the required number of acts occurred; and

25 (2) need not determine which acts constitute the required number of acts.

26 (d) (1) A person may not be charged with a violation of § 3–303, § 3–304, [§
27 3–305, § 3–306,] or § 3–307 of this subtitle involving the same victim in the same proceeding
28 as a violation of this section unless the other violation charged occurred outside the time
29 period charged under this section.

30 (2) A person may not be charged with a violation of § 3–303, § 3–304, [§
31 3–305, § 3–306,] or § 3–307 of this subtitle involving the same victim unless the violation
32 charged occurred outside the time period charged under this section.

33 3–316.

1 If a person is transported with the intent to violate a provision of §§ 3–303 through
2 [3–312] **3–310**, § 3–314, or § 3–315 of this subtitle, and the intent is followed by actual
3 violation of a provision of §§ 3–303 through [3–312] **3–310**, § 3–314, or § 3–315 of this
4 subtitle, the defendant may be tried in the appropriate court in a county where the
5 transportation was offered, solicited, begun, continued, or ended.

6 3–317.

7 (a) An indictment, information, or warrant for a crime under §§ 3–303 through
8 [3–312] **3–310** or § 3–314 of this subtitle is sufficient if it substantially states:

9 “(name of defendant) on (date) in (county) committed a rape or sexual offense on
10 (name of victim) in violation of (section violated) against the peace, government, and dignity
11 of the State.”.

12 (b) In a case in which the general form of indictment, information, or warrant
13 described in subsection (a) of this section is used, the defendant is entitled to a bill of
14 particulars specifically setting forth the allegations against the defendant.

15 3–320.

16 In a criminal prosecution under §§ 3–303 through [3–312] **3–310**, § 3–314, or §
17 3–315 of this subtitle, a judge may not instruct the jury:

18 (1) to examine the testimony of the prosecuting witness with caution, solely
19 because of the nature of the charge;

20 (2) that the charge is easily made or difficult to disprove, solely because of
21 the nature of the charge; or

22 (3) to follow another similar instruction, solely because of the nature of the
23 charge.

24 Article – Criminal Procedure

25 6–220.

26 (d) Notwithstanding subsections (b) and (c) of this section, a court may not stay
27 the entering of judgment and place a defendant on probation for:

28 (3) a violation of any of the provisions of §§ 3–303 through 3–307, §§ 3–309
29 through [3–312] **3–310**, § 3–315, or § 3–602 of the Criminal Law Article for a crime
30 involving a person under the age of 16 years; or

31 6–222.

1 (a) A circuit court or the District Court may:

2 (1) impose a sentence for a specified time and provide that a lesser time be
3 served in confinement;

4 (2) suspend the remainder of the sentence; and

5 (3) (i) order probation for a time longer than the sentence but, subject
6 to subsections (b) and (c) of this section, not longer than:

7 1. 5 years if the probation is ordered by a circuit court; or

8 2. 3 years if the probation is ordered by the District Court; or

9 (ii) if a defendant convicted of sexual abuse of a minor under § 3–602
10 of the Criminal Law Article [or], a crime involving a minor under § 3–303, § 3–304, [§
11 3–305, § 3–306,] or § 3–307 of the Criminal Law Article, **OR A CRIME INVOLVING A MINOR**
12 **UNDER § 3–305 OR § 3–306 OF THE CRIMINAL LAW ARTICLE AS THE SECTIONS**
13 **EXISTED BEFORE OCTOBER 1, 2017**, consents in writing, order probation for a time
14 longer than the sentence that was imposed on the defendant, but not longer than:

15 1. 10 years if the probation is ordered by a circuit court; or

16 2. 6 years if the probation is ordered by the District Court.

17 11–304.

18 (b) Subject to subsections (c), (d), and (e) of this section, the court may admit into
19 evidence in a juvenile court proceeding or in a criminal proceeding an out of court statement
20 to prove the truth of the matter asserted in the statement made by a child victim who:

21 (1) is under the age of 13 years; and

22 (2) is the alleged victim or the child alleged to need assistance in the case
23 before the court concerning:

24 (i) child abuse under § 3–601 or § 3–602 of the Criminal Law Article;

25 (ii) rape or sexual offense under §§ 3–303 through 3–307 of the
26 Criminal Law Article;

27 (iii) attempted rape [or attempted sexual offense] in the first degree
28 or in the second degree under §§ 3–309 [through 3–312] **AND 3–310** of the Criminal Law
29 Article; or

1 (iv) in a juvenile court proceeding, abuse or neglect as defined in §
2 5-701 of the Family Law Article.

3 11-701.

4 (a) In this subtitle the following words have the meanings indicated.

5 (j) “Sexually violent offense” means:

6 (1) a violation of [§]§ 3-303 [through 3-307 or §§ 3-309 through 3-312], §
7 **3-304, § 3-309, OR § 3-310** of the Criminal Law Article, **OR § 3-305, § 3-306, § 3-311,**
8 **OR § 3-312 OF THE CRIMINAL LAW ARTICLE AS THE SECTIONS EXISTED BEFORE**
9 **OCTOBER 1, 2017;**

10 (2) assault with intent to commit rape in the first or second degree or a
11 sexual offense in the first or second degree as prohibited on or before September 30, 1996,
12 under former Article 27, § 12 of the Code; or

13 (3) a crime committed in another jurisdiction, federal or military court, or
14 foreign country that, if committed in this State, would constitute one of the crimes listed in
15 item (1) or (2) of this subsection.

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

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

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

20 (ii) § 3-303, § 3-304, [§ 3-305, § 3-306,] § 3-307(a)(1) or (2), §
21 3-309, § 3-310, § 3-311, § 3-312, § 3-315, § 3-323, or § 3-602 of the Criminal Law Article;

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

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

25 (v) the common law offense of sodomy or § 3-322 of the Criminal
26 Law Article if the offense was committed with force or threat of force; **OR**

27 **(VI) § 3-305 OR § 3-306 OF THE CRIMINAL LAW ARTICLE AS THE**
28 **SECTIONS EXISTED BEFORE OCTOBER 1, 2017;**

29 (2) conspiring to commit, attempting to commit, or committing a violation
30 of § 3-307(a)(3), § 3-314, § 3-503, or § 3-603 of the Criminal Law Article, if the victim is
31 under the age of 14 years;

1 (3) conspiring to commit, attempting to commit, or committing the common
2 law offense of false imprisonment, if the victim is a minor;

3 (4) conspiring to commit, attempting to commit, or committing an offense
4 that would require the person to register as a tier I or tier II sex offender after the person
5 was already registered as a tier II sex offender;

6 (5) a crime committed in a federal, military, tribal, or other jurisdiction
7 that, if committed in this State, would constitute one of the crimes listed in items (1)
8 through (3) of this subsection; or

9 (6) a crime in a court of Canada, Great Britain, Australia, New Zealand, or
10 any other foreign country where the United States Department of State has determined in
11 its Country Reports on Human Rights Practices that an independent judiciary generally or
12 vigorously enforced the right to a fair trial during the year in which the conviction occurred
13 that, if the crime were committed in this State, would constitute one of the crimes listed in
14 items (1) through (3) of this subsection.

15 11-704.

16 (c) (1) A person who has been adjudicated delinquent for an act that, if
17 committed by an adult, would constitute a violation of § 3-303[,] OR § 3-304[, § 3-305, or
18 § 3-306] of the Criminal Law Article, **§ 3-305 OR § 3-306 OF THE CRIMINAL LAW**
19 **ARTICLE AS THE SECTIONS EXISTED BEFORE OCTOBER 1, 2017**, or § 3-307(a)(1) or (2)
20 or § 3-308(b)(1) of the Criminal Law Article involving conduct described in § 3-301(e)(2) of
21 the Criminal Law Article, shall register with the person's supervising authority if:

22 (i) the person was a minor who was at least 13 years old at the time
23 the delinquent act was committed;

24 (ii) the State's Attorney or the Department of Juvenile Services
25 requests that the person be required to register;

26 (iii) 90 days prior to the time the juvenile court's jurisdiction over the
27 person terminates under § 3-8A-07 of the Courts Article, the court, after a hearing,
28 determines under a clear and convincing evidence standard that the person is at significant
29 risk of committing a sexually violent offense or an offense for which registration as a tier II
30 sex offender or tier III sex offender is required; and

31 (iv) the person is at least 18 years old.

32 (2) If the person has committed a delinquent act that would cause the court
33 to make a determination regarding registration under paragraph (1) of this subsection:

1 (i) the State's Attorney shall serve written notice to the person or
2 the person's counsel at least 30 days before a hearing to determine if the person is required
3 to register under this section; and

4 (ii) the Department of Juvenile Services shall:

5 1. provide the court with any information necessary to make
6 the determination; and

7 2. conduct any follow-up the court requires.

8 (3) The form of petitions and all other pleadings under this subsection and,
9 except as otherwise provided under Title 3 of the Courts and Judicial Proceedings Article,
10 the procedures to be followed by the court under this subsection shall be specified in the
11 Maryland Rules.

12 (4) The court may order an evaluation of the person in making the
13 determination under paragraph (1) of this subsection.

14 11-704.1.

15 (a) In this section, "juvenile registrant" means a person who is required to be
16 included in the registry of juvenile sex offenders under subsection (b) of this section.

17 (b) A person shall be included in a registry of juvenile sex offenders that is
18 maintained by the Department separately from the sex offender registry if:

19 (1) the person has been adjudicated delinquent for an act that, if committed
20 by an adult[,]:

21 (I) would constitute a violation of § 3-303, § 3-304, [§ 3-305, §
22 3-306(a)(1) or (2),] or § 3-307(a)(1) or (2) of the Criminal Law Article; OR

23 (II) WOULD CONSTITUTE A VIOLATION OF § 3-305 OR §
24 3-306(A)(1) OR (2) OF THE CRIMINAL LAW ARTICLE AS THE SECTIONS EXISTED
25 BEFORE OCTOBER 1, 2017; and

26 (2) the person was a minor who was at least 14 years old at the time the
27 delinquent act was committed.

28 (c) The registry of juvenile sex offenders shall be accessible only by law
29 enforcement personnel for law enforcement purposes.

30 (d) When the juvenile court's jurisdiction over a juvenile registrant terminates
31 under § 3-8A-07 of the Courts Article, the juvenile registrant shall be removed from the
32 registry.

1 (e) A juvenile registrant shall appear in person at a location designated by the
2 Department of Juvenile Services every 3 months to:

3 (1) update and verify with the Department of Juvenile Services the
4 information included in the registry of juvenile sex offenders under this section; and

5 (2) allow the Department of Juvenile Services to take a digital image of the
6 juvenile registrant.

7 11-723.

8 (a) Except where a term of natural life without the possibility of parole is imposed,
9 a sentence for the following persons shall include a term of lifetime sexual offender
10 supervision:

11 (1) a person who is a sexually violent predator;

12 (2) a person who has been convicted of a violation of:

13 (I) § 3-303[,] OR § 3-304[, § 3-305, or § 3-306(a)(1) or (2)] of the
14 Criminal Law Article; OR

15 (II) § 3-305 OR § 3-306(A)(1) OR (2) OF THE CRIMINAL LAW
16 ARTICLE AS THE SECTIONS EXISTED BEFORE OCTOBER 1, 2017;

17 (3) a person who has been convicted of a violation of § 3-309[,] OR § 3-310
18 OF THE CRIMINAL LAW ARTICLE, [or] § 3-311 of the Criminal Law Article AS THE
19 SECTION EXISTED BEFORE OCTOBER 1, 2017, or an attempt to commit a violation of §
20 3-306(a)(1) or (2) of the Criminal Law Article AS THE SECTION EXISTED BEFORE
21 OCTOBER 1, 2017;

22 (4) a person who has been convicted of a violation of § 3-602 of the Criminal
23 Law Article involving a child under the age of 12 years;

24 (5) a person who is required to register under § 11-704(c) of this subtitle;
25 and

26 (6) a person who has been convicted more than once arising out of separate
27 incidents of a crime that requires registration under this subtitle.

28 11-922.

29 In this part, "sexual assault" means rape or a sexual offense in any degree that is
30 specified in §§ 3-303 through [3-312] 3-310, § 3-314, or § 3-315 of the Criminal Law
31 Article.

Article – Family Law

4–506.

(k) (1) Notwithstanding any other provision of this section, the court shall issue a new final protective order against an individual if:

(i) the individual was previously a respondent under this subtitle against whom a final protective order was issued;

(ii) for the act of abuse that led to the issuance of the final protective order, the individual was convicted and sentenced to serve a term of imprisonment of at least 5 years under § 2–205, § 2–206, § 3–202, § 3–203, § 3–303, § 3–304, [§ 3–305, § 3–306,] § 3–309, OR § 3–310[, § 3–311, or § 3–312] of the Criminal Law Article, § 3–305, § 3–306, § 3–311, OR § 3–312 OF THE CRIMINAL LAW ARTICLE AS THE SECTIONS EXISTED BEFORE OCTOBER 1, 2017, or for conspiracy or solicitation to commit murder and the individual has served at least 12 months of the sentence; and

(iii) the victim of the abuse who was the person eligible for relief in the original final protective order requests the issuance of a new final protective order.

(2) In a final protective order issued under this subsection, the court may grant only the relief that was granted in the original protective order under subsection (d)(1) or (2) of this section.

(3) Unless terminated at the request of the victim, a final protective order issued under this subsection shall be permanent.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.