

# SENATE BILL 268

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(PRE-FILED)

11r0555  
CF HB 896

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By: **Senators Bailey and West**

Requested: August 20, 2020

Introduced and read first time: January 13, 2021

Assigned to: Judicial Proceedings

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 1, 2021

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 ~~Criminal Law~~ Sexual Abuse of a Minor – Crime of Violence – Definition and  
3 Lifetime Supervision

4 FOR the purpose of altering a certain definition of “crime of violence” as it relates to the  
5 age of victims of certain offenses; requiring a sentence for certain persons convicted  
6 of a certain sexual abuse crime to include a term of lifetime sexual offender  
7 supervision; providing for the application of this Act; and generally relating to ~~crimes~~  
8 ~~of violence~~ sexual abuse of a minor.

9 BY repealing and reenacting, without amendments,

10 Article – Criminal Law

11 Section 3–602

12 Annotated Code of Maryland

13 (2012 Replacement Volume and 2020 Supplement)

14 BY repealing and reenacting, with amendments,

15 Article – Criminal Law

16 Section 14–101(a)

17 Annotated Code of Maryland

18 (2012 Replacement Volume and 2020 Supplement)

19 BY repealing and reenacting, with amendments,

20 Article – Criminal Procedure

21 Section 11–723

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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 Annotated Code of Maryland  
2 (2018 Replacement Volume and 2020 Supplement)

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

5 **Article – Criminal Law**

6 3–602.

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

8 (2) “Family member” has the meaning stated in § 3–601 of this subtitle.

9 (3) “Household member” has the meaning stated in § 3–601 of this subtitle.

10 (4) (i) “Sexual abuse” means an act that involves sexual molestation or  
11 exploitation of a minor, whether physical injuries are sustained or not.

12 (ii) “Sexual abuse” includes:

13 1. incest;

14 2. rape;

15 3. sexual offense in any degree; and

16 4. unnatural or perverted sexual practices.

17 (b) (1) A parent or other person who has permanent or temporary care or  
18 custody or responsibility for the supervision of a minor may not cause sexual abuse to the  
19 minor.

20 (2) A household member or family member may not cause sexual abuse to  
21 a minor.

22 (c) A person who violates this section is guilty of a felony and on conviction is  
23 subject to imprisonment not exceeding 25 years.

24 (d) A sentence imposed under this section may be separate from and consecutive  
25 to or concurrent with a sentence for:

26 (1) any crime based on the act establishing the violation of this section; or

27 (2) a violation of § 3–601 of this subtitle involving an act of abuse separate  
28 from sexual abuse under this section.

1 14-101.

2 (a) In this section, "crime of violence" means:

3 (1) abduction;

4 (2) arson in the first degree;

5 (3) kidnapping;

6 (4) manslaughter, except involuntary manslaughter;

7 (5) mayhem;

8 (6) maiming, as previously proscribed under former Article 27, §§ 385 and  
9 386 of the Code;

10 (7) murder;

11 (8) rape;

12 (9) robbery under § 3-402 or § 3-403 of this article;

13 (10) carjacking;

14 (11) armed carjacking;

15 (12) sexual offense in the first degree;

16 (13) sexual offense in the second degree;

17 (14) use of a firearm in the commission of a felony except possession with  
18 intent to distribute a controlled dangerous substance under § 5-602(2) of this article, or  
19 other crime of violence;

20 (15) child abuse in the first degree under § 3-601 of this article;

21 (16) sexual abuse of a minor under § 3-602 of this article if:

22 (i) 1. the victim is under the age of ~~13~~ **16** years and the  
23 offender is an adult at the time of the offense; ~~and~~ **OR**

24 **2. THE OFFENDER IS AT LEAST 21 YEARS OLD AND THE**  
25 **VICTIM IS UNDER THE AGE OF 16 YEARS; AND**

26 (ii) the offense involved:

1 1. vaginal intercourse, as defined in § 3–301 of this article;

2 2. a sexual act, as defined in § 3–301 of this article;

3 3. an act in which a part of the offender's body penetrates,  
4 however slightly, into the victim's genital opening or anus; or

5 4. the intentional touching of the victim's or the offender's  
6 genital, anal, or other intimate area for sexual arousal, gratification, or abuse;

7 (17) home invasion under § 6–202(b) of this article;

8 (18) a felony offense under Title 3, Subtitle 11 of this article;

9 (19) an attempt to commit any of the crimes described in items (1) through  
10 (18) of this subsection;

11 (20) continuing course of conduct with a child under § 3–315 of this article;

12 (21) assault in the first degree;

13 (22) assault with intent to murder;

14 (23) assault with intent to rape;

15 (24) assault with intent to rob;

16 (25) assault with intent to commit a sexual offense in the first degree; and

17 (26) assault with intent to commit a sexual offense in the second degree.

18 **Article – Criminal Procedure**

19 11–723.

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

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

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

25 (i) § 3–303 or § 3–304 of the Criminal Law Article; or

1                   (ii) § 3-305 or § 3-306(a)(1) or (2) of the Criminal Law Article as the  
2 sections existed before October 1, 2017;

3                   (3) a person who has been convicted of a violation of § 3-309 or § 3-310 of  
4 the Criminal Law Article, § 3-311 of the Criminal Law Article as the section existed before  
5 October 1, 2017, or an attempt to commit a violation of § 3-306(a)(1) or (2) of the Criminal  
6 Law Article as the section existed before October 1, 2017;

7                   (4) a person who has been convicted of a violation of § 3-602 of the Criminal  
8 Law Article;

9                   (I) involving a child under the age of [12] 13 years; OR

10                   (II) THAT WAS COMMITTED WHEN THE PERSON WAS AT LEAST 21  
11 YEARS OLD AGAINST A CHILD UNDER THE AGE OF 16 YEARS;

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

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

16                   (b) Except where a term of natural life without the possibility of parole is imposed,  
17 a sentence for a violation of § 3-307(a)(1) or (2) of the Criminal Law Article may include a  
18 term of lifetime sexual offender supervision.

19                   (c) (1) Except as provided in paragraph (2) of this subsection, the term of  
20 lifetime sexual offender supervision imposed on a person for a crime committed on or after  
21 October 1, 2010, shall:

22                   (i) be a term of life; and

23                   (ii) commence on the expiration of the later of any term of  
24 imprisonment, probation, parole, or mandatory supervision.

25                   (2) For a person who is required to register under § 11-704(c) of this  
26 subtitle, the term of lifetime sexual offender supervision imposed for an act committed on  
27 or after October 1, 2010, shall:

28                   (i) commence when the person's obligation to register commences;  
29 and

30                   (ii) expire when the person's obligation to register expires, unless the  
31 juvenile court:

32                   1. finds after a hearing that there is a compelling reason for  
33 the supervision to continue; and



1                                    (ix) any other conditions deemed appropriate by the sentencing court  
2 or juvenile court.

3                                   (4) The sentencing court or juvenile court may adjust the special conditions  
4 of lifetime sexual offender supervision, in consultation with the person's sexual offender  
5 management team.

6                    SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to  
7 apply only prospectively and may not be applied or interpreted to have any effect on or  
8 application to any conviction before the effective date of this Act.

9                    SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
10 October 1, 2021.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.