

Chapter 692

(House Bill 164)

AN ACT concerning

Sexual Offenses – Crime of Violence and Lifetime Supervision

FOR the purpose of altering a certain definition of “crime of violence” as it relates to the age of victims of certain offenses; requiring a sentence for certain persons convicted of certain sexual abuse crimes to include a term of lifetime sexual offender supervision; and generally relating to sexual offenses.

BY repealing and reenacting, without amendments,

Article – Criminal Law

Section 3–602

Annotated Code of Maryland

(2021 Replacement Volume and 2022 Supplement)

BY repealing and reenacting, with amendments,

Article – Criminal Law

Section 14–101(a)

Annotated Code of Maryland

(2021 Replacement Volume and 2022 Supplement)

BY repealing and reenacting, with amendments,

Article – Criminal Procedure

Section 11–723

Annotated Code of Maryland

(2018 Replacement Volume and 2022 Supplement)

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

Article – Criminal Law

3–602.

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

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

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

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

(ii) “Sexual abuse” includes:

1. incest;
2. rape;
3. sexual offense in any degree; and
4. unnatural or perverted sexual practices.

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

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

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

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

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

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

14–101.

(a) In this section, “crime of violence” means:

(1) abduction;

(2) arson in the first degree;

(3) kidnapping;

(4) manslaughter, except involuntary manslaughter;

(5) mayhem;

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

(7) murder;

- (8) rape;
- (9) robbery under § 3–402 or § 3–403 of this article;
- (10) carjacking;
- (11) armed carjacking;
- (12) sexual offense in the first degree;
- (13) sexual offense in the second degree;
- (14) use of a firearm in the commission of a felony except possession with intent to distribute a controlled dangerous substance under § 5–602(2) of this article, or other crime of violence;
- (15) child abuse in the first degree under § 3–601 of this article;
- (16) sexual abuse of a minor under § 3–602 of this article if:
 - (i) **1.** the victim is under the age of 13 years and the offender is an adult at the time of the offense; **OR**
 - 2. THE OFFENDER IS AT LEAST 21 YEARS OLD AND THE VICTIM IS UNDER THE AGE OF 16 YEARS;** and
 - (ii) the offense involved:
 - 1. vaginal intercourse, as defined in § 3–301 of this article;
 - 2. a sexual act, as defined in § 3–301 of this article;
 - 3. an act in which a part of the offender’s body penetrates, however slightly, into the victim’s genital opening or anus; or
 - 4. the intentional touching of the victim’s or the offender’s genital, anal, or other intimate area for sexual arousal, gratification, or abuse;
- (17) home invasion under § 6–202(b) of this article;
- (18) a felony offense under Title 3, Subtitle 11 of this article;
- (19) an attempt to commit any of the crimes described in items (1) through (18) of this subsection;

- (20) continuing course of conduct with a child under § 3–315 of this article;
- (21) assault in the first degree;
- (22) assault with intent to murder;
- (23) assault with intent to rape;
- (24) assault with intent to rob;
- (25) assault with intent to commit a sexual offense in the first degree; and
- (26) assault with intent to commit a sexual offense in the second degree.

Article – Criminal Procedure

11–723.

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

- (1) a person who is a sexually violent predator;
- (2) a person who has been convicted of a violation of:
 - (i) § 3–303 or § 3–304 of the Criminal Law Article; or
 - (ii) § 3–305 or **[§ 3–306(a)(1) or (2)] § 3–306** of the Criminal Law

Article as the sections existed before October 1, 2017, **IF THE PERSON WAS AN ADULT AT THE TIME OF THE OFFENSE**;

(3) a person who has been convicted of a violation of § 3–309 or § 3–310 of the Criminal Law Article, § 3–311 of the Criminal Law Article as the section existed before October 1, 2017, or, **IF THE PERSON WAS AN ADULT AT THE TIME OF THE OFFENSE**, an attempt to commit a violation of **[§ 3–306(a)(1) or (2)] § 3–306** of the Criminal Law Article as the section existed before October 1, 2017;

(4) a person who has been convicted of a violation of § 3–602 of the Criminal Law Article:

(1) ~~involving~~ THAT WAS COMMITTED WHEN THE PERSON WAS AN ADULT AGAINST a child under the age of [12] **13 years; OR**

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

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

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

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

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

(i) be a term of life; and

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

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

(i) commence when the person’s obligation to register commences; and

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

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

2. orders the supervision to continue for a specified period of time.

(d) (1) For a sentence that includes a term of lifetime sexual offender supervision, the sentencing court, or juvenile court in the case of a person who is required to register under § 11–704(c) of this subtitle, shall impose special conditions of lifetime sexual offender supervision on the person at the time of sentencing, or imposition of the registration requirement in juvenile court, and advise the person of the length, conditions, and consecutive nature of that supervision.

(2) Before imposing special conditions, the sentencing court or juvenile court shall order:

(i) a presentence investigation in accordance with § 6–112 of the Correctional Services Article; and

(ii) for a sentence for a violation of § 3–307(a)(1) or (2) of the Criminal Law Article, a risk assessment of the person conducted by a sexual offender treatment provider.

(3) The conditions of lifetime sexual offender supervision may include:

(i) monitoring through global positioning satellite tracking or equivalent technology;

(ii) where appropriate and feasible, restricting a person from living in proximity to or loitering near schools, family child care homes, child care centers, and other places used primarily by minors;

(iii) restricting a person from obtaining employment or from participating in an activity that would bring the person into contact with minors;

(iv) requiring a person to participate in a sexual offender treatment program;

(v) prohibiting a person from using illicit drugs or alcohol;

(vi) authorizing a parole and probation agent to access the person's personal computer to check for material relating to sexual relations with minors;

(vii) requiring a person to take regular polygraph examinations;

(viii) prohibiting a person from contacting specific individuals or categories of individuals; and

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

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

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

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2023.

Approved by the Governor, May 16, 2023.