

HOUSE BILL 131

E1
SB 22/22 – JPR

3lr0305
CF SB 54

By: **Delegates Moon and Clippinger**

Introduced and read first time: January 13, 2023

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Unnatural or Perverted Sexual Practice – Repeal**

3 FOR the purpose of repealing the crime of unnatural or perverted sexual practice; and
4 generally relating to sexual crimes.

5 BY repealing and reenacting, with amendments,
6 Article – Courts and Judicial Proceedings
7 Section 3–801(aa)
8 Annotated Code of Maryland
9 (2020 Replacement Volume and 2022 Supplement)

10 BY repealing
11 Article – Criminal Law
12 Section 3–322
13 Annotated Code of Maryland
14 (2021 Replacement Volume and 2022 Supplement)

15 BY repealing and reenacting, with amendments,
16 Article – Criminal Law
17 Section 3–602(a)(4), 3–604(a)(9), and 3–809(a)(5)
18 Annotated Code of Maryland
19 (2021 Replacement Volume and 2022 Supplement)

20 BY repealing and reenacting, without amendments,
21 Article – Criminal Law
22 Section 3–809(a)(1) and (c)
23 Annotated Code of Maryland
24 (2021 Replacement Volume and 2022 Supplement)

25 BY repealing and reenacting, without amendments,
26 Article – Criminal Procedure

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 8–302(a)(1) and (b) and 10–105(a)(11)
2 Annotated Code of Maryland
3 (2018 Replacement Volume and 2022 Supplement)

4 BY repealing and reenacting, with amendments,
5 Article – Criminal Procedure
6 Section 8–302(a)(2)(i), 10–105(a–1), 11–701(q)(1)(v), and 11–1007(a)(6)
7 Annotated Code of Maryland
8 (2018 Replacement Volume and 2022 Supplement)

9 BY repealing and reenacting, with amendments,
10 Article – Family Law
11 Section 5–701(z)
12 Annotated Code of Maryland
13 (2019 Replacement Volume and 2022 Supplement)

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

16 **Article – Courts and Judicial Proceedings**

17 3–801.

18 (aa) “Sexual molestation or exploitation” includes:

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

20 (i) Obscene photography, films, poses, or similar activity;

21 (ii) Pornographic photography, films, poses, or similar activity; or

22 (iii) Prostitution;

23 (2) Incest;

24 (3) Rape;

25 (4) Sexual offense in any degree; and

26 (5) [Unnatural or perverted sexual practices] **ANY OTHER SEXUAL**
27 **CONDUCT THAT IS A CRIME.**

28 **Article – Criminal Law**

29 [3–322.

30 (a) A person may not:

1 (1) take the sexual organ of another or of an animal in the person's mouth;

2 (2) place the person's sexual organ in the mouth of another or of an animal;
3 or

4 (3) commit another unnatural or perverted sexual practice with another or
5 with an animal.

6 (b) A person who violates this section is guilty of a misdemeanor and on conviction
7 is subject to imprisonment not exceeding 10 years or a fine not exceeding \$1,000 or both.

8 (c) A person who violates this section is subject to § 5-106(b) of the Courts Article.

9 (d) An indictment for a violation of this section:

10 (1) is sufficient if it states that the defendant committed an unnatural and
11 perverted sexual practice with a person or animal as applicable; but

12 (2) need not state the particular:

13 (i) unnatural or perverted sexual practice with which the defendant
14 is charged; or

15 (ii) manner in which the defendant committed the unnatural or
16 perverted sexual practice.]

17 3-602.

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

20 (ii) "Sexual abuse" includes:

21 1. incest;

22 2. rape;

23 3. sexual offense in any degree; and

24 4. [unnatural or perverted sexual practices] **ANY OTHER**
25 **SEXUAL CONDUCT THAT IS A CRIME.**

26 3-604.

27 (a) (9) (i) "Sexual abuse" means an act that involves sexual molestation or
28 exploitation of a vulnerable adult.

- 1 (ii) "Sexual abuse" includes:
- 2 1. incest;
- 3 2. rape;
- 4 3. sexual offense in any degree; and
- 5 4. [unnatural or perverted sexual practices] **ANY OTHER**
- 6 **SEXUAL CONDUCT THAT IS A CRIME.**

7 3-809.

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

9 (5) "Sexual activity" means:

10 (i) sexual intercourse, including genital-genital, oral-genital,

11 anal-genital, or oral-anal[, whether between persons of the same or opposite sex];

12 [(ii) an unnatural or perverted sexual practice under § 3-322 of this

13 title;

14 [(iii)] **(II)** masturbation; or

15 [(iv)] **(III)** sadomasochistic abuse.

16 (c) A person may not knowingly distribute a visual representation of another

17 identifiable person that displays the other person with his or her intimate parts exposed or

18 while engaged in an act of sexual activity:

19 (1) with the intent to harm, harass, intimidate, threaten, or coerce the

20 other person;

21 (2) (i) under circumstances in which the person knew that the other

22 person did not consent to the distribution; or

23 (ii) with reckless disregard as to whether the person consented to the

24 distribution; and

25 (3) under circumstances in which the other person had a reasonable

26 expectation that the image would remain private.

27 **Article – Criminal Procedure**

1 8–302.

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

3 (2) “Qualifying offense” means:

4 (i) unnatural or perverted sexual practice under § 3–322 of the
5 Criminal Law Article, **AS THAT OFFENSE EXISTED BEFORE OCTOBER 1, 2023**;

6 (b) A person convicted of a qualifying offense may file a motion to vacate the
7 judgment if the person’s participation in the offense was a direct result of being a victim of
8 human trafficking.

9 10–105.

10 (a) A person who has been charged with the commission of a crime, including a
11 violation of the Transportation Article for which a term of imprisonment may be imposed,
12 or who has been charged with a civil offense or infraction, except a juvenile offense, may
13 file a petition listing relevant facts for expungement of a police record, court record, or other
14 record maintained by the State or a political subdivision of the State if:

15 (11) except as provided in subsection (a–1) of this section, the person was
16 convicted of a crime and the act on which the conviction was based is no longer a crime;

17 (a–1) An expungement may not be obtained under subsection (a)(11) of this section
18 for a conviction for sodomy as that offense existed before October 1, 2020, **OR A VIOLATION**
19 **OF § 3–322 OF THE CRIMINAL LAW ARTICLE AS THAT OFFENSE EXISTED BEFORE**
20 **OCTOBER 1, 2023**, where the offense was committed:

21 (1) without consent;

22 (2) with a minor under the age of 16;

23 (3) with anyone the individual could not marry under § 2–202 of the Family
24 Law Article;

25 (4) with a mentally incapacitated individual, as defined in § 3–301 of the
26 Criminal Law Article;

27 (5) with a physically helpless individual, as defined in § 3–301 of the
28 Criminal Law Article; or

29 (6) with a substantially cognitively impaired individual, as defined in §
30 3–301 of the Criminal Law Article.

31 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:

(v) the common law offense of sodomy, as that offense existed before October 1, 2020, or § 3–322 of the Criminal Law Article, **AS THAT OFFENSE EXISTED BEFORE OCTOBER 1, 2023**, if the offense was committed with force or threat of force; or 11–1007.

(a) (6) (i) “Sexual abuse” means any act that involves sexual molestation or exploitation of a child whether or not the sexual molestation or exploitation of the child is by a parent or other individual who has permanent or temporary care, custody, or responsibility for supervision of a child, or by any household or family member.

(ii) “Sexual abuse” includes[:

1.] incest, rape, or sexual offense in any degree[: and

2. 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; and

(5) [unnatural or perverted sexual practices] **ANY OTHER SEXUAL CONDUCT THAT IS A CRIME.**

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

1 October 1, 2023.