

BY: Conference Committee

AMENDMENTS TO HOUSE BILL 936  
(Third Reading File Bill)

AMENDMENT NO. 1

On page 1, in the sponsor line, strike “and Rudolph” and substitute “Rudolph, and Schuh”; in line 2, strike “Criminal Procedure” and substitute “Crimes”; in the same line, strike “and” and substitute a comma; in the same line, after “Registration” insert “, and Penalties”; in line 3, after the first “of” insert “increasing the maximum and mandatory minimum penalties for a person convicted of rape in the second degree of a child under the age of 13 years; increasing the maximum and mandatory minimum penalties for a person convicted of sexual offense in the second degree against a child under the age of 13 years;”; and strike beginning with “altering” in line 8 down through “judgment;” in line 9.

On page 2, in line 19, after “period;” insert “requiring a certain sexual offender registrant who establishes a new electronic mail address, computer log-in or screen name or identity, instant-message identity, or electronic chat room identity to provide written notice to the sexual offender registry of the new information within a certain period after establishing the new address, name, or identity;”; and in lines 29 and 30, strike “a certain term” and substitute “certain terms”.

On page 3, in line 6, after “person;” insert “prohibiting a certain person required to register as a sexual offender from knowingly failing to provide any information required to be included in a registration statement;”; in line 7, strike “, in consultation with the Department of State Police;”; in line 11, strike “offender registration” and substitute “offenders”; after line 11, insert:

“BY repealing and reenacting, with amendments,

Article – Criminal Law

Section 3-304 and 3-306

Annotated Code of Maryland

(Over)

(2002 Volume and 2009 Supplement)”;

in line 14, strike “11-702,”; in line 15, strike “and 11-721” and substitute “11-721, and 11-723”; and in line 21, after “Section” insert “11-702 and”.

AMENDMENT NO. 2

On page 3, after line 30, insert:

“Article – Criminal Law

3–304.

(a) A person may not engage in vaginal intercourse with another:

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

(2) if the victim is a mentally defective individual, a mentally incapacitated individual, or a physically helpless individual, and the person performing the act knows or reasonably should know that the victim is a mentally defective individual, a mentally incapacitated individual, or a physically helpless individual; or

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

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

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

(2) (i) Subject to subparagraph (iv) of this paragraph, a person 18 years of age or older who violates subsection (b) of this section is guilty of the felony of rape in the second degree and on conviction is subject to imprisonment for not less than [5] 15 years and not exceeding [20 years] LIFE.

(ii) A court may not suspend any part of the mandatory minimum sentence of [5] 15 years.

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

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

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

3-306.

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

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

(2) if the victim is a mentally defective individual, a mentally incapacitated individual, or a physically helpless individual, and the person performing the sexual act knows or reasonably should know that the victim is a mentally defective individual, a mentally incapacitated individual, or a physically helpless individual; or

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

(Over)

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

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

(2) (i) Subject to subparagraph (iv) of this paragraph, a person 18 years of age or older who violates subsection (b) of this section is guilty of the felony of sexual offense in the second degree and on conviction is subject to imprisonment for not less than [5] 15 years and not exceeding [20 years] LIFE.

(ii) A court may not suspend any part of the mandatory minimum sentence of [5] 15 years.

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

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

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

On page 25, in line 25, strike "CERTIFIED BY THE STATE".

On page 34, strike beginning with the third comma in line 26 down through the comma in line 27.

AMENDMENT NO. 3

On page 13, strike in their entirety lines 6 through 30, inclusive, and substitute:

“(A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, THIS SUBTITLE SHALL BE APPLIED RETROACTIVELY TO INCLUDE A PERSON WHO:

(1) IS UNDER THE CUSTODY OR SUPERVISION OF A SUPERVISING AUTHORITY ON OCTOBER 1, 2010;

(2) WAS SUBJECT TO REGISTRATION UNDER THIS SUBTITLE ON SEPTEMBER 30, 2010; OR

(3) IS CONVICTED OF ANY CRIME ON OR AFTER OCTOBER 1, 2010, AND HAS A PRIOR CONVICTION FOR AN OFFENSE FOR WHICH REGISTRATION AS A SEX OFFENDER IS REQUIRED UNDER THIS SUBTITLE.”;

in line 31, strike “(E)” and substitute “(B)”; and in line 32, strike “OR (B)”.

AMENDMENT NO. 4

On page 5, in line 2, strike “OR” and substitute a comma; in the same line, after “SLEEPS” insert “, OR VISITS”; and in line 6, strike “, FOR THE PURPOSE OF LIVING OR SLEEPING”.

On page 9, strike beginning with the comma in line 18 down through “ADULT” in line 19; strike in their entirety lines 24 through 28, inclusive; in lines 29 and 33, strike “(4)” and “(5)”, respectively, and substitute “(3)” and “(4)”, respectively; and in line 31, strike “(1), (2), OR (3)” and substitute “(1) OR (2)”.

On page 10, in lines 15, 18, 19, and 26, strike “(6)”, “(5)”, “(7)”, and “(6)”, respectively, and substitute “(5)”, “(4)”, “(6)”, and “(5)”, respectively.

(Over)

On page 11, in line 4, strike “§ 3-308, § 3-314,” and substitute “§ 3-314”; in lines 14 and 22, in each instance, strike “(4)” and substitute “(3)”; in line 28, strike “OR”; in line 32, after the semicolon, insert “OR”

**(III) THE COMMON LAW OFFENSE OF SODOMY OR § 3-322 OF THE CRIMINAL LAW ARTICLE IF THE OFFENSE WAS COMMITTED WITH FORCE OR THREAT OF FORCE;**;

in line 34, strike “§ 3-308,”; and in the same line, strike “§ 3-321, § 3-322,”.

On page 12, strike beginning with “CONSPIRING” in line 6 down through “(5)” in line 12; and in lines 16, 18, 20, and 27, strike “(6)”, “(5)”, “(7)”, and “(5)”, respectively, and substitute “(5)”, “(3)”, “(6)”, and “(3)”, respectively.

On page 13, in lines 1 and 3, in each instance, strike the bracket.

On page 15, in line 33, after “II” insert “SEX OFFENDER”.

On page 18, in lines 24 and 27, strike “(2)” and “(3)”, respectively, and substitute “(3)” and “(4)”, respectively.

On page 19, in line 3, strike “(4)” and substitute “(5)”; and in line 31, strike “24 HOURS” and substitute “3 DAYS”.

On page 20, in line 1, strike “THE” and substitute “A”; and in line 17, strike the second “THE” and substitute “EACH”.

On page 21, in line 5, strike the second “the” and substitute “EACH”; in lines 8 and 12, in each instance, strike “THE” and substitute “EACH”; in line 22, strike the

first “THE” and substitute “A”; in line 30, strike “LOCATION” and substitute “LOCATIONS”; and after line 31, insert:

**“(J) A REGISTRANT WHO ESTABLISHES A NEW ELECTRONIC MAIL ADDRESS, COMPUTER LOG-IN OR SCREEN NAME OR IDENTITY, INSTANT-MESSAGE IDENTITY, OR ELECTRONIC CHAT ROOM IDENTITY SHALL SEND WRITTEN NOTICE OF THE NEW INFORMATION TO THE STATE REGISTRY WITHIN 3 DAYS AFTER THE ELECTRONIC MAIL ADDRESS, COMPUTER LOG-IN OR SCREEN NAME OR IDENTITY, INSTANT-MESSAGE IDENTITY, OR ELECTRONIC CHAT ROOM IDENTITY IS ESTABLISHED.”**

On page 26, in line 18, strike the second “the” and substitute “EACH”; and in line 19, after “reside” insert “OR HABITUALLY LIVE”.

On page 28, in line 14, strike “THE” and substitute “A”.

On page 29, in line 3, strike the third “the” and substitute “EACH”; in line 9, strike the fourth “the” and substitute “EACH”; and in line 33, strike the first “THE” and substitute “A”.

On page 30, in line 17, in each instance, strike “THE” and substitute “A”; and in line 25, strike the first “the” and substitute “EACH”.

On page 33, in line 14, strike “, crime,”; and in line 23, strike the second “the” and substitute “EACH”.

On page 34, in line 6, strike the first “THE” and substitute “A”; in the same line, strike “RESIDES” and substitute “LIVES”; and in line 14, after “subtitle,” insert “KNOWINGLY FAIL TO PROVIDE ANY INFORMATION REQUIRED TO BE INCLUDED IN A REGISTRATION STATEMENT DESCRIBED IN § 11-706 OF THIS SUBTITLE,”.