

SENATE BILL 881

E1, D3

8lr3386
CF HB 1276

By: **Senator Lee**

Introduced and read first time: February 5, 2018

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 21, 2018

CHAPTER _____

1 AN ACT concerning

2 **Criminal Law – Human Trafficking and Prostitution Offenses**

3 FOR the purpose of ~~establishing a certain period within which a person is required to~~
4 ~~commence a certain civil action relating to a violation of certain provisions of this~~
5 ~~Act~~; altering the elements of the prohibitions against human trafficking and
6 renaming them sex trafficking; prohibiting a person from knowingly obtaining or
7 procuring for any person the labor or services of another by certain means;
8 prohibiting a person from knowingly causing another to engage in a debt bondage;
9 prohibiting a person from knowingly engaging in certain conduct with the intent to
10 compel another to marry any person under certain circumstances; prohibiting a
11 person from destroying, concealing, removing, confiscating, or possessing certain
12 documents while violating certain provisions of this Act; prohibiting a person from
13 knowingly receiving a certain benefit ~~or thing of value~~ in relation to a violation of
14 certain provisions of this Act; prohibiting a person from aiding, abetting, or
15 conspiring with another to violate certain provisions of this Act; establishing that
16 the lack of knowledge about a victim's age is not a defense to certain offenses
17 involving a child; establishing certain penalties for violations of this Act;
18 reorganizing certain provisions of law relating to prostitution; defining certain
19 terms; altering certain definitions; making conforming changes; and generally
20 relating to human trafficking and prostitution offenses.

21 BY renumbering

22 Article – Criminal Law

23 Section 11–303 and 11–306, respectively

24 to be Section 3–1102 and 11–303, respectively

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 (2012 Replacement Volume and 2017 Supplement)
- 3 BY repealing and reenacting, with amendments,
4 Article – Business Regulation
5 Section 15–207(b)(1)
6 Annotated Code of Maryland
7 (2015 Replacement Volume and 2017 Supplement)
- 8 BY repealing and reenacting, with amendments,
9 Article – Courts and Judicial Proceedings
10 Section 3–8A–19(d)(3)(i)6., 4–301(b)(25), 10–402(c)(2)(ii)1.O., and 10–406(a)(15)
11 Annotated Code of Maryland
12 (2013 Replacement Volume and 2017 Supplement)
- 13 ~~BY adding to~~
14 ~~Article – Courts and Judicial Proceedings~~
15 ~~Section 5–121~~
16 ~~Annotated Code of Maryland~~
17 ~~(2013 Replacement Volume and 2017 Supplement)~~
- 18 BY repealing and reenacting, with amendments,
19 Article – Criminal Law
20 Section 3–324(b), 9–801(g)(2), 11–305, and 14–101(a)(24) and (25)
21 Annotated Code of Maryland
22 (2012 Replacement Volume and 2017 Supplement)
- 23 BY adding to
24 Article – Criminal Law
25 Section 3–1101, 3–1103, and 3–1104 to be under the new subtitle “Subtitle 11.
26 Human Trafficking”; 11–306, 11–307, and 14–101(a)(26)
27 Annotated Code of Maryland
28 (2012 Replacement Volume and 2017 Supplement)
- 29 BY repealing and reenacting, with amendments,
30 Article – Criminal Law
31 Section 3–1102 and 11–303
32 Annotated Code of Maryland
33 (2012 Replacement Volume and 2017 Supplement)
34 (As enacted by Section 1 of this Act)
- 35 BY repealing and reenacting, without amendments,
36 Article – Criminal Law
37 Section 11–301
38 Annotated Code of Maryland
39 (2012 Replacement Volume and 2017 Supplement)

1 BY repealing and reenacting, with amendments,
2 Article – Criminal Procedure
3 Section 8–302(a), 10–110(a)(14), 10–301(f)(12), 11–701(p)(2), 13–501(g), 13–502,
4 13–503, 13–507, 13–508(a), 13–514, 13–518(a)(7), 13–522, 13–524,
5 13–525(a)(1), and 13–528(c)(1)
6 Annotated Code of Maryland
7 (2008 Replacement Volume and 2017 Supplement)

8 BY repealing and reenacting, with amendments,
9 Article – Public Safety
10 Section 2–412(c)(11)
11 Annotated Code of Maryland
12 (2011 Replacement Volume and 2017 Supplement)

13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
14 That Section(s) 11–303 and 11–306, respectively, of Article – Criminal Law of the
15 Annotated Code of Maryland be renumbered to be Section(s) 3–1102 and 11–303,
16 respectively.

17 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read
18 as follows:

19 **Article – Business Regulation**

20 15–207.

21 (b) (1) A State, county, or municipal law enforcement agency may issue a civil
22 citation to a lodging establishment requiring it to post prominently in each guest room for
23 1 year the sign that is identical to the notice required to be placed on the Web site of the
24 Department under subsection (a) of this section, if the lodging establishment is located on
25 property where arrests leading to convictions of prostitution, solicitation of a minor, or
26 human trafficking under [Title 11, Subtitle 13] **TITLE 3, SUBTITLE 11** of the Criminal
27 Law Article have occurred.

28 **Article – Courts and Judicial Proceedings**

29 3–8A–19.

30 (d) (3) (i) Except as provided in subparagraph (ii) or (iii) of this paragraph,
31 a child may not be committed to the Department of Juvenile Services for out-of-home
32 placement if the most serious offense is:

33 6. An offense involving prostitution under [§ 11–306]
34 **§ 11–303, § 11–306, OR § 11–307** of the Criminal Law Article;

35 4–301.

(b) Except as provided in § 4–302 of this subtitle, the District Court also has exclusive original jurisdiction in a criminal case in which a person at least 18 years old or a corporation is charged with:

(25) Violation of [§ 11–303(b)] ~~§ 3–1102(B), § 3–1103, OR § 3–1104~~ of the Criminal Law Article.

~~5–121.~~

~~A CIVIL ACTION FOR DAMAGES ARISING FROM A VIOLATION OF TITLE 3, SUBTITLE 11 OF THE CRIMINAL LAW ARTICLE SHALL BE FILED WITHIN THE LATER OF 10 YEARS AFTER THE DATE THAT:~~

~~(1) THE VIOLATION OCCURRED; OR~~

~~(2) THE VICTIM REACHES THE AGE OF MAJORITY.~~

10–402.

(c) (2) (ii) It is lawful under this subtitle for an investigative or law enforcement officer acting in a criminal investigation or any other person acting at the prior direction and under the supervision of an investigative or law enforcement officer to intercept a wire, oral, or electronic communication in order to provide evidence:

1. Of the commission of:

O. A human trafficking offense under [§ 11–303] **TITLE 3, SUBTITLE 11** of the Criminal Law Article;

10–406.

(a) The Attorney General, State Prosecutor, or any State’s Attorney may apply to a judge of competent jurisdiction, and the judge, in accordance with the provisions of § 10–408 of this subtitle, may grant an order authorizing the interception of wire, oral, or electronic communications by investigative or law enforcement officers when the interception may provide or has provided evidence of the commission of:

(15) A human trafficking offense under [§ 11–303] **TITLE 3, SUBTITLE 11** of the Criminal Law Article;

Article – Criminal Law

3–324.

(b) A person may not, with the intent to commit a violation of § 3–304, § 3–306, or § 3–307 of this subtitle or ~~§ 11–303~~, § 11–304, § 11–305, [or] § 11–306, ~~OR § 11–307~~ of

1 this article, knowingly solicit a minor, or a law enforcement officer posing as a minor, to
2 engage in activities that would be unlawful for the person to engage in under § 3-304,
3 § 3-306, or § 3-307 of this subtitle or **§ 11-303**, § 11-304, § 11-305, [or] § 11-306, **OR §**
4 **11-307** of this article.

5 **SUBTITLE 11. HUMAN TRAFFICKING.**

6 **3-1101.**

7 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
8 INDICATED.

9 (B) "ASSIGNATION" HAS THE MEANING STATED IN § 11-301 OF THIS
10 ARTICLE.

11 (C) "DEBT BONDAGE" ~~MEANS A PROMISE BY A PERSON FOR PERSONAL~~
12 ~~SERVICES AS A SECURITY FOR THE PAYMENT OF A DEBT AND FOR WHICH THE~~
13 ~~SERVICES:~~

14 ~~(1) ARE TO BE CARRIED OUT BY THE PERSON OR ANOTHER UNDER~~
15 ~~THE PERSON'S CONTROL; AND~~

16 ~~(2) (I) DO NOT ACTUALLY COUNT TOWARD THE PAYMENT OF DEBT;~~
17 ~~OR~~

18 ~~(II) ARE NOT DEFINED OR LIMITED IN DURATION.~~ HAS THE
19 MEANING STATED IN 22 U.S.C. § 7102.

20 ~~(D)~~ (D) "PROSTITUTION" HAS THE MEANING STATED IN § 11-301 OF THIS
21 ARTICLE.

22 ~~(D)~~ (E) (I) "SERIOUS HARM" MEANS ANY HARM THAT IS SUFFICIENTLY
23 SERIOUS TO COMPEL A REASONABLE PERSON, WHEN CONSIDERING THE
24 CIRCUMSTANCES AND THE PERSON'S BACKGROUND, TO PERFORM LABOR OR
25 SERVICES TO AVOID THE HARM.

26 ~~(2)~~ "SERIOUS HARM" INCLUDES:

27 ~~(I) PHYSICAL HARM;~~

28 ~~(II) EMOTIONAL HARM;~~

29 ~~(III) REPUTATIONAL HARM; AND~~

30 ~~(IV) ECONOMIC HARM.~~

1 ~~(E)~~ **(F)** **“SEXUALLY EXPLICIT PERFORMANCE” HAS THE MEANING STATED**
2 **IN § 11-301 OF THIS ARTICLE.**

3 3-1102.

4 (a) (1) A person may not knowingly:

5 (i) take or cause another to be taken to any place for prostitution;

6 (ii) place, cause to be placed, or harbor another in any place for
7 prostitution;

8 (iii) persuade, induce, entice, or encourage another to be taken to or
9 placed in any place for prostitution;

10 (iv) receive consideration to procure for or place in a house of
11 prostitution or elsewhere another with the intent of causing the other to engage in
12 prostitution or assignation;

13 (v) engage in a device, scheme, or continuing course of conduct
14 intended to cause another to believe that if the other did not take part in a sexually explicit
15 performance, the other or a third person would suffer physical restraint or serious physical
16 harm; or

17 (vi) destroy, conceal, remove, confiscate, or possess an actual or
18 purported passport, immigration document, or government identification document of
19 another while otherwise violating or attempting to violate this subsection.

20 (2) A parent, guardian, or person who has permanent or temporary care or
21 custody or responsibility for supervision of another may not consent to the taking or
22 detention of the other for prostitution.

23 (b) (1) A person may not violate subsection (a) of this section involving a victim
24 who is a minor.

25 (2) A person may not [knowingly take or detain another] **VIOLATE**
26 **SUBSECTION (A) OF THIS SECTION** with the **USE OF OR** intent to use force, threat,
27 coercion, or fraud [to compel the other to marry the person or a third person or perform a
28 sexual act, sexual contact, or vaginal intercourse].

29 (c) (1) (i) Except as provided in paragraph (2) of this subsection, a person
30 who violates subsection (a) of this section is guilty of the misdemeanor of [human
31 trafficking] **SEX TRAFFICKING** and on conviction is subject to imprisonment not exceeding
32 10 years or a fine not exceeding \$5,000 or both.

1 (ii) A person who violates subsection (a) of this section is subject to §
2 5–106(b) of the Courts Article.

3 (2) A person who violates subsection (b) of this section is guilty of the felony
4 of [human trafficking] **SEX TRAFFICKING** and on conviction is subject to imprisonment not
5 exceeding 25 years or a fine not exceeding \$15,000 or both.

6 (d) A person who violates this section may be charged, tried, and sentenced in any
7 county in or through which the person transported or attempted to transport the other.

8 (e) (1) A person who knowingly benefits financially ~~or~~ by receiving anything of
9 value from participation in a venture that includes an act described in subsection (a) or (b)
10 of this section is subject to the same penalties that would apply if the person had violated
11 that subsection.

12 (2) A person who knowingly aids, abets, or conspires with one or more other
13 persons to violate any subsection of this section is subject to the same penalties that apply
14 for a violation of that subsection.

15 (f) It is not a defense to a prosecution under subsection (b)(1) **OR (E)** of this
16 section that the person did not know the age of the victim.

17 **3–1103.**

18 **(A) A PERSON MAY NOT KNOWINGLY:**

19 **(1) OBTAIN OR PROCURE ~~FOR ANY PERSON~~ THE LABOR OR SERVICES**
20 **OF ANOTHER BY ~~MEANS OF:~~**

21 **(I) WRONGFUL USE OF FORCE, THREAT OF FORCE, PHYSICAL**
22 **RESTRAINT, OR THREATS OF PHYSICAL RESTRAINT OF ANY PERSON;**

23 **(II) WRONGFUL USE OF SERIOUS HARM OR THREATS OF**
24 **SERIOUS HARM TO ANY PERSON;**

25 **(III) ~~THE USE OR~~ THREATENED USE OF ANY LEGAL PROCESS OR**
26 **PROCEEDING RELATING TO ANOTHER'S IMMIGRATION STATUS; OR**

27 **(IV) USE OF A SCHEME, PLAN, OR PATTERN OF CONDUCT**
28 **DESIGNED TO CAUSE THE OTHER TO BELIEVE THAT THE OTHER WILL SUFFER**
29 **SERIOUS HARM ~~OR PHYSICAL RESTRAINT~~ IF THE OTHER DOES NOT PERFORM LABOR**
30 **OR SERVICES;**

31 **(2) CAUSE ANOTHER TO ENGAGE IN A DEBT BONDAGE; OR**

1 **(3) DESTROY, CONCEAL, REMOVE, CONFISCATE, OR POSSESS ~~THE~~ AN**
2 **ACTUAL OR PURPORTED PASSPORT, IMMIGRATION DOCUMENT, OR GOVERNMENT**
3 **IDENTIFICATION DOCUMENT OF ANOTHER WHILE VIOLATING OR ATTEMPTING TO**
4 **VIOLATE THIS SUBSECTION.**

5 ~~**(4) RECEIVE A FINANCIAL BENEFIT OR THING OF VALUE IN RELATION**~~
6 ~~**TO A VIOLATION OF THIS SUBSECTION; OR**~~

7 ~~**(5) AID, ABET, OR CONSPIRE WITH ANOTHER TO VIOLATE THIS**~~
8 ~~**SUBSECTION.**~~

9 **(B) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF THE FELONY OF**
10 **LABOR TRAFFICKING AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT**
11 **EXCEEDING 25 YEARS OR A FINE NOT EXCEEDING \$15,000 OR BOTH.**

12 **(C) A PERSON WHO VIOLATES THIS SECTION MAY BE CHARGED, TRIED, AND**
13 **SENTENCED IN ANY COUNTY IN OR THROUGH WHICH THE PERSON TRANSPORTED OR**
14 **ATTEMPTED TO TRANSPORT THE VICTIM.**

15 **(D) (1) A PERSON WHO KNOWINGLY BENEFITS FINANCIALLY BY**
16 **RECEIVING ANYTHING OF VALUE FROM PARTICIPATION IN A VENTURE THAT**
17 **INCLUDES AN ACT DESCRIBED IN SUBSECTION (A) OF THIS SECTION IS SUBJECT TO**
18 **THE SAME PENALTIES THAT WOULD APPLY IF THE PERSON HAD VIOLATED THAT**
19 **SUBSECTION.**

20 **(2) A PERSON WHO KNOWINGLY AIDS, ABETS, OR CONSPIRES WITH**
21 **ONE OR MORE OTHER PERSONS TO VIOLATE SUBSECTION (A) OF THIS SECTION IS**
22 **SUBJECT TO THE SAME PENALTIES THAT APPLY FOR A VIOLATION OF THAT**
23 **SUBSECTION.**

24 **3-1104.**

25 **(A) A PERSON MAY NOT KNOWINGLY:**

26 **(1) TAKE OR DETAIN ANOTHER WITH THE INTENT TO USE FORCE,**
27 **THREAT, COERCION, OR FRAUD TO COMPEL THE OTHER TO MARRY ANY PERSON;**

28 **(2) RECEIVE A FINANCIAL BENEFIT OR THING OF VALUE IN RELATION**
29 **TO A VIOLATION OF THIS SUBSECTION; OR**

30 **(3) AID, ABET, OR CONSPIRE WITH ANOTHER TO VIOLATE THIS**
31 **SUBSECTION.**

1 **(B) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF THE FELONY OF**
2 **FORCED MARRIAGE AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT**
3 **EXCEEDING 25 YEARS OR A FINE NOT EXCEEDING \$15,000 OR BOTH.**

4 **(C) A PERSON WHO VIOLATES THIS SECTION MAY BE CHARGED, TRIED, AND**
5 **SENTENCED IN ANY COUNTY IN OR THROUGH WHICH THE PERSON TRANSPORTED OR**
6 **ATTEMPTED TO TRANSPORT THE VICTIM.**

7 9–801.

8 (g) “Underlying crime” means:

9 (2) a violation of § 3–203 (second degree assault), **§ 3–1102 (SEX**
10 **TRAFFICKING), § 3–1103 (LABOR TRAFFICKING), § 3–1104 (FORCED MARRIAGE), §**
11 **4–203 (wearing, carrying, or transporting a handgun), § 9–302 (inducing false testimony or**
12 **avoidance of subpoena), § 9–303 (retaliation for testimony), § 9–305 (intimidating or**
13 **corrupting juror), [§ 11–303 (human trafficking),] § 11–304 (receiving earnings of**
14 **prostitute), or [§ 11–306(a)(2), (3), or (4)] **§ 11–307 (house of prostitution) of this article;****

15 11–301.

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

17 (b) “Assignment” means the making of an appointment or engagement for
18 prostitution or any act in furtherance of the appointment or engagement.

19 (c) “Prostitution” means the performance of a sexual act, sexual contact, or
20 vaginal intercourse for hire.

21 (d) “Sexual act” has the meaning stated in § 3–301 of this article.

22 (e) “Sexual contact” has the meaning stated in § 3–301 of this article.

23 (f) “Sexually explicit performance” means a public or private, live, photographed,
24 recorded, or videotaped act or show in which the performer is wholly or partially nude, and
25 which is intended to sexually arouse or appeal to the prurient interest of patrons or viewers.

26 (g) “Solicit” means urging, advising, inducing, encouraging, requesting, or
27 commanding another.

28 (h) “Vaginal intercourse” has the meaning stated in § 3–301 of this article.

29 11–303.

30 (a) A person may not knowingly~~f~~:

1 (1) ~~engage in prostitution or assignation by any means~~; OR

2 (2) ~~keep, set up, occupy, maintain, or operate~~ a building, structure, or
3 conveyance for prostitution or assignation;

4 (3) ~~allow a building, structure, or conveyance owned or under the person's~~
5 ~~control to be used for prostitution or assignation;~~

6 (4) ~~allow or agree to allow a person into a building, structure, or conveyance~~
7 ~~for prostitution or assignation; or~~

8 (5) ~~procure or solicit or offer to procure or solicit for prostitution or~~
9 ~~assignation~~].

10 (b) A person who violates this section is guilty of a misdemeanor and on conviction
11 is subject to imprisonment not exceeding 1 year or a fine not exceeding \$500 or both.

12 (c) (1) Subject to paragraph (2) of this subsection, in a prosecution under this
13 section, it is an affirmative defense of duress if the defendant committed the act as a result
14 of being a victim of an act of another [who was charged with violating the prohibition
15 against human trafficking under § 11–303 of this subtitle or] **IN VIOLATION OF TITLE 3,**
16 **SUBTITLE 11 OF THIS ARTICLE OR THE PROHIBITION AGAINST HUMAN TRAFFICKING**
17 under federal law.

18 (2) A defendant may not assert the affirmative defense provided in
19 paragraph (1) of this subsection unless the defendant notifies the State's Attorney of the
20 defendant's intention to assert the defense at least 10 days prior to trial.

21 11–305.

22 (a) For the purpose of committing a crime under Title 3, Subtitle 3 of this article,
23 a person may not:

24 (1) persuade or entice or aid in the persuasion or enticement of an
25 individual under the age of 16 years from the individual's home or from the custody of the
26 individual's parent or guardian; and

27 (2) knowingly secrete or harbor or aid in the secreting or harboring of the
28 individual who has been persuaded or enticed in the manner described in item (1) of this
29 subsection.

30 (b) A person who violates this section is guilty of a felony and on conviction is
31 subject to imprisonment not exceeding 25 years or a fine not exceeding \$5,000 or both.

32 **(C) IT IS NOT A DEFENSE TO PROSECUTION UNDER THIS SECTION THAT THE**
33 **PERSON DID NOT KNOW THE AGE OF THE VICTIM.**

1 11-306.

2 (A) A PERSON MAY NOT KNOWINGLY PROCURE OR SOLICIT OR OFFER TO
3 PROCURE OR SOLICIT PROSTITUTION OR ASSIGNATION.

4 (B) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR
5 AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 1 YEAR OR A
6 FINE NOT EXCEEDING \$500 OR BOTH.

7 (C) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, IN A
8 PROSECUTION UNDER THIS SECTION, IT IS AN AFFIRMATIVE DEFENSE OF DURESS IF
9 THE DEFENDANT COMMITTED THE ACT AS A RESULT OF BEING A VICTIM OF AN ACT
10 OF ANOTHER IN VIOLATION OF TITLE 3, SUBTITLE 11 OF THIS ARTICLE OR THE
11 PROHIBITION AGAINST HUMAN TRAFFICKING UNDER FEDERAL LAW.

12 (2) A DEFENDANT MAY NOT ASSERT THE AFFIRMATIVE DEFENSE
13 PROVIDED IN PARAGRAPH (1) OF THIS SUBSECTION UNLESS THE DEFENDANT
14 NOTIFIES THE STATE'S ATTORNEY OF THE DEFENDANT'S INTENTION TO ASSERT
15 THE DEFENSE AT LEAST 10 DAYS PRIOR TO TRIAL.

16 11-307.

17 (A) A PERSON MAY NOT KNOWINGLY:

18 (1) ALLOW A BUILDING, STRUCTURE, OR CONVEYANCE OWNED OR
19 UNDER THE PERSON'S CONTROL TO BE USED FOR PROSTITUTION OR ASSIGNATION;

20 (2) ALLOW OR AGREE TO ALLOW A PERSON INTO A BUILDING,
21 STRUCTURE, OR CONVEYANCE FOR PROSTITUTION OR ASSIGNATION; OR

22 (3) KEEP, SET UP, ~~OCCUPY~~, MAINTAIN, OR OPERATE A BUILDING,
23 STRUCTURE, OR CONVEYANCE FOR PROSTITUTION OR ASSIGNATION.

24 (B) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR
25 AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 1 YEAR OR A
26 FINE NOT EXCEEDING \$500 OR BOTH.

27 (C) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, IN A
28 PROSECUTION UNDER THIS SECTION, IT IS AN AFFIRMATIVE DEFENSE OF DURESS IF
29 THE DEFENDANT COMMITTED THE ACT AS A RESULT OF BEING A VICTIM OF AN ACT
30 OF ANOTHER IN VIOLATION OF TITLE 3, SUBTITLE 11 OF THIS ARTICLE OR THE
31 PROHIBITION AGAINST HUMAN TRAFFICKING UNDER FEDERAL LAW.

(2) A DEFENDANT MAY NOT ASSERT THE AFFIRMATIVE DEFENSE PROVIDED IN PARAGRAPH (1) OF THIS SUBSECTION UNLESS THE DEFENDANT NOTIFIES THE STATE'S ATTORNEY OF THE DEFENDANT'S INTENTION TO ASSERT THE DEFENSE AT LEAST 10 DAYS PRIOR TO TRIAL.

14–101.

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

(24) assault with intent to commit a sexual offense in the first degree; [and]

(25) assault with intent to commit a sexual offense in the second degree;

AND

(26) ~~FELONY SEX TRAFFICKING UNDER § 3-1102(B)~~ HUMAN TRAFFICKING UNDER TITLE 3, SUBTITLE 11 OF THIS ARTICLE.

Article – Criminal Procedure

8–302.

(a) A person convicted of prostitution under [§ 11–306] § 11–303 of the Criminal Law Article may file a motion to vacate the judgment if, when the person committed the act or acts of prostitution, the person was acting under duress caused by an act of another committed in violation of [the prohibition against human trafficking under § 11–303] TITLE 3, SUBTITLE 11 of the Criminal Law Article or THE PROHIBITION AGAINST HUMAN TRAFFICKING under federal law.

10–110.

(a) A person may file a petition listing relevant facts for expungement of a police record, court record, or other record maintained by the State or a political subdivision of the State if the person is convicted of a misdemeanor that is a violation of:

(14) [§ 11–306(a)] § 11–303, § 11–306, OR § 11–307 of the Criminal Law Article;

10–301.

(f) “Shieldable conviction” means a conviction of one of the following crimes:

(12) a prostitution offense under [§ 11–306(a)(1)] § 11–303 of the Criminal Law Article if the conviction is for prostitution and not assignation.

11–701.

1 (p) “Tier II sex offender” means a person who has been convicted of:

2 (2) conspiring to commit, attempting to commit, or committing a violation
3 of **§ 3–1102, § 3–1104**, § 11–303, § 11–305, [or] § 11–306, **OR § 11–307** of the Criminal
4 Law Article, if the intended prostitute or victim is a minor;

5 13–501.

6 (g) “Human trafficking law” means § 3–324, **§ 3–1102, § 3–1103, § 3–1104**, §
7 11–207, [§ 11–303,] § 11–304, and § 11–305 of the Criminal Law Article.

8 13–502.

9 The following are subject to forfeiture:

10 (1) except as provided in § 13–503 of this subtitle, a motor vehicle used in
11 connection with a violation of and conviction under [§ 11–303] **§ 3–1102, § 3–1103, OR §**
12 **3–1104** of the Criminal Law Article;

13 (2) money used in connection with a violation of and conviction under the
14 human trafficking law, found in close proximity to or at the scene of the arrest for a violation
15 of the human trafficking law; and

16 (3) except as provided in § 13–503 of this subtitle, real property used in
17 connection with a violation of and conviction under [§ 11–303] **§ 3–1102, § 3–1103, OR**
18 **§ 3–1104** of the Criminal Law Article.

19 13–503.

20 (a) Property or an interest in property described in § 13–502(1) or (3) of this
21 subtitle may not be forfeited if the owner establishes by a preponderance of the evidence
22 that the violation of the human trafficking law was committed without the owner’s actual
23 knowledge.

24 (b) (1) A motor vehicle for hire in the transaction of business as a common
25 carrier or a motor vehicle for hire may not be seized or forfeited under this subtitle unless
26 it appears that the owner or other person in charge of the motor vehicle was a consenting
27 party or privy to a violation of the human trafficking law.

28 (2) A motor vehicle may not be forfeited under this subtitle for an act or
29 omission that the owner shows was committed or omitted by a person other than the owner
30 while the person other than the owner possessed the motor vehicle in criminal violation of
31 federal law or the law of any state.

32 (c) Subject to subsection (d) of this section, real property used as the principal
33 family residence may not be forfeited under this subtitle unless one of the owners of the

1 real property was convicted of a violation of [§ 11-303] **§ 3-1102, § 3-1103, OR § 3-1104**
2 of the Criminal Law Article or of an attempt or conspiracy to violate [§ 11-303] **§ 3-1102,**
3 **§ 3-1103, OR § 3-1104** of the Criminal Law Article.

4 (d) Real property used as the principal family residence by a husband and wife
5 and held by the husband and wife as tenants by the entirety may not be forfeited unless:

6 (1) the property was used in connection with a violation of [§ 11-303]
7 **§ 3-1102, § 3-1103, OR § 3-1104** of the Criminal Law Article or with an attempt or a
8 conspiracy to violate [§ 11-303] **§ 3-1102, § 3-1103, OR § 3-1104** of the Criminal Law
9 Article; and

10 (2) both the husband and wife are convicted of a violation of [§ 11-303] **§**
11 **3-1102, § 3-1103, OR § 3-1104** of the Criminal Law Article or of an attempt or conspiracy
12 to violate [§ 11-303] **§ 3-1102, § 3-1103, OR § 3-1104** of the Criminal Law Article.

13 13-507.

14 (a) A seizing authority may seize a motor vehicle used in violation of [§ 11-303]
15 **§ 3-1102, § 3-1103, OR § 3-1104** of the Criminal Law Article and recommend forfeiture
16 to the forfeiting authority if the total circumstances of the case as listed in subsection (b) of
17 this section dictate that seizure and forfeiture are justified.

18 (b) Circumstances to be considered in deciding whether seizure and forfeiture are
19 justified include:

20 (1) evidence that the motor vehicle was acquired by use of proceeds from a
21 transaction involving a violation of [§ 11-303] **§ 3-1102, § 3-1103, OR § 3-1104** of the
22 Criminal Law Article;

23 (2) the circumstances of the arrest; and

24 (3) the way in which the motor vehicle was used.

25 13-508.

26 (a) The chief law enforcement officer of the seizing authority that seizes a motor
27 vehicle used in violation of [§ 11-303] **§ 3-1102, § 3-1103, OR § 3-1104** of the Criminal
28 Law Article may recommend to the appropriate forfeiting authority in writing that the
29 motor vehicle be forfeited only if the officer:

30 (1) determines from the records of the Motor Vehicle Administration the
31 names and addresses of all registered owners and secured parties as defined in the Code;

32 (2) personally reviews the facts and circumstances of the seizure; and

1 (3) personally determines, according to the standards listed in § 13–507 of
2 this subtitle, and represents in writing that forfeiture is warranted.

3 13–514.

4 Except as provided in § 13–517(c) of this subtitle, if property is seized under
5 § 13–504(2)(iv) of this subtitle because there is probable cause to believe that the property
6 is directly or indirectly dangerous to health or safety and that the property was or will be
7 used to violate [§ 11–303] **§ 3–1102, § 3–1103, OR § 3–1104** of the Criminal Law Article,
8 forfeiture proceedings under this subtitle shall be filed promptly.

9 13–518.

10 (a) A complaint seeking forfeiture shall contain:

11 (7) if the forfeiting authority seeks to forfeit a lienholder’s interest in
12 property, an allegation that the lien was created with actual knowledge that the property
13 was being or was to be used in violation of [§ 11–303] **§ 3–1102, § 3–1103, OR § 3–1104**
14 of the Criminal Law Article;

15 13–522.

16 Except as provided in §§ 13–503 and 13–524 of this subtitle, an owner’s interest in
17 real property may be forfeited if the owner of the real property is convicted of violating [§
18 11–303] **§ 3–1102, § 3–1103, OR § 3–1104** of the Criminal Law Article or attempting or
19 conspiring to violate [§ 11–303] **§ 3–1102, § 3–1103, OR § 3–1104** of the Criminal Law
20 Article.

21 13–524.

22 If an owner of real property used as the principal family residence is convicted under
23 [§ 11–303] **§ 3–1102, § 3–1103, OR § 3–1104** of the Criminal Law Article or is convicted
24 of an attempt or conspiracy to violate [§ 11–303] **§ 3–1102, § 3–1103, OR § 3–1104** of the
25 Criminal Law Article and the owner files an appeal of the conviction, the court shall stay
26 forfeiture proceedings under § 13–503 of this subtitle against the real property during the
27 pendency of the appeal.

28 13–525.

29 (a) (1) Except as provided in subsection (b) of this section, there is a rebuttable
30 presumption that property or part of a property in which a person has an ownership interest
31 is subject to forfeiture as proceeds, if the State establishes by clear and convincing evidence
32 that:

1 (i) the person was convicted of violating [§ 11-303] **§ 3-1102, §**
 2 **3-1103, OR § 3-1104** of the Criminal Law Article or attempting or conspiring to violate [§
 3 11-303] **§ 3-1102, § 3-1103, OR § 3-1104** of the Criminal Law Article;

4 (ii) the property was acquired by the person during the violation or
 5 within a reasonable time after the violation; and

6 (iii) there was no other likely source for the property.

7 13-528.

8 (c) (1) If the court determines that the forfeited property is subject to a valid
 9 lien created without actual knowledge of the lienholder that the property was being or was
 10 to be used in violation of [§ 11-303] **§ 3-1102, § 3-1103, OR § 3-1104** of the Criminal
 11 Law Article, the court shall order that the property be released within 5 days to the first
 12 priority lienholder.

13 Article – Public Safety

14 2-412.

15 (c) Police employees may not act within the limits of a municipal corporation that
 16 maintains a police force except:

17 (11) when conducting investigations relating to or otherwise enforcing
 18 §§ 3-324, 3-804, 3-805, 3-902, **3-1102, 3-1103, 3-1104**, 7-302, 11-207, 11-208,
 19 **[11-303]** 11-304, 11-305, and 11-306 of the Criminal Law Article;

20 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
 21 October 1, 2018.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.