

HB0272/802516/2

BY: House Judiciary Committee

AMENDMENTS TO HOUSE BILL 272
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, strike line 2 in its entirety and substitute “Juveniles – Sexting”; strike beginning with “clarifying” in line 3 down through “matter” in line 12 and substitute “establishing a certain mitigating factor in a certain juvenile court proceeding against a child for a certain violation; requiring and authorizing the juvenile court to take certain actions in making a certain disposition on a certain finding; prohibiting the juvenile court from taking certain actions in making a certain disposition on a certain finding; establishing a certain affirmative defense in a certain juvenile court proceeding for a certain violation; establishing that a child who is found by the juvenile court to have violated a certain provision of law is not subject to certain sex offender registration; defining a certain term; and generally relating to juveniles, obscene matter, and sexting”;

after line 12, insert:

“BY repealing and reenacting, without amendments,
Article - Courts and Judicial Proceedings
Section 3-8A-19(d)(1)
Annotated Code of Maryland
(2013 Replacement Volume and 2019 Supplement)”

BY adding to
Article - Courts and Judicial Proceedings
Section 3-8A-35
Annotated Code of Maryland
(2013 Replacement Volume and 2019 Supplement)”;

and strike in their entirety lines 18 through 22, inclusive.

AMENDMENT NO. 2

(Over)

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On page 1, after line 24, insert:

“Article – Courts and Judicial Proceedings

3–8A–19.

(d) (1) In making a disposition on a petition under this subtitle, the court may:

(i) Place the child on probation or under supervision in his own home or in the custody or under the guardianship of a relative or other fit person, upon terms the court deems appropriate, including community detention;

(ii) Subject to the provisions of paragraphs (2) and (3) of this subsection, commit the child to the custody or under the guardianship of the Department of Juvenile Services, the Maryland Department of Health, or a public or licensed private agency on terms that the court considers appropriate to meet the priorities set forth in § 3–8A–02 of this subtitle, including designation of the type of facility where the child is to be accommodated, until custody or guardianship is terminated with approval of the court or as required under § 3–8A–24 of this subtitle;
or

(iii) Order the child, parents, guardian, or custodian of the child to participate in rehabilitative services that are in the best interest of the child and the family.

3–8A–35.

(A) IN THIS SECTION, “SEXTING” MEANS THE SENDING OF A SEXUALLY EXPLICIT PHOTOGRAPH, IMAGE, OR VIDEO OF ONESELF TO ANOTHER BY MOBILE TELEPHONE, COMPUTER, OR OTHER ELECTRONIC OR DIGITAL DEVICE.

(B) IT IS A MITIGATING FACTOR IN A PROCEEDING AGAINST A CHILD UNDER THIS SUBTITLE FOR A VIOLATION OF § 11–203, § 11–207, OR § 11–208 OF

THE CRIMINAL LAW ARTICLE THAT THE VIOLATION INVOLVED OR AROSE OUT OF
SEXTING.

(C) IN MAKING A DISPOSITION UNDER § 3-8A-19 OF THIS SUBTITLE ON
A FINDING THAT THE CHILD COMMITTED A VIOLATION OF § 11-203, § 11-207, OR
§ 11-208 OF THE CRIMINAL LAW ARTICLE, THE COURT:

(1) SHALL TAKE INTO CONSIDERATION WHETHER THE
MITIGATING FACTOR DESCRIBED IN SUBSECTION (B) OF THIS SECTION APPLIES
TO THE CASE;

(2) MAY NOT MAKE A DISPOSITION OF COMMUNITY DETENTION
UNDER § 3-8A-19(D)(1)(I) OF THIS SUBTITLE OR A DISPOSITION UNDER § 3-8A-
19(D)(1)(II) OF THIS SUBTITLE IF THE VIOLATION INVOLVED OR AROSE OUT OF
SEXTING, UNLESS THE COURT FINDS AND EXPLAINS ON THE RECORD, VERBALLY
AND IN WRITING, THAT EXTRAORDINARY CIRCUMSTANCES EXIST TO WARRANT
THE DISPOSITION; AND

(3) MAY ORDER A CHILD WHOSE VIOLATION INVOLVED OR AROSE
OUT OF SEXTING TO PARTICIPATE IN AN AGE-APPROPRIATE EDUCATIONAL
PROGRAM ON THE RISKS AND CONSEQUENCES OF POSSESSING, SENDING,
DISPLAYING, AND PUBLISHING SEXUALLY EXPLICIT PHOTOGRAPHS, IMAGES,
AND VIDEOS.

(D) IT IS AN AFFIRMATIVE DEFENSE IN A PROCEEDING UNDER THIS
SUBTITLE FOR A VIOLATION OF § 11-203, § 11-207, OR § 11-208 OF THE
CRIMINAL LAW ARTICLE THAT THE CHILD WAS COERCED, THREATENED, OR
INTIMIDATED INTO COMMITTING THE CONDUCT CONSTITUTING THE VIOLATION.

(E) A CHILD WHO IS FOUND BY THE COURT TO HAVE VIOLATED A PROVISION OF TITLE 11, SUBTITLE 2 OF THE CRIMINAL LAW ARTICLE IS NOT SUBJECT TO SEX OFFENDER REGISTRATION UNDER TITLE 11, SUBTITLE 7 OF THE CRIMINAL PROCEDURE ARTICLE.”.

On page 6, strike in their entirety lines 6 through 30, inclusive.