

HOUSE BILL 611

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2001 Regular Session
11r1034
CF 11r1035

By: **Delegates Doory and Getty (Committee to Revise Article 27 - Crimes and Punishments)**

Introduced and read first time: February 7, 2001

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Crimes - Prostitution and Related Crimes - Revision**

3 FOR the purpose of revising and restating the laws concerning prostitution and
4 related crimes; repealing provisions related to abducting individuals under a
5 certain age, bawdyhouses, prostitution, pandering, and transportation for
6 immoral purposes; providing that a person who is charged with certain
7 prostitution and related crimes may also be prosecuted and sentenced for
8 violating any other applicable law; prohibiting certain actions relating to certain
9 sexual acts, compelled marriages, prostitution, or assignation; prohibiting a
10 person from receiving or acquiring money or proceeds of a person engaged in
11 prostitution under certain circumstances; prohibiting certain actions relating to
12 individuals under a certain age for certain purposes under certain
13 circumstances; allowing warrantless arrests for certain prostitution and related
14 crimes under certain circumstances; providing for the registration of certain
15 persons convicted of certain prostitution and related crimes under certain
16 circumstances; expanding provisions of law concerning AIDS education for
17 persons convicted of certain prostitution and related crimes; establishing certain
18 penalties; providing that certain Committee Notes are not law; defining certain
19 terms; and generally relating to prostitution and related crimes.

20 BY repealing

21 Article 27 - Crimes and Punishments
22 Section 1; 15, 15A, 16, and 17 and the subheading "Bawdyhouses and Houses of
23 Ill Fame; Prostitution, Etc."; 426 through 433 and the subheading
24 "Pandering"; and 574 and 575 and the subheading "Transportation for
25 Immoral Purposes"
26 Annotated Code of Maryland
27 (1996 Replacement Volume and 2000 Supplement)

28 BY adding to

29 Article 27 - Crimes and Punishments
30 Section 426 through 431 to be under the new subheading "Prostitution and
31 Related Crimes"

1 Annotated Code of Maryland
2 (1996 Replacement Volume and 2000 Supplement)

3 BY repealing and reenacting, without amendments,
4 Article 27 - Crimes and Punishments
5 Section 461(e), (f), and (g)
6 Annotated Code of Maryland
7 (1996 Replacement Volume and 2000 Supplement)

8 BY repealing and reenacting, without amendments,
9 Article - Criminal Procedure
10 Section 2-203(a)
11 Annotated Code of Maryland
12 (As enacted by Chapter ____ (S.B. 1) of the Acts of the General Assembly of 2001)

13 BY repealing and reenacting, with amendments,
14 Article - Criminal Procedure
15 Section 2-203(b)(8) and (9) and 11-701(d)(1) and (6)
16 Annotated Code of Maryland
17 (As enacted by Chapter ____ (S.B. 1) of the Acts of the General Assembly of 2001)

18 BY adding to
19 Article - Criminal Procedure
20 Section 2-203(b)(10)
21 Annotated Code of Maryland
22 (As enacted by Chapter ____ (S.B. 1) of the Acts of the General Assembly of 2001)

23 BY repealing and reenacting, with amendments,
24 Article - Health - General
25 Section 18-339
26 Annotated Code of Maryland
27 (2000 Replacement Volume)

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

30 **Article 27 - Crimes and Punishments**

31 [1.

32 Any person who shall, for purposes of prostitution, fornication or concubinage,
33 forcibly abduct from his or her home or usual place of abode or from the custody and
34 control of his or her parent or parents or guardian any individual under the age of 16,
35 or be accessory thereto, or who shall for said purpose persuade or entice from his or
36 her usual place of abode, or from the custody and control of his or her parent or

1 parents or guardian, any such individual, or be accessory thereto, or shall knowingly
2 secrete or harbor any such individual so abducted, persuaded or enticed as aforesaid,
3 against the consent of his or her parent or parents or guardian, or the person or
4 persons who may have the temporary care, custody or control of such individual, or be
5 accessory thereto, upon conviction, is guilty of a misdemeanor and shall undergo
6 imprisonment, in the discretion of the court, not exceeding the term of eight years.
7 Nothing contained in this section shall apply to cases pending nor to violations of the
8 law which have heretofore occurred, but all such cases and violations shall be
9 prosecuted as if the law hereby repealed were still in force.]

10 COMMITTEE NOTE (COMMITTEE TO REVISE ARTICLE 27): For current
11 provisions of law concerning child abduction for purposes of prostitution and sexual
12 offenses, see § 430 of this article.

13 [Bawdyhouses and Houses of Ill Fame; Prostitution, Etc.]

14 [15.

15 It shall be unlawful:

16 (a) To keep, set up, maintain or operate any place, structure, building or
17 conveyance for the purpose of prostitution, lewdness or assignation;

18 (b) To occupy any place, structure, building or conveyance for the purpose of
19 prostitution, lewdness or assignation, or for any person to permit any place, structure,
20 building or conveyance owned by him or under his control to be used for the purpose
21 of prostitution, lewdness or assignation with knowledge or reasonable cause to know
22 that the same is, or is to be, used for such purpose;

23 (c) To receive, or to offer or agree to receive any person into any place,
24 structure, building or conveyance for the purpose of prostitution, lewdness or
25 assignation, or to knowingly permit any person to remain there for such purpose;

26 (d) To direct, take or transport, or to offer or agree to take or transport, any
27 person to any place, structure or building or to any other person with knowledge or
28 reasonable cause to know that the purpose of such directing, taking or transporting is
29 prostitution, lewdness or assignation;

30 (e) To procure or to solicit or to offer to procure or solicit for the purpose of
31 prostitution, lewdness or assignation;

32 (f) To reside in, enter in any place, structure, building, or to remain in any
33 conveyance, for the purpose of prostitution, lewdness or assignation; or

34 (g) To engage in prostitution, lewdness or assignation by any means
35 whatsoever.]

36 COMMITTEE NOTE (COMMITTEE TO REVISE ARTICLE 27): For current
37 provisions of law relating to prostitution and related crimes, see §§ 426 through 431 of
38 this article.

1 [15A.

2 In addition to any penalty imposed under this subheading, a court may require
3 any person who pleads guilty or nolo contendere to, or who is found guilty of, violating
4 any provision of this subheading and who the judge believes will attend and benefit
5 from the educational program on acquired immune deficiency syndrome (AIDS)
6 developed under § 18-339 of the Health - General Article to complete the program.]
7 [16.

8 The term "prostitution" shall be construed to mean the offering or receiving of
9 the body for sexual intercourse for hire. The term "lewdness" shall be construed to
10 mean any unnatural sexual practice. The term "assignation" shall be construed to
11 include the making of any appointment, or engagement for prostitution or lewdness
12 or any act in furtherance of such appointment or engagement.]

13 [17.

14 Any person convicted of violating any of the provisions of § 15 of this article shall
15 be subject to a fine of not more than \$500.00 or to confinement in or commitment to
16 any penal or reformatory institution in this State for not more than one year, or to
17 both such fine and imprisonment in the discretion of the court; provided, that the
18 sentence or any part thereof may be suspended and provided that the defendant may
19 be placed on parole or probation.]

20 [Pandering]

21 [426.

22 Any person who takes, places, harbors, inveighs, entices, persuades, encourages,
23 either by threats or promise, or by any device or scheme takes or places, or causes to
24 be taken or placed, any other person to any place against his or her will, for the
25 purpose of prostitution or illegal sexual intercourse, or takes or detains any other
26 person unlawfully against his or her will, with the intent to compel him or her by
27 force, threats, persuasions, menace or duress, to marry him or her, or to marry any
28 other person, or to be defiled, or any person who, being parent, guardian or having
29 legal charge of another person, consents to his or her taking or detention by any
30 person for the purpose of prostitution or illegal sexual intercourse, is guilty of
31 pandering, and upon conviction shall be punished by imprisonment for a term not
32 more than 12 years, and fined not more than \$5,000, in the discretion of the court.]

33 [427.

34 Any person who shall place any person in the charge or custody of anyone for
35 immoral purposes, or in a house of prostitution with the intent that he or she shall
36 live a life of prostitution, or any person who shall compel any person to reside with
37 him or her or with any other person for immoral purposes, or for the purpose of
38 prostitution, or compel him or her to live a life of prostitution, is guilty of pandering,
39 and upon conviction shall be punished by a fine of not less than \$1,000 and
40 imprisoned not more than ten years.]

1 [428.

2 Any person who shall receive any money or other valuable thing for or on
3 account of procuring for or placing in a house of prostitution or elsewhere, any person
4 for the purpose of causing him or her to engage in prostitution, lewdness, or
5 assignation with any person or persons, shall be guilty of a felony, and upon
6 conviction thereof shall be imprisoned for not more than ten years.]

7 [429.

8 Any person who, by force, fraud, intimidation or threats, places or leaves, or
9 procures any other person or persons to place or leave his or her spouse in a house of
10 prostitution or to lead a life of prostitution, shall be guilty of a felony, and upon
11 conviction thereof shall be imprisoned for not more than ten years.]

12 [430.

13 Any person or persons who knowingly receive any money or other valuable thing
14 "without lawful, actual bona fide consideration" from the earnings of any person
15 engaged in prostitution shall be guilty of a felony, and upon conviction thereof shall be
16 imprisoned for not more than ten years.]

17 [431.

18 Any person or persons who attempt to detain another person in a disorderly
19 house or house of prostitution because of any debt or debts he or she has contracted or
20 is said to have contracted while living in the house, shall be guilty of a felony, and on
21 conviction thereof shall be imprisoned for not more than 12 years.]

22 [432.

23 Any person who shall knowingly transport or cause to be transported or aid or
24 assist in obtaining transportation for, by any means of conveyance, through or across
25 this State, any person for the purpose of prostitution, or with the intent and purpose
26 to induce, entice or compel the person to become a prostitute, shall be deemed guilty
27 of a felony, and upon conviction thereof shall be imprisoned for not more than ten
28 years; any person who may commit the crime in this section mentioned may be
29 prosecuted, indicted, tried and convicted in any county or city in or through which he
30 shall so transport or attempt to transport the other person.]

31 [433.

32 This subtitle may not abrogate or affect any existing law defining or prohibiting
33 the crime of abduction or rape in any degree as contained in §§ 1, 2, 462, and 463 of
34 this article.]

PROSTITUTION AND RELATED CRIMES

2 426.

3 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
4 INDICATED.

5 (B) "ASSIGNATION" MEANS THE MAKING OF ANY APPOINTMENT OR
6 ENGAGEMENT FOR PROSTITUTION OR ANY ACT IN FURTHERANCE OF THE
7 APPOINTMENT OR ENGAGEMENT.

8 (C) "PROSTITUTION" MEANS THE PERFORMANCE OF A SEXUAL ACT, SEXUAL
9 CONTACT, OR VAGINAL INTERCOURSE FOR HIRE.

10 (D) "SEXUAL ACT," "SEXUAL CONTACT," AND "VAGINAL INTERCOURSE" HAVE
11 THE MEANINGS STATED IN § 461 OF THIS ARTICLE.

12 (E) "SOLICIT" MEANS URGING, ADVISING, INDUCING, ENCOURAGING,
13 REQUESTING, OR COMMANDING ANOTHER PERSON.

14 COMMITTEE NOTE (COMMITTEE TO REVISE ARTICLE 27): Former Article
15 27, § 15A allowed a court to order a person found guilty of a prostitution offense to
16 participate in an acquired immune deficiency (AIDS) educational program. This
17 revision eliminates this specific provision on the grounds that it is redundant with the
18 general authority of a court to order this as a condition of probation.

19 427.

20 A PERSON CHARGED WITH A CRIME UNDER THIS SUBTITLE MAY ALSO BE
21 PROSECUTED AND SENTENCED FOR VIOLATING ANY OTHER APPLICABLE LAW.

22 428.

23 (A) A PERSON MAY NOT KNOWINGLY:

24 (1) TAKE OR CAUSE TO BE TAKEN ANOTHER PERSON TO ANY PLACE FOR
25 PROSTITUTION;

26 (2) PLACE, CAUSE TO BE PLACED, OR HARBOR ANOTHER PERSON IN ANY
27 PLACE FOR PROSTITUTION;

28 (3) PERSUADE OR ENCOURAGE BY THREAT OR PROMISE ANOTHER
29 PERSON TO BE TAKEN TO OR PLACED IN ANY PLACE FOR PROSTITUTION;

30 (4) UNLAWFULLY TAKE OR DETAIN ANOTHER PERSON WITH THE
31 INTENT TO USE FORCE, THREAT, OR PERSUASION TO COMPEL THE OTHER PERSON
32 TO MARRY THE PERSON OR A THIRD PERSON OR PERFORM A SEXUAL ACT, SEXUAL
33 CONTACT, OR VAGINAL INTERCOURSE; OR

1 (5) RECEIVE CONSIDERATION TO PROCURE FOR OR PLACE IN A HOUSE
2 OF PROSTITUTION OR ELSEWHERE ANOTHER PERSON WITH THE INTENT OF
3 CAUSING THE OTHER PERSON TO ENGAGE IN PROSTITUTION OR ASSIGNATION.

4 (B) A PARENT, GUARDIAN, OR PERSON WHO HAS PERMANENT OR TEMPORARY
5 CARE OR CUSTODY OR RESPONSIBILITY FOR SUPERVISION OF ANOTHER PERSON
6 MAY NOT CONSENT TO THE TAKING OR DETENTION OF THE OTHER PERSON FOR
7 PROSTITUTION.

8 (C) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF THE
9 MISDEMEANOR OF PANDERING AND ON CONVICTION IS SUBJECT TO IMPRISONMENT
10 IN THE PENITENTIARY NOT EXCEEDING 10 YEARS OR A FINE NOT EXCEEDING \$5,000
11 OR BOTH.

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

15 429.

16 (A) A PERSON MAY NOT RECEIVE OR ACQUIRE MONEY OR PROCEEDS FROM
17 THE EARNINGS OF A PERSON ENGAGED IN PROSTITUTION WITH THE INTENT TO:

18 (1) PROMOTE A CRIME UNDER THIS SUBTITLE;

19 (2) PROFIT FROM A CRIME UNDER THIS SUBTITLE; OR

20 (3) CONCEAL OR DISGUISE THE NATURE, LOCATION, SOURCE,
21 OWNERSHIP, OR CONTROL OF MONEY OR PROCEEDS OF A CRIME UNDER THIS
22 SUBTITLE.

23 (B) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR
24 AND ON CONVICTION IS SUBJECT TO IMPRISONMENT IN THE PENITENTIARY NOT
25 EXCEEDING 10 YEARS OR A FINE NOT EXCEEDING \$10,000 OR BOTH.

26 430.

27 (A) FOR PURPOSES OF PROSTITUTION OR COMMITTING A CRIME UNDER THE
28 SEXUAL OFFENSES SUBHEADING OF THIS ARTICLE, A PERSON MAY NOT:

29 (1) PERSUADE OR ENTICE OR AID IN THE PERSUASION OR ENTICEMENT
30 OF A PERSON UNDER THE AGE OF 16 YEARS FROM THE PERSON'S HOME OR FROM
31 THE CUSTODY OF THE PERSON'S PARENT OR GUARDIAN; OR

32 (2) KNOWINGLY SECRETE OR HARBOR OR AID IN THE SECRETING OR
33 HARBORING OF A PERSON UNDER THE AGE OF 16 YEARS WHO HAS BEEN PERSUADED
34 OR ENTICED IN THE MANNER DESCRIBED IN ITEM (1) OF THIS SUBSECTION.

1 (B) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR
2 AND ON CONVICTION IS SUBJECT TO IMPRISONMENT IN THE PENITENTIARY NOT
3 EXCEEDING 10 YEARS OR A FINE NOT EXCEEDING \$5,000 OR BOTH.

4 431.

5 (A) A PERSON MAY NOT KNOWINGLY:

6 (1) ENGAGE IN PROSTITUTION OR ASSIGNATION BY ANY MEANS;

7 (2) KEEP, SET UP, OCCUPY, MAINTAIN, OR OPERATE A BUILDING,
8 STRUCTURE, OR CONVEYANCE FOR PROSTITUTION OR ASSIGNATION;

9 (3) ALLOW A BUILDING, STRUCTURE, OR CONVEYANCE OWNED OR
10 UNDER THE PERSON'S CONTROL TO BE USED FOR PROSTITUTION OR ASSIGNATION;

11 (4) ALLOW OR AGREE TO ALLOW A PERSON INTO A BUILDING,
12 STRUCTURE, OR CONVEYANCE FOR PROSTITUTION OR ASSIGNATION; OR

13 (5) PROCURE OR SOLICIT OR OFFER TO PROCURE OR SOLICIT FOR
14 PROSTITUTION OR ASSIGNATION.

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

18 461.

19 (e) "Sexual act" means cunnilingus, fellatio, anilingus, or anal intercourse,
20 but does not include vaginal intercourse. Emission of semen is not required.
21 Penetration, however slight, is evidence of anal intercourse. Sexual act also means
22 the penetration, however slight, by any object into the genital or anal opening of
23 another person's body if the penetration can be reasonably construed as being for the
24 purposes of sexual arousal or gratification or for abuse of either party and if the
25 penetration is not for accepted medical purposes.

26 (f) "Sexual contact" as used in §§ 464B and 464C, means the intentional
27 touching of any part of the victim's or actor's anal or genital areas or other intimate
28 parts for the purposes of sexual arousal or gratification or for abuse of either party
29 and includes the penetration, however slight, by any part of a person's body, other
30 than the penis, mouth, or tongue, into the genital or anal opening of another person's
31 body if that penetration can be reasonably construed as being for the purposes of
32 sexual arousal or gratification or for abuse of either party. It does not include acts
33 commonly expressive of familial or friendly affection, or acts for accepted medical
34 purposes.

35 (g) "Vaginal intercourse" has its ordinary meaning of genital copulation.
36 Penetration, however slight, is evidence of vaginal intercourse. Emission of semen is
37 not required.

[Transportation for Immoral Purposes]

2 [574.

3 It shall be unlawful for any person to transport or to offer to transport, or to aid
4 or assist in transporting any person or persons upon or over any public street, road,
5 highway, river, stream, bay, or other public way of any nature whatever within the
6 State of Maryland by means of a horse vehicle, automobile, boat, vessel, or other
7 means of transportation used or employed for hire, for purposes of prostitution or any
8 other immoral or lewd purpose. This subtitle shall only apply to public conveyances
9 for hire.]

10 [575.

11 Any person convicted of a violation of this subtitle shall be punished by a fine
12 not exceeding \$500.00 or by imprisonment not exceeding one year, or by both fine and
13 imprisonment within such limits. Upon conviction under this subtitle the person so
14 convicted shall forfeit his license to drive or operate such automobile or other vehicle
15 within the State of Maryland for such period of time as the court imposing the
16 sentence shall direct.]

17 COMMITTEE NOTE (COMMITTEE TO REVISE ARTICLE 27): For current
18 provisions of law relating to prostitution and related crimes, see §§ 426 through 431 of
19 this article.

20

Article - Criminal Procedure

21 2-203.

22 (a) A police officer without a warrant may arrest a person if the police officer
23 has probable cause to believe:

24 (1) that the person has committed a crime listed in subsection (b) of this
25 section; and

26 (2) that unless the person is arrested immediately, the person:

27 (i) may not be apprehended;

28 (ii) may cause physical injury or property damage to another; or

29 (iii) may tamper with, dispose of, or destroy evidence.

30 (b) The crimes referred to in subsection (a)(1) of this section are:

31 (8) the wearing, carrying, or transporting of a handgun under Article 27,
32 § 36B of the Code; [and]

33 (9) carrying or wearing a concealed weapon under Article 27, § 36 of the
34 Code; AND

1 (10) PROSTITUTION AND RELATED CRIMES UNDER ARTICLE 27, §§ 426
2 THROUGH 431 OF THE CODE.

3 11-701.

4 (d) "Offender" means a person who is ordered by the court to register under
5 this subtitle and who:

6 (1) has been convicted of violating child abduction or kidnapping
7 statutes under Article 27, [§ 1,] § 2[, or] OR § 338 of the Code;

8 (6) has been convicted of violating ANY OF the prostitution [statute
9 under Article 27, § 15 of the Code or any of the pandering] AND RELATED CRIMES
10 statutes under Article 27, §§ 426 through [433] 431 of the Code if the intended
11 prostitute OR VICTIM is under the age of 18 years;

12 **Article - Health - General**

13 18-339.

14 (a) The Secretary shall establish and conduct an educational program on
15 acquired immune deficiency syndrome (AIDS) for persons who plead guilty or nolo
16 contendere to, or who are found guilty of, violating:

17 (1) [Article 27, § 15 of the Code (Bawdy Houses and Houses of Ill Fame;
18 Prostitution, Etc.)] THE PROSTITUTION AND RELATED CRIMES SUBTITLE OF ARTICLE
19 27 OF THE CODE; or

20 (2) Any provision of the Maryland Controlled Dangerous Substances Act.

21 (b) The educational program established under subsection (a) of this section
22 shall:

23 (1) Consist of at least 4 hours of instruction; and

24 (2) Include information on measures available to prevent the spread of
25 acquired immune deficiency syndrome and the human immunodeficiency virus.

26 (c) (1) The individual who attends a program under this section shall pay in
27 advance a fee as provided under this subsection.

28 (2) The Department shall set a reasonable fee based on the costs of
29 operating the program authorized by this section.

30 SECTION 2. AND BE IT FURTHER ENACTED, That the Committee Notes
31 contained in this Act are not law.

32 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
33 October 1, 2001.