
By: **Chairman, Judiciary Committee (Departmental - Public Safety and
Correctional Services)**

Introduced and read first time: February 8, 2002

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law - Sexual Abuse of a Minor**

3 FOR the purpose of establishing the crime of sexual abuse of a minor, subject to
4 certain penalties; altering the definition of "abuse" for purposes of child abuse;
5 providing for registration of a violator of this Act as a child sexual offender;
6 defining certain terms; correcting certain cross-references including sexual
7 abuse of a minor and child abuse in the Annotated Code; and generally relating
8 to sexual abuse of a minor and child abuse.

9 BY renumbering

10 Article - Criminal Law
11 Section 3-602 through 3-604, respectively
12 to be Section 3-603 through 3-605, respectively
13 Annotated Code of Maryland
14 (As enacted by Chapter _____ (H.B. 11) of the Acts of the General Assembly of
15 2002)

16 BY repealing and reenacting, with amendments,

17 Article - Criminal Law
18 Section 3-601
19 Annotated Code of Maryland
20 (As enacted by Chapter _____ (H.B. 11) of the Acts of the General Assembly of
21 2002)

22 BY adding to

23 Article - Criminal Law
24 Section 3-602
25 Annotated Code of Maryland
26 (As enacted by Chapter _____ (H.B. 11) of the Acts of the General Assembly of
27 2002)

28 BY repealing and reenacting, with amendments,

1 Article - Correctional Services
2 Section 3-404(3)(i), 7-801(a)(2), 11-702(b)(4)(ii)1., 11-703(d)(4)(ii)1.,
3 11-705(p)(2)(i), 11-708(c)(4)(ii)1., 11-712(d)(4)(ii)1., 11-714(d)(4)(ii)1., and
4 11-723(b)(4)(ii)1.
5 Annotated Code of Maryland
6 (1999 Volume and 2001 Supplement)

7 BY repealing and reenacting, with amendments,
8 Article - Courts and Judicial Proceedings
9 Section 3-904(a)(2)(i)
10 Annotated Code of Maryland
11 (1998 Replacement Volume and 2001 Supplement)

12 BY repealing and reenacting, with amendments,
13 Article - Criminal Procedure
14 Section 5-202(d)(1)(vi), 11-303(a), 11-304(b)(2)(i), and 11-701(b)(1)
15 Annotated Code of Maryland
16 (2001 Volume)

17 BY repealing and reenacting, with amendments,
18 Article - Education
19 Section 6-113(2)
20 Annotated Code of Maryland
21 (2001 Replacement Volume)

22 BY repealing and reenacting, with amendments,
23 Article - Estates and Trusts
24 Section 3-111(1)
25 Annotated Code of Maryland
26 (2001 Replacement Volume and 2001 Supplement)

27 BY repealing and reenacting, with amendments,
28 Article 88B - Department of State Police
29 Section 12A(a)(8)(i)
30 Annotated Code of Maryland
31 (1998 Replacement Volume and 2001 Supplement)

32 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
33 MARYLAND, That Section(s) 3-602 through 3-604, respectively, of Article - Criminal
34 Law of the Annotated Code of Maryland (as enacted by Chapter _____ (H.B. 11) of the
35 Acts of the General Assembly of 2002) be renumbered to be Section(s) 3-603 through
36 3-605, respectively.

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

3 **Article - Criminal Law**

4 3-601.

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

6 (2) "Abuse" means[:

7 (i)] physical injury sustained by a minor as a result of cruel or
8 inhumane treatment or as a result of a malicious act under circumstances that
9 indicate that the minor's health or welfare is harmed or threatened by the treatment
10 or act]; or

11 (ii) sexual abuse of a minor, whether physical injuries are sustained
12 or not].

13 (3) "Family member" means a relative of a minor by blood, adoption, or
14 marriage.

15 (4) "Household member" means a person who lives with or is a regular
16 presence in a home of a minor at the time of the alleged abuse.

17 [(5) (i) "Sexual abuse" means an act that involves sexual molestation
18 or exploitation of a minor.

19 (ii) "Sexual abuse" includes:

- 20 1. incest;
- 21 2. rape;
- 22 3. sexual offense in any degree;
- 23 4. sodomy; and
- 24 5. unnatural or perverted sexual practices.]

25 (b) (1) A parent or other person who has permanent or temporary care or
26 custody or responsibility for the supervision of a minor may not cause abuse to the
27 minor.

28 (2) A household member or family member may not cause abuse to a
29 minor.

30 (c) A person who violates this section is guilty of a felony and on conviction is
31 subject to:

32 (1) imprisonment not exceeding 15 years; or

1 (2) if the violation results in the death of the victim, imprisonment not
2 exceeding 30 years.

3 (d) A sentence imposed under this section may be separate from and
4 consecutive to or concurrent with a sentence for any crime based on the act
5 establishing the violation of this section.

6 3-602.

7 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
8 INDICATED.

9 (2) "FAMILY MEMBER" HAS THE MEANING STATED IN § 3-601 OF THIS
10 SUBTITLE.

11 (3) "HOUSEHOLD MEMBER" HAS THE MEANING STATED IN § 3-601 OF
12 THIS SUBTITLE.

13 (4) (I) "SEXUAL ABUSE" MEANS AN ACT THAT INVOLVES SEXUAL
14 MOLESTATION OR EXPLOITATION OF A MINOR, WHETHER PHYSICAL INJURIES ARE
15 SUSTAINED OR NOT.

16 (II) "SEXUAL ABUSE" INCLUDES:

17 1. INCEST;

18 2. RAPE;

19 3. SEXUAL OFFENSE IN ANY DEGREE;

20 4. SODOMY; AND

21 5. UNNATURAL OR PERVERTED SEXUAL PRACTICES.

22 (B) (1) A PARENT OR OTHER PERSON WHO HAS PERMANENT OR TEMPORARY
23 CARE OR CUSTODY OR RESPONSIBILITY FOR THE SUPERVISION OF A MINOR MAY NOT
24 CAUSE SEXUAL ABUSE TO THE MINOR.

25 (2) A HOUSEHOLD MEMBER OR FAMILY MEMBER MAY NOT CAUSE
26 SEXUAL ABUSE TO A MINOR.

27 (C) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A FELONY AND ON
28 CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 15 YEARS.

29 (D) A SENTENCE IMPOSED UNDER THIS SECTION MAY BE SEPARATE FROM
30 AND CONSECUTIVE TO OR CONCURRENT WITH A SENTENCE FOR:

31 (1) ANY CRIME BASED ON THE ACT ESTABLISHING THE VIOLATION OF
32 THIS SECTION; OR

1 (2) A VIOLATION OF § 3-601 OF THIS SUBTITLE INVOLVING AN ACT OF
2 ABUSE SEPARATE FROM SEXUAL ABUSE UNDER THIS SECTION.

3 SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland
4 read as follows:

5 **Article - Correctional Services**

6 3-404.

7 An inmate is not eligible for the program if the inmate:

8 (3) has been found guilty of the crime of:

9 (i) child abuse under [Article 27, § 35C of the Code] § 3-601 OR §
10 3-602 OF THE CRIMINAL LAW ARTICLE; or

11 7-801.

12 (a) In this section, "victim" means:

13 (2) a victim of child abuse under [Article 27, § 35C of the Code] § 3-601
14 OR § 3-602 OF THE CRIMINAL LAW ARTICLE;

15 11-702.

16 (b) (4) An inmate is not eligible for the home detention program if the
17 inmate:

18 (ii) has been found guilty of the crime of:

19 1. child abuse under [Article 27, § 35C of the Code] § 3-601
20 OR § 3-602 OF THE CRIMINAL LAW ARTICLE; or

21 11-703.

22 (d) (4) An inmate is not eligible for the home detention program if the
23 inmate:

24 (ii) has been found guilty of the crime of:

25 1. child abuse under [Article 27, § 35C of the Code] § 3-601
26 OR § 3-602 OF THE CRIMINAL LAW ARTICLE; or

27 11-705.

28 (p) A participant is not eligible for the home detention program if the
29 participant:

30 (2) has been found guilty of:

1 (i) child abuse under [Article 27, § 35C of the Code] § 3-601 OR §
2 3-602 OF THE CRIMINAL LAW ARTICLE; or

3 11-708.

4 (c) (4) An inmate is not eligible for the home detention program if the
5 inmate:

6 (ii) has been found guilty of the crime of:

7 1. child abuse under [Article 27, § 35C of the Code] § 3-601
8 OR § 3-602 OF THE CRIMINAL LAW ARTICLE; or

9 11-712.

10 (d) (4) An inmate is not eligible for the home detention program if the
11 inmate:

12 (ii) has been found guilty of the crime of:

13 1. child abuse under [Article 27, § 35C of the Code] § 3-601
14 OR § 3-602 OF THE CRIMINAL LAW ARTICLE; or

15 11-714.

16 (d) (4) An inmate is not eligible for the home detention program if the
17 inmate:

18 (ii) has been found guilty of the crime of:

19 1. child abuse under [Article 27, § 35C of the Code] § 3-601
20 OR § 3-602 OF THE CRIMINAL LAW ARTICLE; or

21 11-723.

22 (b) (4) An inmate is not eligible for the home detention program if the
23 inmate:

24 (ii) has been found guilty of the crime of:

25 1. child abuse under [Article 27, § 35C of the Code] § 3-601
26 OR § 3-602 OF THE CRIMINAL LAW ARTICLE; or

27 **Article - Courts and Judicial Proceedings**

28 3-904.

29 (a) (2) A parent may not be a beneficiary in a wrongful death action for the
30 death of a child of the parent if:

1 (i) 1. The parent is convicted under [Article 27, § 35C, § 335, §
2 462, § 463, § 464, § 464A, § 464B, or § 464C of the Code] §§ 3-303 THROUGH 3-308, §
3 3-321, § 3-601, OR § 3-602 OF THE CRIMINAL LAW ARTICLE; or

4 2. The parent committed an act prohibited under [Article 27,
5 § 35C, § 335, § 462, § 463, § 464, § 464A, § 464B, or § 464C of the Code] §§ 3-303
6 THROUGH 3-308, § 3-321, § 3-601, OR § 3-602 OF THE CRIMINAL LAW ARTICLE;

7 **Article - Criminal Procedure**

8 5-202.

9 (d) (1) A District Court commissioner may not authorize the pretrial release
10 of a defendant charged with committing one of the following crimes while the
11 defendant was released on bail or personal recognizance for a pending prior charge of
12 committing one of the following crimes:

13 (vi) causing abuse to a child under [Article 27, § 35C of the Code] §
14 3-601 OR § 3-602 OF THE CRIMINAL LAW ARTICLE;

15 11-303.

16 (a) This section applies to a case of abuse of a child under Title 5, Subtitle 7 of
17 the Family Law Article or [Article 27, § 35C of the Code] § 3-601 OR § 3-602 OF THE
18 CRIMINAL LAW ARTICLE.

19 11-304.

20 (b) Subject to subsections (c), (d), and (e) of this section, the court may admit
21 into evidence in a juvenile court proceeding or in a criminal proceeding an out of court
22 statement to prove the truth of the matter asserted in the statement made by a child
23 victim who:

24 (2) is the alleged victim or the child alleged to need assistance in the case
25 before the court concerning:

26 (i) child abuse under [Article 27, § 35C of the Code] § 3-601 OR §
27 3-602 OF THE CRIMINAL LAW ARTICLE;

28 11-701.

29 (b) "Child sexual offender" means a person who:

30 (1) has been convicted of violating [the abuse of children statute under
31 Article 27, § 35C of the Code for a crime involving sexual abuse of a child under the
32 age of 18 years] § 3-602 OF THE CRIMINAL LAW ARTICLE;

1

Article - Education

2 6-113.

3 The State Board shall adopt regulations that prohibit a county board from
4 knowingly hiring, as a noncertificated employee, any individual who has been
5 convicted of a crime involving:

6 (2) Child sexual abuse [as defined in Article 27, § 35C(a)(2)(ii) and (6) of
7 the Code] UNDER § 3-602 OF THE CRIMINAL LAW ARTICLE, or an offense under the
8 laws of another state that would constitute child sexual abuse [as defined in Article
9 27, § 35C(a)(2)(ii) and (6) of the Code] UNDER § 3-602 OF THE CRIMINAL LAW ARTICLE
10 if committed in this State; or

11

Article - Estates and Trusts

12 3-111.

13 A surviving parent is not entitled under § 3-104 of this subtitle to a distribution
14 of the net estate of a child of the parent if:

15 (1) (i) The parent is convicted under [Article 27, § 35C, § 335, § 462, §
16 463, § 464, § 464A, § 464B, or § 464C of the Code] §§ 3-303 THROUGH 3-308, § 3-321, §
17 3-601, OR § 3-602 OF THE CRIMINAL LAW ARTICLE; or

18 (ii) The parent committed any act prohibited under [Article 27, §
19 35C, § 335, § 462, § 463, § 464, § 464A, § 464B, or § 464C of the Code] §§ 3-303
20 THROUGH 3-308, § 3-321, § 3-601, OR § 3-602 OF THE CRIMINAL LAW ARTICLE;

21

Article 88B - Department of State Police

22 12A.

23 (a) (8) "Qualifying crime of violence" means:

24 (i) [A violation of Article 27, § 35C of the Code that involves
25 sexual] SEXUAL abuse OF A MINOR UNDER § 3-602 OF THE CRIMINAL LAW ARTICLE;

26 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take
27 effect October 1, 2002.