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

Introduced and read first time: February 8, 2002

Assigned to: Judiciary

Committee Report: Favorable

House action: Adopted

Read second time: March 12, 2002

CHAPTER _____

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

1 Article - Criminal Law
2 Section 3-602
3 Annotated Code of Maryland
4 (As enacted by Chapter _____ (H.B. 11) of the Acts of the General Assembly of
5 2002)

6 BY repealing and reenacting, with amendments,
7 Article - Correctional Services
8 Section 3-404(3)(i), 7-801(a)(2), 11-702(b)(4)(ii)1., 11-703(d)(4)(ii)1.,
9 11-705(p)(2)(i), 11-708(c)(4)(ii)1., 11-712(d)(4)(ii)1., 11-714(d)(4)(ii)1., and
10 11-723(b)(4)(ii)1.
11 Annotated Code of Maryland
12 (1999 Volume and 2001 Supplement)

13 BY repealing and reenacting, with amendments,
14 Article - Courts and Judicial Proceedings
15 Section 3-904(a)(2)(i)
16 Annotated Code of Maryland
17 (1998 Replacement Volume and 2001 Supplement)

18 BY repealing and reenacting, with amendments,
19 Article - Criminal Procedure
20 Section 5-202(d)(1)(vi), 11-303(a), 11-304(b)(2)(i), and 11-701(b)(1)
21 Annotated Code of Maryland
22 (2001 Volume)

23 BY repealing and reenacting, with amendments,
24 Article - Education
25 Section 6-113(2)
26 Annotated Code of Maryland
27 (2001 Replacement Volume)

28 BY repealing and reenacting, with amendments,
29 Article - Estates and Trusts
30 Section 3-111(1)
31 Annotated Code of Maryland
32 (2001 Replacement Volume and 2001 Supplement)

33 BY repealing and reenacting, with amendments,
34 Article 88B - Department of State Police
35 Section 12A(a)(8)(i)
36 Annotated Code of Maryland
37 (1998 Replacement Volume and 2001 Supplement)

1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
2 MARYLAND, That Section(s) 3-602 through 3-604, respectively, of Article - Criminal
3 Law of the Annotated Code of Maryland (as enacted by Chapter _____ (H.B. 11) of the
4 Acts of the General Assembly of 2002) be renumbered to be Section(s) 3-603 through
5 3-605, respectively.

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

8 **Article - Criminal Law**

9 3-601.

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

11 (2) "Abuse" means[:

12 (i)] physical injury sustained by a minor as a result of cruel or
13 inhumane treatment or as a result of a malicious act under circumstances that
14 indicate that the minor's health or welfare is harmed or threatened by the treatment
15 or act[; or

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

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

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

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

24 (ii) "Sexual abuse" includes:

25 1. incest;

26 2. rape;

27 3. sexual offense in any degree;

28 4. sodomy; and

29 5. unnatural or perverted sexual practices.]

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

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

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

5 (1) imprisonment not exceeding 15 years; or

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

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

11 3-602.

12 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
13 INDICATED.

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

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

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

21 (II) "SEXUAL ABUSE" INCLUDES:

22 1. INCEST;

23 2. RAPE;

24 3. SEXUAL OFFENSE IN ANY DEGREE;

25 4. SODOMY; AND

26 5. UNNATURAL OR PERVERTED SEXUAL PRACTICES.

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

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

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

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

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

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

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

9 **Article - Correctional Services**

10 3-404.

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

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

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

15 7-801.

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

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

19 11-702.

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

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

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

25 11-703.

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

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

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

1 11-705.

2 (p) A participant is not eligible for the home detention program if the
3 participant:

4 (2) has been found guilty of:

5 (i) child abuse under [Article 27, § 35C of the Code] § 3-601 OR §
6 3-602 OF THE CRIMINAL LAW ARTICLE; or

7 11-708.

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

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

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

13 11-712.

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

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

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

19 11-714.

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

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

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

25 11-723.

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

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

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

1 **Article - Courts and Judicial Proceedings**

2 3-904.

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

5 (i) 1. The parent is convicted under [Article 27, § 35C, § 335, §
6 462, § 463, § 464, § 464A, § 464B, or § 464C of the Code] §§ 3-303 THROUGH 3-308, §
7 3-321, § 3-601, OR § 3-602 OF THE CRIMINAL LAW ARTICLE; or

8 2. The parent committed an act prohibited under [Article 27,
9 § 35C, § 335, § 462, § 463, § 464, § 464A, § 464B, or § 464C of the Code] §§ 3-303
10 THROUGH 3-308, § 3-321, § 3-601, OR § 3-602 OF THE CRIMINAL LAW ARTICLE;

11 **Article - Criminal Procedure**

12 5-202.

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

17 (vi) causing abuse to a child under [Article 27, § 35C of the Code] §
18 3-601 OR § 3-602 OF THE CRIMINAL LAW ARTICLE;

19 11-303.

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

23 11-304.

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

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

30 (i) child abuse under [Article 27, § 35C of the Code] § 3-601 OR §
31 3-602 OF THE CRIMINAL LAW ARTICLE;

32 11-701.

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

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

4 **Article - Education**

5 6-113.

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

9 (2) Child sexual abuse [as defined in Article 27, § 35C(a)(2)(ii) and (6) of
10 the Code] UNDER § 3-602 OF THE CRIMINAL LAW ARTICLE, or an offense under the
11 laws of another state that would constitute child sexual abuse [as defined in Article
12 27, § 35C(a)(2)(ii) and (6) of the Code] UNDER § 3-602 OF THE CRIMINAL LAW ARTICLE
13 if committed in this State; or

14 **Article - Estates and Trusts**

15 3-111.

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

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

21 (ii) The parent committed any act prohibited under [Article 27, §
22 35C, § 335, § 462, § 463, § 464, § 464A, § 464B, or § 464C of the Code] §§ 3-303
23 THROUGH 3-308, § 3-321, § 3-601, OR § 3-602 OF THE CRIMINAL LAW ARTICLE;

24 **Article 88B - Department of State Police**

25 12A.

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

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

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

