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

Introduced and read first time: February 9, 2005

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Crimes - Factual Determinations That Enhance Penalties - Revision**

3 FOR the purpose of altering certain provisions of law to establish new offenses in
4 place of factual determinations that enhance penalties; establishing the offense
5 and clarifying the penalty for rape in the first degree and kidnapping involving
6 a victim under a certain age; establishing the offense and clarifying the penalty
7 for sexual offense in the first degree and kidnapping involving a victim under a
8 certain age; establishing the offense and clarifying the penalty for the
9 commission of certain handgun offenses while on public school property;
10 establishing the offense and clarifying the penalty for certain handgun offenses
11 with the deliberate purpose of injuring or killing another; establishing the
12 offense and clarifying the penalties for manufacturing, distributing, dispensing,
13 or possessing certain quantities of certain controlled dangerous substances;
14 establishing the offense and clarifying the penalties for certain hate crime
15 offenses that involve a separate crime or result in the death of the victim;
16 repealing a certain redundant provision relating to harassment because of
17 certain characteristics of another; establishing the offenses and clarifying the
18 penalties for certain offenses relating to failing to stop or remain at the scene of
19 an accident that results in bodily injury or death; establishing the offenses and
20 clarifying the penalties for certain alcohol related offenses committed while
21 transporting a minor; establishing the offenses and clarifying the penalties for
22 certain offenses relating to eluding a police officer if the violation results in
23 bodily injury or death; making certain technical corrections; making certain
24 conforming changes; and generally relating to criminal offenses and factual
25 determinations that enhance penalties.

26 BY repealing and reenacting, with amendments,
27 Article - Criminal Law
28 Section 3-303, 3-305, 4-203(a) and (c), 5-612, 10-303, and 10-305
29 Annotated Code of Maryland
30 (2002 Volume and 2004 Supplement)

31 BY repealing and reenacting, without amendments,
32 Article - Criminal Law

1 Section 3-503(a), 5-602, 10-301, 10-302, and 10-304
2 Annotated Code of Maryland
3 (2002 Volume and 2004 Supplement)

4 BY repealing
5 Article - Criminal Law
6 Section 10-306
7 Annotated Code of Maryland
8 (2002 Volume and 2004 Supplement)

9 BY adding to
10 Article - Criminal Law
11 Section 10-306
12 Annotated Code of Maryland
13 (2002 Volume and 2004 Supplement)

14 BY repealing and reenacting, with amendments,
15 Article - Transportation
16 Section 20-102, 21-902, 21-904, and 27-101(o), (p), and (q)
17 Annotated Code of Maryland
18 (2002 Replacement Volume and 2004 Supplement)

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

21 **Article - Criminal Law**

22 3-303.

23 (a) A person may not:

24 (1) engage in vaginal intercourse with another by force, or the threat of
25 force, without the consent of the other; and

26 (2) (i) employ or display a dangerous weapon, or a physical object that
27 the victim reasonably believes is a dangerous weapon;

28 (ii) suffocate, strangle, disfigure, or inflict serious physical injury
29 on the victim or another in the course of committing the crime;

30 (iii) threaten, or place the victim in fear, that the victim, or an
31 individual known to the victim, imminently will be subject to death, suffocation,
32 strangulation, disfigurement, serious physical injury, or kidnapping;

33 (iv) commit the crime while aided and abetted by another; or

1 (v) commit the crime in connection with a burglary in the first,
2 second, or third degree.

3 (b) A PERSON MAY NOT VIOLATE SUBSECTION (A) OF THIS SECTION WHILE
4 ALSO VIOLATING § 3-503(A)(2) OF THIS TITLE INVOLVING A VICTIM WHO IS A CHILD
5 UNDER THE AGE OF 16 YEARS.

6 (C) (1) Except as provided in [paragraph (2)] PARAGRAPHS (2) AND (3) of
7 this subsection, a person who violates SUBSECTION (A) OF this section is guilty of the
8 felony of rape in the first degree and on conviction is subject to imprisonment not
9 exceeding life.

10 (2) A PERSON WHO VIOLATES SUBSECTION (B) OF THIS SECTION IS
11 GUILTY OF THE FELONY OF RAPE IN THE FIRST DEGREE AND ON CONVICTION IS
12 SUBJECT TO IMPRISONMENT NOT EXCEEDING LIFE WITHOUT THE POSSIBILITY OF
13 PAROLE.

14 (3) A person who violates this section is guilty of the felony of rape in the
15 first degree and on conviction is subject to imprisonment not exceeding life without
16 the possibility of parole if[:

17 (i) the person is convicted in the same proceeding of violating §
18 3-503(a)(2) of this title and the victim was a child under the age of 16 years; or

19 (ii)] the defendant was previously convicted of violating this section
20 or § 3-305 of this subtitle.

21 [(c)] (D) If the State intends to seek a sentence of imprisonment for life
22 without the possibility of parole under subsection [(b)(2)] (C)(2) OR (3) of this section,
23 the State shall notify the person in writing of the State's intention at least 30 days
24 before trial.

25 3-305.

26 (a) A person may not:

27 (1) engage in a sexual act with another by force, or the threat of force,
28 without the consent of the other; and

29 (2) (i) employ or display a dangerous weapon, or a physical object that
30 the victim reasonably believes is a dangerous weapon;

31 (ii) suffocate, strangle, disfigure, or inflict serious physical injury
32 on the victim or another in the course of committing the crime;

33 (iii) threaten, or place the victim in fear, that the victim, or an
34 individual known to the victim, imminently will be subject to death, suffocation,
35 strangulation, disfigurement, serious physical injury, or kidnapping;

36 (iv) commit the crime while aided and abetted by another; or

1 (v) commit the crime in connection with a burglary in the first,
2 second, or third degree.

3 (b) A PERSON MAY NOT VIOLATE SUBSECTION (A) OF THIS SECTION WHILE
4 ALSO VIOLATING § 3-503(A)(2) OF THIS TITLE INVOLVING A VICTIM WHO IS A CHILD
5 UNDER THE AGE OF 16 YEARS.

6 (C) (1) Except as provided in [paragraph (2)] PARAGRAPHS (2) AND (3) of
7 this subsection, a person who violates SUBSECTION (A) OF this section is guilty of the
8 felony of sexual offense in the first degree and on conviction is subject to
9 imprisonment not exceeding life.

10 (2) A PERSON WHO VIOLATES SUBSECTION (B) OF THIS SECTION IS
11 GUILTY OF THE FELONY OF SEXUAL OFFENSE IN THE FIRST DEGREE AND ON
12 CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING LIFE WITHOUT THE
13 POSSIBILITY OF PAROLE.

14 (3) A person who violates this section is guilty of the felony of sexual
15 offense in the first degree and on conviction is subject to imprisonment not exceeding
16 life without the possibility of parole if[

17 (i) the person is convicted in the same proceeding of violating §
18 3-503(a)(2) of this title and the victim was a child under the age of 16 years; or

19 (ii)] the defendant was previously convicted of violating this section
20 or § 3-303 of this subtitle.

21 [(c)] (D) If the State intends to seek a sentence of imprisonment for life
22 without the possibility of parole under subsection [(b)(2)] (C)(2) OR (3) of this section,
23 the State shall notify the person in writing of the State's intention at least 30 days
24 before trial.

25 3-503.

26 (a) (1) A person may not, without color of right:

27 (i) forcibly abduct, take, or carry away a child under the age of 12
28 years from:

29 1. the home or usual place of abode of the child; or

30 2. the custody and control of the child's parent or legal
31 guardian;

32 (ii) without the consent of the child's parent or legal guardian,
33 persuade or entice a child under the age of 12 years from:

34 1. the child's home or usual place of abode; or

35 2. the custody and control of the child's parent or legal
36 guardian; or

1 (iii) with the intent of depriving the child's parent or legal guardian,
2 or any person lawfully possessing the child, of the custody, care, and control of the
3 child, knowingly secrete or harbor a child under the age of 12 years.

4 (2) In addition to the prohibitions provided under paragraph (1) of this
5 subsection, a person may not, by force or fraud, kidnap, steal, take, or carry away a
6 child under the age of 16 years.

7 4-203.

8 (a) (1) Except as provided in subsection (b) of this section, a person may not:

9 (i) wear, carry, or transport a handgun, whether concealed or open,
10 on or about the person; [or]

11 (ii) wear, carry, or knowingly transport a handgun, whether
12 concealed or open, in a vehicle traveling on a road or parking lot generally used by the
13 public, highway, waterway, or airway of the State;

14 (III) VIOLATE ITEM (I) OR (II) OF THIS PARAGRAPH WHILE ON PUBLIC
15 SCHOOL PROPERTY IN THE STATE; OR

16 (IV) VIOLATE ITEM (I) OR (II) OF THIS PARAGRAPH WITH THE
17 DELIBERATE PURPOSE OF INJURING OR KILLING ANOTHER PERSON.

18 (2) There is a rebuttable presumption that a person who transports a
19 handgun under paragraph (1)(ii) of this subsection transports the handgun
20 knowingly.

21 (c) (1) A person who violates this section is guilty of a misdemeanor and on
22 conviction is subject to the penalties provided in this subsection.

23 (2) If the person has not previously been convicted under this section, §
24 4-204 of this subtitle, or § 4-101 or § 4-102 of this title:

25 (i) except as provided in item (ii) of this paragraph, the person is
26 subject to imprisonment for not less than 30 days and not exceeding 3 years or a fine
27 of not less than \$250 and not exceeding \$2,500 or both; [but] OR

28 (ii) if [it appears from the evidence that the handgun was worn,
29 carried, or transported on public school property in the State] THE PERSON VIOLATES
30 SUBSECTION (A)(1)(III) OF THIS SECTION, the person shall be sentenced to
31 imprisonment for not less than 90 days.

32 (3) (i) If the person has previously been convicted once under this
33 section, § 4-204 of this subtitle, or § 4-101 or § 4-102 of this title[, the person shall
34 be sentenced];

1 1. EXCEPT AS PROVIDED IN ITEM 2 OF THIS SUBPARAGRAPH,
2 THE PERSON IS SUBJECT to imprisonment for not less than 1 year and not exceeding
3 10 years; [but] OR

4 2. if [it appears from the evidence that the handgun was
5 worn, carried, or transported on public school property in the State,] THE PERSON
6 VIOLATES SUBSECTION (A)(1)(III) OF THIS SECTION, THE PERSON IS SUBJECT to
7 imprisonment for not less than 3 years and not exceeding 10 years.

8 (ii) The court may not impose less than the applicable minimum
9 sentence provided under subparagraph (i) of this paragraph.

10 (4) (i) If the person has previously been convicted more than once
11 under this section, § 4-204 of this subtitle, or § 4-101 or § 4-102 of this title, or of any
12 combination of these crimes[, the person shall be sentenced]:

13 1. EXCEPT AS PROVIDED IN ITEM (2) OF THIS
14 SUBPARAGRAPH, THE PERSON IS SUBJECT to imprisonment for not less than 3 years
15 and not exceeding 10 years; [but] OR

16 2. A. if [it appears from the evidence that the handgun
17 was worn, carried, or transported on public school property in the State,] THE
18 PERSON VIOLATES SUBSECTION (A)(1)(III) OF THIS SECTION, THE PERSON IS SUBJECT
19 to imprisonment for not less than 5 years and not exceeding 10 years; or

20 B. if [it appears from the evidence that the handgun was
21 worn, carried, or transported with the deliberate purpose of injuring or killing
22 another person,] THE PERSON VIOLATES SUBSECTION (A)(1)(IV) OF THIS SECTION,
23 THE PERSON IS SUBJECT to imprisonment for not less than 5 years and not exceeding
24 10 years.

25 (ii) The court may not impose less than the applicable minimum
26 sentence provided under subparagraph (i) of this paragraph.

27 5-602.

28 Except as otherwise provided in this title, a person may not:

29 (1) manufacture, distribute, or dispense a controlled dangerous
30 substance; or

31 (2) possess a controlled dangerous substance in sufficient quantity
32 reasonably to indicate under all circumstances an intent to manufacture, distribute,
33 or dispense a controlled dangerous substance.

34 5-612.

35 (a) A person [who violates § 5-602 of this subtitle with respect to any of the
36 following controlled dangerous substances in the amounts indicated is subject on
37 conviction to a fine not exceeding \$100,000 and the enhanced penalty provided in

1 subsection (c) of this section] MAY NOT MANUFACTURE, DISTRIBUTE, DISPENSE, OR
2 POSSESS:

- 3 (1) 50 pounds or more of marijuana;
- 4 (2) 448 grams or more of cocaine;
- 5 (3) 448 grams or more of any mixture containing a detectable amount of
6 cocaine;
- 7 (4) 50 grams or more of cocaine base, commonly known as "crack";
- 8 (5) 28 grams or more of morphine or opium or any derivative, salt,
9 isomer, or salt of an isomer of morphine or opium;
- 10 (6) any mixture containing 28 grams or more of morphine or opium or
11 any derivative, salt, isomer, or salt of an isomer of morphine or opium;
- 12 (7) 1,000 dosage units or more of lysergic acid diethylamide;
- 13 (8) any mixture containing the equivalent of 1,000 dosage units of
14 lysergic acid diethylamide;
- 15 (9) 16 ounces or more of phencyclidine in liquid form;
- 16 (10) 448 grams or more of any mixture containing phencyclidine;
- 17 (11) 448 grams or more of methamphetamine; or
- 18 (12) any mixture containing 448 grams or more of methamphetamine.

19 (b) For the purpose of determining the quantity of a controlled dangerous
20 substance involved in individual acts of manufacturing, distributing, dispensing, or
21 possessing [with intent to manufacture, distribute, or dispense] under subsection (a)
22 of this section, the acts may be aggregated if each of the acts occurred within a 90-day
23 period.

24 (c) (1) A person who is convicted [under § 5-602 of this subtitle with respect
25 to a controlled dangerous substance in an amount indicated in] OF A VIOLATION OF
26 subsection (a) of this section shall be sentenced to imprisonment for not less than 5
27 years AND IS SUBJECT TO A FINE NOT EXCEEDING \$100,000.

28 (2) The court may not suspend any part of the mandatory minimum
29 sentence of 5 years.

30 (3) Except as provided in § 4-305 of the Correctional Services Article, the
31 person is not eligible for parole during the mandatory minimum sentence.

1 10-301.

2 A person may not deface, damage, or destroy, or attempt to deface, damage, or
3 destroy, personal or real property that is owned, leased, or used by a religious entity
4 or for any religious purpose including:

- 5 (1) a church, synagogue, or other place of worship;
- 6 (2) a cemetery;
- 7 (3) a religious school, educational facility, or community center; and
- 8 (4) the grounds adjacent to them.

9 10-302.

10 A person may not, by force or threat of force, obstruct or attempt to obstruct
11 another in the free exercise of that person's religious beliefs.

12 10-303.

13 Because of another's race, color, religious beliefs, or national origin, a person
14 may not:

- 15 (1) (I) [harass or] commit a crime against that person;
- 16 [(2)] (II) damage the real or personal property of that person;
- 17 [(3)] (III) deface, damage, or destroy, attempt to deface, damage, or
18 destroy the real or personal property of that person; or
- 19 [(4)] (IV) burn or attempt to burn an object on the real or personal
20 property of that person.

21 (2) COMMIT A VIOLATION OF ITEM (1) OF THIS SECTION THAT:

22 (I) EXCEPT AS PROVIDED IN ITEM (II) OF THIS ITEM, INVOLVES A
23 SEPARATE CRIME THAT IS A FELONY; OR

24 (II) RESULTS IN THE DEATH OF THE VICTIM.

25 10-304.

26 A person may not deface, damage, or destroy, attempt to deface, damage, or
27 destroy, burn or attempt to burn an object on, or damage the real or personal property
28 connected to a building that is publicly or privately owned, leased, or used, including
29 a cemetery, library, meeting hall, recreation center, or school:

30 (1) because a person or group of a particular race, color, religious belief,
31 or national origin has contacts or is associated with the building; or

1 (2) if there is evidence that exhibits animosity against a person or group,
2 because of the race, color, religious beliefs, or national origin of that person or group.
3 10-305.

4 (A) [A] EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A person
5 who violates this subtitle is [subject to the following penalties:

6 (1) if the violation involves a separate crime that is a felony, the person is
7 guilty of a felony and on conviction is subject:

8 (i) to imprisonment not exceeding 10 years or a fine not exceeding
9 \$10,000 or both; or

10 (ii) if the violation also results in death to a victim, to
11 imprisonment not exceeding 20 years or a fine not exceeding \$20,000 or both; and

12 (2) in all other cases, the person is] guilty of a misdemeanor and on
13 conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding
14 \$5,000 or both.

15 (B) (1) A PERSON WHO VIOLATES § 10-303(2)(I) OF THIS SUBTITLE IS GUILTY
16 OF A FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING
17 10 YEARS OR A FINE NOT EXCEEDING \$10,000 OR BOTH.

18 (2) A PERSON WHO VIOLATES § 10-303(2)(II) OF THIS SUBTITLE IS GUILTY
19 OF A FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING
20 20 YEARS OR A FINE NOT EXCEEDING \$20,000 OR BOTH.

21 [10-306.

22 Prosecution of a person under this subtitle does not preclude prosecution and
23 imposition of penalties for another crime in addition to the penalties imposed under
24 this subtitle.]

25 10-306.

26 A SENTENCE IMPOSED UNDER THIS SUBTITLE MAY BE SEPARATE FROM AND
27 CONSECUTIVE TO OR CONCURRENT WITH A SENTENCE FOR ANY CRIME BASED ON
28 THE ACT ESTABLISHING THE VIOLATION OF THIS SUBTITLE.

29 **Article - Transportation**

30 20-102.

31 (a) (1) The driver of each vehicle involved in an accident that results in
32 bodily injury to [or death of] another person immediately shall stop the vehicle as
33 close as possible to the scene of the accident, without obstructing traffic more than
34 necessary.

1 (2) THE DRIVER OF EACH VEHICLE INVOLVED IN AN ACCIDENT THAT
2 RESULTS IN BODILY INJURY TO ANOTHER PERSON IMMEDIATELY SHALL RETURN TO
3 AND REMAIN AT THE SCENE OF THE ACCIDENT UNTIL THE DRIVER HAS COMPLIED
4 WITH § 20-104 OF THIS TITLE.

5 (b) (1) THE DRIVER OF EACH VEHICLE INVOLVED IN AN ACCIDENT THAT
6 RESULTS IN THE DEATH OF ANOTHER PERSON IMMEDIATELY SHALL STOP THE
7 VEHICLE AS CLOSE AS POSSIBLE TO THE SCENE OF THE ACCIDENT, WITHOUT
8 OBSTRUCTING TRAFFIC MORE THAN NECESSARY.

9 (2) The driver of each vehicle involved in an accident that results in
10 [bodily injury to or] THE death of another person immediately shall return to and
11 remain at the scene of the accident until the driver has complied with § 20-104 of this
12 title.

13 21-902.

14 (a) (1) A person may not drive or attempt to drive any vehicle while under
15 the influence of alcohol.

16 (2) A person may not drive or attempt to drive any vehicle while the
17 person is under the influence of alcohol per se.

18 (b) A person may not drive or attempt to drive any vehicle while impaired by
19 alcohol.

20 (c) (1) A person may not drive or attempt to drive any vehicle while he is so
21 far impaired by any drug, any combination of drugs, or a combination of one or more
22 drugs and alcohol that he cannot drive a vehicle safely.

23 (2) It is not a defense to any charge of violating this subsection that the
24 person charged is or was entitled under the laws of this State to use the drug,
25 combination of drugs, or combination of one or more drugs and alcohol, unless the
26 person was unaware that the drug or combination would make the person incapable
27 of safely driving a vehicle.

28 (d) A person may not drive or attempt to drive any vehicle while the person is
29 impaired by any controlled dangerous substance, as that term is defined in § 5-101 of
30 the Criminal Law Article, if the person is not entitled to use the controlled dangerous
31 substance under the laws of this State.

32 (e) (1) A PERSON MAY NOT VIOLATE SUBSECTION (A) OR (D) OF THIS
33 SECTION WHILE TRANSPORTING A MINOR.

34 (2) A PERSON MAY NOT VIOLATE SUBSECTION (B) OR (C) OF THIS
35 SECTION WHILE TRANSPORTING A MINOR.

36 (F) For purposes of the application of subsequent offender penalties under §
37 27-101 of this article, a conviction for a crime committed in another state or federal
38 jurisdiction that, if committed in this State, would constitute a violation of subsection

1 (a), (b), (c), [or] (d), OR (E) of this section shall be considered a violation of subsection

2 (a), (b), (c), [or] (d), OR (E) of this section.

3 21-904.

4 (a) In this section "visual or audible signal" includes a signal by hand, voice,
5 emergency light or siren.

6 (b) If a police officer gives a visual or audible signal to stop and the police
7 officer is in uniform, prominently displaying the police officer's badge or other
8 insignia of office, a driver of a vehicle may not attempt to elude the police officer by
9 [willfully]:

10 (1) WILLFULLY failing to stop the driver's vehicle;

11 (2) FLEEING ON FOOT; OR

12 (3) ANY OTHER MEANS.

13 [(c) If a police officer gives a visual or audible signal to stop and the police
14 officer is in uniform, prominently displaying the police officer's badge or other
15 insignia of office, a driver may not attempt to elude the police officer by fleeing on
16 foot.

17 (d) If a police officer gives a visual or audible signal to stop and the police
18 officer is in uniform, prominently displaying the police officer's badge or other
19 insignia of office, a driver may not attempt to elude the police officer by any other
20 means.]

21 [(e)] (C) If a police officer gives a visual or audible signal to stop and the police
22 officer, whether or not in uniform, is in a vehicle appropriately marked as an official
23 police vehicle, a driver of a vehicle may not attempt to elude the police officer by
24 [willfully]:

25 (1) WILLFULLY failing to stop the driver's vehicle;

26 (2) FLEEING ON FOOT; OR

27 (3) ANY OTHER MEANS.

28 [(f) If a police officer gives a visual or audible signal to stop and the police
29 officer, whether or not in uniform, is in a vehicle appropriately marked as an official
30 police vehicle, a driver of a vehicle may not attempt to elude the police officer by
31 fleeing on foot.

32 (g) If a police officer gives a visual or audible signal to stop and the police
33 officer, whether or not in uniform, is in a vehicle appropriately marked as an official
34 police vehicle, a driver of a vehicle may not attempt to elude the police officer by any
35 other means.]

1 (D) (1) A DRIVER MAY NOT ATTEMPT TO ELUDE A POLICE OFFICER IN
2 VIOLATION OF SUBSECTION (B)(1) OR (C)(1) OF THIS SECTION THAT RESULTS IN
3 BODILY INJURY TO ANOTHER PERSON.

4 (2) A DRIVER MAY NOT ATTEMPT TO ELUDE A POLICE OFFICER IN
5 VIOLATION OF SUBSECTION (B)(1) OR (C)(1) OF THIS SECTION THAT RESULTS IN
6 DEATH OF ANOTHER PERSON.

7 27-101.

8 (o) (1) Any person who is convicted of a violation of [§ 20-102 of this article
9 ("Driver to remain at scene -- Accidents resulting in bodily injury or death") is subject
10 to, if the accident resulted in bodily injury to another person,] § 20-102(A) OF THIS
11 ARTICLE IS SUBJECT TO a fine of not more than \$3,000 or imprisonment for not more
12 than 1 year or both.

13 (2) Any person who is convicted of a violation of [§ 20-102 of this article
14 ("Driver to remain at scene -- Accidents resulting in bodily injury or death") is subject
15 to, if the accident resulted in the death of another person,] § 20-102(B) OF THIS
16 ARTICLE IS SUBJECT TO a fine of not more than \$5,000 or imprisonment for not more
17 than 5 years or both.

18 (p) (1) Except as provided in paragraphs (2) and (3) of this subsection, any
19 person who is convicted of a violation of any of the provisions of § 21-904 of this
20 article ("Fleeing or eluding police") is subject to:

21 (i) For a first offense, a fine of not more than \$1,000, or
22 imprisonment for not more than 1 year, or both; and

23 (ii) For any subsequent offense, a fine of not more than \$1,000, or
24 imprisonment for not more than 2 years, or both.

25 (2) Any person who is convicted of a violation of [§ 21-904(b) or (e)] §
26 21-904(D)(1) of this article [that results in bodily injury to another person] is subject
27 to a fine of not more than \$5,000, or imprisonment for not more than 3 years, or both.

28 (3) Any person who is convicted of a violation of [§ 21-904(b) or (e)] §
29 21-904(D)(2) of this article [that results in a death of another person] is subject to a
30 fine of not more than \$5,000, or imprisonment for not more than 10 years, or both.

31 (q) (1) Any person who is convicted of a violation of [§ 21-902(a) or (d)] §
32 21-902(E)(1) of this article [and who, at the time of the offense, was transporting a
33 minor] is subject to:

34 (i) For a first offense, a fine of not more than \$2,000 or
35 imprisonment for not more than 2 years or both;

36 (ii) For a second offense, a fine of not more than \$3,000 or
37 imprisonment for not more than 3 years or both; and

1 (iii) For a third or subsequent offense, a fine of not more than \$4,000
2 or imprisonment for not more than 4 years or both.

3 (2) Any person who is convicted of a violation of [§ 21-902(b) or (c)] §
4 21-902(E)(2) of this article [and who, at the time of the offense, was transporting a
5 minor] is subject to:

6 (i) For a first offense, a fine of not more than \$1,000 or
7 imprisonment for not more than 6 months or both; and

8 (ii) For a second or subsequent offense, a fine of not more than
9 \$2,000 or imprisonment for not more than 1 year or both.

10 (3) For the purpose of determining second or subsequent offender
11 penalties provided under this subsection, a prior conviction of any provision of §
12 21-902 of this article that subjected a person to the penalties under this subsection
13 shall be considered a prior conviction.

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
15 October 1, 2005.