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

Introduced and read first time: February 9, 2005

Assigned to: Judiciary

Committee Report: Favorable

House action: Adopted

Read second time: March 8, 2005

CHAPTER _____

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,

1 Article - Criminal Law
2 Section 3-303, 3-305, 4-203(a) and (c), 5-612, 10-303, and 10-305
3 Annotated Code of Maryland
4 (2002 Volume and 2004 Supplement)

5 BY repealing and reenacting, without amendments,
6 Article - Criminal Law
7 Section 3-503(a), 5-602, 10-301, 10-302, and 10-304
8 Annotated Code of Maryland
9 (2002 Volume and 2004 Supplement)

10 BY repealing
11 Article - Criminal Law
12 Section 10-306
13 Annotated Code of Maryland
14 (2002 Volume and 2004 Supplement)

15 BY adding to
16 Article - Criminal Law
17 Section 10-306
18 Annotated Code of Maryland
19 (2002 Volume and 2004 Supplement)

20 BY repealing and reenacting, with amendments,
21 Article - Transportation
22 Section 20-102, 21-902, 21-904, and 27-101(o), (p), and (q)
23 Annotated Code of Maryland
24 (2002 Replacement Volume and 2004 Supplement)

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

27 **Article - Criminal Law**

28 3-303.

29 (a) A person may not:

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

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

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

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

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

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

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

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

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

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

21 (i) the person is convicted in the same proceeding of violating §
22 3-503(a)(2) of this title and the victim was a child under the age of 16 years; or

23 (ii) the defendant was previously convicted of violating this section
24 or § 3-305 of this subtitle.

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

29 3-305.

30 (a) A person may not:

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

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

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

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

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

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

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

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

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

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

21 (i) the person is convicted in the same proceeding of violating §
22 3-503(a)(2) of this title and the victim was a child under the age of 16 years; or

23 (ii] the defendant was previously convicted of violating this section
24 or § 3-303 of this subtitle.

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

29 3-503.

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

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

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

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

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

- 3 1. the child's home or usual place of abode; or
4 2. the custody and control of the child's parent or legal
5 guardian; or

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

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

12 4-203.

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

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

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

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

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

23 (2) There is a rebuttable presumption that a person who transports a
24 handgun under paragraph (1)(ii) of this subsection transports the handgun
25 knowingly.

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

28 (2) If the person has not previously been convicted under this section, §
29 4-204 of this subtitle, or § 4-101 or § 4-102 of this title:

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

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

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

4 1. EXCEPT AS PROVIDED IN ITEM 2 OF THIS SUBPARAGRAPH,
5 THE PERSON IS SUBJECT to imprisonment for not less than 1 year and not exceeding
6 10 years; [but] OR

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

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

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

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

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

23 B. if [it appears from the evidence that the handgun was
24 worn, carried, or transported with the deliberate purpose of injuring or killing
25 another person,] THE PERSON VIOLATES SUBSECTION (A)(1)(IV) OF THIS SECTION,
26 THE PERSON IS SUBJECT to imprisonment for not less than 5 years and not exceeding
27 10 years.

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

30 5-602.

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

32 (1) manufacture, distribute, or dispense a controlled dangerous
33 substance; or

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

1 5-612.

2 (a) A person [who violates § 5-602 of this subtitle with respect to any of the
3 following controlled dangerous substances in the amounts indicated is subject on
4 conviction to a fine not exceeding \$100,000 and the enhanced penalty provided in
5 subsection (c) of this section] MAY NOT MANUFACTURE, DISTRIBUTE, DISPENSE, OR
6 POSSESS:

- 7 (1) 50 pounds or more of marijuana;
- 8 (2) 448 grams or more of cocaine;
- 9 (3) 448 grams or more of any mixture containing a detectable amount of
10 cocaine;
- 11 (4) 50 grams or more of cocaine base, commonly known as "crack";
- 12 (5) 28 grams or more of morphine or opium or any derivative, salt,
13 isomer, or salt of an isomer of morphine or opium;
- 14 (6) any mixture containing 28 grams or more of morphine or opium or
15 any derivative, salt, isomer, or salt of an isomer of morphine or opium;
- 16 (7) 1,000 dosage units or more of lysergic acid diethylamide;
- 17 (8) any mixture containing the equivalent of 1,000 dosage units of
18 lysergic acid diethylamide;
- 19 (9) 16 ounces or more of phencyclidine in liquid form;
- 20 (10) 448 grams or more of any mixture containing phencyclidine;
- 21 (11) 448 grams or more of methamphetamine; or
- 22 (12) any mixture containing 448 grams or more of methamphetamine.

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

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

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

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

3 10-301.

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

7 (1) a church, synagogue, or other place of worship;

8 (2) a cemetery;

9 (3) a religious school, educational facility, or community center; and

10 (4) the grounds adjacent to them.

11 10-302.

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

14 10-303.

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

17 (1) (I) [harass or] commit a crime against that person;

18 [(2)] (II) damage the real or personal property of that person;

19 [(3)] (III) deface, damage, or destroy, attempt to deface, damage, or
20 destroy the real or personal property of that person; or

21 [(4)] (IV) burn or attempt to burn an object on the real or personal
22 property of that person.

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

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

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

27 10-304.

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

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

3 (2) if there is evidence that exhibits animosity against a person or group,
4 because of the race, color, religious beliefs, or national origin of that person or group.
5 10-305.

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

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

10 (i) to imprisonment not exceeding 10 years or a fine not exceeding
11 \$10,000 or both; or

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

14 (2) in all other cases, the person is] guilty of a misdemeanor and on
15 conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding
16 \$5,000 or both.

17 (B) (1) A PERSON WHO VIOLATES § 10-303(2)(I) OF THIS SUBTITLE IS GUILTY
18 OF A FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING
19 10 YEARS OR A FINE NOT EXCEEDING \$10,000 OR BOTH.

20 (2) A PERSON WHO VIOLATES § 10-303(2)(II) OF THIS SUBTITLE IS GUILTY
21 OF A FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING
22 20 YEARS OR A FINE NOT EXCEEDING \$20,000 OR BOTH.

23 [10-306.

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

27 10-306.

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

31 **Article - Transportation**

32 20-102.

33 (a) (1) The driver of each vehicle involved in an accident that results in
34 bodily injury to [or death of] another person immediately shall stop the vehicle as

1 close as possible to the scene of the accident, without obstructing traffic more than
2 necessary.

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

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

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

15 21-902.

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

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

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

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

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

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

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

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

1 (F) For purposes of the application of subsequent offender penalties under §
2 27-101 of this article, a conviction for a crime committed in another state or federal
3 jurisdiction that, if committed in this State, would constitute a violation of subsection
4 (a), (b), (c), [or] (d), OR (E) of this section shall be considered a violation of subsection
5 (a), (b), (c), [or] (d), OR (E) of this section.

6 21-904.

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

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

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

14 (2) FLEEING ON FOOT; OR

15 (3) ANY OTHER MEANS.

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

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

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

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

29 (2) FLEEING ON FOOT; OR

30 (3) ANY OTHER MEANS.

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

35 (g) If a police officer gives a visual or audible signal to stop and the police
36 officer, whether or not in uniform, is in a vehicle appropriately marked as an official

1 police vehicle, a driver of a vehicle may not attempt to elude the police officer by any
2 other means.]

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

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

9 27-101.

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

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

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

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

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

27 (2) Any person who is convicted of a violation of [§ 21-904(b) or (e)] §
28 21-904(D)(1) of this article [that results in bodily injury to another person] is subject
29 to a fine of not more than \$5,000, or imprisonment for not more than 3 years, or both.

30 (3) Any person who is convicted of a violation of [§ 21-904(b) or (e)] §
31 21-904(D)(2) of this article [that results in a death of another person] is subject to a
32 fine of not more than \$5,000, or imprisonment for not more than 10 years, or both.

33 (q) (1) Any person who is convicted of a violation of [§ 21-902(a) or (d)] §
34 21-902(E)(1) of this article [and who, at the time of the offense, was transporting a
35 minor] is subject to:

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

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

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

5 (2) Any person who is convicted of a violation of [§ 21-902(b) or (c)] §
6 21-902(E)(2) of this article [and who, at the time of the offense, was transporting a
7 minor] is subject to:

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

10 (ii) For a second or subsequent offense, a fine of not more than
11 \$2,000 or imprisonment for not more than 1 year or both.

12 (3) For the purpose of determining second or subsequent offender
13 penalties provided under this subsection, a prior conviction of any provision of §
14 21-902 of this article that subjected a person to the penalties under this subsection
15 shall be considered a prior conviction.

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