

BY: Delegate Brown

AMENDMENTS TO HOUSE BILL NO. 4  
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 2, strike “Registered”; and in line 4, after “supervision” insert “; prohibiting certain sexual acts involving children who are under a certain age; requiring a court to impose a certain sentence for certain offenses under certain circumstances; establishing certain penalties”.

On page 3, before line 6, insert:

“BY repealing and reenacting, with amendments,

Article - Criminal Law

Section 3-303 through 3-306 and 3-309 through 3-312

Annotated Code of Maryland

(2002 Volume and 2005 Supplement)”.

AMENDMENT NO. 2

On page 5, before line 25, insert:

“Article - Criminal Law

3-303.

(a) A person may not:

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

(2) (i) employ or display a dangerous weapon, or a physical object that the

(Over)

victim reasonably believes is a dangerous weapon;

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

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

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

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

(b) A person may not violate subsection (a) of this section while also violating § 3-503(a)(2) of this title involving a victim who is a child under the age of 16 years.

(C) A PERSON MAY NOT VIOLATE SUBSECTION (A) OF THIS SECTION INVOLVING A VICTIM WHO IS A CHILD UNDER THE AGE OF 13 YEARS.

[(c)] (D) (1) Except as provided in paragraphs (2) [and], (3), AND (4) of this subsection, a person who violates subsection (a) of this section is guilty of the felony of rape in the first degree and on conviction is subject to imprisonment not exceeding life.

(2) A person who violates subsection (b) of this section is guilty of the felony of rape in the first degree and on conviction is subject to imprisonment not exceeding life without the possibility of parole.

(3) A person who violates this section is guilty of the felony of rape in the first degree and on conviction is subject to imprisonment not exceeding life without the possibility of parole if the defendant was previously convicted of violating this section or § 3-305 of this subtitle.

(4) (I) A PERSON WHO VIOLATES SUBSECTION (C) OF THIS SECTION IS GUILTY OF THE FELONY OF RAPE IN THE FIRST DEGREE AND ON CONVICTION IS SUBJECT TO IMPRISONMENT FOR NOT LESS THAN 25 YEARS AND NOT EXCEEDING LIFE WITHOUT THE POSSIBILITY OF PAROLE.

(II) A COURT MAY NOT SUSPEND ANY PART OF THE MANDATORY MINIMUM SENTENCE OF 25 YEARS.

[(d)] (E) If the State intends to seek a sentence of imprisonment for life without the possibility of parole under subsection [(c)(2) or (3)] (D)(2), (3), OR (4) of this section, the State shall notify the person in writing of the State's intention at least 30 days before trial.

3-304.

(a) A person may not engage in vaginal intercourse with another:

(1) by force, or the threat of force, without the consent of the other;

(2) if the victim is a mentally defective individual, a mentally incapacitated individual, or a physically helpless individual, and the person performing the act knows or reasonably should know that the victim is a mentally defective individual, a mentally incapacitated individual, or a physically helpless individual; or

(3) if the victim is under the age of 14 years, and the person performing the act is at least 4 years older than the victim.

(B) A PERSON MAY NOT VIOLATE SUBSECTION (A) OF THIS SECTION INVOLVING A VICTIM WHO IS A CHILD UNDER THE AGE OF 13 YEARS.

[(b)] (C) (1) [A] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A person who violates this section is guilty of the felony of rape in the second degree and on conviction is subject to imprisonment not exceeding 20 years.

(2) (I) A PERSON WHO VIOLATES SUBSECTION (B) OF THIS SECTION IS GUILTY OF THE FELONY OF RAPE IN THE SECOND DEGREE AND ON CONVICTION IS SUBJECT TO IMPRISONMENT FOR NOT LESS THAN 25 YEARS AND NOT EXCEEDING LIFE.

(II) A COURT MAY NOT SUSPEND ANY PART OF THE MANDATORY MINIMUM SENTENCE OF 25 YEARS.

(Over)

3-305.

(a) A person may not:

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

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

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

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

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

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

(b) A person may not violate subsection (a) of this section while also violating § 3-503(a)(2) of this title involving a victim who is a child under the age of 16 years.

(C) A PERSON MAY NOT VIOLATE SUBSECTION (A) OF THIS SECTION INVOLVING A VICTIM WHO IS A CHILD UNDER THE AGE OF 13 YEARS.

[(c)] (D) (1) Except as provided in paragraphs (2) [and], (3), AND (4) of this subsection, a person who violates subsection (a) of this section is guilty of the felony of sexual offense in the first degree and on conviction is subject to imprisonment not exceeding life.

(2) A person who violates subsection (b) of this section is guilty of the felony of sexual offense in the first degree and on conviction is subject to imprisonment not exceeding life

without the possibility of parole.

(3) A person who violates this section is guilty of the felony of sexual offense in the first degree and on conviction is subject to imprisonment not exceeding life without the possibility of parole if the defendant was previously convicted of violating this section or § 3-303 of this subtitle.

(4) (I) A PERSON WHO VIOLATES SUBSECTION (C) OF THIS SECTION IS GUILTY OF THE FELONY OF SEXUAL OFFENSE IN THE FIRST DEGREE AND ON CONVICTION IS SUBJECT TO IMPRISONMENT FOR NOT LESS THAN 25 YEARS AND NOT EXCEEDING LIFE WITHOUT THE POSSIBILITY OF PAROLE.

(II) A COURT MAY NOT SUSPEND ANY PART OF THE MANDATORY MINIMUM SENTENCE OF 25 YEARS.

[(d)] (E) If the State intends to seek a sentence of imprisonment for life without the possibility of parole under subsection [(c)(2) or (3)] (D)(2), (3), OR (4) of this section, the State shall notify the person in writing of the State's intention at least 30 days before trial.

3-306.

(a) A person may not engage in a sexual act with another:

(1) by force, or the threat of force, without the consent of the other;

(2) if the victim is a mentally defective individual, a mentally incapacitated individual, or a physically helpless individual, and the person performing the sexual act knows or reasonably should know that the victim is a mentally defective individual, a mentally incapacitated individual, or a physically helpless individual; or

(3) if the victim is under the age of 14 years, and the person performing the sexual act is at least 4 years older than the victim.

(Over)

(B) A PERSON MAY NOT VIOLATE SUBSECTION (A) OF THIS SECTION INVOLVING A VICTIM WHO IS A CHILD UNDER THE AGE OF 13 YEARS.

[(b)] (C) (1) [A] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A person who violates this section is guilty of the felony of sexual offense in the second degree and on conviction is subject to imprisonment not exceeding 20 years.

(2) (I) A PERSON WHO VIOLATES SUBSECTION (B) OF THIS SECTION IS GUILTY OF THE FELONY OF SEXUAL OFFENSE IN THE SECOND DEGREE AND ON CONVICTION IS SUBJECT TO IMPRISONMENT FOR NOT LESS THAN 25 YEARS AND NOT EXCEEDING LIFE.

(II) A COURT MAY NOT SUSPEND ANY PART OF THE MANDATORY MINIMUM SENTENCE OF 25 YEARS.

3-309.

(a) A person may not attempt to commit rape in the first degree.

(B) A PERSON MAY NOT VIOLATE SUBSECTION (A) OF THIS SECTION INVOLVING A VICTIM WHO IS A CHILD UNDER THE AGE OF 13 YEARS.

[(b)] (C) (1) [A] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A person who violates this section is guilty of a felony and on conviction is subject to imprisonment not exceeding life.

(2) (I) A PERSON WHO VIOLATES SUBSECTION (B) OF THIS SECTION IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT FOR NOT LESS THAN 25 YEARS AND NOT EXCEEDING LIFE WITHOUT THE POSSIBILITY OF PAROLE.

(II) A COURT MAY NOT SUSPEND ANY PART OF THE MANDATORY MINIMUM SENTENCE OF 25 YEARS.

(D) IF THE STATE INTENDS TO SEEK A SENTENCE OF IMPRISONMENT FOR LIFE WITHOUT THE POSSIBILITY OF PAROLE UNDER SUBSECTION (C)(2) OF THIS

SECTION, THE STATE SHALL NOTIFY THE PERSON IN WRITING OF THE STATE'S INTENTION AT LEAST 30 DAYS BEFORE TRIAL.

3-310.

(a) A person may not attempt to commit rape in the second degree.

(B) A PERSON MAY NOT VIOLATE SUBSECTION (A) OF THIS SECTION INVOLVING A VICTIM WHO IS A CHILD UNDER THE AGE OF 13 YEARS.

[(b)] (C) (1) [A] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A person who violates this section is guilty of a felony and on conviction is subject to imprisonment not exceeding 20 years.

(2) (I) A PERSON WHO VIOLATES SUBSECTION (B) OF THIS SECTION IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT FOR NOT LESS THAN 25 YEARS AND NOT EXCEEDING LIFE.

(II) A COURT MAY NOT SUSPEND ANY PART OF THE MANDATORY MINIMUM SENTENCE OF 25 YEARS.

3-311.

(a) A person may not attempt to commit a sexual offense in the first degree.

(B) A PERSON MAY NOT VIOLATE SUBSECTION (A) OF THIS SECTION INVOLVING A VICTIM WHO IS A CHILD UNDER THE AGE OF 13 YEARS.

[(b)] (C) (1) [A] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A person who violates this section is guilty of a felony and on conviction is subject to imprisonment not exceeding life.

(2) (I) A PERSON WHO VIOLATES SUBSECTION (B) OF THIS SECTION IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO

(Over)

IMPRISONMENT FOR NOT LESS THAN 25 YEARS AND NOT EXCEEDING LIFE WITHOUT THE POSSIBILITY OF PAROLE.

(II) A COURT MAY NOT SUSPEND ANY PART OF THE MANDATORY MINIMUM SENTENCE OF 25 YEARS.

(D) IF THE STATE INTENDS TO SEEK A SENTENCE OF IMPRISONMENT FOR LIFE WITHOUT THE POSSIBILITY OF PAROLE UNDER SUBSECTION (C)(2) OF THIS SECTION, THE STATE SHALL NOTIFY THE PERSON IN WRITING OF THE STATE'S INTENTION AT LEAST 30 DAYS BEFORE TRIAL.

3-312.

(a) A person may not attempt to commit a sexual offense in the second degree.

(B) A PERSON MAY NOT VIOLATE SUBSECTION (A) OF THIS SECTION INVOLVING A VICTIM WHO IS A CHILD UNDER THE AGE OF 13 YEARS.

[(b)] (C) (1) [A] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A person who violates this section is guilty of a felony and on conviction is subject to imprisonment not exceeding 20 years.

(2) (I) A PERSON WHO VIOLATES SUBSECTION (B) OF THIS SECTION IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT FOR NOT LESS THAN 25 YEARS AND NOT EXCEEDING LIFE.

(II) A COURT MAY NOT SUSPEND ANY PART OF THE MANDATORY MINIMUM SENTENCE OF 25 YEARS.”.