
By: **Delegates O'Donnell, Aumann, Bartlett, Bates, Boschert, Boteler, Cluster, Cryor, Dwyer, Eckardt, Edwards, Elliott, Elmore, Frank, Gilleland, Glassman, Haddaway, Hogan, Impallaria, Jennings, Kach, Kohl, Krebs, Leopold, Mayer, McComas, McConkey, McDonough, McKee, McMillan, Myers, Parrott, Shank, Smigiel, Sossi, Stocksdales, and Stull**

Introduced and read first time: February 10, 2006
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Jessica's Law**

3 FOR the purpose of prohibiting certain sexual acts involving children who are under
4 a certain age; requiring a court to impose a certain sentence for certain offenses
5 under certain circumstances; establishing certain penalties; and generally
6 relating to sexual offenses involving children.

7 BY repealing and reenacting, with amendments,
8 Article - Criminal Law
9 Section 3-303 through 3-306 and 3-309 through 3-312
10 Annotated Code of Maryland
11 (2002 Volume and 2005 Supplement)

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

14 **Article - Criminal Law**

15 3-303.

16 (a) A person may not:

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

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

21 (ii) suffocate, strangle, disfigure, or inflict serious physical injury
22 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 also violating
8 § 3-503(a)(2) of this title involving a victim who is a child under the age of 16 years.

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

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

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

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

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

28 (III) THE PERSON IS NOT ELIGIBLE FOR PAROLE DURING THE
29 MANDATORY MINIMUM SENTENCE.

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

34 3-304.

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

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

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

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

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

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

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

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

19 (III) THE PERSON IS NOT ELIGIBLE FOR PAROLE DURING THE
20 MANDATORY MINIMUM SENTENCE.

21 3-305.

22 (a) A person may not:

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

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

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

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

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

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

35 (b) A person may not violate subsection (a) of this section while also violating
36 § 3-503(a)(2) of this title involving a victim who is a child under the age of 16 years.

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

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

7 (2) A person who violates subsection (b) 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 without the possibility of parole.

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

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

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

20 (III) THE PERSON IS NOT ELIGIBLE FOR PAROLE DURING THE
21 MANDATORY MINIMUM SENTENCE.

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

26 3-306.

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

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

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

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

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

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

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

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

11 (III) THE PERSON IS NOT ELIGIBLE FOR PAROLE DURING THE
12 MANDATORY MINIMUM SENTENCE.

13 3-309.

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

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

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

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

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

26 (III) THE PERSON IS NOT ELIGIBLE FOR PAROLE DURING THE
27 MANDATORY MINIMUM SENTENCE.

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

32 3-310.

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

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

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

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

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

9 (III) THE PERSON IS NOT ELIGIBLE FOR PAROLE DURING THE
10 MANDATORY MINIMUM SENTENCE.

11 3-311.

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

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

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

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

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

24 (III) THE PERSON IS NOT ELIGIBLE FOR PAROLE DURING THE
25 MANDATORY MINIMUM SENTENCE.

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

30 3-312.

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

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

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

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

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

6 (III) THE PERSON IS NOT ELIGIBLE FOR PAROLE DURING THE
7 MANDATORY MINIMUM SENTENCE.

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
9 October 1, 2006.