

UNOFFICIAL COPY OF HOUSE BILL 7  
EMERGENCY BILL

E2  
HB 1401/06 - JUD

6lr0002  
CF 6lr0008

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By: **Delegates O'Donnell, Aumann, Bates, Boschert, Boteler, Cluster, Cryor, Eckardt, Edwards, Elliott, Elmore, Frank, Gilleland, Glassman, Haddaway, Hogan, Impallaria, Jennings, Kach, Krebs, Leopold, Mayer, McConkey, McDonough, Miller, Myers, Shank, Shewell, Smigiel, Sossi, Stocksdale, Stull, Trueschler, Walkup, and Weldon**

Introduced and read first time: June 14, 2006  
Assigned to: Rules and Executive Nominations

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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; making this Act an  
6 emergency measure; and generally relating to sexual offenses involving  
7 children.

8 BY repealing and reenacting, with amendments,  
9 Article - Criminal Law  
10 Section 3-303 through 3-306 and 3-309 through 3-312  
11 Annotated Code of Maryland  
12 (2002 Volume and 2005 Supplement)

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

15 **Article - Criminal Law**

16 3-303.

17 (a) A person may not:

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

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

22 (ii) suffocate, strangle, disfigure, or inflict serious physical injury  
23 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 is an emergency  
9 measure, is necessary for the immediate preservation of the public health or safety,  
10 has been passed by a ye and nay vote supported by three-fifths of all the members  
11 elected to each of the two Houses of the General Assembly, and shall take effect from  
12 the date it is enacted.