

UNOFFICIAL COPY OF SENATE BILL 2
EMERGENCY BILL

E2
HB 1401/06 - JUD

6lr0008
CF 6lr0002

By: **Senators Jacobs, Brinkley, Colburn, Giannetti, Greenip, Hafer, Haines,
Harris, Hooper, Kittleman, Mooney, Munson, Schrader, and Stoltzfus**

Introduced and read first time: June 14, 2006

Assigned to: Rules

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;

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

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

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

4 (b) A person may not violate subsection (a) of this section while also violating
5 § 3-503(a)(2) of this title involving a victim who is a child under the age of 16 years.

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

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

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

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

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

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

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

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

31 3-304.

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

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

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

1 defective individual, a mentally incapacitated individual, or a physically helpless
2 individual; or

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

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

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

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

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

16 (III) THE PERSON IS NOT ELIGIBLE FOR PAROLE DURING THE
17 MANDATORY MINIMUM SENTENCE.

18 3-305.

19 (a) A person may not:

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

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

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

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

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

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

32 (b) A person may not violate subsection (a) of this section while also violating
33 § 3-503(a)(2) of this title involving a victim who is a child under the age of 16 years.

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

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

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

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

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

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

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

24 3-306.

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

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

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

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

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.

36 [(b)] (C) (1) [A] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
37 SUBSECTION, A person who violates this section is guilty of the felony of sexual

1 offense in the second degree and on conviction is subject to imprisonment not
2 exceeding 20 years.

3 (2) (I) A PERSON WHO VIOLATES SUBSECTION (B) OF THIS SECTION IS
4 GUILTY OF THE FELONY OF SEXUAL OFFENSE IN THE SECOND DEGREE AND ON
5 CONVICTION IS SUBJECT TO IMPRISONMENT FOR NOT LESS THAN 25 YEARS AND NOT
6 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 3-309.

12 (a) A person may not attempt to commit rape 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 3-310.

31 (a) A person may not attempt to commit rape 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 3-311.

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

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

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

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

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

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

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

27 3-312.

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

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

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

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

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

3 (III) THE PERSON IS NOT ELIGIBLE FOR PAROLE DURING THE
4 MANDATORY MINIMUM SENTENCE.

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency
6 measure, is necessary for the immediate preservation of the public health or safety,
7 has been passed by a yea and nay vote supported by three-fifths of all the members
8 elected to each of the two Houses of the General Assembly, and shall take effect from
9 the date it is enacted.