

# SENATE BILL 413

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CF HB 930

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By: **Senators Jacobs, Astle, Brinkley, Colburn, DeGrange, Dyson, Edwards, Greenip, Haines, Harris, Hogan, Hooper, Kasemeyer, Kittleman, Klausmeier, Mooney, Munson, Muse, Peters, Pipkin, Robey, Simonaire, Stoltzfus, Stone, ~~and Zirkin~~ Zirkin, and Brochin**

Introduced and read first time: February 2, 2007

Assigned to: Judicial Proceedings

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 23, 2007

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Jessica's Law – Sexual Offenses – Parole Eligibility and Mandatory Minimum**  
3 **Sentences**

4 FOR the purpose of providing that persons who are convicted of certain sexual offenses  
5 are not eligible for parole during certain mandatory minimum sentences;  
6 ~~prohibiting a certain person from engaging in certain sexual contact with a child~~  
7 ~~who is under a certain age; establishing a certain penalty; prohibiting a court~~  
8 ~~from suspending any part of a sentence for a certain sexual offense committed~~  
9 ~~against a child under a certain age; requiring the State to provide a certain~~  
10 ~~notification if the State intends to seek a certain sentence under certain~~  
11 ~~circumstances; creating a certain exception; and generally relating to sexual~~  
12 offenses involving children.

13 BY repealing and reenacting, with amendments,  
14 Article – Criminal Law  
15 Section 3–303 through ~~3–307~~ 3–306  
16 Annotated Code of Maryland  
17 (2002 Volume and 2006 Supplement)

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### EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



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

3 **Article – Criminal Law**

4 3–303.

5 (a) A person may not:

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

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

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

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

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

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

18 (b) A person may not violate subsection (a) of this section while also violating  
19 § 3–503(a)(2) of this title involving a victim who is a child under the age of 16 years.

20 (c) A person 18 years of age or older may not violate subsection (a) of this  
21 section involving a victim who is a child under the age of 13 years.

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

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

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

5           (4) (i) Subject to subparagraph [(iii)] (IV) of this paragraph, a  
6 person 18 years of age or older who violates subsection (c) of this section is guilty of  
7 the felony of rape in the first degree and on conviction is subject to imprisonment for  
8 not less than 25 years and not exceeding life without the possibility of parole.

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**  
12 **THE MANDATORY MINIMUM SENTENCE.**

13                           [(iii)] (IV) If the State fails to comply with subsection (e) of this  
14 section, the mandatory minimum sentence shall not apply.

15           (e) If the State intends to seek a sentence of imprisonment for life without  
16 the possibility of parole under subsection (d)(2), (3), or (4) of this section, or  
17 imprisonment for not less than 25 years under subsection (d)(4) of this section, the  
18 State shall notify the person in writing of the State’s intention at least 30 days before  
19 trial.

20 3–304.

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

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

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

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

30           (b) A person 18 years of age or older may not violate subsection (a)(1) or (2) of  
31 this section involving a child under the age of 13 years.

1 (c) (1) Except as provided in paragraph (2) of this subsection, a person  
2 who violates subsection (a) of this section is guilty of the felony of rape in the second  
3 degree and on conviction is subject to imprisonment not exceeding 20 years.

4 (2) (i) Subject to subparagraph [(iii)] (IV) of this paragraph, a  
5 person 18 years of age or older who violates subsection (b) of this section is guilty of  
6 the felony of rape in the second degree and on conviction is subject to imprisonment for  
7 not less than 5 years and not exceeding 20 years.

8 (ii) A court may not suspend any part of the mandatory  
9 minimum sentence of 5 years.

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

12 [(iii)](IV) If the State fails to comply with subsection (d) of this  
13 section, the mandatory minimum shall not apply.

14 (d) If the State intends to seek a sentence of imprisonment for not less than 5  
15 years under subsection (c)(2) of this section, the State shall notify the person in  
16 writing of the State's intention at least 30 days before trial.

17 3-305.

18 (a) A person may not:

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

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

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

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

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

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

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

5 (c) A person 18 years of age or older may not violate subsection (a) of this  
6 section involving a victim who is a child under the age of 13 years.

7 (d) (1) Except as provided in paragraphs (2), (3), and (4) of this  
8 subsection, a person who violates subsection (a) of this section is guilty of the felony of  
9 sexual offense in the first degree and on conviction is subject to imprisonment not  
10 exceeding life.

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

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

18 (4) (i) Subject to subparagraph [(iii)] (IV) of this paragraph, a  
19 person 18 years of age or older who violates subsection (c) of this section is guilty of  
20 the felony of sexual offense in the first degree and on conviction is subject to  
21 imprisonment for not less than 25 years and not exceeding life without the possibility  
22 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**  
26 **THE MANDATORY MINIMUM SENTENCE.**

27 [(iii)](IV) If the State fails to comply with subsection (e) of this  
28 section, the mandatory minimum sentence shall not apply.

29 (e) If the State intends to seek a sentence of imprisonment for life without  
30 the possibility of parole under subsection (d)(2), (3), or (4) of this section, or  
31 imprisonment for not less than 25 years under subsection (d)(4) of this section, the

1 State shall notify the person in writing of the State's intention at least 30 days before  
2 trial.

3 3-306.

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

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

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

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

13 (b) A person 18 years of age or older may not violate subsection (a)(1) or (2) of  
14 this section involving a child under the age of 13 years.

15 (c) (1) Except as provided in paragraph (2) of this subsection, a person  
16 who violates this section is guilty of the felony of sexual offense in the second degree  
17 and on conviction is subject to imprisonment not exceeding 20 years.

18 (2) (i) Subject to subparagraph [(iii)] (IV) of this paragraph, a  
19 person 18 years of age or older who violates subsection (b) of this section is guilty of  
20 the felony of sexual offense in the second degree and on conviction is subject to  
21 imprisonment for not less than 5 years and not exceeding 20 years.

22 (ii) A court may not suspend any part of the mandatory  
23 minimum sentence of 5 years.

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

26 [(iii)] (IV) If the State fails to comply with subsection (d) of this  
27 section, the mandatory minimum shall not apply.

28 (d) If the State intends to seek a sentence of imprisonment for not less than 5  
29 years under subsection (c)(2) of this section, the State shall notify the person in  
30 writing of the State's intention at least 30 days before trial.

1 ~~3-307.~~

2 ~~(a) A person may not:~~

3 ~~(1) (i) engage in sexual contact with another without the consent of~~  
4 ~~the other; and~~

5 ~~(ii) 1. employ or display a dangerous weapon, or a physical~~  
6 ~~object that the victim reasonably believes is a dangerous weapon;~~

7 ~~2. suffocate, strangle, disfigure, or inflict serious~~  
8 ~~physical injury on the victim or another in the course of committing the crime;~~

9 ~~3. threaten, or place the victim in fear, that the victim,~~  
10 ~~or an individual known to the victim, imminently will be subject to death, suffocation,~~  
11 ~~strangulation, disfigurement, serious physical injury, or kidnapping; or~~

12 ~~4. commit the crime while aided and abetted by another;~~

13 ~~(2) engage in sexual contact with another if the victim is a mentally~~  
14 ~~defective individual, a mentally incapacitated individual, or a physically helpless~~  
15 ~~individual, and the person performing the act knows or reasonably should know the~~  
16 ~~victim is a mentally defective individual, a mentally incapacitated individual, or a~~  
17 ~~physically helpless individual;~~

18 ~~(3) engage in sexual contact with another if the victim is under the age~~  
19 ~~of 14 years, and the person performing the sexual contact is at least 4 years older than~~  
20 ~~the victim;~~

21 ~~(4) engage in a sexual act with another if the victim is 14 or 15 years~~  
22 ~~old, and the person performing the sexual act is at least 21 years old; or~~

23 ~~(5) engage in vaginal intercourse with another if the victim is 14 or 15~~  
24 ~~years old, and the person performing the act is at least 21 years old.~~

25 ~~(b) A PERSON 18 YEARS OF AGE OR OLDER MAY NOT VIOLATE~~  
26 ~~SUBSECTION (A)(1) OR (2) OF THIS SECTION INVOLVING A VICTIM WHO IS A~~  
27 ~~CHILD UNDER THE AGE OF 13 YEARS.~~

28 ~~[(b)] (c) (1) [A] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS~~  
29 ~~SUBSECTION, A person who violates SUBSECTION (A) OF this section is guilty of the~~

1 ~~felony of sexual offense in the third degree and on conviction is subject to~~  
 2 ~~imprisonment not exceeding 10 years.~~

3 ~~(2) (I) SUBJECT TO SUBPARAGRAPH (IV) OF THIS PARAGRAPH,~~  
 4 ~~A PERSON 18 YEARS OF AGE OR OLDER WHO VIOLATES SUBSECTION (B) OF THIS~~  
 5 ~~SECTION IS GUILTY OF THE FELONY OF SEXUAL OFFENSE IN THE THIRD DEGREE~~  
 6 ~~AND ON CONVICTION IS SUBJECT TO IMPRISONMENT FOR NOT LESS THAN 2~~  
 7 ~~YEARS AND NOT EXCEEDING 10 YEARS.~~

8 ~~(II) A COURT MAY NOT SUSPEND ANY PART OF THE~~  
 9 ~~MANDATORY MINIMUM SENTENCE OF 2 YEARS.~~

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

12 ~~(IV) IF THE STATE FAILS TO COMPLY WITH SUBSECTION (D)~~  
 13 ~~OF THIS SECTION, THE MANDATORY MINIMUM SENTENCE SHALL NOT APPLY.~~

14 ~~(D) IF THE STATE INTENDS TO SEEK A SENTENCE OF IMPRISONMENT~~  
 15 ~~FOR NOT LESS THAN 2 YEARS UNDER SUBSECTION (C)(2) OF THIS SECTION, THE~~  
 16 ~~STATE SHALL NOTIFY THE PERSON IN WRITING OF THE STATE'S INTENTION AT~~  
 17 ~~LEAST 30 DAYS BEFORE TRIAL.~~

18 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
 19 October 1, 2007.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.