

HOUSE BILL 254

E1, E2

0lr1640

By: **Delegates Schuh and Smigiel**

Introduced and read first time: January 25, 2010

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Crimes – Sexual Offenses Against Children – Jessica’s Law Enhancement**

3 FOR the purpose of increasing the maximum and mandatory minimum penalties for a
4 person convicted of rape in the second degree of a child under the age of 13
5 years; increasing the maximum and mandatory minimum penalties for a person
6 convicted of sexual offense in the second degree against a child under the age of
7 13 years; and generally relating to sexual offenses against children.

8 BY repealing and reenacting, with amendments,
9 Article – Criminal Law
10 Section 3–304 and 3–306
11 Annotated Code of Maryland
12 (2002 Volume and 2009 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 3–304.

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

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

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

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

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

8 (2) (i) Subject to subparagraph (iv) of this paragraph, a person 18
9 years of age or older who violates subsection (b) of this section is guilty of the felony of
10 rape in the second degree and on conviction is subject to imprisonment for not less
11 than **[5] 20** years and not exceeding **[20 years] LIFE**.

12 (ii) A court may not suspend any part of the mandatory
13 minimum sentence of **[5] 20** years.

14 (iii) The person is not eligible for parole during the mandatory
15 minimum sentence.

16 (iv) If the State fails to comply with subsection (d) of this section,
17 the mandatory minimum shall not apply.

18 (d) If the State intends to seek a sentence of imprisonment for not less than
19 **[5] 20** years under subsection (c)(2) of this section, the State shall notify the person in
20 writing of the State's intention at least 30 days before trial.

21 3-306.

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

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

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

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

31 (b) A person 18 years of age or older may not violate subsection (a)(1) or (2) of
32 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 this section is guilty of the felony of sexual offense in the second degree
3 and on conviction is subject to imprisonment not exceeding 20 years.

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

8 (ii) A court may not suspend any part of the mandatory
9 minimum sentence of **[5] 20** years.

10 (iii) The person is not eligible for parole during the mandatory
11 minimum sentence.

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

14 (d) If the State intends to seek a sentence of imprisonment for not less than
15 **[5] 20** 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 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
18 October 1, 2010.