

# HOUSE BILL 1324

D1, E1, D4

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By: **Delegate Schuh**

Introduced and read first time: February 18, 2010

Assigned to: Health and Government Operations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Public General Laws – Terminology – Substitution for “Mentally Defective”**

3 FOR the purpose of repealing the term “mentally defective individual” from the Public  
4 General Laws of Maryland and substituting the term “individual with a  
5 cognitive disability, intellectual disability, or mental illness”; and generally  
6 relating to individuals with cognitive disabilities, intellectual disabilities, or  
7 mental illness.

8 BY repealing and reenacting, without amendments,  
9 Article – Correctional Services  
10 Section 8–603(a)  
11 Annotated Code of Maryland  
12 (2008 Replacement Volume and 2009 Supplement)

13 BY repealing and reenacting, with amendments,  
14 Article – Correctional Services  
15 Section 8–603(c)  
16 Annotated Code of Maryland  
17 (2008 Replacement Volume and 2009 Supplement)

18 BY repealing and reenacting, without amendments,  
19 Article – Criminal Law  
20 Section 3–301(a)  
21 Annotated Code of Maryland  
22 (2002 Volume and 2009 Supplement)

23 BY repealing and reenacting, with amendments,  
24 Article – Criminal Law  
25 Section 3–301(b), 3–304(a), 3–306(a), and 3–307(a)(2)  
26 Annotated Code of Maryland  
27 (2002 Volume and 2009 Supplement)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, with amendments,  
2 Article – Family Law  
3 Section 5–603(4)  
4 Annotated Code of Maryland  
5 (2006 Replacement Volume and 2009 Supplement)

6 BY repealing and reenacting, with amendments,  
7 Article – Public Safety  
8 Section 11–107(b)(7)  
9 Annotated Code of Maryland  
10 (2003 Volume and 2009 Supplement)

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

13 **Article – Correctional Services**

14 8–603.

15 (a) As used in this Compact, unless the context clearly requires otherwise,  
16 the following words have the meanings indicated.

17 (c) “Institution” means any penal or correctional facility, including but not  
18 limited to a facility for [the mentally ill or mentally defective] **INDIVIDUALS WITH**  
19 **COGNITIVE DISABILITIES, INTELLECTUAL DISABILITIES, OR MENTAL ILLNESS**, in  
20 which inmates may lawfully be confined.

21 **Article – Criminal Law**

22 3–301.

23 (a) In this subtitle the following words have the meanings indicated.

24 (b) [“Mentally defective individual”] **“INDIVIDUAL WITH A COGNITIVE**  
25 **DISABILITY, INTELLECTUAL DISABILITY, OR MENTAL ILLNESS”** means an  
26 individual who suffers from [mental retardation] **A DEVELOPMENTAL DISABILITY** or  
27 a mental disorder, either of which temporarily or permanently renders the individual  
28 substantially incapable of:

29 (1) appraising the nature of the individual’s conduct;

30 (2) resisting vaginal intercourse, a sexual act, or sexual contact; or

31 (3) communicating unwillingness to submit to vaginal intercourse, a  
32 sexual act, or sexual contact.

1 3-304.

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

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

4 (2) (I) if the victim is [a mentally defective individual] **AN**  
5 **INDIVIDUAL WITH A COGNITIVE DISABILITY, INTELLECTUAL DISABILITY, OR**  
6 **MENTAL ILLNESS**, a mentally incapacitated individual, or a physically helpless  
7 individual[.]; and

8 (II) the person performing the act knows or reasonably should  
9 know that the victim is [a mentally defective individual] **AN INDIVIDUAL WITH A**  
10 **COGNITIVE DISABILITY, INTELLECTUAL DISABILITY, OR MENTAL ILLNESS**, a  
11 mentally incapacitated individual, or a physically helpless individual; or

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

14 3-306.

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

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

17 (2) (I) if the victim is [a mentally defective individual] **AN**  
18 **INDIVIDUAL WITH A COGNITIVE DISABILITY, INTELLECTUAL DISABILITY, OR**  
19 **MENTAL ILLNESS**, a mentally incapacitated individual, or a physically helpless  
20 individual[.]; and

21 (II) the person performing the sexual act knows or reasonably  
22 should know that the victim is [a mentally defective individual] **AN INDIVIDUAL**  
23 **WITH A COGNITIVE DISABILITY, INTELLECTUAL DISABILITY, OR MENTAL**  
24 **ILLNESS**, a mentally incapacitated individual, or a physically helpless individual; or

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

27 3-307.

28 (a) A person may not:

29 (2) (I) engage in sexual contact with another if the victim is [a  
30 mentally defective individual] **AN INDIVIDUAL WITH A COGNITIVE DISABILITY,**  
31 **INTELLECTUAL DISABILITY, OR MENTAL ILLNESS**, a mentally incapacitated  
32 individual, or a physically helpless individual[.]; and

1                   **(II)** the person performing the act knows or reasonably should  
2 know the victim is [a mentally defective individual] **AN INDIVIDUAL WITH A**  
3 **COGNITIVE DISABILITY, INTELLECTUAL DISABILITY, OR MENTAL ILLNESS**, a  
4 mentally incapacitated individual, or a physically helpless individual;

5   **Article – Family Law**

6 5–603.

7           As used in this compact:

8                   (4) “Placement” means the arrangement for the care of a child in a  
9 family free or boarding home or in a child–caring agency or institution but does not  
10 include any institution caring for [the mentally ill, mentally defective] **INDIVIDUALS**  
11 **WITH COGNITIVE DISABILITIES, INTELLECTUAL DISABILITIES, OR MENTAL**  
12 **ILLNESSES**, or epileptic **INDIVIDUALS**, or any institution primarily educational in  
13 character, and any hospital or other medical facility.

14   **Article – Public Safety**

15 11–107.

16           (b) Subject to subsection (c) of this section, the State Fire Marshal shall deny  
17 an application for a license or permit if the State Fire Marshal finds that:

18                   (7) the applicant, or an officer, agent, or employee of the applicant who  
19 will be handling explosives, has been adjudicated [mentally defective] **TO BE AN**  
20 **INDIVIDUAL WITH A COGNITIVE DISABILITY, INTELLECTUAL DISABILITY, OR**  
21 **MENTAL ILLNESS**, as defined in § 3–301 of the Criminal Law Article;

22           **SECTION 2. AND BE IT FURTHER ENACTED**, That this Act shall take effect  
23 October 1, 2010.