

SENATE BILL 261

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CF HB 283

By: **Senators Forehand, Raskin, and Gladden**

Introduced and read first time: January 22, 2010

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Sexual Solicitation of a Minor and Human Trafficking –**
3 **Prohibitions and Proof**

4 FOR the purpose of prohibiting a person from knowingly engaging in a device, scheme,
5 or continuing course of conduct intended to cause another to believe that if the
6 other did not take part in a sexually explicit performance the other or a third
7 person would suffer physical restraint or serious physical harm; prohibiting a
8 person from knowingly destroying, concealing, removing, confiscating, or
9 possessing certain documents of another person while violating certain
10 prohibitions; providing that the State need only prove that a reasonable person,
11 based on certain criteria, should have known that a certain minor had not
12 attained a certain age under certain circumstances; making it a felony to
13 knowingly take or detain another with the intent to use force, threat, coercion,
14 or fraud to compel the other to marry the person or a third person or perform a
15 sexual act, sexual contact, or vaginal intercourse; providing that a person who
16 knowingly benefits from participation in a violation of this Act is subject to the
17 same penalties that would apply if the person had violated this Act; providing
18 that a person who knowingly aids, abets, or conspires with one or more other
19 persons to violate this Act shall be subject to the same penalties that apply for a
20 violation of this Act; defining a certain term; and generally relating to sexual
21 solicitation of a minor and human trafficking.

22 BY repealing and reenacting, with amendments,
23 Article – Criminal Law
24 Section 3–324, 11–301, and 11–303
25 Annotated Code of Maryland
26 (2002 Volume and 2009 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **Article – Criminal Law**

2 3–324.

3 (a) In this section, “solicit” means to command, authorize, urge, entice,
4 request, or advise a person by any means, including:

5 (1) in person;

6 (2) through an agent or agency;

7 (3) over the telephone;

8 (4) through any print medium;

9 (5) by mail;

10 (6) by computer or Internet; or

11 (7) by any other electronic means.

12 (b) A person may not, with the intent to commit a violation of § 3–304, §
13 3–306, or § 3–307 of this subtitle or § 11–304, § 11–305, or § 11–306 of this article,
14 knowingly solicit a minor, or a law enforcement officer posing as a minor, to engage in
15 activities that would be unlawful for the person to engage in under § 3–304, § 3–306,
16 or § 3–307 of this subtitle or § 11–304, § 11–305, or § 11–306 of this article.17 (c) A violation of this section is considered to be committed in the State for
18 purposes of determining jurisdiction if the solicitation:

19 (1) originated in the State; or

20 (2) is received in the State.

21 (d) A person who violates this section is guilty of a felony and on conviction is
22 subject to imprisonment not exceeding 10 years or a fine not exceeding \$25,000 or
23 both.24 **(E) IN A PROSECUTION UNDER THIS SECTION, THE STATE NEED ONLY**
25 **PROVE THAT A REASONABLE PERSON, BASED ON THE TOTALITY OF THE**
26 **CIRCUMSTANCES, SHOULD HAVE KNOWN THAT THE MINOR HAD NOT ATTAINED**
27 **THE AGE OF 18 YEARS.**

28 11–301.

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

1 (b) "Assignation" means the making of an appointment or engagement for
2 prostitution or any act in furtherance of the appointment or engagement.

3 (c) "Prostitution" means the performance of a sexual act, sexual contact, or
4 vaginal intercourse for hire.

5 (d) "Sexual act" has the meaning stated in § 3-301 of this article.

6 (e) "Sexual contact" has the meaning stated in § 3-301 of this article.

7 (F) **"SEXUALLY EXPLICIT PERFORMANCE" MEANS A PUBLIC OR**
8 **PRIVATE, LIVE, PHOTOGRAPHED, RECORDED, OR VIDEOTAPED ACT OR SHOW IN**
9 **WHICH THE PERFORMER IS WHOLLY OR PARTIALLY NUDE, AND WHICH IS**
10 **INTENDED TO SEXUALLY AROUSE OR APPEAL TO THE PRURIENT INTEREST OF**
11 **PATRONS OR VIEWERS.**

12 [(f)] (G) "Solicit" means urging, advising, inducing, encouraging,
13 requesting, or commanding another.

14 [(g)] (H) "Vaginal intercourse" has the meaning stated in § 3-301 of this
15 article.

16 11-303.

17 (a) (1) A person may not knowingly:

18 (i) take or cause another to be taken to any place for
19 prostitution;

20 (ii) place, cause to be placed, or harbor another in any place for
21 prostitution;

22 (iii) persuade, induce, entice, or encourage another to be taken to
23 or placed in any place for prostitution;

24 (iv) [unlawfully take or detain another with the intent to use
25 force, threat, or persuasion to compel the other to marry the person or a third person
26 or perform a sexual act, sexual contact, or vaginal intercourse; or

27 (v)] receive consideration to procure for or place in a house of
28 prostitution or elsewhere another with the intent of causing the other to engage in
29 prostitution or assignation;

30 (V) **ENGAGE IN A DEVICE, SCHEME, OR CONTINUING**
31 **COURSE OF CONDUCT INTENDED TO CAUSE ANOTHER TO BELIEVE THAT IF THE**
32 **OTHER DID NOT TAKE PART IN A SEXUALLY EXPLICIT PERFORMANCE, THE**

1 OTHER OR A THIRD PERSON WOULD SUFFER PHYSICAL RESTRAINT OR SERIOUS
2 PHYSICAL HARM; OR

3 (VI) DESTROY, CONCEAL, REMOVE, CONFISCATE, OR
4 POSSESS AN ACTUAL OR PURPORTED PASSPORT, IMMIGRATION DOCUMENT, OR
5 GOVERNMENT IDENTIFICATION DOCUMENT OF ANOTHER WHILE OTHERWISE
6 VIOLATING OR ATTEMPTING TO VIOLATE THIS SUBSECTION.

7 (2) A parent, guardian, or person who has permanent or temporary
8 care or custody or responsibility for supervision of another may not consent to the
9 taking or detention of the other for prostitution.

10 (b) (1) (I) A person may not violate subsection (a) of this section
11 involving a victim who is a minor.

12 (II) IN A PROSECUTION UNDER SUBPARAGRAPH (I) OF THIS
13 PARAGRAPH, THE STATE NEED ONLY PROVE THAT A REASONABLE PERSON,
14 BASED ON THE TOTALITY OF THE CIRCUMSTANCES, SHOULD HAVE KNOWN THAT
15 THE MINOR HAD NOT ATTAINED THE AGE OF 18 YEARS.

16 (2) A PERSON MAY NOT KNOWINGLY TAKE OR DETAIN ANOTHER
17 WITH THE INTENT TO USE FORCE, THREAT, COERCION, OR FRAUD TO COMPEL
18 THE OTHER TO MARRY THE PERSON OR A THIRD PERSON OR PERFORM A
19 SEXUAL ACT, SEXUAL CONTACT, OR VAGINAL INTERCOURSE.

20 (c) (1) (i) Except as provided in paragraph (2) of this subsection, a
21 person who violates subsection (a) of this section is guilty of the misdemeanor of
22 human trafficking and on conviction is subject to imprisonment not exceeding 10 years
23 or a fine not exceeding \$5,000 or both.

24 (ii) A person who violates subsection (a) of this section is subject
25 to § 5–106(b) of the Courts Article.

26 (2) A person who violates subsection (b) of this section is guilty of the
27 felony of human trafficking and on conviction is subject to imprisonment not exceeding
28 25 years or a fine not exceeding \$15,000 or both.

29 (d) A person who violates this section may be charged, tried, and sentenced
30 in any county in or through which the person transported or attempted to transport
31 the other.

32 (E) (1) A PERSON WHO KNOWINGLY BENEFITS FINANCIALLY OR BY
33 RECEIVING ANYTHING OF VALUE FROM PARTICIPATION IN A VENTURE THAT
34 INCLUDES AN ACT DESCRIBED IN SUBSECTION (A) OR (B) OF THIS SECTION IS
35 SUBJECT TO THE SAME PENALTIES THAT WOULD APPLY IF THE PERSON HAD
36 VIOLATED THAT SUBSECTION.

1 **(2) A PERSON WHO KNOWINGLY AIDS, ABETS, OR CONSPIRES**
2 **WITH ONE OR MORE OTHER PERSONS TO VIOLATE ANY SUBSECTION OF THIS**
3 **SECTION IS SUBJECT TO THE SAME PENALTIES THAT APPLY FOR A VIOLATION**
4 **OF THAT SUBSECTION.**

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 October 1, 2010.