

Chapter 181

(House Bill 254)

AN ACT concerning

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

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

BY repealing and reenacting, with amendments,
Article – Criminal Law
Section 3–304 and 3–306
Annotated Code of Maryland
(2002 Volume and 2009 Supplement)

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

Article – Criminal Law

3–304.

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

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

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

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

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

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

(2) (i) Subject to subparagraph (iv) of this paragraph, a person 18 years of age or older who violates subsection (b) of this section is guilty of the felony of rape in the second degree and on conviction is subject to imprisonment for not less than ~~[5] 20~~ 15 years and not exceeding ~~[20 years]~~ LIFE.

(ii) A court may not suspend any part of the mandatory minimum sentence of ~~[5] 20~~ 15 years.

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

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

(d) If the State intends to seek a sentence of imprisonment for not less than ~~[5] 20~~ 15 years under subsection (c)(2) of this section, the State shall notify the person in writing of the State's intention at least 30 days before trial.

3-306.

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

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

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

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

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

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

(2) (i) Subject to subparagraph (iv) of this paragraph, a person 18 years of age or older who violates subsection (b) of this section is guilty of the felony of

sexual offense in the second degree and on conviction is subject to imprisonment for not less than **[5] ~~20~~ 15** years and not exceeding **[20 years] LIFE**.

(ii) A court may not suspend any part of the mandatory minimum sentence of **[5] ~~20~~ 15** years.

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

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

(d) If the State intends to seek a sentence of imprisonment for not less than **[5] ~~20~~ 15** years under subsection (c)(2) of this section, the State shall notify the person in writing of the State's intention at least 30 days before trial.

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

Approved by the Governor, May 4, 2010.