

# SENATE BILL 508

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SB 617/10 – JPR

11r0847

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By: **Senators Jacobs, Colburn, Edwards, Glassman, Jennings, Pipkin, Reilly, Shank, and Simonaire**

Introduced and read first time: February 4, 2011

Assigned to: Judicial Proceedings

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## A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Plea Agreements – Prohibition of Concurrent Sentences for**  
3 **Child Sexual Offenses**

4 FOR the purpose of prohibiting a plea agreement from providing for concurrent  
5 sentencing for a defendant charged with multiple counts of certain child sexual  
6 offenses; and generally relating to plea agreements for defendants charged with  
7 child sexual offenses.

8 BY repealing and reenacting, without amendments,  
9 Article – Criminal Law  
10 Section 3–303 through 3–308  
11 Annotated Code of Maryland  
12 (2002 Volume and 2010 Supplement)

13 BY adding to  
14 Article – Criminal Law  
15 Section 3–325  
16 Annotated Code of Maryland  
17 (2002 Volume and 2010 Supplement)

18 BY repealing and reenacting, with amendments,  
19 Article – Criminal Law  
20 Section 3–602  
21 Annotated Code of Maryland  
22 (2002 Volume and 2010 Supplement)

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

25 **Article – Criminal Law**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 3–303.

2 (a) A person may not:

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

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

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

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

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

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

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

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

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

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

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

29 (4) (i) Subject to subparagraph (iv) of this paragraph, a person 18  
30 years of age or older who violates subsection (c) of this section is guilty of the felony of  
31 rape in the first degree and on conviction is subject to imprisonment for not less than  
32 25 years and not exceeding life without the possibility of parole.

1 (ii) A court may not suspend any part of the mandatory  
2 minimum sentence of 25 years.

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

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

7 (e) If the State intends to seek a sentence of imprisonment for life without  
8 the possibility of parole under subsection (d)(2), (3), or (4) of this section, or  
9 imprisonment for not less than 25 years under subsection (d)(4) of this section, the  
10 State shall notify the person in writing of the State's intention at least 30 days before  
11 trial.

12 3-304.

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

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

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

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

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

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

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

31 (ii) A court may not suspend any part of the mandatory  
32 minimum sentence of 15 years.

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

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

3 (d) If the State intends to seek a sentence of imprisonment for not less than  
4 15 years under subsection (c)(2) of this section, the State shall notify the person in  
5 writing of the State's intention at least 30 days before trial.

6 3-305.

7 (a) A person may not:

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

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

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

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

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

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

20 (b) A person may not violate subsection (a) of this section while also violating  
21 § 3-503(a)(2) of this title involving a victim who is a child under the age of 16 years.

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

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

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

31 (3) A person who violates subsection (a) or (b) of this section is guilty  
32 of the felony of sexual offense in the first degree and on conviction is subject to  
33 imprisonment not exceeding life without the possibility of parole if the defendant was  
34 previously convicted of violating this section or § 3-303 of this subtitle.

1           (4)   (i)    Subject to subparagraph (iv) of this paragraph, a person 18  
2 years of age or older who violates subsection (c) of this section is guilty of the felony of  
3 sexual offense in the first degree and on conviction is subject to imprisonment for not  
4 less than 25 years and not exceeding life without the possibility of parole.

5                   (ii)   A court may not suspend any part of the mandatory  
6 minimum sentence of 25 years.

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

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

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

16 3-306.

17           (a)    A person may not engage in a sexual act 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 sexual act knows or reasonably should know that the victim is a  
22 mentally defective individual, a mentally incapacitated individual, or a physically  
23 helpless individual; or

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

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

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

31                   (2)    (i)    Subject to subparagraph (iv) of this paragraph, a person 18  
32 years of age or older who violates subsection (b) of this section is guilty of the felony of  
33 sexual offense in the second degree and on conviction is subject to imprisonment for  
34 not less than 15 years and not exceeding life.

1 (ii) A court may not suspend any part of the mandatory  
2 minimum sentence of 15 years.

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

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

7 (d) If the State intends to seek a sentence of imprisonment for not less than  
8 15 years under subsection (c)(2) of this section, the State shall notify the person in  
9 writing of the State's intention at least 30 days before trial.

10 3–307.

11 (a) A person may not:

12 (1) (i) engage in sexual contact with another without the consent of  
13 the other; and

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

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

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

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

22 (2) engage in sexual contact with another if the victim is a mentally  
23 defective individual, a mentally incapacitated individual, or a physically helpless  
24 individual, and the person performing the act knows or reasonably should know the  
25 victim is a mentally defective individual, a mentally incapacitated individual, or a  
26 physically helpless individual;

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

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

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

1 (b) A person who violates this section is guilty of the felony of sexual offense  
2 in the third degree and on conviction is subject to imprisonment not exceeding 10  
3 years.

4 3–308.

5 (a) In this section, “person in a position of authority”:

6 (1) means a person who:

7 (i) is at least 21 years old;

8 (ii) is employed as a full-time permanent employee by a public  
9 or private preschool, elementary school, or secondary school; and

10 (iii) because of the person’s position or occupation, exercises  
11 supervision over a minor who attends the school; and

12 (2) includes a principal, vice principal, teacher, or school counselor at  
13 a public or private preschool, elementary school, or secondary school.

14 (b) A person may not engage in:

15 (1) sexual contact with another without the consent of the other;

16 (2) except as provided in § 3–307(a)(4) of this subtitle, a sexual act  
17 with another if the victim is 14 or 15 years old, and the person performing the sexual  
18 act is at least 4 years older than the victim; or

19 (3) except as provided in § 3–307(a)(5) of this subtitle, vaginal  
20 intercourse with another if the victim is 14 or 15 years old, and the person performing  
21 the act is at least 4 years older than the victim.

22 (c) (1) Except as provided in § 3–307(a)(4) of this subtitle or subsection  
23 (b)(2) of this section, a person in a position of authority may not engage in a sexual act  
24 or sexual contact with a minor who, at the time of the sexual act or sexual contact, is a  
25 student enrolled at a school where the person in a position of authority is employed.

26 (2) Except as provided in § 3–307(a)(5) of this subtitle or subsection  
27 (b)(3) of this section, a person in a position of authority may not engage in vaginal  
28 intercourse with a minor who, at the time of the vaginal intercourse, is a student  
29 enrolled at a school where the person in a position of authority is employed.

30 (d) (1) Except as provided in paragraph (2) of this subsection, a person  
31 who violates this section is guilty of the misdemeanor of sexual offense in the fourth  
32 degree and on conviction is subject to imprisonment not exceeding 1 year or a fine not  
33 exceeding \$1,000 or both.





