

# HOUSE BILL 1134

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CF SB 800

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By: **Delegates Atterbeary, Malone, Anderson, Angel, Arentz, Barron, Barve, Brooks, Cullison, Davis, Dumais, Fraser-Hidalgo, Frick, Frush, Hettleman, Hill, Hixson, Kelly, Kramer, Lam, J. Lewis, Lierman, A. Miller, Moon, Morales, Morhaim, Pena-Melnyk, Pendergrass, Platt, Robinson, Saab, Sanchez, Stein, Turner, Valentino-Smith, Waldstreicher, M. Washington, and K. Young**

Introduced and read first time: February 8, 2018

Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Sexual Activity With an Animal, Unnatural or Perverted Sexual**  
3 **Practices, and Sodomy**

4 FOR the purpose of repealing the offenses of sodomy and unnatural or perverted sexual  
5 practices; prohibiting a person from engaging in sexual activity with an animal;  
6 prohibiting a person from advertising, soliciting, offering, possessing, selling,  
7 transferring, accepting, purchasing, or otherwise obtaining an animal with a certain  
8 intent; prohibiting a person from organizing, promoting, conducting, or participating  
9 as an observer of a certain event; prohibiting a person from causing, coercing, aiding,  
10 or abetting another to engage in certain activity; prohibiting a person from allowing  
11 certain premises to be used by any person for a certain purpose; prohibiting a person  
12 from causing a minor to engage in certain activity; prohibiting a person from  
13 engaging in certain activity in the presence of a minor; establishing certain penalties  
14 for a violation of this Act; providing that a conviction under certain provisions of this  
15 Act may not merge with certain other convictions; providing that a court may order  
16 a defendant to take certain actions or prohibit a defendant from engaging in certain  
17 conduct for a certain period of time as a condition of sentencing; altering certain  
18 prohibitions relating to nudity and sexual displays by repealing references to sodomy  
19 and bestiality and adding a reference to sexual activity with an animal; altering the  
20 prohibition against murder in the first degree by repealing a reference to murder  
21 committed in the perpetration of or an attempt to perpetrate sodomy and adding a  
22 reference to murder committed in the perpetration of or an attempt to perpetrate  
23 sexual activity with an animal; altering the penalty for aggravated cruelty to  
24 animals; defining certain terms; altering certain definitions; making conforming  
25 changes; and generally relating to sexual activity with an animal, unnatural or  
26 perverted sexual practices, and sodomy.

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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 – Alcoholic Beverages  
3 Section 3–604(c)(1)(i) and (d)(1), 4–605(c)(1)(i) and (d)(1), and 12–2102(a)(5)(i)1. and  
4 (6)(i)  
5 Annotated Code of Maryland  
6 (2016 Volume and 2017 Supplement)
- 7 BY repealing and reenacting, without amendments,  
8 Article – Courts and Judicial Proceedings  
9 Section 3–801(a)  
10 Annotated Code of Maryland  
11 (2013 Replacement Volume and 2017 Supplement)
- 12 BY repealing and reenacting, with amendments,  
13 Article – Courts and Judicial Proceedings  
14 Section 3–801(z)  
15 Annotated Code of Maryland  
16 (2013 Replacement Volume and 2017 Supplement)
- 17 BY repealing and reenacting, with amendments,  
18 Article – Criminal Law  
19 Section 2–201(a)(4)(xi), 3–602(a)(4), 3–604(a)(9), 10–606, and 11–203(a)(3)  
20 Annotated Code of Maryland  
21 (2012 Replacement Volume and 2017 Supplement)
- 22 BY repealing  
23 Article – Criminal Law  
24 Section 3–321 and 3–322  
25 Annotated Code of Maryland  
26 (2012 Replacement Volume and 2017 Supplement)
- 27 BY repealing and reenacting, without amendments,  
28 Article – Criminal Law  
29 Section 3–602(a)(1), 3–604(a)(1), and 11–203(a)(1)  
30 Annotated Code of Maryland  
31 (2012 Replacement Volume and 2017 Supplement)
- 32 BY adding to  
33 Article – Criminal Law  
34 Section 10–606.1  
35 Annotated Code of Maryland  
36 (2012 Replacement Volume and 2017 Supplement)
- 37 BY repealing and reenacting, without amendments,  
38 Article – Criminal Procedure  
39 Section 11–701(a)

1 Annotated Code of Maryland  
2 (2008 Replacement Volume and 2017 Supplement)

3 BY repealing and reenacting, with amendments,  
4 Article – Criminal Procedure  
5 Section 11–701(q)(1)(v)  
6 Annotated Code of Maryland  
7 (2008 Replacement Volume and 2017 Supplement)

8 BY repealing and reenacting, without amendments,  
9 Article – Family Law  
10 Section 5–701(a)  
11 Annotated Code of Maryland  
12 (2012 Replacement Volume and 2017 Supplement)

13 BY repealing and reenacting, with amendments,  
14 Article – Family Law  
15 Section 5–701(z)  
16 Annotated Code of Maryland  
17 (2012 Replacement Volume and 2017 Supplement)

18 BY repealing and reenacting, without amendments,  
19 Article – Health – General  
20 Section 15–127(a)(1)  
21 Annotated Code of Maryland  
22 (2015 Replacement Volume and 2017 Supplement)

23 BY repealing and reenacting, with amendments,  
24 Article – Health – General  
25 Section 15–127(a)(4)  
26 Annotated Code of Maryland  
27 (2015 Replacement Volume and 2017 Supplement)

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

30 **Article – Alcoholic Beverages**

31 3–604.

32 (c) With respect to entertainment provided, a person may not:

33 (1) allow an individual to perform an act of or an act that simulates:

34 (i) sexual intercourse, masturbation, [sodomy, bestiality,] **SEXUAL**  
35 **ACTIVITY WITH AN ANIMAL**, oral copulation, flagellation, or a sexual act that is prohibited  
36 by law;

1 (d) A person may not show a motion picture, a still picture, an electronic  
2 reproduction, or any other visual reproduction depicting:

3 (1) an act or a simulated act of sexual intercourse, masturbation, [sodomy,  
4 bestiality,] **SEXUAL ACTIVITY WITH AN ANIMAL**, oral copulation, flagellation, or a sexual  
5 act that is prohibited by law;

6 4–605.

7 (c) With respect to entertainment provided, a person may not:

8 (1) allow an individual to perform an act of or act that simulates:

9 (i) sexual intercourse, masturbation, [sodomy, bestiality,] **SEXUAL**  
10 **ACTIVITY WITH AN ANIMAL**, oral copulation, flagellation, or a sexual act that is prohibited  
11 by law;

12 (d) A person may not show a motion picture, a still picture, an electronic  
13 reproduction, or other visual reproduction depicting:

14 (1) an act or a simulated act of sexual intercourse, masturbation, [sodomy,  
15 bestiality,] **SEXUAL ACTIVITY WITH AN ANIMAL**, oral copulation, flagellation, or a sexual  
16 act that is prohibited by law;

17 12–2102.

18 (a) In this section, “adult entertainment” means:

19 (5) with respect to entertainment provided:

20 (i) allowing an individual to perform an act of or act that simulates:

21 1. sexual intercourse, masturbation, [sodomy, bestiality,]  
22 **SEXUAL ACTIVITY WITH AN ANIMAL**, oral copulation, flagellation, or a sexual act that is  
23 prohibited by law;

24 (6) show a motion picture, still picture, electronic reproduction, or other  
25 visual reproduction depicting:

26 (i) an act or simulated act of sexual intercourse, masturbation,  
27 [sodomy, bestiality,] **SEXUAL ACTIVITY WITH AN ANIMAL**, oral copulation, flagellation, or  
28 a sexual act that is prohibited by law;

29 **Article – Courts and Judicial Proceedings**

1 3–801.

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

3 (z) “Sexual molestation or exploitation” includes:

4 (1) Allowing or encouraging a child to engage in:

5 (i) Obscene photography, films, poses, or similar activity;

6 (ii) Pornographic photography, films, poses, or similar activity; or

7 (iii) Prostitution;

8 (2) Incest;

9 (3) Rape;

10 (4) Sexual offense in any degree; **AND**

11 (5) **[Sodomy; and**

12 (6) **Unnatural or perverted sexual practices] SEXUAL ACTIVITY WITH AN**  
13 **ANIMAL.**

#### 14 **Article – Criminal Law**

15 2–201.

16 (a) A murder is in the first degree if it is:

17 (4) committed in the perpetration of or an attempt to perpetrate:

18 (xi) **[sodomy] SEXUAL ACTIVITY WITH AN ANIMAL;** or

19 **[3–321.**

20 A person who is convicted of sodomy is guilty of a felony and is subject to  
21 imprisonment not exceeding 10 years.]

22 **[3–322.**

23 (a) A person may not:

24 (1) take the sexual organ of another or of an animal in the person’s mouth;

1 (2) place the person's sexual organ in the mouth of another or of an animal;  
2 or

3 (3) commit another unnatural or perverted sexual practice with another or  
4 with an animal.

5 (b) A person who violates this section is guilty of a misdemeanor and on conviction  
6 is subject to imprisonment not exceeding 10 years or a fine not exceeding \$1,000 or both.

7 (c) A person who violates this section is subject to § 5–106(b) of the Courts Article.

8 (d) An indictment for a violation of this section:

9 (1) is sufficient if it states that the defendant committed an unnatural and  
10 perverted sexual practice with a person or animal as applicable; but

11 (2) need not state the particular:

12 (i) unnatural or perverted sexual practice with which the defendant  
13 is charged; or

14 (ii) manner in which the defendant committed the unnatural or  
15 perverted sexual practice.]

16 3–602.

17 (a) (1) In this section the following words have the meanings indicated.

18 (4) (i) “Sexual abuse” means an act that involves sexual molestation or  
19 exploitation of a minor, whether physical injuries are sustained or not.

20 (ii) “Sexual abuse” includes:

21 1. incest;

22 2. rape;

23 3. sexual offense in any degree; **AND**

24 4. [sodomy; and

25 5. unnatural or perverted sexual practices] **SEXUAL**  
26 **ACTIVITY WITH AN ANIMAL UNDER § 10–606.1(B)(6) OR (7) OF THIS ARTICLE.**

27 3–604.

1 (a) (1) In this section and §§ 3–605 and 3–606 of this subtitle the following  
2 words have the meanings indicated.

3 (9) (i) “Sexual abuse” means an act that involves sexual molestation or  
4 exploitation of a vulnerable adult.

5 (ii) “Sexual abuse” includes:

6 1. incest;

7 2. rape;

8 3. sexual offense in any degree; **AND**

9 4. [sodomy; and

10 5. unnatural or perverted sexual practices] **SEXUAL**  
11 **ACTIVITY WITH AN ANIMAL.**

12 10–606.

13 (a) A person may not:

14 (1) intentionally:

15 (i) mutilate;

16 (ii) torture;

17 (iii) cruelly beat; or

18 (iv) cruelly kill an animal;

19 (2) cause, procure, or authorize an act prohibited under item (1) of this  
20 subsection; or

21 (3) except in the case of self–defense, intentionally inflict bodily harm,  
22 permanent disability, or death on an animal owned or used by a law enforcement unit.

23 (b) (1) A person who violates this section is guilty of the felony of aggravated  
24 cruelty to animals and on conviction is subject to imprisonment not exceeding [3] 5 years  
25 or a fine not exceeding \$5,000 or both.

26 (2) As a condition of sentencing, the court may order a defendant convicted  
27 of violating this section to participate in and pay for psychological counseling.

1 (3) As a condition of probation, the court may prohibit a defendant from  
2 owning, possessing, or residing with an animal.

3 **10-606.1.**

4 (A) (1) IN THIS SECTION THE FOLLOWING TERMS HAVE THE MEANINGS  
5 INDICATED.

6 (2) "ANIMAL" INCLUDES A DEAD ANIMAL.

7 (3) "LEGITIMATE VETERINARY OR ANIMAL HUSBANDRY PURPOSE"  
8 INCLUDES ANY LAWFUL AND COMMONLY ACCEPTED PRACTICE RELATING TO:

9 (I) VETERINARY MEDICINE;

10 (II) THE ARTIFICIAL INSEMINATION OF AN ANIMAL FOR THE  
11 PURPOSE OF PROCREATION; AND

12 (III) CONFORMATION JUDGING.

13 (4) "SEXUAL ACTIVITY WITH AN ANIMAL" MEANS:

14 (I) CONTACT BETWEEN THE SEX ORGANS OR ANUS OF A PERSON  
15 AND THE MOUTH, ANUS, OR SEX ORGANS OF AN ANIMAL;

16 (II) CONTACT BETWEEN THE MOUTH OF A PERSON AND THE  
17 ANUS OR SEX ORGANS OF AN ANIMAL; OR

18 (III) UNLESS IT IS BEING DONE FOR A LEGITIMATE VETERINARY  
19 OR ANIMAL HUSBANDRY PURPOSE:

20 1. TOUCHING OR FONDLING, EITHER THROUGH DIRECT  
21 CONTACT OR THROUGH CLOTHING OR OTHER COVERING, THE ANUS OR SEX ORGANS  
22 OF AN ANIMAL;

23 2. TRANSFERRING OR TRANSMITTING SEMEN ONTO OR  
24 INTO ANY PART OF AN ANIMAL; OR

25 3. INSERTING, HOWEVER SLIGHTLY:

26 A. ANY PART OF A PERSON'S BODY INTO THE VAGINA OR  
27 ANUS OF AN ANIMAL;



1                   **B. ANY OBJECT INTO THE VAGINA OR ANUS OF AN**  
2 **ANIMAL; OR**

3                   **C. ANY PART OF AN ANIMAL'S BODY INTO THE VAGINA OR**  
4 **ANUS OF A PERSON.**

5           **(B) A PERSON MAY NOT:**

6                   **(1) ENGAGE IN SEXUAL ACTIVITY WITH AN ANIMAL;**

7                   **(2) ADVERTISE, SOLICIT, OFFER, POSSESS, SELL, TRANSFER, ACCEPT,**  
8 **PURCHASE, OR OTHERWISE OBTAIN AN ANIMAL WITH THE INTENT THAT THE ANIMAL**  
9 **WILL BE USED BY ANY PERSON TO ENGAGE IN SEXUAL ACTIVITY WITH AN ANIMAL;**

10                   **(3) ORGANIZE, PROMOTE, CONDUCT, OR PARTICIPATE AS AN**  
11 **OBSERVER AT AN EVENT AT WHICH A PERSON ENGAGES IN SEXUAL ACTIVITY WITH**  
12 **AN ANIMAL;**

13                   **(4) CAUSE, COERCE, AID, OR ABET ANOTHER TO ENGAGE IN SEXUAL**  
14 **ACTIVITY WITH AN ANIMAL;**

15                   **(5) ALLOW PREMISES OWNED OR CONTROLLED BY THE PERSON TO BE**  
16 **USED BY ANY PERSON TO ENGAGE IN SEXUAL ACTIVITY WITH AN ANIMAL;**

17                   **(6) CAUSE A MINOR TO ENGAGE IN SEXUAL ACTIVITY WITH AN**  
18 **ANIMAL; OR**

19                   **(7) ENGAGE IN SEXUAL ACTIVITY WITH AN ANIMAL IN THE PRESENCE**  
20 **OF A MINOR.**

21           **(C) (1) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A**  
22 **MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT**  
23 **EXCEEDING 10 YEARS OR A FINE NOT EXCEEDING \$1,000 OR BOTH.**

24                   **(2) NOTWITHSTANDING ANY OTHER LAW, A CONVICTION UNDER**  
25 **SUBSECTION (B)(6) OR (7) OF THIS SECTION MAY NOT MERGE WITH A CONVICTION**  
26 **UNDER § 3-601 OR § 3-602 OF THIS ARTICLE.**

27                   **(3) AS A CONDITION OF SENTENCING, THE COURT MAY:**

28                   **(I) ORDER A DEFENDANT CONVICTED OF VIOLATING THIS**  
29 **SECTION TO:**

1 1. PARTICIPATE IN AND PAY FOR PSYCHOLOGICAL  
2 COUNSELING; OR

3 2. REIMBURSE ANY PERSON FOR COSTS RELATING TO  
4 THE CARE OF AN ANIMAL IN RELATION TO CHARGES BROUGHT AGAINST THE  
5 DEFENDANT UNDER THIS SECTION FROM THE DATE OF THE VIOLATION UNTIL THE  
6 OUTCOME OF THE CASE, INCLUDING COSTS FOR:

7 A. IMPOUNDMENT;

8 B. TRANSPORTATION;

9 C. MEDICAL CARE;

10 D. FOOD;

11 E. ROUTINE CARE; AND

12 F. SHELTERING; OR

13 (II) PROHIBIT A DEFENDANT FROM OWNING, POSSESSING,  
14 RESIDING WITH, OR COMING INTO CONTACT WITH AN ANIMAL FOR A PERIOD OF TIME  
15 NOT EXCEEDING 30 YEARS.

16 11–203.

17 (a) (1) In this section the following words have the meanings indicated.

18 (3) “Illicit sex” means:

19 (i) human genitals in a state of sexual stimulation or arousal;

20 (ii) acts of human masturbation, sexual intercourse, or [sodomy]  
21 **SEXUAL ACTIVITY WITH AN ANIMAL**; or

22 (iii) fondling or other erotic touching of human genitals.

23 **Article – Criminal Procedure**

24 11–701.

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

26 (q) “Tier III sex offender” means a person who has been convicted of:

1 (1) conspiring to commit, attempting to commit, or committing a violation  
2 of:

3 (v) **§ 10–606.1 OF THE CRIMINAL LAW ARTICLE, OR** the common  
4 law offense of sodomy or § 3–322 of the Criminal Law Article **AS THE OFFENSES EXISTED**  
5 **BEFORE OCTOBER 1, 2018**, if the offense was committed with force or threat of force; or

### 6 Article – Family Law

7 5–701.

8 (a) Except as otherwise provided in § 5–705.1 of this subtitle, in this subtitle the  
9 following words have the meanings indicated.

10 (z) “Sexual molestation or exploitation” includes:

11 (1) allowing or encouraging a child to engage in:

12 (i) obscene photography, films, poses, or similar activity;

13 (ii) pornographic photography, films, poses, or similar activity; or

14 (iii) prostitution;

15 (2) incest;

16 (3) rape;

17 (4) sexual offense in any degree; **AND**

18 (5) [sodomy; and

19 (6) unnatural or perverted sexual practices] **SEXUAL ACTIVITY WITH AN**  
20 **ANIMAL.**

### 21 Article – Health – General

22 15–127.

23 (a) (1) In this section the following words have the meanings indicated.

24 (4) (i) For purposes of this section, “sexual abuse” means any act that  
25 involves sexual molestation or exploitation of a child whether or not the sexual molestation  
26 or exploitation of the child is by a parent or other person who has permanent or temporary  
27 care or custody or responsibility for supervision of a child, or by any household or family  
28 member.

- 1 (ii) "Sexual abuse" includes:
- 2 1. Incest, rape, or sexual offense in any degree; **AND**
- 3 2. [Sodomy; and
- 4 3. Unnatural or perverted sexual practices] **SEXUAL**
- 5 **ACTIVITY WITH AN ANIMAL.**

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

7 October 1, 2018.