

# HOUSE BILL 1039

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By: **Delegate Grammer**

Introduced and read first time: February 8, 2019

Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Human Trafficking – Penalties**  
3 **(Human Trafficking Reform Act)**

4 FOR the purpose of altering penalties for the crime of human trafficking; decriminalizing  
5 prostitution committed by a minor; repealing a certain requirement that a certain  
6 individual be charged with violating a certain provision of law before a certain  
7 defendant may raise a certain affirmative defense; requiring a certain person to  
8 provide certain referral services to a certain minor under certain circumstances;  
9 classifying human trafficking as a crime of violence under a certain provision of law;  
10 and generally relating to human trafficking.

11 BY repealing and reenacting, with amendments,  
12 Article – Criminal Law  
13 Section 11–303, 11–306, and 14–101(a)  
14 Annotated Code of Maryland  
15 (2012 Replacement Volume and 2018 Supplement)

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

18 **Article – Criminal Law**

19 11–303.

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

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

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

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 (iv) receive consideration to procure for or place in a house of  
4 prostitution or elsewhere another with the intent of causing the other to engage in  
5 prostitution or assignation;

6 (v) engage in a device, scheme, or continuing course of conduct  
7 intended to cause another to believe that if the other did not take part in a sexually explicit  
8 performance, the other or a third person would suffer physical restraint or serious physical  
9 harm; or

10 (vi) destroy, conceal, remove, confiscate, or possess an actual or  
11 purported passport, immigration document, or government identification document of  
12 another while otherwise violating or attempting to violate this subsection.

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

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

18 (2) A person may not knowingly take or detain another with the intent to  
19 use force, threat, coercion, or fraud to compel the other to marry the person or a third person  
20 or perform a sexual act, sexual contact, or vaginal intercourse.

21 [(c) (1) (i) Except as provided in paragraph (2) of this subsection, a person  
22 who violates subsection (a) of this section is guilty of the misdemeanor of human trafficking  
23 and on conviction is subject to imprisonment not exceeding 10 years or a fine not exceeding  
24 \$5,000 or both.

25 (ii) A person who violates subsection (a) of this section is subject to §  
26 5–106(b) of the Courts Article.

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

30 **(C) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF THE FELONY OF**  
31 **HUMAN TRAFFICKING AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT**  
32 **EXCEEDING 25 YEARS OR A FINE NOT EXCEEDING \$50,000 OR BOTH.**

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

1 (e) (1) A person who knowingly benefits financially or by receiving anything of  
2 value from participation in a venture that includes an act described in subsection (a) or (b)  
3 of this section is subject to the same penalties that would apply if the person had violated  
4 that subsection.

5 (2) A person who knowingly aids, abets, or conspires with one or more other  
6 persons to violate any subsection of this section is subject to the same penalties that apply  
7 for a violation of that subsection.

8 (f) It is not a defense to a prosecution under subsection (b)(1) of this section that  
9 the person did not know the age of the victim.

10 11-306.

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

12 [(1)] (I) engage in [prostitution or] assignation by any means;

13 [(2)] (II) keep, set up, occupy, maintain, or operate a building, structure,  
14 or conveyance for prostitution or assignation;

15 [(3)] (III) allow a building, structure, or conveyance owned or under the  
16 person's control to be used for prostitution or assignation;

17 [(4)] (IV) allow or agree to allow a person into a building, structure, or  
18 conveyance for prostitution or assignation; or

19 [(5)] (V) procure or solicit or offer to procure or solicit for prostitution or  
20 assignation.

21 (2) **A PERSON 18 YEARS OF AGE OR OLDER MAY NOT KNOWINGLY**  
22 **ENGAGE IN PROSTITUTION BY ANY MEANS.**

23 (b) A person who violates this section is guilty of a misdemeanor and on conviction  
24 is subject to imprisonment not exceeding 1 year or a fine not exceeding \$500 or both.

25 (c) (1) Subject to paragraph (2) of this subsection, in a prosecution under this  
26 section, it is an affirmative defense of duress if the defendant committed the act as a result  
27 of being a victim of an act of another [who was charged with violating the] **COMMITTED IN**  
28 **VIOLATION OF A** prohibition against human trafficking under § 11-303 of this subtitle or  
29 under federal law.

30 (2) A defendant may not assert the affirmative defense provided in  
31 paragraph (1) of this subsection unless the defendant notifies the State's Attorney of the  
32 defendant's intention to assert the defense at least 10 days prior to trial.

1           **(D) A LAW ENFORCEMENT OFFICER, A COURT, A STATE’S ATTORNEY, OR AN**  
2 **EMPLOYEE OF THE DEPARTMENT OF JUVENILE SERVICES WHO HAS REASON TO**  
3 **BELIEVE THAT A JUVENILE HAS ENGAGED IN PROSTITUTION SHALL PROVIDE THE**  
4 **JUVENILE WITH APPROPRIATE REFERRAL SERVICES.**

5 14–101.

6           (a) In this section, “crime of violence” means:

7           (1) abduction;

8           (2) arson in the first degree;

9           (3) kidnapping;

10          (4) manslaughter, except involuntary manslaughter;

11          (5) mayhem;

12          (6) maiming, as previously proscribed under former Article 27, §§ 385 and  
13 386 of the Code;

14          (7) murder;

15          (8) rape;

16          (9) robbery under § 3–402 or § 3–403 of this article;

17          (10) carjacking;

18          (11) armed carjacking;

19          (12) sexual offense in the first degree;

20          (13) sexual offense in the second degree;

21          (14) use of a firearm in the commission of a felony except possession with  
22 intent to distribute a controlled dangerous substance under § 5–602(2) of this article, or  
23 other crime of violence;

24          (15) child abuse in the first degree under § 3–601 of this article;

25          (16) sexual abuse of a minor under § 3–602 of this article if:

26                 (i) the victim is under the age of 13 years and the offender is an  
27 adult at the time of the offense; and

- 1                   (ii) the offense involved:
- 2                   1. vaginal intercourse, as defined in § 3–301 of this article;
- 3                   2. a sexual act, as defined in § 3–301 of this article;
- 4                   3. an act in which a part of the offender’s body penetrates,  
5 however slightly, into the victim’s genital opening or anus; or
- 6                   4. the intentional touching of the victim’s or the offender’s  
7 genital, anal, or other intimate area for sexual arousal, gratification, or abuse;
- 8                   (17) home invasion under § 6–202(b) of this article;
- 9                   **(18) HUMAN TRAFFICKING UNDER § 11–303 OF THIS ARTICLE;**
- 10                   **[(18)] (19)** an attempt to commit any of the crimes described in items (1)  
11 through **[(17)](18)** of this subsection;
- 12                   **[(19)] (20)** continuing course of conduct with a child under § 3–315 of this  
13 article;
- 14                   **[(20)] (21)** assault in the first degree;
- 15                   **[(21)] (22)** assault with intent to murder;
- 16                   **[(22)] (23)** assault with intent to rape;
- 17                   **[(23)] (24)** assault with intent to rob;
- 18                   **[(24)] (25)** assault with intent to commit a sexual offense in the first degree;  
19 and
- 20                   **[(25)] (26)** assault with intent to commit a sexual offense in the second  
21 degree.

22                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
23 October 1, 2019.