

SENATE BILL 250

E1
SB 230/20 – JPR

(PRE-FILED)

11r0516
CF HB 147

By: **Senators Lee and Waldstreicher**

Requested: September 14, 2020

Introduced and read first time: January 13, 2021

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 3, 2021

CHAPTER _____

1 AN ACT concerning

2 **Criminal Law – Sexual Crimes – ~~Repeal of Fourth Degree Sexual Offense and~~**
3 **Spousal Defense**

4 **~~(Love Is No Defense to Sexual Crimes)~~**

5 FOR the purpose of altering the definition of “sexual contact”; repealing a certain
6 prohibition on prosecuting a person for rape or a certain sexual offense against a
7 victim who was the person’s legal spouse at the time of the alleged rape or sexual
8 offense; and generally relating to sexual crimes.

9 BY repealing and reenacting, with amendments,

10 Article – Criminal Law

11 Section 3–301(e)

12 Annotated Code of Maryland

13 (2012 Replacement Volume and 2020 Supplement)

14 BY repealing and reenacting, without amendments,

15 Article – Criminal Law

16 Section 3–308(b)(1)

17 Annotated Code of Maryland

18 (2012 Replacement Volume and 2020 Supplement)

19 BY repealing

20 Article – Criminal Law

21 Section 3–318

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Annotated Code of Maryland
2 (2012 Replacement Volume and 2020 Supplement)

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

5 **Article – Criminal Law**

6 3–301.

7 (e) (1) “Sexual contact”, as used in §§ 3–307, 3–308, and 3–314 of this subtitle,
8 means an intentional touching of the victim’s or actor’s genital, anal, or other intimate area
9 for sexual arousal or gratification, or for the abuse of either party.

10 (2) “Sexual contact” does not include:

11 (i) a common expression of familial or friendly affection; [or]

12 (ii) an act for an accepted medical purpose; OR

13 **(III) FOR THE PURPOSES OF § 3–308(B)(1) OF THIS SUBTITLE**
14 **ONLY, IN THE CASE OF TWO INDIVIDUALS ENGAGED IN AN ONGOING CONSENSUAL**
15 **SEXUAL RELATIONSHIP, PHYSICAL CONTACT COMMONLY ENGAGED IN BY TWO**
16 **INDIVIDUALS IN A SEXUAL RELATIONSHIP, UNLESS ONE OF THE INDIVIDUALS HAS**
17 **REASONABLY INDICATED TO THE OTHER THAT FURTHER PHYSICAL CONTACT IS**
18 **UNWANTED.**

19 3–308.

20 (b) A person may not engage in:

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

22 **[3–318.**

23 (a) Except as provided in subsections (b) and (c) of this section, a person may not
24 be prosecuted under § 3–303, § 3–304, § 3–307, or § 3–308 of this subtitle for a crime against
25 a victim who was the person’s legal spouse at the time of the alleged rape or sexual offense.

26 (b) A person may be prosecuted under § 3–303(a), § 3–304(a)(1), or § 3–307(a)(1)
27 of this subtitle for a crime against the person’s legal spouse if:

28 (1) at the time of the alleged crime the person and the person’s legal spouse
29 have lived apart, without cohabitation and without interruption:

1 (i) under a written separation agreement executed by the person
2 and the spouse; or

3 (ii) for at least 3 months immediately before the alleged rape or
4 sexual offense; or

5 (2) the person in committing the crime uses force or threat of force and the
6 act is without the consent of the spouse.

7 (c) A person may be prosecuted under § 3–303, § 3–304, § 3–307, or § 3–308 of
8 this subtitle for a crime against the person’s legal spouse if at the time of the alleged crime
9 the person and the spouse live apart, without cohabitation and without interruption, under
10 a decree of limited divorce.]

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 October 1, 2021.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.