

SB0768/313924/1

BY: Judicial Proceedings Committee

AMENDMENTS TO SENATE BILL 768
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 2, after “**Trafficking**” insert “**and Human Trafficking**”; in line 4, strike “and a court are” and substitute “is”; in line 5, strike “or a court”; in line 6, after “trafficking” insert “or a victim of human trafficking”; strike beginning with “providing” in line 6 down through “minors” in line 10 and substitute “providing that it is an affirmative defense of duress to certain offenses if the defendant who is a minor in a criminal proceeding or a delinquency proceeding against a child if the defendant or child committed the offense as a result of being the victim of another under certain State and federal prohibitions against human trafficking; altering the list of offenses for which a person may file a motion to vacate judgment if the person’s participation was a result of being a victim of human trafficking”; in the same line, after “sex trafficking” insert “and human trafficking”; after line 10, insert:

“BY repealing and reenacting, without amendments,

Article – Courts and Judicial Proceedings

Section 3–8A–01(a) and (dd)

Annotated Code of Maryland

(2020 Replacement Volume and 2021 Supplement)”;

strike in their entirety lines 16 through 20, inclusive; and strike in their entirety lines 26 and 27.

On page 2, strike in their entirety lines 1 through 3, inclusive, and substitute:

“BY repealing and reenacting, with amendments,

Article – Criminal Procedure

Section 8–302(a)

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Annotated Code of Maryland
(2018 Replacement Volume and 2021 Supplement)

BY repealing and reenacting, without amendments,
Article – Criminal Procedure
Section 8–302(b)
Annotated Code of Maryland
(2018 Replacement Volume and 2021 Supplement)”;

and strike in their entirety lines 9 through 13, inclusive.

AMENDMENT NO. 2

On page 2, after line 16, insert:

“3–8A–01.

(a) In this subtitle the following words have the meanings indicated, unless the context of their use indicates otherwise.

(dd) “Violation” means a violation for which a citation is issued under:

(1) § 5–601 of the Criminal Law Article involving the use or possession of less than 10 grams of marijuana;

(2) § 10–113, § 10–114, § 10–115, or § 10–116 of the Criminal Law Article;

(3) § 10–132 of the Criminal Law Article;

(4) § 10–136 of the Criminal Law Article; or

(5) § 26–103 of the Education Article.”.

On page 3, after line 16, insert:

“(IV) ‘VICTIM OF HUMAN TRAFFICKING’ HAS THE MEANING STATED IN § 8–302 OF THE CRIMINAL PROCEDURE ARTICLE.”;

in line 19, after “sex trafficking” insert “**OR A VICTIM OF HUMAN TRAFFICKING**”; in line 24, after “sex trafficking” insert “**OR A SUSPECTED VICTIM OF HUMAN TRAFFICKING**”; and in lines 27 and 34, in each instance, after “SEX TRAFFICKING” insert “**OR A SUSPECTED VICTIM OF HUMAN TRAFFICKING**”.

On page 4, in line 3, strike “AN OFFENSE UNDER TITLE 3, SUBTITLE 11” and substitute “**§ 3–1102**”; and strike in their entirety lines 4 through 26, inclusive.

On pages 5 and 6, strike in their entirety the lines beginning with line 1 on page 5 through line 9 on page 6, inclusive, and substitute:

“(3) ‘VIOLATION’ HAS THE MEANING STATED IN § 3–8A–01 OF THE COURTS ARTICLE.

(B) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, IN A CRIMINAL PROSECUTION AGAINST A MINOR, OR IN A PROCEEDING AGAINST A DELINQUENT CHILD UNDER TITLE 3, SUBTITLE 8A OF THE COURTS ARTICLE, FOR A QUALIFYING OFFENSE, A VIOLATION, OR AN OFFENSE UNDER § 3–1102 OF THIS ARTICLE IT IS AN AFFIRMATIVE DEFENSE OF DURESS IF THE DEFENDANT OR CHILD COMMITTED THE ACT AS A RESULT OF BEING THE VICTIM OF ANOTHER UNDER TITLE 3, SUBTITLE 11 OF THIS ARTICLE OR THE PROHIBITION AGAINST HUMAN TRAFFICKING UNDER FEDERAL LAW.

(2) A DEFENDANT OR A CHILD IN A DELINQUENCY PROCEEDING MAY NOT ASSERT THE AFFIRMATIVE DEFENSE PROVIDED IN PARAGRAPH (1) OF THIS SUBSECTION UNLESS THE DEFENDANT OR CHILD NOTIFIES THE STATE’S ATTORNEY OF THE DEFENDANT’S OR CHILD’S INTENTION TO ASSERT THE DEFENSE AT LEAST 10 DAYS BEFORE TRIAL.

Article – Criminal Procedure

8–302.

(Over)

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- (a) (1) In this section the following words have the meanings indicated.
- (2) “Qualifying offense” means:
- (i) unnatural or perverted sexual practice under § 3–322 of the Criminal Law Article;
 - (ii) possessing or administering a controlled dangerous substance under § 5–601 of the Criminal Law Article;
 - (iii) possessing or purchasing a noncontrolled substance under § 5–618 of the Criminal Law Article;
 - (iv) possessing or distributing controlled paraphernalia under § 5–620(a)(2) of the Criminal Law Article;
 - (v) fourth–degree burglary under § 6–205 of the Criminal Law Article;
 - (vi) malicious destruction of property in the lesser degree under § 6–301(c) of the Criminal Law Article;
 - (vii) a trespass offense under Title 6, Subtitle 4 of the Criminal Law Article;
 - (viii) misdemeanor theft under § 7–104 of the Criminal Law Article;
 - (ix) misdemeanor obtaining property or services by bad check under § 8–103 of the Criminal Law Article;
 - (x) possession or use of a fraudulent government identification document under § 8–303 of the Criminal Law Article;
 - (xi) public assistance fraud under § 8–503 of the Criminal Law Article;

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(xii) false statement to a law enforcement officer or public official under § 9–501, § 9–502, or § 9–503 of the Criminal Law Article;

(xiii) disturbing the public peace and disorderly conduct under § 10–201 of the Criminal Law Article;

(xiv) indecent exposure under § 11–107 of the Criminal Law Article;

(xv) prostitution under § 11–303 of the Criminal Law Article;

(xvi) driving with a suspended registration under § 13–401(h) of the Transportation Article;

(xvii) failure to display registration under § 13–409(b) of the Transportation Article;

(xviii) driving without a license under § 16–101 of the Transportation Article;

(xix) failure to display license to police under § 16–112(c) of the Transportation Article;

(xx) possession of a suspended license under § 16–301(j) of the Transportation Article;

(xxi) driving while privilege is canceled, suspended, refused, or revoked under § 16–303 of the Transportation Article;

(xxii) owner failure to maintain security on a vehicle under § 17–104(b) of the Transportation Article;

(xxiii) driving while uninsured under § 17–107 of the Transportation Article; [or]

(xxiv) prostitution or loitering as prohibited under local law;

(Over)

(XXV) UNAUTHORIZED USE UNDER § 14-102 OF THE
TRANSPORTATION ARTICLE; OR

(XXVI) SOLICITING OR OFFERING TO SOLICIT
PROSTITUTION OR ASSIGNATION UNDER § 11-306 OF THE CRIMINAL LAW
ARTICLE.

(3) “Victim of human trafficking” means a person who has been
subjected to an act of another committed in violation of:

(i) Title 3, Subtitle 11 of the Criminal Law Article; or

(ii) § 1589, § 1590, § 1591, or § 1594(a) of Title 18 of the United
States Code.

(b) A person convicted of a qualifying offense may file a motion to vacate the
judgment if the person’s participation in the offense was a direct result of being a victim
of human trafficking.”.

On pages 6 through 9, strike in their entirety the lines beginning with line 16 on
page 6 through line 13 on page 9, inclusive.