

SENATE BILL 33

E1
SB 250/21 – JPR

(PRE-FILED)

2lr0378
CF HB 153

By: **Senator Lee**

Requested: August 11, 2021

Introduced and read first time: January 12, 2022

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 22, 2022

CHAPTER _____

1 AN ACT concerning

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

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

8 BY repealing and reenacting, with amendments,

9 Article – Criminal Law

10 Section 3–301(e)

11 Annotated Code of Maryland

12 (2021 Replacement Volume and 2021 Supplement)

13 BY repealing and reenacting, without amendments,

14 Article – Criminal Law

15 Section 3–308(b)(1)

16 Annotated Code of Maryland

17 (2021 Replacement Volume and 2021 Supplement)

18 BY repealing

19 Article – Criminal Law

20 Section 3–318

21 Annotated Code of Maryland

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.



(2021 Replacement Volume and 2021 Supplement)

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

Article – Criminal Law

3–301.

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

(2) “Sexual contact” does not include:

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

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

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

3–308.

(b) A person may not engage in:

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

[3–318.

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

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

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

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

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

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

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

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
10 October 1, 2022.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.