

SENATE BILL 68

E1

2lr0439

(PRE-FILED)

By: **Senator Bailey**

Requested: September 8, 2021

Introduced and read first time: January 12, 2022

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Sexual Offenses – Crime of Violence and Lifetime Supervision**

3 FOR the purpose of altering a certain definition of “crime of violence” as it relates to the
4 age of victims of certain offenses; requiring a sentence for certain persons convicted
5 of certain sexual abuse crimes to include a term of lifetime sexual offender
6 supervision; and generally relating to sexual offenses.

7 BY repealing and reenacting, without amendments,

8 Article – Criminal Law

9 Section 3–602

10 Annotated Code of Maryland

11 (2021 Replacement Volume)

12 BY repealing and reenacting, with amendments,

13 Article – Criminal Law

14 Section 14–101(a)

15 Annotated Code of Maryland

16 (2021 Replacement Volume)

17 BY repealing and reenacting, with amendments,

18 Article – Criminal Procedure

19 Section 11–723

20 Annotated Code of Maryland

21 (2018 Replacement Volume and 2021 Supplement)

22 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

23 That the Laws of Maryland read as follows:

24 **Article – Criminal Law**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 3–602.

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

3 (2) “Family member” has the meaning stated in § 3–601 of this subtitle.

4 (3) “Household member” has the meaning stated in § 3–601 of this subtitle.

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

7 (ii) “Sexual abuse” includes:

8 1. incest;

9 2. rape;

10 3. sexual offense in any degree; and

11 4. unnatural or perverted sexual practices.

12 (b) (1) A parent or other person who has permanent or temporary care or
13 custody or responsibility for the supervision of a minor may not cause sexual abuse to the
14 minor.

15 (2) A household member or family member may not cause sexual abuse to
16 a minor.

17 (c) A person who violates this section is guilty of a felony and on conviction is
18 subject to imprisonment not exceeding 25 years.

19 (d) A sentence imposed under this section may be separate from and consecutive
20 to or concurrent with a sentence for:

21 (1) any crime based on the act establishing the violation of this section; or

22 (2) a violation of § 3–601 of this subtitle involving an act of abuse separate
23 from sexual abuse under this section.

24 14–101.

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

26 (1) abduction;

27 (2) arson in the first degree;

- 1 (3) kidnapping;
- 2 (4) manslaughter, except involuntary manslaughter;
- 3 (5) mayhem;
- 4 (6) maiming, as previously proscribed under former Article 27, §§ 385 and
5 386 of the Code;
- 6 (7) murder;
- 7 (8) rape;
- 8 (9) robbery under § 3–402 or § 3–403 of this article;
- 9 (10) carjacking;
- 10 (11) armed carjacking;
- 11 (12) sexual offense in the first degree;
- 12 (13) sexual offense in the second degree;
- 13 (14) use of a firearm in the commission of a felony except possession with
14 intent to distribute a controlled dangerous substance under § 5–602(2) of this article, or
15 other crime of violence;
- 16 (15) child abuse in the first degree under § 3–601 of this article;
- 17 (16) sexual abuse of a minor under § 3–602 of this article if:
- 18 (i) **1.** the victim is under the age of 13 years and the offender is
19 an adult at the time of the offense; **OR**
- 20 **2.** **THE OFFENDER IS AT LEAST 21 YEARS OLD AND THE**
21 **VICTIM IS UNDER THE AGE OF 16 YEARS;** and
- 22 (ii) the offense involved:
- 23 1. vaginal intercourse, as defined in § 3–301 of this article;
- 24 2. a sexual act, as defined in § 3–301 of this article;
- 25 3. an act in which a part of the offender’s body penetrates,
26 however slightly, into the victim’s genital opening or anus; or
- 27 4. the intentional touching of the victim’s or the offender’s

1 genital, anal, or other intimate area for sexual arousal, gratification, or abuse;

2 (17) home invasion under § 6–202(b) of this article;

3 (18) a felony offense under Title 3, Subtitle 11 of this article;

4 (19) an attempt to commit any of the crimes described in items (1) through
5 (18) of this subsection;

6 (20) continuing course of conduct with a child under § 3–315 of this article;

7 (21) assault in the first degree;

8 (22) assault with intent to murder;

9 (23) assault with intent to rape;

10 (24) assault with intent to rob;

11 (25) assault with intent to commit a sexual offense in the first degree; and

12 (26) assault with intent to commit a sexual offense in the second degree.

13 Article – Criminal Procedure

14 11–723.

15 (a) Except where a term of natural life without the possibility of parole is imposed,
16 a sentence for the following persons shall include a term of lifetime sexual offender
17 supervision:

18 (1) a person who is a sexually violent predator;

19 (2) a person who has been convicted of a violation of:

20 (i) § 3–303 or § 3–304 of the Criminal Law Article; or

21 (ii) § 3–305 or ~~§ 3–306(a)(1) or (2)~~ **§ 3–306** of the Criminal Law
22 Article as the sections existed before October 1, 2017;

23 (3) a person who has been convicted of a violation of § 3–309 or § 3–310 of
24 the Criminal Law Article, § 3–311 of the Criminal Law Article as the section existed before
25 October 1, 2017, or an attempt to commit a violation of ~~§ 3–306(a)(1) or (2)~~ **§ 3–306** of the
26 Criminal Law Article as the section existed before October 1, 2017;

27 (4) a person who has been convicted of a violation of § 3–602 of the Criminal
28 Law Article:

1 (I) involving a child under the age of [12] 13 years; OR

2 (II) THAT WAS COMMITTED WHEN THE PERSON WAS AT LEAST 21
3 YEARS OLD AGAINST A CHILD UNDER THE AGE OF 16 YEARS;

4 (5) a person who is required to register under § 11-704(c) of this subtitle;
5 and

6 (6) a person who has been convicted more than once arising out of separate
7 incidents of a crime that requires registration under this subtitle.

8 (b) Except where a term of natural life without the possibility of parole is imposed,
9 a sentence for a violation of § 3-307(a)(1) or (2) of the Criminal Law Article may include a
10 term of lifetime sexual offender supervision.

11 (c) (1) Except as provided in paragraph (2) of this subsection, the term of
12 lifetime sexual offender supervision imposed on a person for a crime committed on or after
13 October 1, 2010, shall:

14 (i) be a term of life; and

15 (ii) commence on the expiration of the later of any term of
16 imprisonment, probation, parole, or mandatory supervision.

17 (2) For a person who is required to register under § 11-704(c) of this
18 subtitle, the term of lifetime sexual offender supervision imposed for an act committed on
19 or after October 1, 2010, shall:

20 (i) commence when the person's obligation to register commences;
21 and

22 (ii) expire when the person's obligation to register expires, unless the
23 juvenile court:

24 1. finds after a hearing that there is a compelling reason for
25 the supervision to continue; and

26 2. orders the supervision to continue for a specified period of
27 time.

28 (d) (1) For a sentence that includes a term of lifetime sexual offender
29 supervision, the sentencing court, or juvenile court in the case of a person who is required
30 to register under § 11-704(c) of this subtitle, shall impose special conditions of lifetime
31 sexual offender supervision on the person at the time of sentencing, or imposition of the
32 registration requirement in juvenile court, and advise the person of the length, conditions,
33 and consecutive nature of that supervision.

1 (2) Before imposing special conditions, the sentencing court or juvenile
2 court shall order:

3 (i) a presentence investigation in accordance with § 6–112 of the
4 Correctional Services Article; and

5 (ii) for a sentence for a violation of § 3–307(a)(1) or (2) of the Criminal
6 Law Article, a risk assessment of the person conducted by a sexual offender treatment
7 provider.

8 (3) The conditions of lifetime sexual offender supervision may include:

9 (i) monitoring through global positioning satellite tracking or
10 equivalent technology;

11 (ii) where appropriate and feasible, restricting a person from living
12 in proximity to or loitering near schools, family child care homes, child care centers, and
13 other places used primarily by minors;

14 (iii) restricting a person from obtaining employment or from
15 participating in an activity that would bring the person into contact with minors;

16 (iv) requiring a person to participate in a sexual offender treatment
17 program;

18 (v) prohibiting a person from using illicit drugs or alcohol;

19 (vi) authorizing a parole and probation agent to access the person's
20 personal computer to check for material relating to sexual relations with minors;

21 (vii) requiring a person to take regular polygraph examinations;

22 (viii) prohibiting a person from contacting specific individuals or
23 categories of individuals; and

24 (ix) any other conditions deemed appropriate by the sentencing court
25 or juvenile court.

26 (4) The sentencing court or juvenile court may adjust the special conditions
27 of lifetime sexual offender supervision, in consultation with the person's sexual offender
28 management team.

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to
30 apply only prospectively and may not be applied or interpreted to have any effect on or
31 application to any conviction before the effective date of this Act.

1 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2022.