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Judicial Proceedings Committee



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THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

January 27, 2026

The Maryland State Senate Judicial Proceedings Committee
The Honorable William C. Smith, Jr.
2 East Miller Senate Office Building
Annapolis, Maryland 21401

RE: Senate Bill 230 – Criminal Law – Third-Degree Sexual Offense – Burglary

Chair Smith, Vice-Chair Waldstreicher, and Members of the Judicial Proceedings Committee,

The purpose of this bill is to fix an anomaly in Maryland's criminal statutes dealing with sexual crime. There are different degrees of sexual crimes.

Rape in the second degree, is the act of rape alone. Criminal Law 3-304 Rape in the first degree is rape *plus* an aggravating factor: weapons, threats of death, suffocation, multiple assailants, and the like. Criminal Law 3-303 Another aggravating factor is burglary in the first-, second-, or third-degree.

Similarly, there are two degrees of sex offenses for crimes involving the unconsented touching of intimate areas. Fourth degree sexual offense, includes the act of touching without consent alone, Criminal Law 3-308(b)(1). Third degree sexual offense includes the same conduct *plus* an aggravating factor. Criminal Law 3-307(a)(1). Just as in the case of 1st degree rape, these aggravating factors are weapons, threat of death, suffocation, multiple assailants, and the like. However, missing from the list of aggravating factors in third degree sexual offenses is burglary in the first-, second-, or third-degree.

So, committing a sexual crime in connection with a burglary in the first-, second-, or third-degree, applies only in cases involving rape, but not to cases involving sexual contact. This omission is inexplicable. There is no obvious reason why the commission of a sex crime in connection with a burglary will elevate a rape to 1st degree rape but does not elevate an unconsented touching to a 3rd degree offense.

This bill will rectify this situation and establish in law that engaging in such behavior constitutes a sexual offense in the third-degree. The bill further alters definitions of tier I, II, and III sex offenders to apply to those who have committed these or certain acts in the third-degree.

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I appreciate the Committee's time and consideration of SB 230 and I will be happy to answer any questions the Committee may have.