

HOUSE BILL 841

E1

0lr1685

By: **Delegates Conway, DeBoy, Eckardt, Elmore, Haddaway, Malone, Mathias, and Rudolph**

Introduced and read first time: February 9, 2010

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Crimes – Sexual Offenses – Children Under the Age of 15**

3 FOR the purpose of altering certain provisions concerning the age of a victim for
4 purposes of certain prohibitions against certain sexual acts by certain persons
5 involving victims who are children under a certain age; and generally relating
6 to sexual offenses and children under a certain age.

7 BY repealing and reenacting, with amendments,
8 Article – Criminal Law
9 Section 3–303 through 3–306
10 Annotated Code of Maryland
11 (2002 Volume and 2009 Supplement)

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

14 **Article – Criminal Law**

15 3–303.

16 (a) A person may not:

17 (1) engage in vaginal intercourse with another by force, or the threat
18 of force, without the consent of the other; and

19 (2) (i) employ or display a dangerous weapon, or a physical object
20 that the victim reasonably believes is a dangerous weapon;

21 (ii) suffocate, strangle, disfigure, or inflict serious physical
22 injury on the victim or another in the course of committing the crime;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (iii) threaten, or place the victim in fear, that the victim, or an
2 individual known to the victim, imminently will be subject to death, suffocation,
3 strangulation, disfigurement, serious physical injury, or kidnapping;

4 (iv) commit the crime while aided and abetted by another; or

5 (v) commit the crime in connection with a burglary in the first,
6 second, or third degree.

7 (b) A person may not violate subsection (a) of this section while also violating
8 § 3–503(a)(2) of this title involving a victim who is a child under the age of 16 years.

9 (c) A person 18 years of age or older may not violate subsection (a) of this
10 section involving a victim who is a child under the age of [13] 15 years.

11 (d) (1) Except as provided in paragraphs (2), (3), and (4) of this
12 subsection, a person who violates subsection (a) of this section is guilty of the felony of
13 rape in the first degree and on conviction is subject to imprisonment not exceeding life.

14 (2) A person who violates subsection (b) of this section is guilty of the
15 felony of rape in the first degree and on conviction is subject to imprisonment not
16 exceeding life without the possibility of parole.

17 (3) A person who violates subsection (a) or (b) of this section is guilty
18 of the felony of rape in the first degree and on conviction is subject to imprisonment
19 not exceeding life without the possibility of parole if the defendant was previously
20 convicted of violating this section or § 3–305 of this subtitle.

21 (4) (i) Subject to subparagraph (iv) of this paragraph, a person 18
22 years of age or older who violates subsection (c) of this section is guilty of the felony of
23 rape in the first degree and on conviction is subject to imprisonment for not less than
24 25 years and not exceeding life without the possibility of parole.

25 (ii) A court may not suspend any part of the mandatory
26 minimum sentence of 25 years.

27 (iii) The person is not eligible for parole during the mandatory
28 minimum sentence.

29 (iv) If the State fails to comply with subsection (e) of this section,
30 the mandatory minimum sentence shall not apply.

31 (e) If the State intends to seek a sentence of imprisonment for life without
32 the possibility of parole under subsection (d)(2), (3), or (4) of this section, or
33 imprisonment for not less than 25 years under subsection (d)(4) of this section, the

1 State shall notify the person in writing of the State's intention at least 30 days before
2 trial.

3 3-304.

4 (a) A person may not engage in vaginal intercourse with another:

5 (1) by force, or the threat of force, without the consent of the other;

6 (2) if the victim is a mentally defective individual, a mentally
7 incapacitated individual, or a physically helpless individual, and the person
8 performing the act knows or reasonably should know that the victim is a mentally
9 defective individual, a mentally incapacitated individual, or a physically helpless
10 individual; or

11 (3) if the victim is under the age of 14 years, and the person
12 performing the act is at least 4 years older than the victim.

13 (b) A person 18 years of age or older may not violate subsection (a)(1) or (2) of
14 this section involving a child under the age of ~~[13]~~ 15 years.

15 (c) (1) Except as provided in paragraph (2) of this subsection, a person
16 who violates subsection (a) of this section is guilty of the felony of rape in the second
17 degree and on conviction is subject to imprisonment not exceeding 20 years.

18 (2) (i) Subject to subparagraph (iv) of this paragraph, a person 18
19 years of age or older who violates subsection (b) of this section is guilty of the felony of
20 rape in the second degree and on conviction is subject to imprisonment for not less
21 than 5 years and not exceeding 20 years.

22 (ii) A court may not suspend any part of the mandatory
23 minimum sentence of 5 years.

24 (iii) The person is not eligible for parole during the mandatory
25 minimum sentence.

26 (iv) If the State fails to comply with subsection (d) of this section,
27 the mandatory minimum shall not apply.

28 (d) If the State intends to seek a sentence of imprisonment for not less than 5
29 years under subsection (c)(2) of this section, the State shall notify the person in
30 writing of the State's intention at least 30 days before trial.

31 3-305.

32 (a) A person may not:

1 (1) engage in a sexual act with another by force, or the threat of force,
2 without the consent of the other; and

3 (2) (i) employ or display a dangerous weapon, or a physical object
4 that the victim reasonably believes is a dangerous weapon;

5 (ii) suffocate, strangle, disfigure, or inflict serious physical
6 injury on the victim or another in the course of committing the crime;

7 (iii) threaten, or place the victim in fear, that the victim, or an
8 individual known to the victim, imminently will be subject to death, suffocation,
9 strangulation, disfigurement, serious physical injury, or kidnapping;

10 (iv) commit the crime while aided and abetted by another; or

11 (v) commit the crime in connection with a burglary in the first,
12 second, or third degree.

13 (b) A person may not violate subsection (a) of this section while also violating
14 § 3–503(a)(2) of this title involving a victim who is a child under the age of 16 years.

15 (c) A person 18 years of age or older may not violate subsection (a) of this
16 section involving a victim who is a child under the age of **[13] 15** years.

17 (d) (1) Except as provided in paragraphs (2), (3), and (4) of this
18 subsection, a person who violates subsection (a) of this section is guilty of the felony of
19 sexual offense in the first degree and on conviction is subject to imprisonment not
20 exceeding life.

21 (2) A person who violates subsection (b) of this section is guilty of the
22 felony of sexual offense in the first degree and on conviction is subject to imprisonment
23 not exceeding life without the possibility of parole.

24 (3) A person who violates subsection (a) or (b) of this section is guilty
25 of the felony of sexual offense in the first degree and on conviction is subject to
26 imprisonment not exceeding life without the possibility of parole if the defendant was
27 previously convicted of violating this section or § 3–303 of this subtitle.

28 (4) (i) Subject to subparagraph (iv) of this paragraph, a person 18
29 years of age or older who violates subsection (c) of this section is guilty of the felony of
30 sexual offense in the first degree and on conviction is subject to imprisonment for not
31 less than 25 years and not exceeding life without the possibility of parole.

32 (ii) A court may not suspend any part of the mandatory
33 minimum sentence of 25 years.

1 (iii) The person is not eligible for parole during the mandatory
2 minimum sentence.

3 (iv) If the State fails to comply with subsection (e) of this section,
4 the mandatory minimum sentence shall not apply.

5 (e) If the State intends to seek a sentence of imprisonment for life without
6 the possibility of parole under subsection (d)(2), (3), or (4) of this section, or
7 imprisonment for not less than 25 years under subsection (d)(4) of this section, the
8 State shall notify the person in writing of the State's intention at least 30 days before
9 trial.

10 3-306.

11 (a) A person may not engage in a sexual act with another:

12 (1) by force, or the threat of force, without the consent of the other;

13 (2) if the victim is a mentally defective individual, a mentally
14 incapacitated individual, or a physically helpless individual, and the person
15 performing the sexual act knows or reasonably should know that the victim is a
16 mentally defective individual, a mentally incapacitated individual, or a physically
17 helpless individual; or

18 (3) if the victim is under the age of 14 years, and the person
19 performing the sexual act is at least 4 years older than the victim.

20 (b) A person 18 years of age or older may not violate subsection (a)(1) or (2) of
21 this section involving a child under the age of [13] 15 years.

22 (c) (1) Except as provided in paragraph (2) of this subsection, a person
23 who violates this section is guilty of the felony of sexual offense in the second degree
24 and on conviction is subject to imprisonment not exceeding 20 years.

25 (2) (i) Subject to subparagraph (iv) of this paragraph, a person 18
26 years of age or older who violates subsection (b) of this section is guilty of the felony of
27 sexual offense in the second degree and on conviction is subject to imprisonment for
28 not less than 5 years and not exceeding 20 years.

29 (ii) A court may not suspend any part of the mandatory
30 minimum sentence of 5 years.

31 (iii) The person is not eligible for parole during the mandatory
32 minimum sentence.

33 (iv) If the State fails to comply with subsection (d) of this section,
34 the mandatory minimum shall not apply.

1 (d) If the State intends to seek a sentence of imprisonment for not less than 5
2 years under subsection (c)(2) of this section, the State shall notify the person in
3 writing of the State's intention at least 30 days before trial.

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 October 1, 2010.