

SENATE BILL 800

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CF 8lr1694

By: **Senators Lee, Benson, Eckardt, Feldman, Guzzone, Hershey, Hough, Kagan, King, Madaleno, Mathias, Muse, Ready, Robinson, Smith, Young, and Zirkin**
Introduced and read first time: February 5, 2018
Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Sexual Activity With an Animal, Unnatural or Perverted Sexual**
3 **Practices, and Sodomy**

4 FOR the purpose of repealing the offenses of sodomy and unnatural or perverted sexual
5 practices; prohibiting a person from engaging in sexual activity with an animal;
6 prohibiting a person from advertising, soliciting, offering, possessing, selling,
7 transferring, accepting, purchasing, or otherwise obtaining an animal with a certain
8 intent; prohibiting a person from organizing, promoting, conducting, or participating
9 as an observer of a certain event; prohibiting a person from causing, coercing, aiding,
10 or abetting another to engage in certain activity; prohibiting a person from allowing
11 certain premises to be used by any person for a certain purpose; prohibiting a person
12 from causing a minor to engage in certain activity; prohibiting a person from
13 engaging in certain activity in the presence of a minor; establishing certain penalties
14 for a violation of this Act; providing that a conviction under certain provisions of this
15 Act may not merge with certain other convictions; providing that a court may order
16 a defendant to take certain actions or prohibit a defendant from engaging in certain
17 conduct for a certain period of time as a condition of sentencing; altering certain
18 prohibitions relating to nudity and sexual displays by repealing references to sodomy
19 and bestiality and adding a reference to sexual activity with an animal; altering the
20 prohibition against murder in the first degree by repealing a reference to murder
21 committed in the perpetration of or an attempt to perpetrate sodomy and adding a
22 reference to murder committed in the perpetration of or an attempt to perpetrate
23 sexual activity with an animal; altering the penalty for aggravated cruelty to
24 animals; defining certain terms; altering certain definitions; making conforming
25 changes; and generally relating to sexual activity with an animal, unnatural or
26 perverted sexual practices, and sodomy.

27 BY repealing and reenacting, with amendments,
28 Article – Alcoholic Beverages

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.



- 1 Section 3–604(c)(1)(i) and (d)(1), 4–605(c)(1)(i) and (d)(1), and 12–2102(a)(5)(i)1. and
2 (6)(i)
3 Annotated Code of Maryland
4 (2016 Volume and 2017 Supplement)
- 5 BY repealing and reenacting, without amendments,
6 Article – Courts and Judicial Proceedings
7 Section 3–801(a)
8 Annotated Code of Maryland
9 (2013 Replacement Volume and 2017 Supplement)
- 10 BY repealing and reenacting, with amendments,
11 Article – Courts and Judicial Proceedings
12 Section 3–801(z)
13 Annotated Code of Maryland
14 (2013 Replacement Volume and 2017 Supplement)
- 15 BY repealing and reenacting, with amendments,
16 Article – Criminal Law
17 Section 2–201(a)(4)(xi), 3–602(a)(4), 3–604(a)(9), 10–606, and 11–203(a)(3)
18 Annotated Code of Maryland
19 (2012 Replacement Volume and 2017 Supplement)
- 20 BY repealing
21 Article – Criminal Law
22 Section 3–321 and 3–322
23 Annotated Code of Maryland
24 (2012 Replacement Volume and 2017 Supplement)
- 25 BY repealing and reenacting, without amendments,
26 Article – Criminal Law
27 Section 3–602(a)(1), 3–604(a)(1), and 11–203(a)(1)
28 Annotated Code of Maryland
29 (2012 Replacement Volume and 2017 Supplement)
- 30 BY adding to
31 Article – Criminal Law
32 Section 10–606.1
33 Annotated Code of Maryland
34 (2012 Replacement Volume and 2017 Supplement)
- 35 BY repealing and reenacting, without amendments,
36 Article – Criminal Procedure
37 Section 11–701(a)
38 Annotated Code of Maryland
39 (2008 Replacement Volume and 2017 Supplement)

1 BY repealing and reenacting, with amendments,
2 Article – Criminal Procedure
3 Section 11–701(q)(1)(v)
4 Annotated Code of Maryland
5 (2008 Replacement Volume and 2017 Supplement)

6 BY repealing and reenacting, without amendments,
7 Article – Family Law
8 Section 5–701(a)
9 Annotated Code of Maryland
10 (2012 Replacement Volume and 2017 Supplement)

11 BY repealing and reenacting, with amendments,
12 Article – Family Law
13 Section 5–701(z)
14 Annotated Code of Maryland
15 (2012 Replacement Volume and 2017 Supplement)

16 BY repealing and reenacting, without amendments,
17 Article – Health – General
18 Section 15–127(a)(1)
19 Annotated Code of Maryland
20 (2015 Replacement Volume and 2017 Supplement)

21 BY repealing and reenacting, with amendments,
22 Article – Health – General
23 Section 15–127(a)(4)
24 Annotated Code of Maryland
25 (2015 Replacement Volume and 2017 Supplement)

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

28 **Article – Alcoholic Beverages**

29 3–604.

30 (c) With respect to entertainment provided, a person may not:

31 (1) allow an individual to perform an act of or an act that simulates:

32 (i) sexual intercourse, masturbation, [sodomy, bestiality,] **SEXUAL**
33 **ACTIVITY WITH AN ANIMAL**, oral copulation, flagellation, or a sexual act that is prohibited
34 by law;

35 (d) A person may not show a motion picture, a still picture, an electronic
36 reproduction, or any other visual reproduction depicting:

1 (1) an act or a simulated act of sexual intercourse, masturbation, [sodomy,
2 bestiality,] **SEXUAL ACTIVITY WITH AN ANIMAL**, oral copulation, flagellation, or a sexual
3 act that is prohibited by law;

4 4-605.

5 (c) With respect to entertainment provided, a person may not:

6 (1) allow an individual to perform an act of or act that simulates:

7 (i) sexual intercourse, masturbation, [sodomy, bestiality,] **SEXUAL**
8 **ACTIVITY WITH AN ANIMAL**, oral copulation, flagellation, or a sexual act that is prohibited
9 by law;

10 (d) A person may not show a motion picture, a still picture, an electronic
11 reproduction, or other visual reproduction depicting:

12 (1) an act or a simulated act of sexual intercourse, masturbation, [sodomy,
13 bestiality,] **SEXUAL ACTIVITY WITH AN ANIMAL**, oral copulation, flagellation, or a sexual
14 act that is prohibited by law;

15 12-2102.

16 (a) In this section, “adult entertainment” means:

17 (5) with respect to entertainment provided:

18 (i) allowing an individual to perform an act of or act that simulates:

19 1. sexual intercourse, masturbation, [sodomy, bestiality,]
20 **SEXUAL ACTIVITY WITH AN ANIMAL**, oral copulation, flagellation, or a sexual act that is
21 prohibited by law;

22 (6) show a motion picture, still picture, electronic reproduction, or other
23 visual reproduction depicting:

24 (i) an act or simulated act of sexual intercourse, masturbation,
25 [sodomy, bestiality,] **SEXUAL ACTIVITY WITH AN ANIMAL**, oral copulation, flagellation, or
26 a sexual act that is prohibited by law;

27 Article – Courts and Judicial Proceedings

28 3-801.

29 (a) In this subtitle the following words have the meanings indicated.

- 1 (z) "Sexual molestation or exploitation" includes:
- 2 (1) Allowing or encouraging a child to engage in:
- 3 (i) Obscene photography, films, poses, or similar activity;
- 4 (ii) Pornographic photography, films, poses, or similar activity; or
- 5 (iii) Prostitution;
- 6 (2) Incest;
- 7 (3) Rape;
- 8 (4) Sexual offense in any degree; AND
- 9 (5) [Sodomy; and
- 10 (6) Unnatural or perverted sexual practices] **SEXUAL ACTIVITY WITH AN**
 11 **ANIMAL.**

12 Article – Criminal Law

13 2–201.

- 14 (a) A murder is in the first degree if it is:
- 15 (4) committed in the perpetration of or an attempt to perpetrate:
- 16 (xi) [sodomy] **SEXUAL ACTIVITY WITH AN ANIMAL**; or

17 [3–321.

18 A person who is convicted of sodomy is guilty of a felony and is subject to
 19 imprisonment not exceeding 10 years.]

20 [3–322.

- 21 (a) A person may not:
- 22 (1) take the sexual organ of another or of an animal in the person's mouth;
- 23 (2) place the person's sexual organ in the mouth of another or of an animal;
- 24 or

1 (3) commit another unnatural or perverted sexual practice with another or
2 with an animal.

3 (b) A person who violates this section is guilty of a misdemeanor and on conviction
4 is subject to imprisonment not exceeding 10 years or a fine not exceeding \$1,000 or both.

5 (c) A person who violates this section is subject to § 5–106(b) of the Courts Article.

6 (d) An indictment for a violation of this section:

7 (1) is sufficient if it states that the defendant committed an unnatural and
8 perverted sexual practice with a person or animal as applicable; but

9 (2) need not state the particular:

10 (i) unnatural or perverted sexual practice with which the defendant
11 is charged; or

12 (ii) manner in which the defendant committed the unnatural or
13 perverted sexual practice.]

14 3–602.

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

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

18 (ii) “Sexual abuse” includes:

19 1. incest;

20 2. rape;

21 3. sexual offense in any degree; **AND**

22 4. [sodomy; and

23 5. unnatural or perverted sexual practices] **SEXUAL**
24 **ACTIVITY WITH AN ANIMAL UNDER § 10–606.1(B)(6) OR (7) OF THIS ARTICLE.**

25 3–604.

26 (a) (1) In this section and §§ 3–605 and 3–606 of this subtitle the following
27 words have the meanings indicated.

1 (9) (i) “Sexual abuse” means an act that involves sexual molestation or
2 exploitation of a vulnerable adult.

3 (ii) “Sexual abuse” includes:

4 1. incest;

5 2. rape;

6 3. sexual offense in any degree; **AND**

7 4. [sodomy; and

8 5. unnatural or perverted sexual practices] **SEXUAL**
9 **ACTIVITY WITH AN ANIMAL.**

10 10–606.

11 (a) A person may not:

12 (1) intentionally:

13 (i) mutilate;

14 (ii) torture;

15 (iii) cruelly beat; or

16 (iv) cruelly kill an animal;

17 (2) cause, procure, or authorize an act prohibited under item (1) of this
18 subsection; or

19 (3) except in the case of self–defense, intentionally inflict bodily harm,
20 permanent disability, or death on an animal owned or used by a law enforcement unit.

21 (b) (1) A person who violates this section is guilty of the felony of aggravated
22 cruelty to animals and on conviction is subject to imprisonment not exceeding [3] 5 years
23 or a fine not exceeding \$5,000 or both.

24 (2) As a condition of sentencing, the court may order a defendant convicted
25 of violating this section to participate in and pay for psychological counseling.

26 (3) As a condition of probation, the court may prohibit a defendant from
27 owning, possessing, or residing with an animal.

1 **10-606.1.**

2 (A) (1) IN THIS SECTION THE FOLLOWING TERMS HAVE THE MEANINGS
3 INDICATED.

4 (2) "ANIMAL" INCLUDES A DEAD ANIMAL.

5 (3) "LEGITIMATE VETERINARY OR ANIMAL HUSBANDRY PURPOSE"
6 INCLUDES ANY LAWFUL AND COMMONLY ACCEPTED PRACTICE RELATING TO:

7 (I) VETERINARY MEDICINE;

8 (II) THE ARTIFICIAL INSEMINATION OF AN ANIMAL FOR THE
9 PURPOSE OF PROCREATION; AND

10 (III) CONFORMATION JUDGING.

11 (4) "SEXUAL ACTIVITY WITH AN ANIMAL" MEANS:

12 (I) CONTACT BETWEEN THE SEX ORGANS OR ANUS OF A PERSON
13 AND THE MOUTH, ANUS, OR SEX ORGANS OF AN ANIMAL;

14 (II) CONTACT BETWEEN THE MOUTH OF A PERSON AND THE
15 ANUS OR SEX ORGANS OF AN ANIMAL; OR

16 (III) UNLESS IT IS BEING DONE FOR A LEGITIMATE VETERINARY
17 OR ANIMAL HUSBANDRY PURPOSE:

18 1. TOUCHING OR FONDLING, EITHER THROUGH DIRECT
19 CONTACT OR THROUGH CLOTHING OR OTHER COVERING, THE ANUS OR SEX ORGANS
20 OF AN ANIMAL;

21 2. TRANSFERRING OR TRANSMITTING SEMEN ONTO OR
22 INTO ANY PART OF AN ANIMAL; OR

23 3. INSERTING, HOWEVER SLIGHTLY:

24 A. ANY PART OF A PERSON'S BODY INTO THE VAGINA OR
25 ANUS OF AN ANIMAL;

26 B. ANY OBJECT INTO THE VAGINA OR ANUS OF AN
27 ANIMAL; OR

1 **C. ANY PART OF AN ANIMAL'S BODY INTO THE VAGINA OR**
2 **ANUS OF A PERSON.**

3 **(B) A PERSON MAY NOT:**

4 **(1) ENGAGE IN SEXUAL ACTIVITY WITH AN ANIMAL;**

5 **(2) ADVERTISE, SOLICIT, OFFER, POSSESS, SELL, TRANSFER, ACCEPT,**
6 **PURCHASE, OR OTHERWISE OBTAIN AN ANIMAL WITH THE INTENT THAT THE ANIMAL**
7 **WILL BE USED BY ANY PERSON TO ENGAGE IN SEXUAL ACTIVITY WITH AN ANIMAL;**

8 **(3) ORGANIZE, PROMOTE, CONDUCT, OR PARTICIPATE AS AN**
9 **OBSERVER AT AN EVENT AT WHICH A PERSON ENGAGES IN SEXUAL ACTIVITY WITH**
10 **AN ANIMAL;**

11 **(4) CAUSE, COERCE, AID, OR ABET ANOTHER TO ENGAGE IN SEXUAL**
12 **ACTIVITY WITH AN ANIMAL;**

13 **(5) ALLOW PREMISES OWNED OR CONTROLLED BY THE PERSON TO BE**
14 **USED BY ANY PERSON TO ENGAGE IN SEXUAL ACTIVITY WITH AN ANIMAL;**

15 **(6) CAUSE A MINOR TO ENGAGE IN SEXUAL ACTIVITY WITH AN**
16 **ANIMAL; OR**

17 **(7) ENGAGE IN SEXUAL ACTIVITY WITH AN ANIMAL IN THE PRESENCE**
18 **OF A MINOR.**

19 **(C) (1) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A**
20 **MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT**
21 **EXCEEDING 10 YEARS OR A FINE NOT EXCEEDING \$1,000 OR BOTH.**

22 **(2) NOTWITHSTANDING ANY OTHER LAW, A CONVICTION UNDER**
23 **SUBSECTION (B)(6) OR (7) OF THIS SECTION MAY NOT MERGE WITH A CONVICTION**
24 **UNDER § 3-601 OR § 3-602 OF THIS ARTICLE.**

25 **(3) AS A CONDITION OF SENTENCING, THE COURT MAY:**

26 **(I) ORDER A DEFENDANT CONVICTED OF VIOLATING THIS**
27 **SECTION TO:**

28 **1. PARTICIPATE IN AND PAY FOR PSYCHOLOGICAL**
29 **COUNSELING; OR**

1 **2. REIMBURSE ANY PERSON FOR COSTS RELATING TO**
 2 **THE CARE OF AN ANIMAL IN RELATION TO CHARGES BROUGHT AGAINST THE**
 3 **DEFENDANT UNDER THIS SECTION FROM THE DATE OF THE VIOLATION UNTIL THE**
 4 **OUTCOME OF THE CASE, INCLUDING COSTS FOR:**

5 **A. IMPOUNDMENT;**

6 **B. TRANSPORTATION;**

7 **C. MEDICAL CARE;**

8 **D. FOOD;**

9 **E. ROUTINE CARE; AND**

10 **F. SHELTERING; OR**

11 **(II) PROHIBIT A DEFENDANT FROM OWNING, POSSESSING,**
 12 **RESIDING WITH, OR COMING INTO CONTACT WITH AN ANIMAL FOR A PERIOD OF TIME**
 13 **NOT EXCEEDING 30 YEARS.**

14 11-203.

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

16 (3) “**Illicit sex**” means:

17 (i) human genitals in a state of sexual stimulation or arousal;

18 (ii) acts of human masturbation, sexual intercourse, or [sodomy]
 19 **SEXUAL ACTIVITY WITH AN ANIMAL; or**

20 (iii) fondling or other erotic touching of human genitals.

21 **Article – Criminal Procedure**

22 11-701.

23 (a) In this subtitle the following words have the meanings indicated.

24 (q) “**Tier III sex offender**” means a person who has been convicted of:

25 (1) conspiring to commit, attempting to commit, or committing a violation
 26 of:

1 (v) § 10–606.1 OF THE CRIMINAL LAW ARTICLE, OR the common
2 law offense of sodomy or § 3–322 of the Criminal Law Article AS THE OFFENSES EXISTED
3 BEFORE OCTOBER 1, 2018, if the offense was committed with force or threat of force; or

4 Article – Family Law

5 5–701.

6 (a) Except as otherwise provided in § 5–705.1 of this subtitle, in this subtitle the
7 following words have the meanings indicated.

8 (z) “Sexual molestation or exploitation” includes:

9 (1) allowing or encouraging a child to engage in:

10 (i) obscene photography, films, poses, or similar activity;

11 (ii) pornographic photography, films, poses, or similar activity; or

12 (iii) prostitution;

13 (2) incest;

14 (3) rape;

15 (4) sexual offense in any degree; AND

16 (5) [sodomy; and

17 (6) unnatural or perverted sexual practices] **SEXUAL ACTIVITY WITH AN**
18 **ANIMAL.**

19 Article – Health – General

20 15–127.

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

22 (4) (i) For purposes of this section, “sexual abuse” means any act that
23 involves sexual molestation or exploitation of a child whether or not the sexual molestation
24 or exploitation of the child is by a parent or other person who has permanent or temporary
25 care or custody or responsibility for supervision of a child, or by any household or family
26 member.

27 (ii) “Sexual abuse” includes:

- 1 1. Incest, rape, or sexual offense in any degree; AND
- 2 2. [Sodomy; and
- 3 3. Unnatural or perverted sexual practices] **SEXUAL**
- 4 **ACTIVITY WITH AN ANIMAL.**

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 October 1, 2018.