

A012-0405

**10 AN ACT CONCERNING THE EXPANSION OF PENALTY TO
20 PEOPLE COMMITTING CERTAIN ACTS OF RAPE**

30 FOR the purpose of expanding the punishment of rapists.

40 BY repealing and reenacting, with amendments,
50 Article – Criminal Law
60 Section 3-303
70 Annotated Code of Maryland (2003)

80 SECTION 1 BE IT ENACTED BY THE MARYLAND STUDENT
90 LEGISLATURE, That the laws of the State of Maryland read as follows:

100 § 3-303. Rape in the first degree.

110 (a) *Prohibited.*- A person may not:

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

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

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

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

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

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

240 (b) *Penalty.*-

250 (1) Except as provided in paragraph (2) OR PARAGRAPH (3) of this subsection, a
260 person who violates this section is guilty of the felony of rape in the first degree and
270 on conviction is subject to imprisonment not exceeding life, AND PERMANENT
280 CHEMICAL CASTRATION.

290 (2) A person who violates this section is guilty of the felony of rape in the first degree
300 and on conviction is subject to imprisonment not exceeding life without the
310 possibility of parole AND PERMANENT CHEMICAL CASTRATION if:

320 (i) the person is convicted in the same proceeding of violating § 3-503(a) (2) of this
330 title and the victim was a child ~~under the age of 16 years~~ OVER THE AGE OF 12
340 AND UNDER THE AGE OF 16; or

350 (ii) the defendant was previously convicted of violating this section or [§ 3-305 of this](#)
360 subtitle.
370

380 3) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF THE FELONY
390 OF RAPE IN THE FIRST DEGREE AND ON CONVICTION IS SUBJECT TO
400 LIFE IMPRISONMENT WITHOUT THE POSSIBILTY OF PAROLE,
410 THE DEATH PENALTY AND/OR PERMANENT CHEMICAL CASTRATION IF:

420 (I) THE PERSON IS CONVICTED IN THE SAME PROCEEDING OF
430 VIOLATING § 3-503(A) (2) OF THIS
440 TITLE AND THE VICTIM WAS A CHILD UNDER THE AGE OF 13 YEARS.

450 (c) *Required notice.*- If the State intends to seek a sentence of imprisonment for life
460 without the possibility of parole under subsection (b)(2) of this section, the State
470 shall notify the person in writing of the State's intention at least 30 days before trial.

480 (D) *REQUIRED NOTICE.* IF THE STATE INTENDS TO SEEK A SENTENCE OF
490 THE DEATH PENALTY UNDER SUBSECTION (B)(3) OF THIS SECTION, THE
500 STATE SHALL NOTIFY THE PERSON IN WRITING OF THE STATE'S
510 INTENTION AT LEAST 30 DAYS BEFORE THE TRIAL.

520 (E) *REQUIRED NOTICE.* IF THE STATE INTENDS TO SEEK A SENTENCE OF
530 CHEMICAL CASTRATION UNDER SUBSECTION (B)(1), (B)(2), OR (B)(3) OF THIS SECTION,
540 THE STATE SHALL NOTIFY THE PERSON IN WRITING OF THE STATE'S
550 INTENTION AT LEAST 30 DAYS BEFORE THE TRIAL.

560 **SECTION 2.** AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2005

570 **MANDATES:** Governor Robert L. Ehrlich, Jr.
580 Senate President Thomas V. "Mike" Miller
590 Senator Minority Leader J. Lowell Stoltzfus
600 House Speaker Michael Busch
610 Lt. Governor Michael Steele
620 House Minority Whip Anthony O'Donnell

SPONSOR:

Matthew Penick, University of Maryland Baltimore County

§ 3-305. Sexual offense in the first degree.

(a) *Prohibited.*- A person may not:

- (1) engage in a sexual act with another by force, or the threat of force, without the consent of the other; and
- (2) (i) employ or display a dangerous weapon, or a physical object that the victim reasonably believes is a dangerous weapon;
(ii) suffocate, strangle, disfigure, or inflict serious physical injury on the victim or another in the course of committing the crime;
(iii) threaten, or place the victim in fear, that the victim, or an individual known to the victim, imminently will be subject to death, suffocation, strangulation, disfigurement, serious physical injury, or kidnapping;
(iv) commit the crime while aided and abetted by another; or
(v) commit the crime in connection with a burglary in the first, second, or third degree.

§ 3-306. Sexual offense in the second degree.

(a) *Prohibited.*- A person may not engage in a sexual act with another:

- (1) by force, or the threat of force, without the consent of the other;
- (2) if the victim is a mentally defective individual, a mentally incapacitated individual, or a physically helpless individual, and the person performing the sexual act knows or reasonably should know that the victim is a mentally defective individual, a mentally incapacitated individual, or a physically helpless individual; or
- (3) if the victim is under the age of 14 years, and the person performing the sexual act is at least 4 years older than the victim.

§ 3-502. Kidnapping.

(a) *Prohibited.*- A person may not, by force or fraud, carry or cause a person to be carried in or outside the State with the intent to have the person carried or concealed in or outside the State.

(c) *Exception.*- Kidnapping does not include the act of a parent in carrying a minor child of that parent in or outside the State.

§ 3-503. Child kidnapping.

(a) *Prohibited.*-

(1) A person may not, without color of right:

(i) forcibly abduct, take, or carry away a child under the age of 12 years from:

1. the home or usual place of abode of the child; or
2. the custody and control of the child's parent or legal guardian;

(ii) without the consent of the child's parent or legal guardian, persuade or entice a child under the age of 12 years from:

1. the child's home or usual place of abode; or
2. the custody and control of the child's parent or legal guardian; or

(iii) with the intent of depriving the child's parent or legal guardian, or any person lawfully possessing the child, of the custody, care, and control of the child, knowingly secrete or harbor a child under the age of 12 years.

(2) In addition to the prohibitions provided under paragraph (1) of this subsection, a person may not, by force or fraud, kidnap, steal, take, or carry away a child under the age of 16 years.

§ 3-402. Robbery.

(a) *Prohibited.*- A person may not commit or attempt to commit robbery.

§ 3-403. Robbery with dangerous weapon.

(a) *Prohibited.*- A person may not commit or attempt to commit robbery under [§ 3-402 of this](#) subtitle with a dangerous weapon.

§ 4-503. Manufacture or possession of destructive device.

(a) *Prohibited.*- A person may not knowingly:

- (1) manufacture, transport, possess, control, store, sell, distribute, or use a destructive device; or
- (2) possess explosive material, incendiary material, or toxic material with intent to create a destructive device.