

Chapter 529

(Senate Bill 261)

AN ACT concerning

Criminal Law – ~~Sexual Solicitation of a Minor and~~ Human Trafficking – Prohibitions ~~and Proof~~

FOR the purpose of prohibiting a person from knowingly engaging in a device, scheme, or continuing course of conduct intended to cause another to believe that if the other did not take part in a sexually explicit performance the other or a third person would suffer physical restraint or serious physical harm; prohibiting a person from knowingly destroying, concealing, removing, confiscating, or possessing certain documents of another person while violating certain prohibitions; ~~providing that the State need only prove that a reasonable person, based on certain criteria, should have known that a certain minor had not attained a certain age under certain circumstances;~~ making it a felony to knowingly take or detain another with the intent to use force, threat, coercion, or fraud to compel the other to marry the person or a third person or perform a sexual act, sexual contact, or vaginal intercourse; providing that a person who knowingly benefits from participation in a violation of this Act is subject to the same penalties that would apply if the person had violated this Act; providing that a person who knowingly aids, abets, or conspires with one or more other persons to violate this Act shall be subject to the same penalties that apply for a violation of this Act; defining a certain term; and generally relating to ~~sexual solicitation of a minor and~~ human trafficking.

BY repealing and reenacting, with amendments,
Article – Criminal Law
Section ~~3-324, 11-301, 11-301~~ and 11-303
Annotated Code of Maryland
(2002 Volume and 2009 Supplement)

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

Article – Criminal Law

~~3-324.~~

(a) ~~In this section, “solicit” means to command, authorize, urge, entice, request, or advise a person by any means, including:~~

(1) ~~in person;~~

- ~~(2) through an agent or agency;~~
- ~~(3) over the telephone;~~
- ~~(4) through any print medium;~~
- ~~(5) by mail;~~
- ~~(6) by computer or Internet; or~~
- ~~(7) by any other electronic means.~~

~~(b) A person may not, with the intent to commit a violation of § 3-304, § 3-306, or § 3-307 of this subtitle or § 11-304, § 11-305, or § 11-306 of this article, knowingly solicit a minor, or a law enforcement officer posing as a minor, to engage in activities that would be unlawful for the person to engage in under § 3-304, § 3-306, or § 3-307 of this subtitle or § 11-304, § 11-305, or § 11-306 of this article.~~

~~(c) A violation of this section is considered to be committed in the State for purposes of determining jurisdiction if the solicitation:~~

- ~~(1) originated in the State; or~~
- ~~(2) is received in the State.~~

~~(d) A person who violates this section is guilty of a felony and on conviction is subject to imprisonment not exceeding 10 years or a fine not exceeding \$25,000 or both.~~

~~**(E) IN A PROSECUTION UNDER THIS SECTION, THE STATE NEED ONLY PROVE THAT A REASONABLE PERSON, BASED ON THE TOTALITY OF THE CIRCUMSTANCES, SHOULD HAVE KNOWN THAT THE MINOR HAD NOT ATTAINED THE AGE OF 18 YEARS.**~~

11-301.

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

(b) “Assignation” means the making of an appointment or engagement for prostitution or any act in furtherance of the appointment or engagement.

(c) “Prostitution” means the performance of a sexual act, sexual contact, or vaginal intercourse for hire.

(d) “Sexual act” has the meaning stated in § 3-301 of this article.

(e) "Sexual contact" has the meaning stated in § 3-301 of this article.

(F) "SEXUALLY EXPLICIT PERFORMANCE" MEANS A PUBLIC OR PRIVATE, LIVE, PHOTOGRAPHED, RECORDED, OR VIDEOTAPED ACT OR SHOW IN WHICH THE PERFORMER IS WHOLLY OR PARTIALLY NUDE, AND WHICH IS INTENDED TO SEXUALLY AROUSE OR APPEAL TO THE PRURIENT INTEREST OF PATRONS OR VIEWERS.

[(f)] (G) "Solicit" means urging, advising, inducing, encouraging, requesting, or commanding another.

[(g)] (H) "Vaginal intercourse" has the meaning stated in § 3-301 of this article.

11-303.

- (a) (1) A person may not knowingly:
- (i) take or cause another to be taken to any place for prostitution;
 - (ii) place, cause to be placed, or harbor another in any place for prostitution;
 - (iii) persuade, induce, entice, or encourage another to be taken to or placed in any place for prostitution;
 - (iv) [unlawfully take or detain another with the intent to use force, threat, or persuasion to compel the other to marry the person or a third person or perform a sexual act, sexual contact, or vaginal intercourse; or
 - (v)] receive consideration to procure for or place in a house of prostitution or elsewhere another with the intent of causing the other to engage in prostitution or assignation;

(V) ENGAGE IN A DEVICE, SCHEME, OR CONTINUING COURSE OF CONDUCT INTENDED TO CAUSE ANOTHER TO BELIEVE THAT IF THE OTHER DID NOT TAKE PART IN A SEXUALLY EXPLICIT PERFORMANCE, THE OTHER OR A THIRD PERSON WOULD SUFFER PHYSICAL RESTRAINT OR SERIOUS PHYSICAL HARM; OR

(VI) DESTROY, CONCEAL, REMOVE, CONFISCATE, OR POSSESS AN ACTUAL OR PURPORTED PASSPORT, IMMIGRATION DOCUMENT, OR

GOVERNMENT IDENTIFICATION DOCUMENT OF ANOTHER WHILE OTHERWISE VIOLATING OR ATTEMPTING TO VIOLATE THIS SUBSECTION.

(2) A parent, guardian, or person who has permanent or temporary care or custody or responsibility for supervision of another may not consent to the taking or detention of the other for prostitution.

(b) (1) ~~(H)~~ A person may not violate subsection (a) of this section involving a victim who is a minor.

~~(H) IN A PROSECUTION UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE STATE NEED ONLY PROVE THAT A REASONABLE PERSON, BASED ON THE TOTALITY OF THE CIRCUMSTANCES, SHOULD HAVE KNOWN THAT THE MINOR HAD NOT ATTAINED THE AGE OF 18 YEARS.~~

(2) A PERSON MAY NOT KNOWINGLY TAKE OR DETAIN ANOTHER WITH THE INTENT TO USE FORCE, THREAT, COERCION, OR FRAUD TO COMPEL THE OTHER TO MARRY THE PERSON OR A THIRD PERSON OR PERFORM A SEXUAL ACT, SEXUAL CONTACT, OR VAGINAL INTERCOURSE.

(c) (1) (i) Except as provided in paragraph (2) of this subsection, a person who violates subsection (a) of this section is guilty of the misdemeanor of human trafficking and on conviction is subject to imprisonment not exceeding 10 years or a fine not exceeding \$5,000 or both.

(ii) A person who violates subsection (a) of this section is subject to § 5-106(b) of the Courts Article.

(2) A person who violates subsection (b) of this section is guilty of the felony of human trafficking and on conviction is subject to imprisonment not exceeding 25 years or a fine not exceeding \$15,000 or both.

(d) A person who violates this section may be charged, tried, and sentenced in any county in or through which the person transported or attempted to transport the other.

(E) (1) A PERSON WHO KNOWINGLY BENEFITS FINANCIALLY OR BY RECEIVING ANYTHING OF VALUE FROM PARTICIPATION IN A VENTURE THAT INCLUDES AN ACT DESCRIBED IN SUBSECTION (A) OR (B) OF THIS SECTION IS SUBJECT TO THE SAME PENALTIES THAT WOULD APPLY IF THE PERSON HAD VIOLATED THAT SUBSECTION.

(2) A PERSON WHO KNOWINGLY AIDS, ABETS, OR CONSPIRES WITH ONE OR MORE OTHER PERSONS TO VIOLATE ANY SUBSECTION OF THIS

SECTION IS SUBJECT TO THE SAME PENALTIES THAT APPLY FOR A VIOLATION OF THAT SUBSECTION.

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

Approved by the Governor, May 20, 2010.