

# Sex Crimes: Definitions and Penalties Maryland

*Last Updated: April 2023*

## Rape in the First Degree

Question	Answer
How is it defined?	<p>Vaginal intercourse, or a sexual act, with another by force or threat of force, without the consent of the other, and defendant:</p> <ul style="list-style-type: none"> <li>• Employs/displays a dangerous weapon, or a physical object the victim reasonably believes is a dangerous weapon;</li> <li>• suffocate, strangle, disfigure, or inflict serious physical injury on the victim or another in the course of committing the crime;</li> <li>• Threatens or places the victim in fear that the victim, or a 3rd person known to the victim, imminently will be subject to death, suffocation, strangulation, disfigurement, serious physical injury, or kidnapping;</li> <li>• Commits the crime while aided and abetted by another; or</li> <li>• Commits the crime in connection with a burglary in the 1st, 2nd, or 3rd degree.</li> </ul>
What are the punishments for this crime?	<ul style="list-style-type: none"> <li>• Typically, felony rape (1st degree) – imprisonment not exceeding life.</li> <li>• If the defendant is also convicted of child kidnapping (§ 3-503(a)(2)), where the victim is under 16 years of age, then defendant is subject to imprisonment not exceeding life without the possibility of parole.</li> <li>• If defendant was previously convicted of 1st degree rape or 1st degree sexual offense, then subject to imprisonment not exceeding life without the possibility of parole.</li> <li>• If defendant is 18 years of age or older and the victim is under the age of 13 years, then defendant is subject to imprisonment for not less than 25 years and not exceeding life without the possibility of parole. <ul style="list-style-type: none"> <li>• A court may not suspend any part of the mandatory minimum sentence of 25 years.</li> <li>• Defendant is not eligible for parole during the mandatory minimum sentence of 25 years.</li> </ul> </li> <li>• A person who attempts rape in the first degree is subject to imprisonment not exceeding life under § 3-309.</li> </ul>
Anything else I should know?	<ul style="list-style-type: none"> <li>• <b>“Vaginal Intercourse”</b> means genital copulation, whether or not semen is emitted; it includes penetration, however slight, of the vagina.</li> <li>• <b>“Sexual act”</b> means any of the following acts, regardless of whether semen is emitted: (1) anilingus; (2) cunnilingus; (3) fellatio; (4) anal intercourse, including penetration, however slight, of the anus; or (5) an act in which an object or part of an individual’s body penetrates, however slightly, into another individual’s genital opening or anus, and that can be reasonably construed to be for sexual arousal/gratification, or for abuse of either party.</li> <li>• <b>“Sexual act”</b> does not include vaginal intercourse or an act in which an object or part of an individual’s</li> </ul>

	body penetrates an individual's genital opening or anus for an accepted medical purpose.
Statutory citation(s):	<ul style="list-style-type: none"> <li>• Md. Code Ann., Criminal Law, § 3-303</li> <li>• Definitions, Md. Code Ann., Criminal Law, § 3-301</li> </ul>

## Rape in the Second Degree

Question	Answer
How is it defined?	<p>Vaginal intercourse or a sexual act with another:</p> <ul style="list-style-type: none"> <li>• By force, or the threat of force, without the consent of the other;</li> <li>• If the victim is a substantially cognitively impaired individual, a mentally incapacitated individual, or a physically helpless individual, and the person performing the act knows or reasonably should know that the victim is a substantially cognitively impaired individual, a mentally incapacitated individual, or a physically helpless individual; or</li> <li>• If the victim is under the age of 14 years, and the defendant is at least 4 years older than the victim.</li> </ul>
What are the punishments for this crime?	<ul style="list-style-type: none"> <li>• Typically, felony rape (2d degree) – imprisonment not exceeding 20 years</li> <li>• If the defendant is 18 years of age or older and the victim is under the age of 13 years, defendant is subject to imprisonment for not less than 15 years and not exceeding life. <ul style="list-style-type: none"> <li>• A court may not suspend any part of the mandatory minimum of 15 years.</li> <li>• Defendant is not eligible for parole during the mandatory minimum sentence.</li> </ul> </li> <li>• A person who attempts rape in the second degree is subject to imprisonment not exceeding 20 years under § 3-310.</li> </ul>
Anything else I should know?	<ul style="list-style-type: none"> <li>• <b>“Mentally defective individual”</b> means an individual who suffers from mental retardation or a mental disorder, either of which temporarily or permanently renders the individual substantially incapable of: (1) appraising the nature of the individual's conduct; (2) resisting vaginal intercourse, a sexual act, or sexual contact; or (3) communicating unwillingness to submit to vaginal intercourse, a sexual act, or sexual contact.</li> <li>• <b>“Mentally incapacitated individual”</b> means an individual who, because of the influence of a drug, narcotic, or intoxicating substance, or because of an act committed on the individual without the individual's consent or awareness, is rendered substantially incapable of: (1) appraising the nature of the individual's conduct; (2) resisting vaginal intercourse, a sexual act, or sexual contact.</li> <li>• <b>“Physically helpless individual”</b> means an individual who: (1) is unconscious; or (2) does not consent to vaginal intercourse, a sexual act, or sexual contact, and is physically unable to resist, or communicate unwillingness to submit to, vaginal intercourse, a sexual act, or sexual contact.</li> <li>• <b>“Substantially cognitively impaired individual”</b> means an individual who suffers from an intellectual disability or a mental disorder, either of which temporarily or permanently renders the individual</li> </ul>

	substantially incapable of (1) appraising the nature of the individual's conduct; (2) resisting vaginal intercourse, a sexual act, or sexual contact; or (3) communicating unwillingness to submit to vaginal intercourse, a sexual act, or sexual contact.
Statutory citation(s):	<ul style="list-style-type: none"> <li>• Md. Code Ann., Criminal Law § 3-304</li> <li>• Definitions, Md. Code Ann., Criminal Law, § 3-301</li> </ul>

## Sexual Offense in the Third Degree

Question	Answer
How is it defined?	<ul style="list-style-type: none"> <li>• Engaging in sexual contact with another without the consent of the other; and: <ul style="list-style-type: none"> <li>• Employing/displaying a dangerous weapon, or a physical object the victim reasonably believes is a dangerous weapon;</li> <li>• Suffocating, strangling, disfiguring, or inflicting serious physical injury on the victim or another in the course of committing the crime;</li> <li>• Threatening or placing the victim in fear that the victim, or a 3rd person known to the victim, imminently will be subject to death, suffocation, strangulation, disfigurement, serious physical injury, or kidnapping; or</li> <li>• Committing the crime while aided and abetted by another;</li> </ul> </li> <li>• Engaging in sexual contact with another if the victim is a substantially cognitively impaired individual, a mentally incapacitated individual, or a physically helpless individual, and the person performing the act knows or reasonably should know the victim is a substantially cognitively impaired individual, a mentally incapacitated individual, or a physically helpless individual;</li> <li>• Engaging in sexual contact with another if the victim is under the age of 14 years, and the person performing the sexual contact is at least 4 years older than the victim;</li> <li>• Engaging in a sexual act with another if the victim is 14 or 15 years old, and the person performing the sexual act is at least 21 years old; or</li> <li>• Engaging in vaginal intercourse with another if the victim is 14 or 15 years old, and the person performing the act is at least 21 years old.</li> </ul>
What are the punishments for this crime?	<ul style="list-style-type: none"> <li>• Felony sexual offense (3d degree) – imprisonment not exceeding 10 years.</li> </ul>

Anything else I should know?	<ul style="list-style-type: none"> <li>• <b>“Sexual contact”</b> means an intentional touching of the victim’s or actor’s genital, anal, or other intimate area for sexual arousal or gratification, or for the abuse of either party. Sexual contact includes an act in which a part of an individual’s body, except the penis, mouth, or tongue, penetrates, however slightly, into another individual’s genital opening or anus and that can reasonably be construed to be for sexual arousal or gratification, or for the abuse of either party.</li> <li>• <b>“Sexual contact”</b> does not include a common expression of familial or friendly affection, or an act for accepted medical purpose.</li> <li>• See also relevant definitions under <b>rape</b> (1st and 2nd degree).</li> </ul>
Statutory citation(s):	<ul style="list-style-type: none"> <li>• Md. Code Ann., Criminal Law § 3-307</li> <li>• Definitions, Md. Code Ann., Criminal Law, § 3-301</li> </ul>

## Sexual Offense in the Fourth Degree

Question	Answer
How is it defined?	<ul style="list-style-type: none"> <li>• Engaging in: <ul style="list-style-type: none"> <li>• Sexual contact with another without the consent of the other;</li> <li>• Sexual act with another if the victim is 14 or 15 years old, and the person performing the sexual act is at least 4 years older than the victim; or</li> <li>• Vaginal intercourse with another if the victim is 14 or 15 years old, and the person performing the act is at least 4 years older than the victim.</li> </ul> </li> <li>• A person in a position of authority may not engage in a sexual act or sexual contact with a minor who, at the time of the sexual act or sexual contact, is a student enrolled at a school where the person in position of authority is employed.</li> <li>• A person in a position of authority may not engage in vaginal intercourse with a minor who, at the time of the vaginal intercourse, is a student enrolled at a school where the person in position of authority is employed.</li> </ul>
What are the punishments for this crime?	<p>Misdemeanor of sexual offense (4th degree) – imprisonment not exceeding 1 year or a fine not exceeding \$1,000 or both.</p> <ul style="list-style-type: none"> <li>• If defendant has been previously convicted (not arising from the same incident) of rape (1st or 2d degree), sexual offense (1st – 4th degree), attempted rape (1st or 2d degree), attempted sexual offense (1st or 2d degree), or continuing course of conduct against a child, or sexual abuse of a minor, then defendant is subject to imprisonment not exceeding 3 years or a fine not exceeding \$1,000 or both.</li> </ul>

Anything else I should know?	<ul style="list-style-type: none"> <li>• <b>“Person in a position of authority”</b> means a person who: <ul style="list-style-type: none"> <li>• is at least 21 years old;</li> <li>• is employed or under contract with a public or private preschool, elementary school, or secondary school; and</li> <li>• because of the person’s position or occupation, exercises supervision over a minor who attends the school.</li> </ul> </li> <li>• <b>“Person in a position of authority”</b> includes a principal, vice principal, teacher, coach or school counselor at a public or private preschool, elementary school, or secondary school.</li> <li>• See also relevant definitions under <b>rape</b> (1st and 2d degree), <b>sexual offense</b> (3d degree).</li> </ul>
Statutory citation(s):	<ul style="list-style-type: none"> <li>• Md. Code Ann., Criminal Law § 3-308</li> </ul>

## Sexual Conduct Between Correctional or Juvenile Justice Employee and Inmate or Confined Child

Question	Answer
How is it defined?	<ul style="list-style-type: none"> <li>• <b>Correctional employee with incarcerated individual:</b> <ul style="list-style-type: none"> <li>• A correctional employee, any other employee of the Department of Public Safety and Correctional Services or a correctional facility, an employee of a contractor providing goods or services to the Department of Public Safety and Correctional Services or a correctional facility, or any other individual working in a correctional facility, whether on a paid or volunteer basis, may not engage in sexual contact, vaginal intercourse, or a sexual act with an incarcerated individual.</li> </ul> </li> <li>• <b>Juvenile Services employee with confined child:</b> <ul style="list-style-type: none"> <li>• A person may not engage in sexual contact, vaginal intercourse, or a sexual act with an individual confined to a child care institution licensed by the Department of Juvenile Services, a detention center for juveniles, or a facility for juveniles listed in <a href="#">§ 9-226(b) of the Human Services</a> Article.</li> </ul> </li> <li>• <b>Court-ordered services provider:</b> <ul style="list-style-type: none"> <li>• A court-ordered services provider may not engage in sexual contact, vaginal intercourse, or a sexual act with an individual ordered to obtain services while the order is in effect.</li> </ul> </li> <li>• <b>Law enforcement officer with person in custody:</b> <ul style="list-style-type: none"> <li>• A law enforcement officer may not engage in sexual contact, vaginal intercourse, or a sexual act with a person: (i) who is a victim, witness, or suspect in an open investigation that the law enforcement officer is conducting, supervising, or assisting with if the law enforcement officer knew or should have known that the person is a victim, witness, or suspect in the investigation; (ii) requesting assistance from or responding to the law enforcement officer in the course of the law enforcement officer’s official duties; or (iii) in the custody of the law enforcement officer.</li> </ul> </li> </ul>

What are the punishments for this crime?	<ul style="list-style-type: none"> <li>• Misdemeanor – imprisonment not exceeding 3 years or a fine not exceeding \$3,000 or both.</li> <li>• <b>Note:</b> A sentence imposed for a violation of this section may be separate from and consecutive to or concurrent with a sentence for rape (1st or 2d degree), sexual offense (1st – 4th degree), attempted rape (1st or 2d degree), or attempted sexual offense (1st or 2d degree).</li> </ul>
Anything else I should know?	<ul style="list-style-type: none"> <li>• <b>“Correctional employee”</b> means a correctional officer or managing official/deputy managing official of a correctional facility.</li> <li>• <b>“Correctional employee”</b> includes a sheriff, warden, or other official who is appointed or employed to supervise a correctional facility.</li> <li>• <b>“Court-ordered services provider”</b> means a person who provides services to an individual who has been ordered by the court, the Division of Parole and Probation, or the Department of Juvenile Services to obtain those services.</li> <li>• <b>“Incarcerated individual”</b> means: (i) an individual who is actually or constructively detained or confined in a correctional facility; or (ii) an individual confined in a community adult rehabilitation center.</li> <li>• <b>“Law enforcement officer”</b> means has the meaning stated in <a href="#">§ 3-101 of the Public Safety Article</a>.</li> <li>• See also relevant definitions under <b>rape</b> (1st and 2nd degree), <b>sexual offense</b> (1st - 3rd degree).</li> <li>• The provisions regarding sex between a law enforcement officer and a person in custody does not apply if the law enforcement officer: (i) had a prior existing legal sexual relationship with the person; and (ii) did not act under the color or pretense of office or under color of official right when seeking consent to the vaginal intercourse, sexual act, or sexual contact.</li> </ul>
Statutory citation(s):	<ul style="list-style-type: none"> <li>• Md. Code Ann., Criminal Law § 3-314</li> <li>• Md. Code Ann., Criminal Law § 1-101</li> </ul>

## Sexual Abuse of a Minor

Question	Answer
How is it defined?	<ul style="list-style-type: none"> <li>• A parent or other person who has permanent or temporary care or custody or responsibility for the supervision of a minor may not cause sexual abuse to the minor.</li> <li>• A household member or family member may not cause sexual abuse to a minor.</li> <li>• <b>“Family member”</b> means a relative of a minor by blood, adoption, or marriage.</li> <li>• <b>“Household member”</b> means a person who lives with or is a regular presence in a home of a minor at the time of the alleged abuse.</li> <li>• <b>“Sexual abuse”</b> means an act that involves sexual molestation or exploitation of a minor, whether physical injuries are sustained or not.</li> <li>• <b>“Sexual abuse”</b> includes: <ul style="list-style-type: none"> <li>• Incest;</li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>• rape;</li> <li>• sexual offense in any degree; and</li> <li>• unnatural or perverted sexual practices.</li> </ul>
What are the punishments for this crime?	<ul style="list-style-type: none"> <li>• A person who violates this section is guilty of a felony and on conviction is subject to imprisonment not exceeding 25 years.</li> </ul>
Anything else I should know?	<ul style="list-style-type: none"> <li>• A sentence imposed under this section may be separate from and consecutive to or concurrent with a sentence for other crimes, including child abuse.</li> </ul>
Statutory citation(s):	<ul style="list-style-type: none"> <li>• Md. Code Ann., Criminal Law § 3-602</li> </ul>

## Continuing Course of Conduct Against Child

Question	Answer
How is it defined?	<ul style="list-style-type: none"> <li>• Engaging in a continuing course of conduct which includes three or more acts that would constitute rape (1st or 2d degree) or sexual offense (1st, 2d, or 3d degree) over a period of 90 days or more, with a victim who is under the age of 14 years at any time during the course of conduct.</li> </ul>
What are the punishments for this crime?	<ul style="list-style-type: none"> <li>• Felony – imprisonment not exceeding 30 years.</li> <li>• <b>Note:</b> A sentence imposed under this section may be separate from and consecutive to or concurrent with a sentence for sexual abuse of a minor (§ 3-602).</li> </ul>
Anything else I should know?	<ul style="list-style-type: none"> <li>• In determining whether the required number of acts occurred in violation of this section, the trier of fact must determine only that the required number of acts occurred, and need not determine which acts constitute the required number of acts.</li> <li>• See also relevant definitions under <b>rape</b> (1st and 2nd degree), <b>sexual offense</b> (1st - 3rd degree).</li> </ul>
Statutory citation(s):	<ul style="list-style-type: none"> <li>• Md. Code Ann., Criminal Law § 3-315</li> </ul>

## Sodomy

Question	Answer
How is it defined?	<ul style="list-style-type: none"> <li>• Maryland has repealed the common law crime of sodomy.</li> </ul>

What are the punishments for this crime?	<ul style="list-style-type: none"><li>• N/A</li></ul>
Anything else I should know?	<ul style="list-style-type: none"><li>• Enforceability of an anti-sodomy law in Maryland would be questionable following the Supreme Court's decision in <i>Lawrence v. Texas</i> and the Maryland circuit court's decision in <i>Williams v. Glendening</i>, 1998 WL 965992, that a predecessor statute would have violated the equal protection clause of the US Constitution if applied to consensual conduct.</li></ul>
Statutory citation(s):	<ul style="list-style-type: none"><li>• Md. Code Ann., Criminal Law § 3-321</li></ul>