

HOUSE BILL 297

E3, E2

(3lr1339)

ENROLLED BILL

— Judiciary/Judicial Proceedings —

Introduced by **Delegates Bartlett, Acevero, Cardin, Crutchfield, Forbes, Griffith, D. Jones, Lopez, Moon, Pasteur, Phillips, Simmons, Simpson, Taylor, Williams, and Wilson**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this _____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Criminal Law – Victims of Child Sex Trafficking and Human Trafficking – Safe**
3 **Harbor and Service Response**

4 FOR the purpose of altering procedures that a law enforcement officer and a court are
5 required to follow when the law enforcement officer or court has reason to believe
6 that a child who has been detained is a victim of sex trafficking or a victim of human
7 trafficking; providing that a minor may not be criminally prosecuted or proceeded
8 against under certain provisions of law for a certain offense if the minor committed
9 the offense as a direct result of being a victim of sex trafficking or being a victim of
10 human trafficking; altering the list of offenses for which a person may file a motion
11 to vacate judgment if the person’s participation was a result of being a victim of
12 human trafficking; and generally relating to victims of child sex trafficking and
13 human trafficking.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber/conference committee amendments.



- 1 BY repealing and reenacting, without amendments,
2 Article – Courts and Judicial Proceedings
3 Section 3–8A–01(a) and (dd)
4 Annotated Code of Maryland
5 (2020 Replacement Volume and 2022 Supplement)
- 6 BY repealing and reenacting, with amendments,
7 Article – Courts and Judicial Proceedings
8 Section 3–8A–14
9 Annotated Code of Maryland
10 (2020 Replacement Volume and 2022 Supplement)
- 11 BY adding to
12 Article – Courts and Judicial Proceedings
13 Section 3–8A–17.13
14 Annotated Code of Maryland
15 (2020 Replacement Volume and 2022 Supplement)
- 16 BY adding to
17 Article – Criminal Law
18 Section 1–402
19 Annotated Code of Maryland
20 (2021 Replacement Volume and 2022 Supplement)
- 21 BY repealing and reenacting, with amendments,
22 Article – Criminal Procedure
23 Section 8–302(a)
24 Annotated Code of Maryland
25 (2018 Replacement Volume and 2022 Supplement)
- 26 BY repealing and reenacting, without amendments,
27 Article – Criminal Procedure
28 Section 8–302(b)
29 Annotated Code of Maryland
30 (2018 Replacement Volume and 2022 Supplement)
- 31 BY repealing and reenacting, without amendments,
32 Article – Family Law
33 Section 5–701(a) and (x)
34 Annotated Code of Maryland
35 (2019 Replacement Volume and 2022 Supplement)
- 36 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
37 That the Laws of Maryland read as follows:

38 **Article – Courts and Judicial Proceedings**

1 3–8A–01.

2 (a) In this subtitle the following words have the meanings indicated, unless the
3 context of their use indicates otherwise.

4 (dd) “Violation” means a violation for which a citation is issued under:

5 (1) § 5–601 of the Criminal Law Article involving the use or possession of
6 cannabis;

7 (2) § 10–113, § 10–114, § 10–115, or § 10–116 of the Criminal Law Article;

8 (3) § 10–132 of the Criminal Law Article;

9 (4) § 10–136 of the Criminal Law Article; or

10 (5) § 26–103 of the Education Article.

11 3–8A–14.

12 (a) A child may be taken into custody under this subtitle by any of the following
13 methods:

14 (1) Pursuant to an order of the court;

15 (2) By a law enforcement officer pursuant to the law of arrest;

16 (3) By a law enforcement officer or other person authorized by the court if
17 the officer or other person has reasonable grounds to believe that the child is in immediate
18 danger from the child’s surroundings and that the child’s removal is necessary for the
19 child’s protection;

20 (4) By a law enforcement officer or other person authorized by the court if
21 the officer or other person has reasonable grounds to believe that the child has run away
22 from the child’s parents, guardian, or legal custodian; or

23 (5) In accordance with § 3–8A–14.1 of this subtitle.

24 (b) (1) (i) If a law enforcement officer takes a child into custody, the officer
25 shall immediately notify, or cause to be notified, the child’s parents, guardian, or custodian
26 in a manner reasonably calculated to give actual notice of the action.

27 (ii) The notice required under subparagraph (i) of this paragraph
28 shall:

29 1. Include the child’s location;

1 **(I) NOTIFY AN** appropriate regional navigator, as defined in §
2 5–704.4 of the Family Law Article, for the jurisdiction where the child was taken into
3 custody or where the child is a resident that the child is a suspected victim of sex trafficking
4 **OR A SUSPECTED VICTIM OF HUMAN TRAFFICKING SO THE REGIONAL NAVIGATOR**
5 **CAN COORDINATE A SERVICE RESPONSE;**

6 **(II) REPORT TO THE LOCAL CHILD WELFARE AGENCY THAT THE**
7 **CHILD IS A SUSPECTED VICTIM OF SEX TRAFFICKING OR A SUSPECTED VICTIM OF**
8 **HUMAN TRAFFICKING; AND**

9 **(III) RELEASE THE CHILD TO THE CHILD’S PARENTS, GUARDIAN,**
10 **OR CUSTODIAN IF IT IS SAFE AND APPROPRIATE TO DO SO, OR TO THE LOCAL CHILD**
11 **WELFARE AGENCY IF THERE IS REASON TO BELIEVE THAT THE CHILD’S SAFETY WILL**
12 **BE AT RISK IF THE CHILD IS RETURNED TO THE CHILD’S PARENTS, GUARDIAN, OR**
13 **CUSTODIAN.**

14 **(3) A LAW ENFORCEMENT OFFICER WHO TAKES A CHILD WHO IS A**
15 **SUSPECTED VICTIM OF SEX TRAFFICKING OR A SUSPECTED VICTIM OF HUMAN**
16 **TRAFFICKING INTO CUSTODY UNDER SUBSECTION (A)(3) OF THIS SECTION MAY NOT**
17 **DETAIN THE CHILD IN A JUVENILE DETENTION FACILITY, AS DEFINED UNDER §**
18 **9–237 OF THE HUMAN SERVICES ARTICLE, IF THE REASON FOR DETAINING THE**
19 **CHILD IS A SUSPECTED COMMISSION OF A QUALIFYING OFFENSE OR § 3–1102 OF**
20 **THE CRIMINAL LAW ARTICLE.**

21 (e) The Supreme Court of Maryland may adopt rules concerning
22 age-appropriate language to be used to advise a child who is taken into custody of the
23 child’s rights.

24 **3–8A–17.13.**

25 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS**
26 **INDICATED.**

27 **(2) “QUALIFYING OFFENSE” HAS THE MEANING STATED IN § 8–302 OF**
28 **THE CRIMINAL PROCEDURE ARTICLE.**

29 **(3) “REGIONAL NAVIGATOR” HAS THE MEANING STATED IN §**
30 **5–704.4 OF THE FAMILY LAW ARTICLE.**

31 **(4) “SEX TRAFFICKING” HAS THE MEANING STATED IN § 5–701 OF THE**
32 **FAMILY LAW ARTICLE.**

33 **(5) “VICTIM OF HUMAN TRAFFICKING” HAS THE MEANING STATED IN**
34 **§ 8–302 OF THE CRIMINAL PROCEDURE ARTICLE.**

1 (B) (1) AT ANY TIME AFTER A PETITION ALLEGING THAT A CHILD HAS
2 COMMITTED A QUALIFYING OFFENSE, A VIOLATION, OR AN OFFENSE UNDER §
3 3-1102 OF THE CRIMINAL LAW ARTICLE IS FILED WITH THE COURT UNDER THIS
4 SUBTITLE, THE COURT ON ITS OWN MOTION, OR ON MOTION OF THE CHILD'S
5 COUNSEL OR THE STATE'S ATTORNEY, SHALL:

6 (I) MAKE THE DETERMINATION REQUIRED UNDER
7 PARAGRAPH (3) OF THIS SUBSECTION;

8 (II) STAY ALL PROCEEDINGS UNTIL THE DETERMINATION IS
9 MADE; AND

10 (III) REFER THE CHILD TO A REGIONAL NAVIGATOR AND NOTIFY
11 THE DEPARTMENT OF HUMAN SERVICES.

12 (2) THE COURT:

13 (I) SHALL SCHEDULE A HEARING WITHIN 15 DAYS AFTER A
14 MOTION IS FILED UNDER PARAGRAPH (1) OF THIS SUBSECTION; AND

15 (II) MAY, ON GOOD CAUSE SHOWN, EXTEND THE TIME FOR THE
16 HEARING AN ADDITIONAL 15 DAYS.

17 (3) THE COURT SHALL DETERMINE, BY EVIDENCE PRESENTED ON
18 THE RECORD AND BY A PREPONDERANCE OF THE EVIDENCE, WHETHER THE CHILD:

19 (I) IS A VICTIM OF SEX TRAFFICKING OR A VICTIM OF HUMAN
20 TRAFFICKING; AND

21 (II) COMMITTED THE QUALIFYING OFFENSE, VIOLATION, OR
22 OFFENSE UNDER § 3-1102 OF THE CRIMINAL LAW ARTICLE AS A DIRECT RESULT OF
23 BEING A VICTIM OF SEX TRAFFICKING OR BEING A VICTIM OF HUMAN TRAFFICKING.

24 (4) THE COURT SHALL DISMISS THE ~~CASE~~ CHARGE FOR ANY
25 QUALIFYING OFFENSE, VIOLATION, OR OFFENSE UNDER § 3-1102 OF THE CRIMINAL
26 LAW ARTICLE IF THE COURT FINDS THAT THE CHILD:

27 (I) IS A VICTIM OF SEX TRAFFICKING OR A VICTIM OF HUMAN
28 TRAFFICKING; AND

29 (II) COMMITTED THE QUALIFYING OFFENSE, VIOLATION, OR
30 OFFENSE UNDER § 3-1102 OF THE CRIMINAL LAW ARTICLE AS A DIRECT RESULT OF
31 BEING A VICTIM OF SEX TRAFFICKING OR BEING A VICTIM OF HUMAN TRAFFICKING.

Article – Criminal Law

1–402.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “QUALIFYING OFFENSE” HAS THE MEANING STATED IN § 8–302 OF THE CRIMINAL PROCEDURE ARTICLE.

(3) “SEX TRAFFICKING” HAS THE MEANING STATED IN § 5–701 OF THE FAMILY LAW ARTICLE.

(4) “VICTIM OF HUMAN TRAFFICKING” HAS THE MEANING STATED IN § 8–302 OF THE CRIMINAL PROCEDURE ARTICLE.

(5) “VIOLATION” HAS THE MEANING STATED IN § 3–8A–01 OF THE COURTS ARTICLE.

(B) A MINOR MAY NOT BE CRIMINALLY PROSECUTED OR PROCEEDED AGAINST UNDER TITLE 3, SUBTITLE 8A OF THE COURTS ARTICLE FOR A QUALIFYING OFFENSE, A VIOLATION, OR AN OFFENSE UNDER § 3–1102 OF THIS ARTICLE IF THE MINOR COMMITTED THE UNDERLYING ACT AS A DIRECT RESULT OF BEING A VICTIM OF SEX TRAFFICKING OR BEING A VICTIM OF HUMAN TRAFFICKING.

Article – Criminal Procedure

8–302.

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

(2) “Qualifying offense” means:

(i) unnatural or perverted sexual practice under § 3–322 of the Criminal Law Article;

(ii) possessing or administering a controlled dangerous substance under § 5–601 of the Criminal Law Article;

(iii) possessing or purchasing a noncontrolled substance under § 5–618 of the Criminal Law Article;

(iv) possessing or distributing controlled paraphernalia under § 5–620(a)(2) of the Criminal Law Article;

- 1 (v) fourth-degree burglary under § 6-205 of the Criminal Law
2 Article;
- 3 (vi) malicious destruction of property in the lesser degree under §
4 6-301(c) of the Criminal Law Article;
- 5 (vii) a trespass offense under Title 6, Subtitle 4 of the Criminal Law
6 Article;
- 7 (viii) misdemeanor theft under § 7-104 of the Criminal Law Article;
- 8 (ix) misdemeanor obtaining property or services by bad check under
9 § 8-103 of the Criminal Law Article;
- 10 (x) possession or use of a fraudulent government identification
11 document under § 8-303 of the Criminal Law Article;
- 12 (xi) public assistance fraud under § 8-503 of the Criminal Law
13 Article;
- 14 (xii) false statement to a law enforcement officer or public official
15 under § 9-501, § 9-502, or § 9-503 of the Criminal Law Article;
- 16 (xiii) disturbing the public peace and disorderly conduct under §
17 10-201 of the Criminal Law Article;
- 18 (xiv) indecent exposure under § 11-107 of the Criminal Law Article;
- 19 (xv) prostitution under § 11-303 of the Criminal Law Article;
- 20 (xvi) driving with a suspended registration under § 13-401(h) of the
21 Transportation Article;
- 22 (xvii) failure to display registration under § 13-409(b) of the
23 Transportation Article;
- 24 (xviii) driving without a license under § 16-101 of the Transportation
25 Article;
- 26 (xix) failure to display license to police under § 16-112(c) of the
27 Transportation Article;
- 28 (xx) possession of a suspended license under § 16-301(j) of the
29 Transportation Article;

1 (xxi) driving while privilege is canceled, suspended, refused, or
2 revoked under § 16–303 of the Transportation Article;

3 (xxii) owner failure to maintain security on a vehicle under § 17–104(b)
4 of the Transportation Article;

5 (xxiii) driving while uninsured under § 17–107 of the Transportation
6 Article; [or]

7 (xxiv) prostitution or loitering as prohibited under local law;

8 **(XXV) UNAUTHORIZED USE UNDER § 14–102 OF THE**
9 **TRANSPORTATION ARTICLE; OR**

10 **(XXVI) SOLICITING OR OFFERING TO SOLICIT PROSTITUTION**
11 **OR ASSIGNATION UNDER § 11–306 OF THE CRIMINAL LAW ARTICLE.**

12 (3) “Victim of human trafficking” means a person who has been subjected
13 to an act of another committed in violation of:

14 (i) Title 3, Subtitle 11 of the Criminal Law Article; or

15 (ii) § 1589, § 1590, § 1591, or § 1594(a) of Title 18 of the United States
16 Code.

17 (b) A person convicted of a qualifying offense may file a motion to vacate the
18 judgment if the person’s participation in the offense was a direct result of being a victim of
19 human trafficking.

20 **Article – Family Law**

21 5–701.

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

24 (x) “Sex trafficking” means the recruitment, harboring, transportation, provision,
25 obtaining, patronizing, or soliciting of a child for the purpose of a commercial sex act.

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
27 October 1, 2023.