

# SENATE BILL 881

E1, D3

8lr3386  
CF HB 1276

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By: **Senator Lee**

Introduced and read first time: February 5, 2018

Assigned to: Judicial Proceedings

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 21, 2018

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Criminal Law – Human Trafficking and Prostitution Offenses**

3 FOR the purpose of ~~establishing a certain period within which a person is required to~~  
4 ~~commence a certain civil action relating to a violation of certain provisions of this~~  
5 ~~Act~~, altering the elements of the prohibitions against human trafficking and  
6 renaming them sex trafficking; prohibiting a person from knowingly obtaining or  
7 procuring for any person the labor or services of another by certain means;  
8 prohibiting a person from knowingly causing another to engage in a debt bondage;  
9 prohibiting a person from knowingly engaging in certain conduct with the intent to  
10 compel another to marry any person under certain circumstances; prohibiting a  
11 person from destroying, concealing, removing, confiscating, or possessing certain  
12 documents while violating certain provisions of this Act; prohibiting a person from  
13 knowingly receiving a certain benefit ~~or thing of value~~ in relation to a violation of  
14 certain provisions of this Act; prohibiting a person from aiding, abetting, or  
15 conspiring with another to violate certain provisions of this Act; establishing that  
16 the lack of knowledge about a victim's age is not a defense to certain offenses  
17 involving a child; establishing certain penalties for violations of this Act;  
18 reorganizing certain provisions of law relating to prostitution; defining certain  
19 terms; altering certain definitions; making conforming changes; and generally  
20 relating to human trafficking and prostitution offenses.

21 BY renumbering

22 Article – Criminal Law

23 Section 11–303 and 11–306, respectively

24 to be Section 3–1102 and 11–303, respectively

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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.



- 1       Annotated Code of Maryland  
2       (2012 Replacement Volume and 2017 Supplement)
- 3   BY repealing and reenacting, with amendments,  
4       Article – Business Regulation  
5       Section 15–207(b)(1)  
6       Annotated Code of Maryland  
7       (2015 Replacement Volume and 2017 Supplement)
- 8   BY repealing and reenacting, with amendments,  
9       Article – Courts and Judicial Proceedings  
10       Section 3–8A–19(d)(3)(i)6., 4–301(b)(25), 10–402(c)(2)(ii)1.O., and 10–406(a)(15)  
11       Annotated Code of Maryland  
12       (2013 Replacement Volume and 2017 Supplement)
- 13 ~~BY adding to~~  
14 ~~Article – Courts and Judicial Proceedings~~  
15 ~~Section 5–121~~  
16 ~~Annotated Code of Maryland~~  
17 ~~(2013 Replacement Volume and 2017 Supplement)~~
- 18   BY repealing and reenacting, with amendments,  
19       Article – Criminal Law  
20       Section 3–324(b), 9–801(g)(2), 11–305, and 14–101(a)(24) and (25)  
21       Annotated Code of Maryland  
22       (2012 Replacement Volume and 2017 Supplement)
- 23   BY adding to  
24       Article – Criminal Law  
25       Section 3–1101, 3–1103, and 3–1104 to be under the new subtitle “Subtitle 11.  
26       Human Trafficking”; 11–306, 11–307, and 14–101(a)(26)  
27       Annotated Code of Maryland  
28       (2012 Replacement Volume and 2017 Supplement)
- 29   BY repealing and reenacting, with amendments,  
30       Article – Criminal Law  
31       Section 3–1102 and 11–303  
32       Annotated Code of Maryland  
33       (2012 Replacement Volume and 2017 Supplement)  
34       (As enacted by Section 1 of this Act)
- 35   BY repealing and reenacting, without amendments,  
36       Article – Criminal Law  
37       Section 11–301  
38       Annotated Code of Maryland  
39       (2012 Replacement Volume and 2017 Supplement)

BY repealing and reenacting, with amendments,

Article – Criminal Procedure

Section 8–302(a), 10–110(a)(14), 10–301(f)(12), 11–701(p)(2), 13–501(g), 13–502, 13–503, 13–507, 13–508(a), 13–514, 13–518(a)(7), 13–522, 13–524, 13–525(a)(1), and 13–528(c)(1)

Annotated Code of Maryland

(2008 Replacement Volume and 2017 Supplement)

BY repealing and reenacting, with amendments,

Article – Public Safety

Section 2–412(c)(11)

Annotated Code of Maryland

(2011 Replacement Volume and 2017 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 11–303 and 11–306, respectively, of Article – Criminal Law of the Annotated Code of Maryland be renumbered to be Section(s) 3–1102 and 11–303, respectively.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

### **Article – Business Regulation**

15–207.

(b) (1) A State, county, or municipal law enforcement agency may issue a civil citation to a lodging establishment requiring it to post prominently in each guest room for 1 year the sign that is identical to the notice required to be placed on the Web site of the Department under subsection (a) of this section, if the lodging establishment is located on property where arrests leading to convictions of prostitution, solicitation of a minor, or human trafficking under [Title 11, Subtitle 13] **TITLE 3, SUBTITLE 11** of the Criminal Law Article have occurred.

### **Article – Courts and Judicial Proceedings**

3–8A–19.

(d) (3) (i) Except as provided in subparagraph (ii) or (iii) of this paragraph, a child may not be committed to the Department of Juvenile Services for out-of-home placement if the most serious offense is:

6. An offense involving prostitution under [§ 11–306] **§ 11–303, § 11–306, OR § 11–307** of the Criminal Law Article;

4–301.

(b) Except as provided in § 4–302 of this subtitle, the District Court also has exclusive original jurisdiction in a criminal case in which a person at least 18 years old or a corporation is charged with:

(25) Violation of [§ 11–303(b)] **§ 3–1102(B), § 3–1103, OR § 3–1104** of the Criminal Law Article.

~~5–121.~~

~~A CIVIL ACTION FOR DAMAGES ARISING FROM A VIOLATION OF TITLE 3, SUBTITLE 11 OF THE CRIMINAL LAW ARTICLE SHALL BE FILED WITHIN THE LATER OF 10 YEARS AFTER THE DATE THAT:~~

~~(1) THE VIOLATION OCCURRED; OR~~

~~(2) THE VICTIM REACHES THE AGE OF MAJORITY.~~

10–402.

(c) (2) (ii) It is lawful under this subtitle for an investigative or law enforcement officer acting in a criminal investigation or any other person acting at the prior direction and under the supervision of an investigative or law enforcement officer to intercept a wire, oral, or electronic communication in order to provide evidence:

1. Of the commission of:

O. A human trafficking offense under [§ 11–303] **TITLE 3, SUBTITLE 11** of the Criminal Law Article;

10–406.

(a) The Attorney General, State Prosecutor, or any State’s Attorney may apply to a judge of competent jurisdiction, and the judge, in accordance with the provisions of § 10–408 of this subtitle, may grant an order authorizing the interception of wire, oral, or electronic communications by investigative or law enforcement officers when the interception may provide or has provided evidence of the commission of:

(15) A human trafficking offense under [§ 11–303] **TITLE 3, SUBTITLE 11** of the Criminal Law Article;

## Article – Criminal Law

3–324.

(b) A person may not, with the intent to commit a violation of § 3–304, § 3–306, or § 3–307 of this subtitle or **§ 11–303, § 11–304, § 11–305, [or] § 11–306, OR § 11–307** of

1 this article, knowingly solicit a minor, or a law enforcement officer posing as a minor, to  
2 engage in activities that would be unlawful for the person to engage in under § 3-304,  
3 § 3-306, or § 3-307 of this subtitle or **§ 11-303**, § 11-304, § 11-305, [or] § 11-306, **OR §**  
4 **11-307** of this article.

5 **SUBTITLE 11. HUMAN TRAFFICKING.**

6 **3-1101.**

7 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
8 INDICATED.

9 (B) “ASSIGNATION” HAS THE MEANING STATED IN § 11-301 OF THIS  
10 ARTICLE.

11 (C) “DEBT BONDAGE” ~~MEANS A PROMISE BY A PERSON FOR PERSONAL~~  
12 ~~SERVICES AS A SECURITY FOR THE PAYMENT OF A DEBT AND FOR WHICH THE~~  
13 ~~SERVICES;~~

14 ~~(1) ARE TO BE CARRIED OUT BY THE PERSON OR ANOTHER UNDER~~  
15 ~~THE PERSON’S CONTROL; AND~~

16 ~~(2) (I) DO NOT ACTUALLY COUNT TOWARD THE PAYMENT OF DEBT;~~  
17 ~~OR~~

18 ~~(II) ARE NOT DEFINED OR LIMITED IN DURATION.~~ HAS THE  
19 MEANING STATED IN 22 U.S.C. § 7102.

20 ~~(C)~~ (D) “PROSTITUTION” HAS THE MEANING STATED IN § 11-301 OF THIS  
21 ARTICLE.

22 ~~(D)~~ (E) (1) “SERIOUS HARM” MEANS ANY HARM THAT IS SUFFICIENTLY  
23 SERIOUS TO COMPEL A REASONABLE PERSON, WHEN CONSIDERING THE  
24 CIRCUMSTANCES AND THE PERSON’S BACKGROUND, TO PERFORM LABOR OR  
25 SERVICES TO AVOID THE HARM.

26 ~~(2) “SERIOUS HARM” INCLUDES:~~

27 ~~(I) PHYSICAL HARM;~~

28 ~~(II) EMOTIONAL HARM;~~

29 ~~(III) REPUTATIONAL HARM; AND~~

30 ~~(IV) ECONOMIC HARM.~~

~~(E)~~ **(F)** “SEXUALLY EXPLICIT PERFORMANCE” HAS THE MEANING STATED  
IN § 11-301 OF THIS ARTICLE.

3-1102.

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

(2) A person may not [knowingly take or detain another] **VIOLATE SUBSECTION (A) OF THIS SECTION** with the **USE OF OR** 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] **SEX 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] **SEX 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.

(f) It is not a defense to a prosecution under subsection (b)(1) **OR (E)** of this section that the person did not know the age of the victim.

**3–1103.**

**(A) A PERSON MAY NOT KNOWINGLY:**

**(1) OBTAIN OR PROCURE ~~FOR ANY PERSON~~ THE LABOR OR SERVICES OF ANOTHER BY ~~MEANS OF:~~**

**(I) WRONGFUL USE OF FORCE, THREAT OF FORCE, PHYSICAL RESTRAINT, OR THREATS OF PHYSICAL RESTRAINT OF ANY PERSON;**

**(II) WRONGFUL USE OF SERIOUS HARM OR THREATS OF SERIOUS HARM TO ANY PERSON;**

**(III) ~~THE USE OR~~ THREATENED USE OF ANY LEGAL PROCESS OR PROCEEDING RELATING TO ANOTHER'S IMMIGRATION STATUS; OR**

**(IV) USE OF A SCHEME, PLAN, OR PATTERN OF CONDUCT DESIGNED TO CAUSE THE OTHER TO BELIEVE THAT THE OTHER WILL SUFFER SERIOUS HARM ~~OR PHYSICAL RESTRAINT~~ IF THE OTHER DOES NOT PERFORM LABOR OR SERVICES;**

**(2) CAUSE ANOTHER TO ENGAGE IN A DEBT BONDAGE; OR**

(3) DESTROY, CONCEAL, REMOVE, CONFISCATE, OR POSSESS ~~THE~~ AN ACTUAL OR PURPORTED PASSPORT, IMMIGRATION DOCUMENT, OR GOVERNMENT IDENTIFICATION DOCUMENT OF ANOTHER WHILE VIOLATING OR ATTEMPTING TO VIOLATE THIS SUBSECTION.

~~(4) RECEIVE A FINANCIAL BENEFIT OR THING OF VALUE IN RELATION TO A VIOLATION OF THIS SUBSECTION; OR~~

~~(5) AID, ABET, OR CONSPIRE WITH ANOTHER TO VIOLATE THIS SUBSECTION.~~

(B) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF THE FELONY OF LABOR TRAFFICKING AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 25 YEARS OR A FINE NOT EXCEEDING \$15,000 OR BOTH.

(C) 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 VICTIM.

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

(2) A PERSON WHO KNOWINGLY AID, ABETS, OR CONSPIRES WITH ONE OR MORE OTHER PERSONS TO VIOLATE SUBSECTION (A) OF THIS SECTION IS SUBJECT TO THE SAME PENALTIES THAT APPLY FOR A VIOLATION OF THAT SUBSECTION.

3-1104.

(A) A PERSON MAY NOT KNOWINGLY:

(1) TAKE OR DETAIN ANOTHER WITH THE INTENT TO USE FORCE, THREAT, COERCION, OR FRAUD TO COMPEL THE OTHER TO MARRY ANY PERSON;

(2) RECEIVE A FINANCIAL BENEFIT OR THING OF VALUE IN RELATION TO A VIOLATION OF THIS SUBSECTION; OR

(3) AID, ABET, OR CONSPIRE WITH ANOTHER TO VIOLATE THIS SUBSECTION.



(B) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF THE FELONY OF FORCED MARRIAGE AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 25 YEARS OR A FINE NOT EXCEEDING \$15,000 OR BOTH.

(C) 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 VICTIM.

9-801.

(g) “Underlying crime” means:

(2) a violation of § 3-203 (second degree assault), § 3-1102 (SEX TRAFFICKING), § 3-1103 (LABOR TRAFFICKING), § 3-1104 (FORCED MARRIAGE), § 4-203 (wearing, carrying, or transporting a handgun), § 9-302 (inducing false testimony or avoidance of subpoena), § 9-303 (retaliation for testimony), § 9-305 (intimidating or corrupting juror), [§ 11-303 (human trafficking),] § 11-304 (receiving earnings of prostitute), or [§ 11-306(a)(2), (3), or (4)] § 11-307 (house of prostitution) of this article;

11-301.

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

(b) “Assignment” 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.

(g) “Solicit” means urging, advising, inducing, encouraging, requesting, or commanding another.

(h) “Vaginal intercourse” has the meaning stated in § 3-301 of this article.

11-303.

(a) A person may not knowingly:

(1) ~~engage in prostitution or assignation by any means~~; OR

(2) ~~keep, set up, occupy, maintain, or operate a building, structure, or conveyance for prostitution or assignation;~~

(3) ~~allow a building, structure, or conveyance owned or under the person's control to be used for prostitution or assignation;~~

(4) ~~allow or agree to allow a person into a building, structure, or conveyance for prostitution or assignation; or~~

(5) ~~procure or solicit or offer to procure or solicit for prostitution or assignation~~].

(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 1 year or a fine not exceeding \$500 or both.

(c) (1) Subject to paragraph (2) of this subsection, in a prosecution under this section, it is an affirmative defense of duress if the defendant committed the act as a result of being a victim of an act of another [who was charged with violating the prohibition against human trafficking under § 11–303 of this subtitle or] **IN VIOLATION OF TITLE 3, SUBTITLE 11 OF THIS ARTICLE OR THE PROHIBITION AGAINST HUMAN TRAFFICKING** under federal law.

(2) A defendant may not assert the affirmative defense provided in paragraph (1) of this subsection unless the defendant notifies the State's Attorney of the defendant's intention to assert the defense at least 10 days prior to trial.

11–305.

(a) For the purpose of committing a crime under Title 3, Subtitle 3 of this article, a person may not:

(1) persuade or entice or aid in the persuasion or enticement of an individual under the age of 16 years from the individual's home or from the custody of the individual's parent or guardian; and

(2) knowingly secrete or harbor or aid in the secreting or harboring of the individual who has been persuaded or enticed in the manner described in item (1) of this subsection.

(b) A person who violates this section is guilty of a felony and on conviction is subject to imprisonment not exceeding 25 years or a fine not exceeding \$5,000 or both.

**(C) IT IS NOT A DEFENSE TO PROSECUTION UNDER THIS SECTION THAT THE PERSON DID NOT KNOW THE AGE OF THE VICTIM.**

1 11-306.

2 (A) A PERSON MAY NOT KNOWINGLY PROCURE OR SOLICIT OR OFFER TO  
3 PROCURE OR SOLICIT PROSTITUTION OR ASSIGNATION.

4 (B) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR  
5 AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 1 YEAR OR A  
6 FINE NOT EXCEEDING \$500 OR BOTH.

7 (C) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, IN A  
8 PROSECUTION UNDER THIS SECTION, IT IS AN AFFIRMATIVE DEFENSE OF DURESS IF  
9 THE DEFENDANT COMMITTED THE ACT AS A RESULT OF BEING A VICTIM OF AN ACT  
10 OF ANOTHER IN VIOLATION OF TITLE 3, SUBTITLE 11 OF THIS ARTICLE OR THE  
11 PROHIBITION AGAINST HUMAN TRAFFICKING UNDER FEDERAL LAW.

12 (2) A DEFENDANT MAY NOT ASSERT THE AFFIRMATIVE DEFENSE  
13 PROVIDED IN PARAGRAPH (1) OF THIS SUBSECTION UNLESS THE DEFENDANT  
14 NOTIFIES THE STATE'S ATTORNEY OF THE DEFENDANT'S INTENTION TO ASSERT  
15 THE DEFENSE AT LEAST 10 DAYS PRIOR TO TRIAL.

16 11-307.

17 (A) A PERSON MAY NOT KNOWINGLY:

18 (1) ALLOW A BUILDING, STRUCTURE, OR CONVEYANCE OWNED OR  
19 UNDER THE PERSON'S CONTROL TO BE USED FOR PROSTITUTION OR ASSIGNATION;

20 (2) ALLOW OR AGREE TO ALLOW A PERSON INTO A BUILDING,  
21 STRUCTURE, OR CONVEYANCE FOR PROSTITUTION OR ASSIGNATION; OR

22 (3) KEEP, SET UP, ~~OCCUPY~~, MAINTAIN, OR OPERATE A BUILDING,  
23 STRUCTURE, OR CONVEYANCE FOR PROSTITUTION OR ASSIGNATION.

24 (B) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR  
25 AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 1 YEAR OR A  
26 FINE NOT EXCEEDING \$500 OR BOTH.

27 (C) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, IN A  
28 PROSECUTION UNDER THIS SECTION, IT IS AN AFFIRMATIVE DEFENSE OF DURESS IF  
29 THE DEFENDANT COMMITTED THE ACT AS A RESULT OF BEING A VICTIM OF AN ACT  
30 OF ANOTHER IN VIOLATION OF TITLE 3, SUBTITLE 11 OF THIS ARTICLE OR THE  
31 PROHIBITION AGAINST HUMAN TRAFFICKING UNDER FEDERAL LAW.

(2) A DEFENDANT MAY NOT ASSERT THE AFFIRMATIVE DEFENSE PROVIDED IN PARAGRAPH (1) OF THIS SUBSECTION UNLESS THE DEFENDANT NOTIFIES THE STATE’S ATTORNEY OF THE DEFENDANT’S INTENTION TO ASSERT THE DEFENSE AT LEAST 10 DAYS PRIOR TO TRIAL.

14–101.

(a) In this section, “crime of violence” means:

(24) assault with intent to commit a sexual offense in the first degree; [and]

(25) assault with intent to commit a sexual offense in the second degree;

AND

(26) ~~FELONY SEX TRAFFICKING UNDER § 3-1102(B)~~ HUMAN TRAFFICKING UNDER TITLE 3, SUBTITLE 11 OF THIS ARTICLE.

## Article – Criminal Procedure

8–302.

(a) A person convicted of prostitution under [§ 11–306] **§ 11–303** of the Criminal Law Article may file a motion to vacate the judgment if, when the person committed the act or acts of prostitution, the person was acting under duress caused by an act of another committed in violation of [the prohibition against human trafficking under § 11–303] **TITLE 3, SUBTITLE 11** of the Criminal Law Article or **THE PROHIBITION AGAINST HUMAN TRAFFICKING** under federal law.

10–110.

(a) A person may file a petition listing relevant facts for expungement of a police record, court record, or other record maintained by the State or a political subdivision of the State if the person is convicted of a misdemeanor that is a violation of:

(14) [§ 11–306(a)] **§ 11–303, § 11–306, OR § 11–307** of the Criminal Law Article;

10–301.

(f) “Shieldable conviction” means a conviction of one of the following crimes:

(12) a prostitution offense under [§ 11–306(a)(1)] **§ 11–303** of the Criminal Law Article if the conviction is for prostitution and not assignation.

11–701.

(p) “Tier II sex offender” means a person who has been convicted of:

(2) conspiring to commit, attempting to commit, or committing a violation of **§ 3–1102, § 3–1104**, § 11–303, § 11–305, [or] § 11–306, **OR § 11–307** of the Criminal Law Article, if the intended prostitute or victim is a minor;

13–501.

(g) “Human trafficking law” means § 3–324, **§ 3–1102, § 3–1103, § 3–1104**, § 11–207, [§ 11–303,] § 11–304, and § 11–305 of the Criminal Law Article.

13–502.

The following are subject to forfeiture:

(1) except as provided in § 13–503 of this subtitle, a motor vehicle used in connection with a violation of and conviction under [§ 11–303] **§ 3–1102, § 3–1103, OR § 3–1104** of the Criminal Law Article;

(2) money used in connection with a violation of and conviction under the human trafficking law, found in close proximity to or at the scene of the arrest for a violation of the human trafficking law; and

(3) except as provided in § 13–503 of this subtitle, real property used in connection with a violation of and conviction under [§ 11–303] **§ 3–1102, § 3–1103, OR § 3–1104** of the Criminal Law Article.

13–503.

(a) Property or an interest in property described in § 13–502(1) or (3) of this subtitle may not be forfeited if the owner establishes by a preponderance of the evidence that the violation of the human trafficking law was committed without the owner’s actual knowledge.

(b) (1) A motor vehicle for hire in the transaction of business as a common carrier or a motor vehicle for hire may not be seized or forfeited under this subtitle unless it appears that the owner or other person in charge of the motor vehicle was a consenting party or privy to a violation of the human trafficking law.

(2) A motor vehicle may not be forfeited under this subtitle for an act or omission that the owner shows was committed or omitted by a person other than the owner while the person other than the owner possessed the motor vehicle in criminal violation of federal law or the law of any state.

(c) Subject to subsection (d) of this section, real property used as the principal family residence may not be forfeited under this subtitle unless one of the owners of the

1 real property was convicted of a violation of [§ 11-303] **§ 3-1102, § 3-1103, OR § 3-1104**  
2 of the Criminal Law Article or of an attempt or conspiracy to violate [§ 11-303] **§ 3-1102,**  
3 **§ 3-1103, OR § 3-1104** of the Criminal Law Article.

4 (d) Real property used as the principal family residence by a husband and wife  
5 and held by the husband and wife as tenants by the entirety may not be forfeited unless:

6 (1) the property was used in connection with a violation of [§ 11-303]  
7 **§ 3-1102, § 3-1103, OR § 3-1104** of the Criminal Law Article or with an attempt or a  
8 conspiracy to violate [§ 11-303] **§ 3-1102, § 3-1103, OR § 3-1104** of the Criminal Law  
9 Article; and

10 (2) both the husband and wife are convicted of a violation of [§ 11-303] **§**  
11 **3-1102, § 3-1103, OR § 3-1104** of the Criminal Law Article or of an attempt or conspiracy  
12 to violate [§ 11-303] **§ 3-1102, § 3-1103, OR § 3-1104** of the Criminal Law Article.

13 13-507.

14 (a) A seizing authority may seize a motor vehicle used in violation of [§ 11-303]  
15 **§ 3-1102, § 3-1103, OR § 3-1104** of the Criminal Law Article and recommend forfeiture  
16 to the forfeiting authority if the total circumstances of the case as listed in subsection (b) of  
17 this section dictate that seizure and forfeiture are justified.

18 (b) Circumstances to be considered in deciding whether seizure and forfeiture are  
19 justified include:

20 (1) evidence that the motor vehicle was acquired by use of proceeds from a  
21 transaction involving a violation of [§ 11-303] **§ 3-1102, § 3-1103, OR § 3-1104** of the  
22 Criminal Law Article;

23 (2) the circumstances of the arrest; and

24 (3) the way in which the motor vehicle was used.

25 13-508.

26 (a) The chief law enforcement officer of the seizing authority that seizes a motor  
27 vehicle used in violation of [§ 11-303] **§ 3-1102, § 3-1103, OR § 3-1104** of the Criminal  
28 Law Article may recommend to the appropriate forfeiting authority in writing that the  
29 motor vehicle be forfeited only if the officer:

30 (1) determines from the records of the Motor Vehicle Administration the  
31 names and addresses of all registered owners and secured parties as defined in the Code;

32 (2) personally reviews the facts and circumstances of the seizure; and

(3) personally determines, according to the standards listed in § 13–507 of this subtitle, and represents in writing that forfeiture is warranted.

13–514.

Except as provided in § 13–517(c) of this subtitle, if property is seized under § 13–504(2)(iv) of this subtitle because there is probable cause to believe that the property is directly or indirectly dangerous to health or safety and that the property was or will be used to violate [§ 11–303] **§ 3–1102, § 3–1103, OR § 3–1104** of the Criminal Law Article, forfeiture proceedings under this subtitle shall be filed promptly.

13–518.

(a) A complaint seeking forfeiture shall contain:

(7) if the forfeiting authority seeks to forfeit a lienholder's interest in property, an allegation that the lien was created with actual knowledge that the property was being or was to be used in violation of [§ 11–303] **§ 3–1102, § 3–1103, OR § 3–1104** of the Criminal Law Article;

13–522.

Except as provided in §§ 13–503 and 13–524 of this subtitle, an owner's interest in real property may be forfeited if the owner of the real property is convicted of violating [§ 11–303] **§ 3–1102, § 3–1103, OR § 3–1104** of the Criminal Law Article or attempting or conspiring to violate [§ 11–303] **§ 3–1102, § 3–1103, OR § 3–1104** of the Criminal Law Article.

13–524.

If an owner of real property used as the principal family residence is convicted under [§ 11–303] **§ 3–1102, § 3–1103, OR § 3–1104** of the Criminal Law Article or is convicted of an attempt or conspiracy to violate [§ 11–303] **§ 3–1102, § 3–1103, OR § 3–1104** of the Criminal Law Article and the owner files an appeal of the conviction, the court shall stay forfeiture proceedings under § 13–503 of this subtitle against the real property during the pendency of the appeal.

13–525.

(a) (1) Except as provided in subsection (b) of this section, there is a rebuttable presumption that property or part of a property in which a person has an ownership interest is subject to forfeiture as proceeds, if the State establishes by clear and convincing evidence that:

(i) the person was convicted of violating [§ 11–303] **§ 3–1102, § 3–1103, OR § 3–1104** of the Criminal Law Article or attempting or conspiring to violate [§ 11–303] **§ 3–1102, § 3–1103, OR § 3–1104** of the Criminal Law Article;

(ii) the property was acquired by the person during the violation or within a reasonable time after the violation; and

(iii) there was no other likely source for the property.

13–528.

(c) (1) If the court determines that the forfeited property is subject to a valid lien created without actual knowledge of the lienholder that the property was being or was to be used in violation of [§ 11–303] **§ 3–1102, § 3–1103, OR § 3–1104** of the Criminal Law Article, the court shall order that the property be released within 5 days to the first priority lienholder.

### Article – Public Safety

2–412.

(c) Police employees may not act within the limits of a municipal corporation that maintains a police force except:

(11) when conducting investigations relating to or otherwise enforcing §§ 3–324, 3–804, 3–805, 3–902, **3–1102, 3–1103, 3–1104**, 7–302, 11–207, 11–208, [11–303,] 11–304, 11–305, and 11–306 of the Criminal Law Article;

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2018.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.