

HOUSE BILL 1134

E1

8lr1694
CF SB 800

By: Delegates Atterbeary, Malone, Anderson, Angel, Arentz, Barron, Barve, Brooks, Cullison, Davis, Dumais, Fraser-Hidalgo, Frick, Frush, Hettleman, Hill, Hixson, Kelly, Kramer, Lam, J. Lewis, Lierman, A. Miller, Moon, Morales, Morhaim, Pena-Melnyk, Pendergrass, Platt, Robinson, Saab, Sanchez, Stein, Turner, Valentino-Smith, Waldstreicher, M. Washington, and K. Young

Introduced and read first time: February 8, 2018

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 12, 2018

CHAPTER _____

1 AN ACT concerning

2 **Criminal Law – ~~Sexual Activity With an Animal~~, Unnatural or Perverted Sexual**
3 **Practices, ~~and Sodomy~~ – Sexual Activity With an Animal**

4 FOR the purpose of ~~repealing the offenses of sodomy and unnatural or perverted sexual~~
5 ~~practices; prohibiting a person from engaging in sexual activity with an animal;~~
6 ~~prohibiting a person from advertising, soliciting, offering, possessing, selling,~~
7 ~~transferring, accepting, purchasing, or otherwise obtaining an animal with a certain~~
8 ~~intent; prohibiting a person from organizing, promoting, conducting, or participating~~
9 ~~as an observer of a certain event; prohibiting a person from causing, coercing, aiding,~~
10 ~~or abetting another to engage in certain activity; prohibiting a person from allowing~~
11 ~~certain premises to be used by any person for a certain purpose; prohibiting a person~~
12 ~~from causing a minor to engage in certain activity; prohibiting a person from~~
13 ~~engaging in certain activity in the presence of a minor; establishing certain penalties~~
14 ~~for a violation of this Act; providing that a conviction under certain provisions of this~~
15 ~~Act may not merge with certain other convictions; providing that a court may order~~
16 ~~a defendant to take certain actions or prohibit a defendant from engaging in certain~~
17 ~~conduct for a certain period of time as a condition of sentencing; altering certain~~
18 ~~prohibitions relating to nudity and sexual displays by repealing references to sodomy~~
19 ~~and bestiality and adding a reference to sexual activity with an animal; altering the~~
20 ~~prohibition against murder in the first degree by repealing a reference to murder~~

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 ~~committed in the perpetration of or an attempt to perpetrate sodomy and adding a~~
 2 ~~reference to murder committed in the perpetration of or an attempt to perpetrate~~
 3 ~~sexual activity with an animal; altering the penalty for aggravated cruelty to~~
 4 ~~animals; defining certain terms; altering certain definitions; making conforming~~
 5 ~~changes; prohibiting a person from engaging in certain sexual activity with an~~
 6 ~~animal; applying certain penalties; and generally relating to sexual activity with an~~
 7 ~~animal, unnatural or perverted sexual practices, and sodomy.~~

8 ~~BY repealing and reenacting, with amendments,~~

9 ~~Article — Alcoholic Beverages~~

10 ~~Section 3-604(e)(1)(i) and (d)(1), 4-605(e)(1)(i) and (d)(1), and 12-2102(a)(5)(i)1. and~~
 11 ~~(6)(i)~~

12 ~~Annotated Code of Maryland~~

13 ~~(2016 Volume and 2017 Supplement)~~

14 ~~BY repealing and reenacting, without amendments,~~

15 ~~Article — Courts and Judicial Proceedings~~

16 ~~Section 3-801(a)~~

17 ~~Annotated Code of Maryland~~

18 ~~(2013 Replacement Volume and 2017 Supplement)~~

19 ~~BY repealing and reenacting, with amendments,~~

20 ~~Article — Courts and Judicial Proceedings~~

21 ~~Section 3-801(z)~~

22 ~~Annotated Code of Maryland~~

23 ~~(2013 Replacement Volume and 2017 Supplement)~~

24 ~~BY repealing and reenacting, with amendments,~~

25 ~~Article — Criminal Law~~

26 ~~Section 2-201(a)(4)(xi), 3-602(a)(4), 3-604(a)(9), 10-606, and 11-203(a)(3)~~

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 3-321 and 3-322

32 Annotated Code of Maryland

33 (2012 Replacement Volume and 2017 Supplement)

34 ~~BY repealing and reenacting, without amendments,~~

35 ~~Article — Criminal Law~~

36 ~~Section 3-602(a)(1), 3-604(a)(1), and 11-203(a)(1)~~

37 ~~Annotated Code of Maryland~~

38 ~~(2012 Replacement Volume and 2017 Supplement)~~

39 ~~BY adding to~~

40 ~~Article — Criminal Law~~

1 ~~Section 10-606.1~~
 2 ~~Annotated Code of Maryland~~
 3 ~~(2012 Replacement Volume and 2017 Supplement)~~

4 ~~BY repealing and reenacting, without amendments,~~
 5 ~~Article—Criminal Procedure~~
 6 ~~Section 11-701(a)~~
 7 ~~Annotated Code of Maryland~~
 8 ~~(2008 Replacement Volume and 2017 Supplement)~~

9 ~~BY repealing and reenacting, with amendments,~~
 10 ~~Article—Criminal Procedure~~
 11 ~~Section 11-701(q)(1)(v)~~
 12 ~~Annotated Code of Maryland~~
 13 ~~(2008 Replacement Volume and 2017 Supplement)~~

14 ~~BY repealing and reenacting, without amendments,~~
 15 ~~Article—Family Law~~
 16 ~~Section 5-701(a)~~
 17 ~~Annotated Code of Maryland~~
 18 ~~(2012 Replacement Volume and 2017 Supplement)~~

19 ~~BY repealing and reenacting, with amendments,~~
 20 ~~Article—Family Law~~
 21 ~~Section 5-701(z)~~
 22 ~~Annotated Code of Maryland~~
 23 ~~(2012 Replacement Volume and 2017 Supplement)~~

24 ~~BY repealing and reenacting, without amendments,~~
 25 ~~Article—Health—General~~
 26 ~~Section 15-127(a)(1)~~
 27 ~~Annotated Code of Maryland~~
 28 ~~(2015 Replacement Volume and 2017 Supplement)~~

29 ~~BY repealing and reenacting, with amendments,~~
 30 ~~Article—Health—General~~
 31 ~~Section 15-127(a)(4)~~
 32 ~~Annotated Code of Maryland~~
 33 ~~(2015 Replacement Volume and 2017 Supplement)~~

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

36 ~~Article—Alcoholic Beverages~~

37 ~~§ 604.~~

~~(e) With respect to entertainment provided, a person may not:~~

~~(1) allow an individual to perform an act of or an act that simulates:~~

~~(i) sexual intercourse, masturbation, [sodomy, bestiality,] **SEXUAL ACTIVITY WITH AN ANIMAL**, oral copulation, flagellation, or a sexual act that is prohibited by law;~~

~~(d) A person may not show a motion picture, a still picture, an electronic reproduction, or any other visual reproduction depicting:~~

~~(1) an act or a simulated act of sexual intercourse, masturbation, [sodomy, bestiality,] **SEXUAL ACTIVITY WITH AN ANIMAL**, oral copulation, flagellation, or a sexual act that is prohibited by law;~~

~~4-605.~~

~~(e) With respect to entertainment provided, a person may not:~~

~~(1) allow an individual to perform an act of or act that simulates:~~

~~(i) sexual intercourse, masturbation, [sodomy, bestiality,] **SEXUAL ACTIVITY WITH AN ANIMAL**, oral copulation, flagellation, or a sexual act that is prohibited by law;~~

~~(d) A person may not show a motion picture, a still picture, an electronic reproduction, or other visual reproduction depicting:~~

~~(1) an act or a simulated act of sexual intercourse, masturbation, [sodomy, bestiality,] **SEXUAL ACTIVITY WITH AN ANIMAL**, oral copulation, flagellation, or a sexual act that is prohibited by law;~~

~~12-2102.~~

~~(a) In this section, "adult entertainment" means:~~

~~(5) with respect to entertainment provided:~~

~~(i) allowing an individual to perform an act of or act that simulates:~~

~~1. sexual intercourse, masturbation, [sodomy, bestiality,] **SEXUAL ACTIVITY WITH AN ANIMAL**, oral copulation, flagellation, or a sexual act that is prohibited by law;~~

~~(6) show a motion picture, still picture, electronic reproduction, or other visual reproduction depicting:~~

1 (i) ~~an act or simulated act of sexual intercourse, masturbation,~~
2 ~~[sodomy, bestiality,] SEXUAL ACTIVITY WITH AN ANIMAL, oral copulation, flagellation, or~~
3 ~~a sexual act that is prohibited by law;~~

4 ~~Article – Courts and Judicial Proceedings~~

5 ~~§ 801.~~

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

7 (z) ~~“Sexual molestation or exploitation” includes:~~

8 (1) ~~Allowing or encouraging a child to engage in:~~

9 (i) ~~Obscene photography, films, poses, or similar activity;~~

10 (ii) ~~Pornographic photography, films, poses, or similar activity; or~~

11 (iii) ~~Prostitution;~~

12 (2) ~~Incest;~~

13 (3) ~~Rape;~~

14 (4) ~~Sexual offense in any degree; AND~~

15 (5) ~~[Sodomy; and~~

16 (6) ~~Unnatural or perverted sexual practices] SEXUAL ACTIVITY WITH AN~~
17 ~~ANIMAL.~~

18 Article – Criminal Law

19 ~~§ 201.~~

20 (a) ~~A murder is in the first degree if it is:~~

21 (4) ~~committed in the perpetration of or an attempt to perpetrate:~~

22 (xi) ~~[sodomy] SEXUAL ACTIVITY WITH AN ANIMAL; or~~

23 ~~[§ 321.~~

24 ~~A person who is convicted of sodomy is guilty of a felony and is subject to~~
25 ~~imprisonment not exceeding 10 years.]~~

1 ~~§~~3-322.

2 (a) A person may not:

3 (1) take the sexual organ of another or of an animal in the person's mouth;

4 (2) place the person's sexual organ in the mouth of another or of an animal;

5 ~~or~~

6 **(3) ENGAGE IN VAGINAL OR ANAL INTERCOURSE WITH AN ANIMAL; OR**

7 ~~(3)~~ **(4)** commit another unnatural or perverted sexual practice with another
8 or with an animal.

9 (b) A person who violates this section is guilty of a misdemeanor and on conviction
10 is subject to imprisonment not exceeding 10 years or a fine not exceeding \$1,000 or both.

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

12 (d) An indictment for a violation of this section:

13 (1) is sufficient if it states that the defendant committed an unnatural and
14 perverted sexual practice with a person or animal as applicable; but

15 (2) need not state the particular:

16 (i) unnatural or perverted sexual practice with which the defendant
17 is charged; or

18 (ii) manner in which the defendant committed the unnatural or
19 perverted sexual practice.†

20 ~~§ 602.~~

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

22 ~~(4) (i) "Sexual abuse" means an act that involves sexual molestation or~~
23 ~~exploitation of a minor, whether physical injuries are sustained or not.~~

24 ~~(ii) "Sexual abuse" includes:~~

25 ~~1. incest;~~

26 ~~2. rape;~~

~~3. sexual offense in any degree; AND~~

~~4. [sodomy; and~~

~~5. unnatural or perverted sexual practices] SEXUAL~~

~~ACTIVITY WITH AN ANIMAL UNDER § 10-606.1(B)(6) OR (7) OF THIS ARTICLE.~~

~~3-604.~~

~~(a) (1) In this section and §§ 3-605 and 3-606 of this subtitle the following words have the meanings indicated.~~

~~(9) (i) "Sexual abuse" means an act that involves sexual molestation or exploitation of a vulnerable adult.~~

~~(ii) "Sexual abuse" includes:~~

~~1. incest;~~

~~2. rape;~~

~~3. sexual offense in any degree; AND~~

~~4. [sodomy; and~~

~~5. unnatural or perverted sexual practices] SEXUAL~~

~~ACTIVITY WITH AN ANIMAL.~~

~~10-606.~~

~~(a) A person may not:~~

~~(1) intentionally:~~

~~(i) mutilate;~~

~~(ii) torture;~~

~~(iii) cruelly beat; or~~

~~(iv) cruelly kill an animal;~~

~~(2) cause, procure, or authorize an act prohibited under item (1) of this subsection; or~~

~~(3) except in the case of self defense, intentionally inflict bodily harm, permanent disability, or death on an animal owned or used by a law enforcement unit.~~

~~(b) (1) A person who violates this section is guilty of the felony of aggravated cruelty to animals and on conviction is subject to imprisonment not exceeding [3] 5 years or a fine not exceeding \$5,000 or both.~~

~~(2) As a condition of sentencing, the court may order a defendant convicted of violating this section to participate in and pay for psychological counseling.~~

~~(3) As a condition of probation, the court may prohibit a defendant from owning, possessing, or residing with an animal.~~

~~10 10-606.1.~~

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

~~(2) "ANIMAL" INCLUDES A DEAD ANIMAL.~~

~~(3) "LEGITIMATE VETERINARY OR ANIMAL HUSBANDRY PURPOSE" INCLUDES ANY LAWFUL AND COMMONLY ACCEPTED PRACTICE RELATING TO:~~

~~(I) VETERINARY MEDICINE;~~

~~(II) THE ARTIFICIAL INSEMINATION OF AN ANIMAL FOR THE PURPOSE OF PROCREATION; AND~~

~~(III) CONFORMATION JUDGING.~~

~~(4) "SEXUAL ACTIVITY WITH AN ANIMAL" MEANS:~~

~~(I) CONTACT BETWEEN THE SEX ORGANS OR ANUS OF A PERSON AND THE MOUTH, ANUS, OR SEX ORGANS OF AN ANIMAL;~~

~~(II) CONTACT BETWEEN THE MOUTH OF A PERSON AND THE ANUS OR SEX ORGANS OF AN ANIMAL; OR~~

~~(III) UNLESS IT IS BEING DONE FOR A LEGITIMATE VETERINARY OR ANIMAL HUSBANDRY PURPOSE:~~

~~1. TOUCHING OR FONDLING, EITHER THROUGH DIRECT CONTACT OR THROUGH CLOTHING OR OTHER COVERING, THE ANUS OR SEX ORGANS OF AN ANIMAL;~~

1 ~~2. TRANSFERRING OR TRANSMITTING SEMEN ONTO OR~~
2 ~~INTO ANY PART OF AN ANIMAL; OR~~

3 ~~3. INSERTING, HOWEVER SLIGHTLY:~~

4 ~~A. ANY PART OF A PERSON'S BODY INTO THE VAGINA OR~~
5 ~~ANUS OF AN ANIMAL;~~

6 ~~B. ANY OBJECT INTO THE VAGINA OR ANUS OF AN~~
7 ~~ANIMAL; OR~~

8 ~~C. ANY PART OF AN ANIMAL'S BODY INTO THE VAGINA OR~~
9 ~~ANUS OF A PERSON.~~

10 ~~(B) A PERSON MAY NOT:~~

11 ~~(1) ENGAGE IN SEXUAL ACTIVITY WITH AN ANIMAL;~~

12 ~~(2) ADVERTISE, SOLICIT, OFFER, POSSESS, SELL, TRANSFER, ACCEPT,~~
13 ~~PURCHASE, OR OTHERWISE OBTAIN AN ANIMAL WITH THE INTENT THAT THE ANIMAL~~
14 ~~WILL BE USED BY ANY PERSON TO ENGAGE IN SEXUAL ACTIVITY WITH AN ANIMAL;~~

15 ~~(3) ORGANIZE, PROMOTE, CONDUCT, OR PARTICIPATE AS AN~~
16 ~~OBSERVER AT AN EVENT AT WHICH A PERSON ENGAGES IN SEXUAL ACTIVITY WITH~~
17 ~~AN ANIMAL;~~

18 ~~(4) CAUSE, COERCE, AID, OR ABET ANOTHER TO ENGAGE IN SEXUAL~~
19 ~~ACTIVITY WITH AN ANIMAL;~~

20 ~~(5) ALLOW PREMISES OWNED OR CONTROLLED BY THE PERSON TO BE~~
21 ~~USED BY ANY PERSON TO ENGAGE IN SEXUAL ACTIVITY WITH AN ANIMAL;~~

22 ~~(6) CAUSE A MINOR TO ENGAGE IN SEXUAL ACTIVITY WITH AN~~
23 ~~ANIMAL; OR~~

24 ~~(7) ENGAGE IN SEXUAL ACTIVITY WITH AN ANIMAL IN THE PRESENCE~~
25 ~~OF A MINOR.~~

26 ~~(C) (1) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A~~
27 ~~MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT~~
28 ~~EXCEEDING 10 YEARS OR A FINE NOT EXCEEDING \$1,000 OR BOTH.~~

~~(2) NOTWITHSTANDING ANY OTHER LAW, A CONVICTION UNDER SUBSECTION (B)(6) OR (7) OF THIS SECTION MAY NOT MERGE WITH A CONVICTION UNDER § 3-601 OR § 3-602 OF THIS ARTICLE.~~

~~(3) AS A CONDITION OF SENTENCING, THE COURT MAY:~~

~~(i) ORDER A DEFENDANT CONVICTED OF VIOLATING THIS SECTION TO:~~

~~1. PARTICIPATE IN AND PAY FOR PSYCHOLOGICAL COUNSELING; OR~~

~~2. REIMBURSE ANY PERSON FOR COSTS RELATING TO THE CARE OF AN ANIMAL IN RELATION TO CHARGES BROUGHT AGAINST THE DEFENDANT UNDER THIS SECTION FROM THE DATE OF THE VIOLATION UNTIL THE OUTCOME OF THE CASE, INCLUDING COSTS FOR:~~

~~A. IMPOUNDMENT;~~

~~B. TRANSPORTATION;~~

~~C. MEDICAL CARE;~~

~~D. FOOD;~~

~~E. ROUTINE CARE; AND~~

~~F. SHELTERING; OR~~

~~(ii) PROHIBIT A DEFENDANT FROM OWNING, POSSESSING, RESIDING WITH, OR COMING INTO CONTACT WITH AN ANIMAL FOR A PERIOD OF TIME NOT EXCEEDING 30 YEARS.~~

~~11-203.~~

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

~~(3) "Illicit sex" means:~~

~~(i) human genitals in a state of sexual stimulation or arousal;~~

~~(ii) acts of human masturbation, sexual intercourse, or [sodomy] SEXUAL ACTIVITY WITH AN ANIMAL; or~~

~~(iii) fondling or other erotic touching of human genitals.~~

~~Article — Criminal Procedure~~~~11-701.~~~~(a) In this subtitle the following words have the meanings indicated.~~~~(q) “Tier III sex offender” means a person who has been convicted of:~~~~(1) conspiring to commit, attempting to commit, or committing a violation of:~~~~(v) **§ 10-606.1 OF THE CRIMINAL LAW ARTICLE, OR** the common law offense of sodomy or § 3-322 of the Criminal Law Article **AS THE OFFENSES EXISTED BEFORE OCTOBER 1, 2018,** if the offense was committed with force or threat of force; or~~~~Article — Family Law~~~~5-701.~~~~(a) Except as otherwise provided in § 5-705.1 of this subtitle, in this subtitle the following words have the meanings indicated.~~~~(z) “Sexual molestation or exploitation” includes:~~~~(1) allowing or encouraging a child to engage in:~~~~(i) obscene photography, films, poses, or similar activity;~~~~(ii) pornographic photography, films, poses, or similar activity; or~~~~(iii) prostitution;~~~~(2) incest;~~~~(3) rape;~~~~(4) sexual offense in any degree; **AND**~~~~(5) [sodomy; and~~~~(6) unnatural or perverted sexual practices] **SEXUAL ACTIVITY WITH AN ANIMAL.**~~~~Article — Health — General~~

1 ~~15-127.~~

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

3 ~~(4) (i) For purposes of this section, "sexual abuse" means any act that~~
4 ~~involves sexual molestation or exploitation of a child whether or not the sexual molestation~~
5 ~~or exploitation of the child is by a parent or other person who has permanent or temporary~~
6 ~~care or custody or responsibility for supervision of a child, or by any household or family~~
7 ~~member.~~

8 ~~(ii) "Sexual abuse" includes:~~

9 ~~1. Incest, rape, or sexual offense in any degree; AND~~

10 ~~2. Sodomy; and~~

11 ~~3. Unnatural or perverted sexual practices.] SEXUAL~~
12 ~~ACTIVITY WITH AN ANIMAL.~~

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
14 October 1, 2018.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.