A BILL ENTITLED

AN ACT concerning

Public General Laws – Terminology – Substitution for “Mentally Defective”

FOR the purpose of repealing the term “mentally defective individual” from the Public General Laws of Maryland and substituting the term “individual with a cognitive disability, intellectual disability, or mental illness”; and generally relating to individuals with cognitive disabilities, intellectual disabilities, or mental illness.

BY repealing and reenacting, without amendments,

Article – Correctional Services
Section 8–603(a)
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,

Article – Correctional Services
Section 8–603(c)
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, without amendments,

Article – Criminal Law
Section 3–301(a)
Annotated Code of Maryland
(2002 Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,

Article – Criminal Law
Section 3–301(b), 3–304(a), 3–306(a), and 3–307(a)(2)
Annotated Code of Maryland
(2002 Volume and 2009 Supplement)
BY repealing and reenacting, with amendments, Article – Family Law
Section 5–603(4) Annotated Code of Maryland
(2006 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments, Article – Public Safety
Section 11–107(b)(7) Annotated Code of Maryland
(2003 Volume and 2009 Supplement)

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

Article – Correctional Services

8–603.

(a) As used in this Compact, unless the context clearly requires otherwise, the following words have the meanings indicated.

(c) “Institution” means any penal or correctional facility, including but not limited to a facility for [the mentally ill or mentally defective] INDIVIDUALS WITH COGNITIVE DISABILITIES, INTELLECTUAL DISABILITIES, OR MENTAL ILLNESS, in which inmates may lawfully be confined.

Article – Criminal Law

3–301.

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

(b) [“Mentally defective individual”] “INDIVIDUAL WITH A COGNITIVE DISABILITY, INTELLECTUAL DISABILITY, OR MENTAL ILLNESS” means an individual who suffers from [mental retardation] A DEVELOPMENTAL DISABILITY 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.
A person may not engage in vaginal intercourse with another:

(1) by force, or the threat of force, without the consent of the other;

(2) (I) if the victim is [a mentally defective individual] AN INDIVIDUAL WITH A COGNITIVE DISABILITY, INTELLECTUAL DISABILITY, OR MENTAL ILLNESS, a mentally incapacitated individual, or a physically helpless individual[,] and

(II) the person performing the act knows or reasonably should know that the victim is [a mentally defective individual] AN INDIVIDUAL WITH A COGNITIVE DISABILITY, INTELLECTUAL DISABILITY, OR MENTAL ILLNESS, a mentally incapacitated individual, or a physically helpless individual; or

(3) if the victim is under the age of 14 years, and the person performing the act is at least 4 years older than the victim.

A person may not engage in a sexual act with another:

(1) by force, or the threat of force, without the consent of the other;

(2) (I) if the victim is [a mentally defective individual] AN INDIVIDUAL WITH A COGNITIVE DISABILITY, INTELLECTUAL DISABILITY, OR MENTAL ILLNESS, a mentally incapacitated individual, or a physically helpless individual[,] and

(II) the person performing the sexual act knows or reasonably should know that the victim is [a mentally defective individual] AN INDIVIDUAL WITH A COGNITIVE DISABILITY, INTELLECTUAL DISABILITY, OR MENTAL ILLNESS, a mentally incapacitated individual, or a physically helpless individual; or

(3) if the victim is under the age of 14 years, and the person performing the sexual act is at least 4 years older than the victim.

A person may not:

(2) (I) engage in sexual contact with another if the victim is [a mentally defective individual] AN INDIVIDUAL WITH A COGNITIVE DISABILITY, INTELLECTUAL DISABILITY, OR MENTAL ILLNESS, a mentally incapacitated individual, or a physically helpless individual[,] and
(II) the person performing the act knows or reasonably should know the victim is [a mentally defective individual] AN INDIVIDUAL WITH A COGNITIVE DISABILITY, INTELLECTUAL DISABILITY, OR MENTAL ILLNESS, a mentally incapacitated individual, or a physically helpless individual;

Article – Family Law

5–603.

As used in this compact:

(4) “Placement” means the arrangement for the care of a child in a family free or boarding home or in a child–caring agency or institution but does not include any institution caring for [the mentally ill, mentally defective] INDIVIDUALS WITH COGNITIVE DISABILITIES, INTELLECTUAL DISABILITIES, OR MENTAL ILLNESSES, or epileptic INDIVIDUALS, or any institution primarily educational in character, and any hospital or other medical facility.

Article – Public Safety

11–107.

(b) Subject to subsection (c) of this section, the State Fire Marshal shall deny an application for a license or permit if the State Fire Marshal finds that:

(7) the applicant, or an officer, agent, or employee of the applicant who will be handling explosives, has been adjudicated [mentally defective] TO BE AN INDIVIDUAL WITH A COGNITIVE DISABILITY, INTELLECTUAL DISABILITY, OR MENTAL ILLNESS, as defined in § 3–301 of the Criminal Law Article;

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