

fourth degree sexual offense (Art. 27, § 464C), attempt to commit rape in the first or second degree or a sexual offense in the first or second degree (Art. 27, § 464F), and attempt to violate any of the provisions of Art. 27, §§ 464 through 464C. The General Assembly may wish to amend the definition of "sexual offense" in subsection (a)(2) of this section to include first and second degree rape.

Subsection (a)(3) of this section is a new definition added to reflect that this section does not apply to the Patuxent Institution or the Baltimore City Detention Center because these facilities are not "administered by the Division of Correction" as specified by former Art. 27, § 692A(a).

The Correctional Services Article Review Committee notes, for consideration by the General Assembly, that this section should logically apply to inmates of the Patuxent Institution and the Baltimore City Detention Center as well as inmates of State correctional facilities that are operated by the Division of Correction. The General Assembly may wish to amend this section to make it applicable to the Patuxent Institution and the Baltimore City Detention Center.

In subsections (b) and (c) of this section, the references to sentencing an inmate to a "term of imprisonment" are added to state expressly that which was only implied in the former law.

In subsection (b) of this section, the reference to an inmate who is convicted of a sexual offense "that was committed while the inmate was serving a sentence" is new language added to state expressly that which was only implied in the former law.

The Correctional Services Article Review Committee notes, for consideration by the General Assembly, that the reference in subsection (b) of this section to "the sentence that the inmate was serving at the time of the sexual offense" may not have the meaning that was intended by the General Assembly. For example, if an inmate is serving a 5-year sentence and also has a 10-year sentence that runs consecutive to the 5-year sentence, subsection (b) of this section requires that the sentence that is imposed for the new sexual offense be served consecutive to the 5-year sentence rather than the 10-year sentence. See Robinson v. Lee, 317 Md. 371 (1989) (holding that a sentence that is to be served "consecutive with [the] sentence now serving" is to be served consecutive to the sentence then being served rather than the aggregate of all preexisting unserved sentences). The General Assembly may wish to amend this provision to require that the sentence for the new sexual offense be served consecutive: (1) in the case of an inmate who is serving a single sentence, to that sentence; and (2) in the case of an inmate who is serving multiple sentences, to the last sentence to expire.

Subsection (c) of this section is revised to state expressly that which was only implied in the former law and to reflect the holding of DiPietrantonio v. State, 61 Md. App. 528, 532 (1985), cert. denied, 303 Md. 295 (1985)