

this article. See General Revisor's Note to article.

The Criminal Law Article Review Committee notes, for the consideration of the General Assembly, that the revision is not intended in any way to alter the judicial interpretation of this section or to affect the scope of its application to any activity.

Defined term: "Person" § 1-101

3-321. INCEST.

(A) PROHIBITED.

A PERSON MAY NOT KNOWINGLY ENGAGE IN VAGINAL INTERCOURSE WITH ANYONE WHOM THE PERSON MAY NOT MARRY UNDER § 2-202 OF THE FAMILY LAW ARTICLE.

(B) PENALTY.

A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT FOR NOT LESS THAN 1 YEAR AND NOT EXCEEDING 10 YEARS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27, § 335.

In subsection (a) of this section, the defined term "vaginal intercourse" is substituted for the former archaic reference to "carnal knowledge" because the appellate courts of the State have determined that "carnal knowledge" and "sexual intercourse", defined in this subtitle as "vaginal intercourse", are synonymous. See *Scott v. State*, 2 Md. App. 709, cert. denied, 249 Md. 733 (1968); *Simms v. State*, 52 Md. App. 448, 453 (1982).

Also in subsection (a) of this section, the reference to anyone "whom the person may not marry under § 2-202 of the Family Law Article" is substituted for the former reference to "being within the degrees of consanguinity within which marriages are prohibited by law in this State" for clarity and brevity.

In subsection (b) of this section, the former reference to imprisonment "in the penitentiary" is deleted for consistency within this article. Currently, inmates are sentenced to the custody of a unit such as the Division of Correction and then are placed in a particular facility. See CS § 9-103.

Also in subsection (b) of this section, the former redundant phrase "in the discretion of the court" is deleted as implicit in the establishment of maximum penalties.

Defined terms: "Person" § 1-101

"Vaginal intercourse" § 3-301