
By: Senator Baker

Introduced and read first time: January 31, 1997

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Sexual Offenders - Parole and Probation - Hormonal Treatment**

3 FOR the purpose of requiring certain sexual offenders to receive certain treatment as a
4 condition of supervised release; requiring a court to determine whether a sexual
5 offender presents a danger to the community and is likely to commit a subsequent
6 sexual offense; requiring a court to determine whether treating the sexual offender
7 is medically appropriate; requiring a court to notify the Department of Public Safety
8 and Correctional Services if a sexual offender is required to receive treatment as a
9 condition of supervised release; requiring the Department to inform a sexual
10 offender about the treatment; providing that a sexual offender must consent to the
11 treatment as a condition of supervised release; specifying certain consent
12 procedures; requiring the Department to adopt regulations; specifying the
13 application of the Act; and generally relating to the treatment of convicted sexual
14 offenders.

15 BY repealing and reenacting, with amendments,
16 Article 27 - Crimes and Punishments
17 Section 462, 463, 464, 464A, and 464B
18 Annotated Code of Maryland
19 (1996 Replacement Volume)

20 BY adding to
21 Article 27 - Crimes and Punishments
22 Section 464G
23 Annotated Code of Maryland
24 (1996 Replacement Volume)

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

27 **Article 27 - Crimes and Punishments**

28 462.

29 (a) A person is guilty of rape in the first degree if the person engages in vaginal
30 intercourse with another person by force or threat of force against the will and without
31 the consent of the other person and:

2

1 (1) Employs or displays a dangerous or deadly weapon or an article which
2 the other person reasonably concludes is a dangerous or deadly weapon; or

3 (2) Inflicts suffocation, strangulation, disfigurement, or serious physical
4 injury upon the other person or upon anyone else in the course of committing the offense;
5 or

6 (3) Threatens or places the victim in fear that the victim or any person
7 known to the victim will be imminently subjected to death, suffocation, strangulation,
8 disfigurement, serious physical injury, or kidnapping; or

9 (4) The person commits the offense aided and abetted by one or more other
10 persons; or

11 (5) The person commits the offense in connection with burglary in the first,
12 second, or third degree.

13 (b) Any person violating the provisions of this section is guilty of a felony and
14 upon conviction is subject to:

15 (1) [imprisonment] IMPRISONMENT for no more than the period of his
16 natural life; AND

17 (2) IF THE VICTIM IS UNDER THE AGE OF 13 YEARS, TREATMENT WITH
18 MEDROXYPROGESTERONE ACETATE OR ITS CHEMICAL EQUIVALENT IN
19 ACCORDANCE WITH § 464G OF THIS SUBHEADING.

20 463.

21 (a) A person is guilty of rape in the second degree if the person engages in vaginal
22 intercourse with another person:

23 (1) By force or threat of force against the will and without the consent of the
24 other person; or

25 (2) Who is mentally defective, mentally incapacitated, or physically helpless,
26 and the person performing the act knows or should reasonably know the other person is
27 mentally defective, mentally incapacitated, or physically helpless; or

28 (3) Who is under 14 years of age and the person performing the act is at
29 least four years older than the victim.

30 (b) Any person violating the provisions of this section is guilty of a felony and
31 upon conviction is subject to:

32 (1) [imprisonment] IMPRISONMENT for a period of not more than 20
33 years; AND

34 (2) IF THE VICTIM IS UNDER THE AGE OF 13 YEARS, TREATMENT WITH
35 MEDROXYPROGESTERONE ACETATE OR ITS CHEMICAL EQUIVALENT IN
36 ACCORDANCE WITH § 464G OF THIS SUBHEADING.

3

1 464.

2 (a) A person is guilty of a sexual offense in the first degree if the person engages
3 in a sexual act with another person by force or threat of force against the will and without
4 the consent of the other person and:

5 (1) Employs or displays a dangerous or deadly weapon or an article which
6 the other person reasonably concludes is a dangerous or deadly weapon; or

7 (2) Inflicts suffocation, strangulation, disfigurement, or serious physical
8 injury upon the other person or upon anyone else in the course of committing the offense;
9 or

10 (3) Threatens or places the victim in fear that the victim or any person
11 known to the victim will be imminently subjected to death, suffocation, strangulation,
12 disfigurement, serious physical injury, or kidnapping; or

13 (4) The person commits the offense aided and abetted by one or more other
14 persons; or

15 (5) The person commits the offense in connection with burglary in the first,
16 second, or third degree.

17 (b) Any person violating the provisions of this section is guilty of a felony and
18 upon conviction is subject to:

19 (1) [imprisonment] IMPRISONMENT for no more than the period of his
20 natural life; AND

21 (2) IF THE VICTIM IS UNDER THE AGE OF 13 YEARS, TREATMENT WITH
22 MEDROXYPROGESTERONE ACETATE OR ITS CHEMICAL EQUIVALENT IN
23 ACCORDANCE WITH § 464G OF THIS SUBHEADING.

24 464A.

25 (a) A person is guilty of a sexual offense in the second degree if the person
26 engages in a sexual act with another person:

27 (1) By force or threat of force against the will and without the consent of the
28 other person; or

29 (2) Who is mentally defective, mentally incapacitated, or physically helpless,
30 and the person performing the act knows or should reasonably know the other person is
31 mentally defective, mentally incapacitated, or physically helpless; or

32 (3) Under 14 years of age and the person performing the sexual act is four
33 or more years older than the victim.

34 (b) Any person violating the provisions of this section is guilty of a felony and
35 upon conviction is subject to:

36 (1) [imprisonment] IMPRISONMENT for a period of not more than 20
37 years; AND

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1 (2) IF THE VICTIM IS UNDER THE AGE OF 13 YEARS, TREATMENT WITH
2 MEDROXYPROGESTERONE ACETATE OR ITS CHEMICAL EQUIVALENT IN
3 ACCORDANCE WITH § 464G OF THIS SUBHEADING.

4 464B.

5 (a) A person is guilty of a sexual offense in the third degree if the person engages
6 in:

7 (1) Sexual contact with another person against the will and without the
8 consent of the other person, and:

9 (i) Employs or displays a dangerous or deadly weapon or an article
10 which the other person reasonably concludes is a dangerous or deadly weapon; or

11 (ii) Inflicts suffocation, strangulation, disfigurement or serious
12 physical injury upon the other person or upon anyone else in the course of committing
13 that offense; or

14 (iii) Threatens or places the victim in fear that the victim or any person
15 known to the victim will be imminently subjected to death, suffocation, strangulation,
16 disfigurement, serious physical injury, or kidnapping; or

17 (iv) Commits the offense aided and abetted by one or more other
18 persons; or

19 (2) Sexual contact with another person who is mentally defective, mentally
20 incapacitated, or physically helpless, and the person knows or should reasonably know the
21 other person is mentally defective, mentally incapacitated, or physically helpless; or

22 (3) Sexual contact with another person who is under 14 years of age and the
23 person performing the sexual contact is four or more years older than the victim; or

24 (4) A sexual act with another person who is 14 or 15 years of age and the
25 person performing the sexual act is at least 21 years of age; or

26 (5) Vaginal intercourse with another person who is 14 or 15 years of age and
27 the person performing the act is at least 21 years of age.

28 (b) Any person violating the provisions of this section is guilty of a felony and
29 upon conviction is subject to:

30 (1) [imprisonment] IMPRISONMENT for a period of not more than 10
31 years; AND

32 (2) IF THE VICTIM IS UNDER THE AGE OF 13 YEARS, TREATMENT WITH
33 MEDROXYPROGESTERONE ACETATE OR ITS CHEMICAL EQUIVALENT IN
34 ACCORDANCE WITH § 464G OF THIS SUBHEADING.

35 464G.

36 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
37 INDICATED.

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1 (2) "DEPARTMENT" MEANS THE DEPARTMENT OF PUBLIC SAFETY AND
2 CORRECTIONAL SERVICES.

3 (3) "SUPERVISED RELEASE" MEANS RELEASE FROM CUSTODY ON
4 PAROLE, MANDATORY RELEASE AS A RESULT OF DIMINUTION CREDITS,
5 PROBATION, WORK RELEASE, OR ANY OTHER EARLY RELEASE PROGRAM
6 SUPERVISED BY THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL
7 SERVICES.

8 (4) "SEXUAL OFFENDER" MEANS A PERSON WHO IS:

9 (I) CONVICTED OF A VIOLATION OF ANY OF THE PROVISIONS OF
10 §§ 462 THROUGH 464B OF THIS SUBHEADING AND THE VICTIM OF THE VIOLATION IS
11 UNDER THE AGE OF 13 YEARS; AND

12 (II) UNDER THE SUPERVISION OF THE DEPARTMENT.

13 (B) THE PROVISIONS OF THIS SECTION DO NOT APPLY TO A PERSON WHO
14 VOLUNTARILY RECEIVES A PERMANENT SURGICAL PROCEDURE AS AN
15 ALTERNATIVE TO THE HORMONAL TREATMENT REQUIRED UNDER THIS SECTION.

16 (C) SUBJECT TO SUBSECTION (D) OF THIS SECTION, THE COURT SHALL
17 DETERMINE PRIOR TO SENTENCING WHETHER:

18 (1) A SEXUAL OFFENDER PRESENTS A DANGER TO THE COMMUNITY
19 AND IS LIKELY TO COMMIT A SUBSEQUENT RAPE OR SEXUAL OFFENSE; AND

20 (2) TREATING THE SEXUAL OFFENDER WITH
21 MEDROXYPROGESTERONE ACETATE OR ITS CHEMICAL EQUIVALENT IS MEDICALLY
22 APPROPRIATE.

23 (D) IN MAKING A DETERMINATION UNDER SUBSECTION (C) OF THIS SECTION,
24 THE COURT SHALL CONSIDER:

25 (1) AN EVALUATION OF THE SEXUAL OFFENDER BY AN EXPERT IN THE
26 TREATMENT OF SEXUAL OFFENDERS, AS DESIGNATED BY THE COURT;

27 (2) AN EVALUATION OF THE SEXUAL OFFENDER BY A PHYSICIAN, AS
28 DESIGNATED BY THE COURT; AND

29 (3) ANY EVIDENCE, INCLUDING EXPERT TESTIMONY, INTRODUCED BY
30 THE SEXUAL OFFENDER.

31 (E) A SEXUAL OFFENDER SHALL BE REQUIRED TO RECEIVE
32 MEDROXYPROGESTERONE ACETATE TREATMENT OR ITS CHEMICAL EQUIVALENT
33 AS A CONDITION OF SUPERVISED RELEASE IF THE COURT DETERMINES THAT:

34 (1) THE SEXUAL OFFENDER PRESENTS A DANGER TO THE COMMUNITY
35 AND IS LIKELY TO COMMIT A SUBSEQUENT RAPE OR SEXUAL OFFENSE; AND

36 (2) TREATING THE SEXUAL OFFENDER WITH
37 MEDROXYPROGESTERONE ACETATE OR ITS CHEMICAL EQUIVALENT IS MEDICALLY
38 APPROPRIATE.

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1 (F) THE COURT SHALL NOTIFY THE DEPARTMENT IF A SEXUAL OFFENDER IS
2 REQUIRED TO RECEIVE TREATMENT UNDER THIS SECTION AS A CONDITION OF
3 SUPERVISED RELEASE.

4 (G) BEFORE A SEXUAL OFFENDER MAY ENTER INTO SUPERVISED RELEASE
5 UNDER THIS SECTION:

6 (1) THE DEPARTMENT MUST INFORM THE SEXUAL OFFENDER IN
7 WRITING OF THE INTENDED EFFECTS AND ANY SIDE EFFECTS OF THE TREATMENT;

8 (2) THE SEXUAL OFFENDER MUST ACKNOWLEDGE IN WRITING THAT
9 THE DEPARTMENT PROVIDED THE INFORMATION REQUIRED UNDER PARAGRAPH
10 (1) OF THIS SUBSECTION; AND

11 (3) THE SEXUAL OFFENDER MUST CONSENT IN WRITING TO THE
12 TREATMENT AS A CONDITION OF SUPERVISED RELEASE.

13 (H) (1) A SEXUAL OFFENDER WHO DOES NOT CONSENT TO THE
14 TREATMENT IN ACCORDANCE WITH SUBSECTION (G) OF THIS SECTION MAY NOT
15 ENTER INTO SUPERVISED RELEASE AND SHALL BE INCARCERATED FOR THE
16 REMAINDER OF THE SEXUAL OFFENDER'S SENTENCE.

17 (2) A SEXUAL OFFENDER WHO WITHDRAWS CONSENT DURING
18 SUPERVISED RELEASE OR FAILS TO COMPLY WITH TREATMENT SPECIFICATIONS
19 MAY NOT PARTICIPATE IN SUPERVISED RELEASE AND SHALL BE INCARCERATED
20 FOR THE REMAINDER OF THE SEXUAL OFFENDER'S SENTENCE.

21 (I) A SEXUAL OFFENDER SHALL RECEIVE TREATMENT UNDER THIS SECTION
22 FOR THE DURATION OF THE SUPERVISED RELEASE PERIOD.

23 SECTION 2. AND BE IT FURTHER ENACTED, That the Department of Public
24 Safety and Correctional Services shall adopt regulations to implement this Act.

25 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall be construed
26 only prospectively to apply to offenses that are committed after October 1, 1997, and may
27 not be applied or interpreted to have any effect on or application to any individual who
28 commits an offense before October 1, 1997.

29 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
30 October 1, 1997.