
By: **Delegates Hecht and Dembrow**
Introduced and read first time: February 8, 2002
Assigned to: Judiciary

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 23, 2002

CHAPTER 266

1 AN ACT concerning

2 **Crimes - ~~Sexually Violent Predators~~ Subsequent Sexual Offenders -**
3 **Sentences**

4 FOR the purpose of ~~allowing the State to seek a determination that a person is a~~
5 ~~sexual predator if the person is charged with certain sexual crimes; requiring~~
6 ~~the State to provide a certain notice if the State intends to seek a determination~~
7 ~~that a person is a sexual predator; clarifying that a certain notice satisfies~~
8 ~~another notice requirement; requiring a separate proceeding under certain~~
9 ~~circumstances to determine if a person is a sexual predator; establishing certain~~
10 ~~procedures; allowing the court to impose a certain sentence if a determination is~~
11 ~~made that a person is a sexual predator~~ providing that persons who are
12 convicted of certain sexual offenses who have been convicted of certain sexual
13 offenses on a prior occasion are subject to a certain sentence under certain
14 circumstances; requiring the State to comply with certain procedures; providing
15 for the application of this Act; and generally relating to sexual crimes.

16 BY renumbering
17 Article - Criminal Law
18 Section 3-313 through 3-321, respectively
19 to be Section 3-314 through 3-322, respectively
20 Annotated Code of Maryland
21 (As enacted by Chapter _____ (H.B. 11) of the Acts of the General Assembly of
22 2002)

23 BY adding to
24 Article - Criminal Law
25 Section 3-313

1 Annotated Code of Maryland
2 (As enacted by Chapter _____ (H.B. 11) of the Acts of the General Assembly of
3 2002)

4 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
5 MARYLAND, That Section(s) 3-313 through 3-321, respectively, of Article - Criminal
6 Law of the Annotated Code of Maryland be renumbered to be Section(s) 3-314
7 through 3-322, respectively.

8 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
9 read as follows:

10 **Article - Criminal Law**

11 3-313.

12 ~~(A) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE, IF A
13 PERSON IS CHARGED WITH A VIOLATION OF §§ 3-303 THROUGH 3-307 OR §§ 3-309
14 THROUGH 3-312 OF THIS SUBTITLE, THE STATE MAY SEEK A DETERMINATION THAT
15 THE PERSON IS A SEXUAL PREDATOR FOR PURPOSES OF SENTENCING UNDER THIS
16 SECTION.~~

17 ~~(B) (1) IF THE STATE SEEKS A DETERMINATION THAT A PERSON DESCRIBED
18 IN SUBSECTION (A) OF THIS SECTION IS A SEXUAL PREDATOR, AT LEAST 30 DAYS
19 BEFORE TRIAL THE STATE SHALL GIVE WRITTEN NOTICE TO THE DEFENDANT OR
20 THE DEFENDANT'S ATTORNEY THAT THE STATE INTENDS TO SEEK A
21 DETERMINATION THAT THE PERSON IS A SEXUAL PREDATOR AND SUBJECT TO
22 IMPRISONMENT NOT EXCEEDING LIFE.~~

23 ~~(2) IF THE STATE PROVIDES NOTICE UNDER PARAGRAPH (1) OF THIS
24 SUBSECTION, THE NOTICE PROVISIONS OF § 11-703 OF THE CRIMINAL PROCEDURE
25 ARTICLE ARE ALSO SATISFIED.~~

26 ~~(C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, IF
27 THE STATE PROVIDES NOTICE UNDER THIS SECTION, A SEPARATE PROCEEDING
28 SHALL BE HELD BEFORE THE SAME TRIER OF FACT THAT TRIED THE ISSUE OF GUILT
29 AS SOON AS PRACTICABLE AFTER A PERSON IS FOUND GUILTY OF A VIOLATION
30 DESCRIBED IN SUBSECTION (A) OF THIS SECTION.~~

31 ~~(2) UNLESS A PERSON WAIVES THE RIGHT TO A JURY, A PROCEEDING
32 UNDER THIS SECTION SHALL BE HELD BEFORE A JURY IMPANELED FOR THE
33 PURPOSE OF DETERMINING WHETHER THE PERSON IS A SEXUAL PREDATOR IF:~~

34 ~~(I) THE PERSON PLEADS GUILTY TO A VIOLATION DESCRIBED IN
35 SUBSECTION (A) OF THIS SECTION; OR~~

36 ~~(II) AN APPELLATE COURT AFFIRMS THE JUDGMENT OF GUILT BUT
37 REMANDS FOR A NEW PROCEEDING ON THE ISSUE OF WHETHER THE PERSON IS A
38 SEXUAL PREDATOR.~~

1 ~~(D) THE BURDEN OF PROOF IS ON THE STATE TO PROVE BEYOND A~~
2 ~~REASONABLE DOUBT THAT A PERSON IS A SEXUAL PREDATOR.~~

3 ~~(E) IF THE TRIER OF FACT FINDS THAT THE PERSON IS A SEXUAL PREDATOR,~~
4 ~~THE COURT MAY SENTENCE THE PERSON TO IMPRISONMENT NOT EXCEEDING LIFE.~~

5 (A) ON CONVICTION OF A VIOLATION OF § 3-304, § 3-306, § 3-307, § 3-310, OR §
6 3-312 OF THIS SUBTITLE, A PERSON WHO HAS BEEN CONVICTED ON A PRIOR
7 OCCASION NOT ARISING FROM THE SAME INCIDENT OF ANY VIOLATION OF §§ 3-303
8 THROUGH 3-306 OF THIS SUBTITLE IS SUBJECT TO IMPRISONMENT NOT EXCEEDING
9 LIFE.

10 (B) IF THE STATE INTENDS TO PROCEED AGAINST A PERSON UNDER THIS
11 SECTION, IT SHALL COMPLY WITH THE PROCEDURES SET FORTH IN THE MARYLAND
12 RULES FOR THE INDICTMENT AND TRIAL OF A SUBSEQUENT OFFENDER.

13 ~~SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall be~~
14 ~~construed to apply only prospectively to crimes committed on or after the effective~~
15 ~~date of this Act and may not be applied or interpreted to have any effect on or~~
16 ~~application to any crimes committed before the effective date of this Act.~~

17 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall be
18 construed to apply to violations of § 3-304, § 3-306, § 3-307, § 3-310, or § 3-312 of
19 the Criminal Law Article committed on or after the effective date of this Act,
20 regardless of whether the prior violation of §§ 3-303 through 3-306 of the Criminal
21 Law Article occurred before or on or after the effective date of this Act.

22 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
23 October 1, 2002.