
By: Delegates Poole, M. Burns, Jacobs, Edwards, Dypski, Fry, Bonsack, Owings, Bissett, and Harkins

Introduced and read first time: January 26, 1996

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 Crimes - Violent Crimes and Crimes with Firearms - Sentences - Parole Eligibility

3 FOR the purpose of increasing the maximum sentences for certain crimes; providing for
4 certain mandatory sentences for certain crimes committed with a firearm; providing
5 that a person convicted of a subsequent offense involving use of a firearm in certain
6 crimes is not eligible for parole; allowing certain victims to make an oral statement
7 at certain parole hearings; increasing the percentage of time served before persons
8 convicted of certain crimes are eligible for parole; increasing the number of years
9 that certain persons serving life sentences must serve before being eligible for
10 parole; clarifying that persons serving certain life without parole sentences are
11 ineligible for parole; making stylistic changes; and generally relating to sentencing
12 and parole eligibility.

13 BY repealing and reenacting, with amendments,
14 Article 27 - Crimes and Punishments
15 Section 12, 29, 36B(d), 348A, 387, 412(d), 462 through 464A, 486, and 488
16 Annotated Code of Maryland
17 (1992 Replacement Volume and 1995 Supplement)

18 BY repealing and reenacting, with amendments,
19 Article 41 - Governor - Executive and Administrative Departments
20 Section 4-507 and 4-516
21 Annotated Code of Maryland
22 (1993 Replacement Volume and 1995 Supplement)

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

25 **Article 27 - Crimes and Punishments**

26 12.

27 Every person convicted of the crime of an assault with intent to rob, is guilty of a
28 felony and shall be sentenced to imprisonment for not less than two years or more than
29 [ten] 20 years. Every person convicted of the crime of an assault with intent to murder is
30 guilty of a felony and shall be sentenced to imprisonment for not less than two years nor

2

1 more than [30 years] LIFE IMPRISONMENT. Every person convicted of the crime of an
2 assault with intent to commit a rape in any degree or a sexual offense in the first or
3 second degree is guilty of a felony and shall be sentenced to imprisonment for not less
4 than two years nor more than [15 years] LIFE IMPRISONMENT.

5 29.

6 (a) A person may not break and enter the dwelling of another with the intent to
7 commit theft or a crime of violence.

8 (b) A person who violates this section is guilty of the felony of burglary in the first
9 degree and on conviction is subject to imprisonment for not more than [20] 30 years.

10 36B.

11 (d) Any person who shall use [a handgun or an antique firearm capable of being
12 concealed on the person] ANY FIREARM in the commission of any felony or any crime of
13 violence as defined in § 441 of this article shall be guilty of a separate misdemeanor and
14 on conviction thereof shall, in addition to any other sentence imposed by virtue of
15 commission of said felony or misdemeanor:

16 (1) For a first offense, be sentenced to the Maryland Division of Correction
17 for a term of not less than [5] 10 nor more than 20 years, and:

18 (i) It is mandatory upon the court to impose no less than the
19 minimum sentence of [5] 10 years; and

20 (ii) Except as otherwise provided in Article 31B, § 11 of the Code, the
21 person is not eligible for parole in less than [5] 10 years; and

22 (2) For a second or subsequent offense, be sentenced to the Maryland
23 Division of Correction for a term of not less than [5] 10 nor more than 20 years, and [it]:

24 (I) IT is mandatory upon the court to impose no less than a minimum
25 consecutive sentence of [5] 10 years which shall be served consecutively and not
26 concurrently to any other sentence imposed by virtue of the commission of said felony or
27 misdemeanor; AND

28 (II) THE PERSON IS NOT ELIGIBLE FOR PAROLE IN LESS THAN 10
29 YEARS.

30 348A.

31 (a) In this section, "motor vehicle" has the meaning stated in § 11-135 of the
32 Transportation Article.

33 (b) (1) An individual commits the offense of carjacking when the individual
34 obtains unauthorized possession or control of a motor vehicle from another individual in
35 actual possession by force or violence, or by putting that individual in fear through
36 intimidation or threat of force or violence.

37 (2) An individual commits the offense of armed carjacking when the
38 individual employs or displays a deadly or dangerous weapon during the commission of a
39 carjacking.

3

1 (c) An individual convicted of carjacking or armed carjacking is guilty of a felony
2 and shall be sentenced to imprisonment for not more than [30] 40 years.

3 (d) The sentence imposed under this section may be imposed separate from and
4 consecutive to a sentence for any other offense arising from the conduct underlying the
5 offenses of carjacking or armed carjacking.

6 (e) It is not a defense to the offense of carjacking or armed carjacking that the
7 defendant did not intend to permanently deprive the owner of the motor vehicle.

8 387.

9 Every person convicted of the crime of manslaughter shall be [sentenced to the
10 penitentiary] SUBJECT TO IMPRISONMENT for not more than [ten] 25 years[, or in the
11 discretion of the court may be] OR fined not more than [five hundred dollars, or be
12 imprisoned in jail for not more than two years, or be both fined and imprisoned in jail]
13 \$20,000 OR BOTH.

14 412.

15 (d) A person found guilty of murder in the second degree shall be sentenced to
16 imprisonment for not more than [30 years] LIFE IMPRISONMENT.

17 462.

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

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

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

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

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

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

33 (b) Any person violating the provisions of this section is guilty of a felony and
34 upon conviction is subject to LIFE imprisonment [for no more than the period of his
35 natural life] WITHOUT THE POSSIBILITY OF PAROLE OR TO ANY LESSER TERM OF
36 IMPRISONMENT UP TO AND INCLUDING LIFE IMPRISONMENT.

37 463.

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

4

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

3 (2) Who is mentally defective, mentally incapacitated, or physically helpless,
4 and the person performing the act knows or should reasonably know the other person is
5 mentally defective, mentally incapacitated, or physically helpless; or

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

8 (b) Any person violating the provisions of this section is guilty of a felony and
9 upon conviction is subject to imprisonment for a period of not more than [20 years] THE
10 PERSON'S LIFE.

11 464.

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

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

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

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

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

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

27 (b) Any person violating the provisions of this section is guilty of a felony and
28 upon conviction is subject to LIFE imprisonment [for no more than the period of his
29 natural life] WITHOUT THE POSSIBILITY OF PAROLE OR TO ANY LESSER TERM OF
30 IMPRISONMENT UP TO AND INCLUDING LIFE IMPRISONMENT.

31 464A.

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

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

36 (2) Who is mentally defective, mentally incapacitated, or physically helpless,
37 and the person performing the act knows or should reasonably know the other person is
38 mentally defective, mentally incapacitated, or physically helpless; or

5

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

3 (b) Any person violating the provisions of this section is guilty of a felony and
4 upon conviction is subject to imprisonment for a period of not more than [20 years] THE
5 PERSON'S LIFE.

6 486.

7 Every person convicted of the crime of robbery, or as accessory thereto before the
8 fact, shall restore the thing robbed or taken to the owner, or shall pay to him the full value
9 thereof, and be sentenced to the penitentiary for not less than three nor more than [ten]
10 20 years.

11 488.

12 Every person convicted of the crime of robbery or attempt to rob with a dangerous
13 or deadly weapon or accessory thereto, shall restore to the owner thereof the thing
14 robbed or taken, or shall pay him the full value thereof, and be sentenced to
15 imprisonment in the Maryland Penitentiary for not more than [twenty] 30years.

16 **Article 41 - Governor - Executive and Administrative Departments**

17 4-507.

18 (a) The Commission or its hearing examiners shall hear cases for parole release at
19 least once each month at penal institutions under the Division of Correction and as often
20 as necessary at other places of penal confinement within this State at which inmates
21 eligible for parole consideration are confined.

22 (b) The Commission may adopt rules and regulations for the conduct of
23 proceedings before it and the hearing examiners.

24 (c) (1) If a victim of a violent crime makes a written request for notification
25 under § 4-504 of this subtitle and also makes a written request within a reasonable
26 amount of time before a scheduled hearing for the inmate convicted of the violent crime
27 that the hearing before the Commission or the hearing examiners be open to the public,
28 the hearing shall be open to the public.

29 (2) The vote of each member of the Commission when acting collectively or
30 in panels or the decision of an individual commissioner or hearing examiner on a formal
31 action, including an action to close or restrict access to a parole hearing under subsection
32 (e) of this section, shall be made available to the public.

33 (3) Nothing in this section limits the ability of the Commission to hold a
34 parole hearing through the use of video conferences or other means of electronic
35 transmission.

36 (d) Subject to the provisions of subsection (e) of this section, the victim or victim's
37 representative has the right to [attend] :

38 (1) ATTEND the hearing; AND

6

1 (2) MAKE AN ORAL STATEMENT OF A REASONABLE LENGTH
2 CONCERNING:

3 (I) THE EFFECT OF THE CRIME ON THE VICTIM; AND

4 (II) WHETHER THE INMATE SHOULD BE RELEASED.

5 (e) The Commission, a panel of commissioners, an individual commissioner, or a
6 hearing examiner, may:

7 (1) Restrict the number of individuals allowed to attend a parole hearing in
8 accordance with physical limitations or security requirements of the facility where the
9 hearing is held;

10 (2) Deny admission or continued attendance at a parole hearing to an
11 individual who:

12 (i) Threatens or presents a danger to the security of the institution in
13 which the hearing is being held;

14 (ii) Threatens or presents a danger to other attendees or participants;
15 or

16 (iii) Disrupts the hearing;

17 (3) Close a parole hearing on formal action to deliberate upon the oral
18 testimony and any other relevant information received at the hearing; or

19 (4) After formal action, hold a closed parole hearing on written request of
20 the chief law enforcement official responsible for an ongoing criminal investigation
21 related to the inmate, if the ongoing investigation could be compromised.

22 SECTION 2. AND BE IT FURTHER ENACTED, That the laws of Maryland read
23 as follows:

24 **Article 41 - Governor - Executive and Administrative Departments**

25 4-516.

26 (a) It shall be the duty of the Commission of its own initiative to request the
27 Division to make such investigation as may enable the Commission to determine the
28 advisability of granting parole to persons sentenced to a term of 6 months or more under
29 the laws of this State to the jurisdiction of the Division of Correction, or to any other
30 place of confinement or detention of violators of the criminal laws of the State whenever
31 the prisoner shall have served in confinement one-fourth of the term or consecutive
32 terms.

33 (b) A person who has been sentenced to more than one term of confinement,
34 including a term during which the person is eligible for parole and a term during which
35 the person is not eligible for parole, is not eligible for parole consideration under
36 subsection (a) of this section until the person has served the greater of:

37 (1) One-fourth of the aggregate terms sentenced; or

7

1 (2) A period of time equal to the term during which the person is not
2 eligible for parole.

3 (c) [Notwithstanding] EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS
4 SECTION AND NOTWITHSTANDING the provisions of subsections (a) and (b) of this
5 section:

6 (1) (i) A person who has been sentenced to the Division of Correction
7 after being convicted of a violent crime is not eligible for parole until the person has
8 served one-half of the term or consecutive terms; and

9 (ii) A person who has been sentenced to the Division of Correction
10 after being convicted of a violent crime and who has been sentenced to more than one
11 term of confinement, including a term during which the person is eligible for parole and
12 a term during which the person is not eligible for parole, is not eligible for parole until the
13 person has served the greater of:

14 1. One-half of the aggregate terms sentenced; or

15 2. A period of time equal to the term during which the person is
16 not eligible for parole.

17 (2) (i) Except as provided in subparagraph (ii) of this paragraph, a person
18 who is serving a term of confinement for a violent crime shall receive an administrative
19 review of the inmate's progress in the institution after the person has served one-fourth
20 of the term of confinement.

21 (ii) A person who is serving a term of confinement that includes a
22 mandatory term during which the person is not eligible for parole need not be given a
23 review under this paragraph until the person has served the period of confinement during
24 which the person is not eligible for parole.

25 (D) (1) THIS SUBSECTION APPLIES TO PERSONS WHO HAVE BEEN
26 SENTENCED TO THE DIVISION OF CORRECTION AFTER BEING CONVICTED OF:

27 (I) ASSAULT WITH INTENT TO ROB, MURDER, OR COMMIT A RAPE
28 OR SEXUAL OFFENSE IN THE FIRST OR SECOND DEGREE UNDER ARTICLE 27, § 12 OF
29 THE CODE;

30 (II) BREAKING AND ENTERING A DWELLING WITH INTENT TO
31 COMMIT A CRIME OF VIOLENCE OR THEFT UNDER ARTICLE 27, § 29 OF THE CODE;

32 (III) CARJACKING UNDER ARTICLE 27, § 348A OF THE CODE;

33 (IV) MANSLAUGHTER UNDER ARTICLE 27, § 387 OF THE CODE;

34 (V) MURDER IN THE FIRST OR SECOND DEGREE;

35 (VI) RAPE OR SEXUAL OFFENSE IN THE FIRST OR SECOND DEGREE
36 UNDER ARTICLE 27, §§ 462 THROUGH 464A OF THE CODE; OR

37 (VII) ROBBERY OR ROBBERY WITH A DANGEROUS OR DEADLY
38 WEAPON UNDER ARTICLE 27, § 486 OR § 488 OF THE CODE.

1 (2) NOTWITHSTANDING THE PROVISIONS OF SUBSECTIONS (A), (B), AND
2 (C) OF THIS SECTION, A PERSON WHO HAS BEEN CONVICTED OF A CRIME DESCRIBED
3 UNDER PARAGRAPH (1) OF THIS SUBSECTION AND SENTENCED TO THE DIVISION OF
4 CORRECTION:

5 (I) 1. IS NOT ELIGIBLE FOR PAROLE UNTIL THE PERSON HAS
6 SERVED 85% OF THE TERM OR CONSECUTIVE TERMS; AND

7 2. IF THE PERSON WHO HAS BEEN SENTENCED TO MORE
8 THAN ONE TERM OF CONFINEMENT, INCLUDING A TERM DURING WHICH THE
9 PERSON IS ELIGIBLE FOR PAROLE AND A TERM DURING WHICH THE PERSON IS NOT
10 ELIGIBLE FOR PAROLE, IS NOT ELIGIBLE FOR PAROLE UNTIL THE PERSON HAS
11 SERVED THE GREATER OF:

12 A. 85% OF THE AGGREGATE TERMS SENTENCED; OR

13 B. A PERIOD OF TIME EQUAL TO THE TERM DURING WHICH
14 THE PERSON IS NOT ELIGIBLE FOR PAROLE.

15 (II) 1. EXCEPT AS PROVIDED IN SUB-SUBPARAGRAPH 2 OF THIS
16 SUBPARAGRAPH, SHALL RECEIVE AN ADMINISTRATIVE REVIEW OF THE INMATE'S
17 PROGRESS IN THE INSTITUTION AFTER THE PERSON HAS SERVED ONE-FOURTH
18 AND ONE-HALF OF THE TERM OF CONFINEMENT; OR

19 2. IF THE PERSON IS SERVING A TERM OF CONFINEMENT
20 THAT INCLUDES A MANDATORY TERM DURING WHICH THE PERSON IS NOT
21 ELIGIBLE FOR PAROLE, THE PERSON NEED NOT BE GIVEN A REVIEW UNDER THIS
22 SUBPARAGRAPH UNTIL THE PERSON HAS SERVED THE PERIOD OF CONFINEMENT
23 DURING WHICH THE PERSON IS NOT ELIGIBLE FOR PAROLE.

24 [(d)] (E) (1) Except as provided in paragraphs (2) and (3) of this subsection, a
25 person who has been sentenced to life imprisonment is not eligible for parole
26 consideration until the person has served [15] 25 years or the equal of [15] 25 years
27 when considering the allowances for diminution of period of confinement provided for in
28 Article 27, § 700 and Article 27, § 638C, of the Code.

29 (2) A person who has been sentenced to life imprisonment as a result of a
30 proceeding under Article 27, § 413 is not eligible for parole consideration until the person
31 has served [25] 40 years or the equal of [25] 40 years when considering the allowances
32 for diminution of period of confinement provided for in Article 27, § 700 and Article 27,
33 § 638C, of the Code.

34 (3) (i) If a person is sentenced to imprisonment for life without the
35 possibility of parole under Article 27, § 412 [or] , § 413, § 462, § 464, OR § 643B of the
36 Code, the person is not eligible for parole consideration and may not be granted parole at
37 any time during the term of the sentence.

38 (ii) Nothing contained in this paragraph may be construed to restrict
39 the authority of the Governor to pardon or remit any part of a sentence under the
40 provisions of § 4-513 of this article.

9

1 (4) If eligible for parole under this subsection, an inmate serving a term of
2 life imprisonment and a person serving a term of life imprisonment who is confined at
3 Patuxent Institution as an eligible person shall only be paroled with the approval of the
4 Governor.

5 SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall
6 be construed prospectively to apply only to offenses that are committed on or after
7 October 1, 1996 and may not be applied or interpreted to have any effect or application
8 to offenses that were committed before October 1, 1996.

9 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
10 October 1, 1996.