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**By: Delegate C. Davis**

Introduced and read first time: January 26, 1996

Assigned to: Judiciary

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A BILL ENTITLED

1 AN ACT concerning

**2 Crimes of Violence - Burglary and Daytime Housebreaking - Exceptions**

3 FOR the purpose of providing that certain defendants convicted of burglary or daytime  
4 housebreaking before a certain date and who are serving a certain mandatory  
5 sentence may petition a court for and be granted a reduction in sentence and are  
6 eligible for parole under certain circumstances; providing that this Act does not  
7 apply to defendants convicted of offenses other than burglary or daytime  
8 housebreaking who are serving mandatory sentences, regardless of whether any  
9 predicate offenses used for certain purposes were burglary or daytime  
10 housebreaking; and generally relating to sentences and parole eligibility for crimes  
11 of violence.

12 BY repealing and reenacting, without amendments,  
13 Article 27 - Crimes and Punishments  
14 Section 643B  
15 Annotated Code of Maryland  
16 (1992 Replacement Volume and 1995 Supplement)

17 BY repealing and reenacting, with amendments,  
18 Chapter 712 of the Acts of the General Assembly of 1994  
19 Section 3

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

**22 Article 27 - Crimes and Punishments**

23 643B.

24 (a) As used in this section, the term "crime of violence" means abduction; arson  
25 in the first degree; kidnapping; manslaughter, except involuntary manslaughter; mayhem  
26 and maiming under §§ 384, 385, and 386 of this article; murder; rape; robbery; robbery  
27 with a deadly weapon; carjacking or armed carjacking; sexual offense in the first degree;  
28 sexual offense in the second degree; use of a handgun in the commission of a felony or  
29 other crime of violence; an attempt to commit any of the aforesaid offenses; assault with  
30 intent to murder; assault with intent to rape; assault with intent to rob; assault with intent

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1 to commit a sexual offense in the first degree; and assault with intent to commit a sexual  
2 offense in the second degree.

3 The term "correctional institution" includes Patuxent Institution and a local or  
4 regional jail or detention center.

5 (b) Except as provided in subsections (f) and (g) of this section, any person who  
6 has served three separate terms of confinement in a correctional institution as a result of  
7 three separate convictions of any crime of violence shall be sentenced, on being convicted  
8 a fourth time of a crime of violence, to life imprisonment without the possibility of parole.  
9 Regardless of any other law to the contrary, the provisions of this subsection are  
10 mandatory.

11 (c) Except as provided in subsections (f) and (g) of this section, any person who  
12 (1) has been convicted on two separate occasions of a crime of violence where the  
13 convictions do not arise from a single incident, and (2) has served at least one term of  
14 confinement in a correctional institution as a result of a conviction of a crime of violence,  
15 shall be sentenced, on being convicted a third time of a crime of violence, to  
16 imprisonment for the term allowed by law, but, in any event, not less than 25 years. The  
17 court may not suspend all or part of the mandatory 25-year sentence required under this  
18 subsection, and the person shall not be eligible for parole except in accordance with the  
19 provisions of Article 31B, § 11. A separate occasion shall be considered one in which the  
20 second or succeeding offense is committed after there has been a charging document filed  
21 for the preceding occasion.

22 (d) Except as provided in subsection (g) of this section, any person who has been  
23 convicted on a prior occasion of a crime of violence, including a conviction for an offense  
24 committed before October 1, 1994, and has served a term of confinement in a correctional  
25 institution for that conviction shall be sentenced, on being convicted a second time of a  
26 crime of violence committed on or after October 1, 1994, to imprisonment for the term  
27 allowed by law, but, in any event, not less than 10 years. The court may not suspend all or  
28 part of the mandatory 10-year sentence required under this subsection.

29 (e) If the State intends to proceed against a person as a subsequent offender  
30 under this section, it shall comply with the procedures set forth in the Maryland Rules for  
31 the indictment and trial of a subsequent offender.

32 (f) (1) Any person sentenced under the provisions of this section who is at least  
33 65 years old and has served at least 15 years of the sentence imposed may petition for and  
34 be granted parole.

35 (2) The Maryland Parole Commission shall adopt regulations to implement  
36 the provisions of this subsection.

37 (g) If a person is sentenced to death, the provisions of this section do not apply.

38 **Chapter 712 of the Acts of 1994**

39 SECTION 3. AND BE IT FURTHER ENACTED, That[the]:

40 (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE changes  
41 that are made to Article 27, § 643B of the Code by this Act shall apply prospectively only

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1 to defendants who are sentenced after the effective date of this Act and may not be  
2 construed to apply in any way to defendants who are sentenced before the effective date  
3 of this Act; AND

4 (B) (1) A DEFENDANT WHO WAS CONVICTED OF BURGLARY OR DAYTIME  
5 HOUSEBREAKING AND IS SERVING A SENTENCE IMPOSED BEFORE OCTOBER 1, 1994  
6 UNDER ARTICLE 27, § 643B OF THE CODE FOR THAT OFFENSE:

7 (I) MAY PETITION THE SENTENCING COURT FOR A REDUCTION IN  
8 SENTENCE AND, IN THE COURT'S DISCRETION, BE GRANTED A REDUCTION IN  
9 SENTENCE; AND

10 (II) IS ELIGIBLE FOR PAROLE.

11 (2) THIS SUBSECTION DOES NOT APPLY TO A DEFENDANT WHO WAS  
12 CONVICTED OF AN OFFENSE OTHER THAN BURGLARY OR DAYTIME  
13 HOUSEBREAKING AND IS SERVING A SENTENCE FOR THAT OFFENSE UNDER  
14 ARTICLE 27, § 643B, REGARDLESS OF WHETHER ANY OF THE PREDICATE OFFENSES  
15 PROVEN TO ESTABLISH SENTENCING ELIGIBILITY UNDER ARTICLE 27, § 643B WERE  
16 BURGLARY OR DAYTIME HOUSEBREAKING.

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
18 October 1, 1996.