

(PRE-FILED)

HB 264/94 - JUD

By: ~~Senator Middlebrooks~~ Senators Middlebrooks, Astle, Colburn, Ferguson, Forehand, Haines, Jimeno, and Kelley

Requested: September 19, 1995

Introduced and read first time: January 10, 1996

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: January 24, 1996

CHAPTER ____

1 AN ACT concerning

2 **Homicide - Prosecution - "Year and a Day" Rule Abolished**

3 FOR the purpose of abolishing the common-law rule of "year and a day"; allowing a
4 prosecution for murder or manslaughter to be instituted regardless of the time
5 elapsed between the infliction of the fatal injury and the death of the victim;
6 requiring the State to prove, by a certain standard, that the death of the victim
7 resulted from the injury inflicted by the accused; providing for the application of
8 this Act; and generally relating to the prosecution of homicides.

9 BY repealing

10 Article 27 - Crimes and Punishments
11 The subheading designation "Musical Instruments"
12 Annotated Code of Maryland
13 (1992 Replacement Volume and 1995 Supplement)

14 BY adding to

15 Article 27 - Crimes and Punishments
16 Section 415 to be under the new subheading "Homicide - Prosecution"
17 Annotated Code of Maryland
18 (1992 Replacement Volume and 1995 Supplement)

2

1 Preamble

2 WHEREAS, Under the current law, the common-law rule of "year and a day" bars
3 prosecution for murder or manslaughter unless the victim dies within a year and day from
4 the time the fatal injury was inflicted; and

5 WHEREAS, The conception of the "year and a day" rule may be traced back to
6 medieval times when the deficiencies of medical science often made it extremely difficult
7 to prove the cause of death whenever a considerable lapse of time intervened between the
8 mortal act or omission and the death itself; and

9 WHEREAS, This 700 year old common-law rule is now outdated, and in light of
10 medical advances in lifesaving techniques and the improvements in forensics technology,
11 there is no sound reason for retaining the rule today; and

12 WHEREAS, The State of Maryland is one of only three remaining jurisdictions in
13 the United States that has not yet abolished the rule and of these remaining jurisdictions,
14 is the only one that has not yet addressed the common-law rule of "year and a day" by
15 statute; and

16 WHEREAS, The Court of Appeals of Maryland held in State v. Minster, 302 Md.
17 240 (1985), and State v. Brown, 21 Md. App. 91 (1974), that any change to the common
18 law "year and a day" rule should be made by the General Assembly; now, therefore,

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
20 MARYLAND, That the subheading designation "Musical Instruments" of Article 27 -
21 Crimes and Punishments of the Annotated Code of Maryland be repealed.

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

24 **Article 27 - Crimes and Punishments**

25 **HOMICIDE - PROSECUTION**

26 415.

27 (A) A PROSECUTION FOR MURDER OR MANSLAUGHTER, WHETHER AT
28 COMMON LAW OR UNDER ARTICLE 27, §§ 407 THROUGH 411, § 387, § 388, OR § 388A,
29 MAY BE INSTITUTED REGARDLESS OF THE TIME ELAPSED BETWEEN THE
30 INFLECTION OF THE FATAL INJURY AND THE DEATH OF THE VICTIM.

31 (B) IN ANY PROSECUTION FOR MURDER OR MANSLAUGHTER, AS DESCRIBED
32 IN SUBSECTION (A) OF THIS SECTION, THE STATE MUST PROVE BEYOND A
33 REASONABLE DOUBT THAT THE DEATH OF THE VICTIM WAS A DIRECT RESULT OF
34 THE INJURY INFLICTED BY THE ACCUSED.

35 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall be construed
36 only prospectively and may not be applied or interpreted to have any effect on or
37 application to any offenses that were committed before the effective date of this Act.

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

