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**By: Senators Ferguson, Stone, and Colburn**

Introduced and read first time: January 15, 1997

Assigned to: Judicial Proceedings

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A BILL ENTITLED

1 AN ACT concerning

2 **Child Sexual Offenses and Kidnapping - Imprisonment for Life Without Possibility of**  
3 **Parole**

4 FOR the purpose of establishing a maximum penalty of imprisonment for life without the  
5 possibility of parole for a person who commits certain sexual offenses and  
6 kidnapping involving a child under a certain age; requiring the State to provide a  
7 certain notice; providing for the application of this Act; and generally relating to  
8 sexual offenses, kidnapping, and imprisonment for life without the possibility of  
9 parole.

10 BY repealing and reenacting, with amendments,  
11 Article 27 - Crimes and Punishments  
12 Section 338, 462, 463, 464, and 464A  
13 Annotated Code of Maryland  
14 (1996 Replacement Volume)

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

17 **Article 27 - Crimes and Punishments**

18 338.

19 (A) Every person, his counsellors, aiders or abettors, who shall be convicted of  
20 kidnapping and forcibly or fraudulently stealing, taking or carrying away any child under  
21 the age of [sixteen] 16 years, except by a parent thereof, shall be guilty of a felony and,  
22 EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, shall be sentenced to the  
23 penitentiary for not more than [thirty] 30 years.

24 (B) (1) IF THE DEFENDANT WAS CONVICTED IN THE SAME PROCEEDING OF  
25 VIOLATING ANY OF THE PROVISIONS OF §§ 462 THROUGH 464A OF THIS ARTICLE,  
26 ANY PERSON WHO VIOLATES THE PROVISIONS OF THIS SECTION IS GUILTY OF A  
27 FELONY AND UPON CONVICTION IS SUBJECT TO IMPRISONMENT FOR LIFE WITHOUT  
28 THE POSSIBILITY OF PAROLE.

29 (2) IF THE STATE INTENDS TO SEEK A SENTENCE OF IMPRISONMENT  
30 FOR LIFE WITHOUT THE POSSIBILITY OF PAROLE UNDER PARAGRAPH (1) OF THIS

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1 SUBSECTION, THE STATE SHALL NOTIFY THE PERSON IN WRITING OF THE STATE'S  
2 INTENTION AT LEAST 30 DAYS PRIOR TO TRIAL.

3 462.

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

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

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

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

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

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

19 (b) (1) [Any] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS  
20 SUBSECTION, ANY person violating the provisions of this section is guilty of a felony and  
21 upon conviction is subject to imprisonment for no more than the period of his natural life.

22 (2) (I) IF THE VICTIM WAS A CHILD UNDER 16 YEARS OF AGE AND  
23 THE DEFENDANT WAS CONVICTED IN THE SAME PROCEEDING OF VIOLATING § 338  
24 OF THIS ARTICLE, ANY PERSON WHO VIOLATES THE PROVISIONS OF THIS SECTION IS  
25 GUILTY OF A FELONY AND UPON CONVICTION IS SUBJECT TO IMPRISONMENT FOR  
26 LIFE WITHOUT THE POSSIBILITY OF PAROLE.

27 (II) IF THE STATE INTENDS TO SEEK A SENTENCE OF  
28 IMPRISONMENT FOR LIFE WITHOUT THE POSSIBILITY OF PAROLE UNDER  
29 SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE STATE SHALL NOTIFY THE PERSON IN  
30 WRITING OF THE STATE'S INTENTION AT LEAST 30 DAYS PRIOR TO TRIAL.

31 463.

32 (a) A person is guilty of rape in the second degree if the person engages in vaginal  
33 intercourse 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

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1 (3) Who is under 14 years of age and the person performing the act is at  
2 least [four] 4 years older than the victim.

3 (b) (1) [Any] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS  
4 SUBSECTION, ANY person violating the provisions of this section is guilty of a felony and  
5 upon conviction is subject to imprisonment for a period of not more than 20 years.

6 (2) (I) IF THE VICTIM WAS A CHILD UNDER 16 YEARS OF AGE AND  
7 THE DEFENDANT WAS CONVICTED IN THE SAME PROCEEDING OF VIOLATING § 338  
8 OF THIS ARTICLE, ANY PERSON WHO VIOLATES THE PROVISIONS OF THIS SECTION IS  
9 GUILTY OF A FELONY AND UPON CONVICTION IS SUBJECT TO IMPRISONMENT FOR  
10 LIFE WITHOUT THE POSSIBILITY OF PAROLE.

11 (II) IF THE STATE INTENDS TO SEEK A SENTENCE OF LIFE  
12 WITHOUT THE POSSIBILITY OF PAROLE UNDER SUBPARAGRAPH (I) OF THIS  
13 PARAGRAPH, THE STATE SHALL NOTIFY THE PERSON IN WRITING OF THE STATE'S  
14 INTENTION AT LEAST 30 DAYS PRIOR TO TRIAL.

15 464.

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

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

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

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

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

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

31 (b) (1) [Any] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS  
32 SUBSECTION, ANY person violating the provisions of this section is guilty of a felony and  
33 upon conviction is subject to imprisonment for no more than the period of his natural life.

34 (2) (I) IF THE VICTIM WAS A CHILD UNDER 16 YEARS OF AGE AND  
35 THE DEFENDANT WAS CONVICTED IN THE SAME PROCEEDING OF VIOLATING § 338  
36 OF THIS ARTICLE, ANY PERSON WHO VIOLATES THE PROVISIONS OF THIS SECTION IS  
37 GUILTY OF A FELONY AND UPON CONVICTION IS SUBJECT TO IMPRISONMENT FOR  
38 LIFE WITHOUT THE POSSIBILITY OF PAROLE.

39 (II) IF THE STATE INTENDS TO SEEK A SENTENCE OF LIFE  
40 WITHOUT THE POSSIBILITY OF PAROLE UNDER SUBPARAGRAPH (I) OF THIS

4  
1 PARAGRAPH, THE STATE SHALL NOTIFY THE PERSON IN WRITING OF THE STATE'S  
2 INTENTION AT LEAST 30 DAYS PRIOR TO TRIAL.

3 464A.

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

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

8 (2) Who is mentally defective, mentally incapacitated, or physically helpless,  
9 and the person performing the act knows or should reasonably know the other person is  
10 mentally defective, mentally incapacitated, or physically helpless; or

11 (3) Under 14 years of age and the person performing the sexual act is  
12 [four] 4 or more years older than the victim.

13 (b) (1) [Any] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS  
14 SUBSECTION, ANY person violating the provisions of this section is guilty of a felony and  
15 upon conviction is subject to imprisonment for a period of not more than 20 years.

16 (2) (I) IF THE VICTIM WAS A CHILD UNDER 16 YEARS OF AGE AND  
17 THE DEFENDANT WAS CONVICTED IN THE SAME PROCEEDING OF VIOLATING § 338  
18 OF THIS ARTICLE, ANY PERSON WHO VIOLATES THE PROVISIONS OF THIS SECTION IS  
19 GUILTY OF A FELONY AND UPON CONVICTION IS SUBJECT TO IMPRISONMENT FOR  
20 LIFE WITHOUT THE POSSIBILITY OF PAROLE.

21 (II) IF THE STATE INTENDS TO SEEK A SENTENCE OF LIFE  
22 WITHOUT THE POSSIBILITY OF PAROLE UNDER SUBPARAGRAPH (I) OF THIS  
23 PARAGRAPH, THE STATE SHALL NOTIFY THE PERSON IN WRITING OF THE STATE'S  
24 INTENTION AT LEAST 30 DAYS PRIOR TO TRIAL.

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed  
26 only prospectively to offenses that are committed after the effective date of this Act and  
27 may not be applied or interpreted to have any effect on or application to any offense  
28 committed before the effective date of this Act.

29 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
30 October 1, 1997.