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By: **Delegates Jacobs, O'Donnell, Comeau, Stull, M. Burns, Elliott, Kach,  
Ports, Bissett, Hutchins, Schade, Klima, Brinkley, Holt, Stocksdale,  
Leopold, Flanagan, and Harkins**

Introduced and read first time: February 12, 1998

Assigned to: Judiciary

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A BILL ENTITLED

1 AN ACT concerning

2 **Crimes - Sexually Violent Offenses - Penalties**

3 FOR the purpose of providing that a person who has been convicted on a prior  
4 occasion of certain sexually violent offenses is subject to imprisonment for not  
5 more than life without parole on conviction of a second or subsequent sexually  
6 violent offense; providing that this Act may not be construed to abrogate or  
7 affect the operation of a certain law concerning crimes of violence; providing for  
8 the application of this Act; defining a certain term; and generally relating to  
9 penalties for sexually violent offenses.

10 BY repealing and reenacting, with amendments,  
11 Article 27 - Crimes and Punishments  
12 Section 35C, 462, 463, 464, 464A, and 464B  
13 Annotated Code of Maryland  
14 (1996 Replacement Volume and 1997 Supplement)

15 BY adding to  
16 Article 27 - Crimes and Punishments  
17 Section 464G  
18 Annotated Code of Maryland  
19 (1996 Replacement Volume and 1997 Supplement)

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 35C.

24 (a) (1) In this section the following words have the meanings indicated.

25 (2) "Abuse" means:

1 (i) The sustaining of physical injury by a child as a result of cruel  
2 or inhumane treatment or as a result of a malicious act by any parent or other person  
3 who has permanent or temporary care or custody or responsibility for supervision of a  
4 child, or by any household or family member, under circumstances that indicate that  
5 the child's health or welfare is harmed or threatened thereby; or

6 (ii) Sexual abuse of a child, whether physical injuries are sustained  
7 or not.

8 (3) "Child" means any individual under the age of 18 years.

9 (4) "Family member" means a relative of a child by blood, adoption, or  
10 marriage.

11 (5) "Household member" means a person who lives with or is a regular  
12 presence in a home of a child at the time of the alleged abuse.

13 (6) (i) "Sexual abuse" means any act that involves sexual molestation  
14 or exploitation of a child by a parent or other person who has permanent or temporary  
15 care or custody or responsibility for supervision of a child, or by any household or  
16 family member.

17 (ii) "Sexual abuse" includes, but is not limited to:

18 1. Incest, rape, or sexual offense in any degree;

19 2. Sodomy; and

20 3. Unnatural or perverted sexual practices.

21 (b) (1) [A] EXCEPT AS PROVIDED IN § 464G OF THIS ARTICLE, A parent or  
22 other person who has permanent or temporary care or custody or responsibility for  
23 the supervision of a child or a household or family member who causes abuse to the  
24 child is guilty of a felony and on conviction is subject to imprisonment in the  
25 penitentiary for not more than 15 years.

26 (2) [If] EXCEPT AS PROVIDED IN § 464G OF THIS ARTICLE, IF the  
27 violation results in the death of the victim, the person is guilty of a felony and upon  
28 conviction is subject to imprisonment for not more than 20 years.

29 (3) The sentence imposed under this section may be imposed separate  
30 from and consecutive to or concurrent with a sentence for any offense based upon the  
31 act or acts establishing the abuse.

32 462.

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

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

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

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

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

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

13 (b) [Any] EXCEPT AS PROVIDED IN § 464G OF THIS SUBHEADING, A person  
14 violating the provisions of this section is guilty of a felony and upon conviction is  
15 subject to imprisonment for no more than the period of his natural life.

16 463.

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

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

21 (2) Who is mentally defective, mentally incapacitated, or physically  
22 helpless, and the person performing the act knows or should reasonably know the  
23 other person is mentally defective, mentally incapacitated, or physically helpless; or

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

26 (b) [Any] EXCEPT AS PROVIDED IN § 464G OF THIS SUBHEADING, A person  
27 violating the provisions of this section is guilty of a felony and upon conviction is  
28 subject to imprisonment for a period of not more than 20 years.

29 464.

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

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

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

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

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

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

11       (b)     [Any] EXCEPT AS PROVIDED IN § 464G OF THIS SUBHEADING, A person  
12 violating the provisions of this section is guilty of a felony and upon conviction is  
13 subject to imprisonment for no more than the period of his natural life.

14 464A.

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

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

19           (2)     Who is mentally defective, mentally incapacitated, or physically  
20 helpless, and the person performing the act knows or should reasonably know the  
21 other person is mentally defective, mentally incapacitated, or physically helpless; or

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

24       (b)     [Any] EXCEPT AS PROVIDED IN § 464G OF THIS SUBHEADING, A person  
25 violating the provisions of this section is guilty of a felony and upon conviction is  
26 subject to imprisonment for a period of not more than 20 years.

27 464B.

28       (a)     A person is guilty of a sexual offense in the third degree if the person  
29 engages in:

30           (1)     Sexual contact with another person against the will and without the  
31 consent of the other person, and:

32                   (i)     Employs or displays a dangerous or deadly weapon or an article  
33 which the other person reasonably concludes is a dangerous or deadly weapon; or

34                   (ii)    Inflicts suffocation, strangulation, disfigurement or serious  
35 physical injury upon the other person or upon anyone else in the course of committing  
36 that offense; or

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

4 (iv) Commits the offense aided and abetted by one or more other  
5 persons; or

6 (2) Sexual contact with another person who is mentally defective,  
7 mentally incapacitated, or physically helpless, and the person knows or should  
8 reasonably know the other person is mentally defective, mentally incapacitated, or  
9 physically helpless; or

10 (3) Sexual contact with another person who is under 14 years of age and  
11 the person performing the sexual contact is four or more years older than the victim;  
12 or

13 (4) A sexual act with another person who is 14 or 15 years of age and the  
14 person performing the sexual act is at least 21 years of age; or

15 (5) Vaginal intercourse with another person who is 14 or 15 years of age  
16 and the person performing the act is at least 21 years of age.

17 (b) [Any] EXCEPT AS PROVIDED IN § 464G OF THIS SUBHEADING, A person  
18 violating the provisions of this section is guilty of a felony and upon conviction is  
19 subject to imprisonment for a period of not more than 10 years.

20 464G.

21 (A) IN THIS SECTION, "SEXUALLY VIOLENT OFFENSE" MEANS:

22 (1) A VIOLATION OF § 35C OF THIS ARTICLE FOR CHILD SEXUAL ABUSE;

23 (2) A VIOLATION OF § 462, § 463, § 464, § 464A, OR § 464B OF THIS  
24 SUBHEADING;

25 (3) AN ATTEMPT TO COMMIT AN OFFENSE SPECIFIED IN ITEM (1) OR (2)  
26 OF THIS SUBSECTION; OR

27 (4) AN OFFENSE UNDER THE LAWS OF ANOTHER STATE, THE DISTRICT  
28 OF COLUMBIA, OR THE UNITED STATES THAT WOULD BE A VIOLATION OF ITEM (1),  
29 (2), OR (3) OF THIS SUBSECTION IF COMMITTED IN THIS STATE.

30 (B) A PERSON WHO HAS BEEN CONVICTED ON A PRIOR OCCASION OF A  
31 SEXUALLY VIOLENT OFFENSE AND IS CONVICTED OF A SECOND OR SUBSEQUENT  
32 SEXUALLY VIOLENT OFFENSE IS SUBJECT TO IMPRISONMENT FOR NOT MORE THAN  
33 LIFE WITHOUT THE POSSIBILITY OF PAROLE.

34 (C) THIS SECTION MAY NOT BE CONSTRUED TO ABROGATE OR AFFECT THE  
35 OPERATION OF § 643B OF THIS ARTICLE.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to  
2 second or subsequent sexually violent offenses committed on or after October 1, 1998,  
3 regardless of the date of the prior offense.

4 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
5 October 1, 1998.