Unofficial Copy E1

1998 Regular Session 8lr1474

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

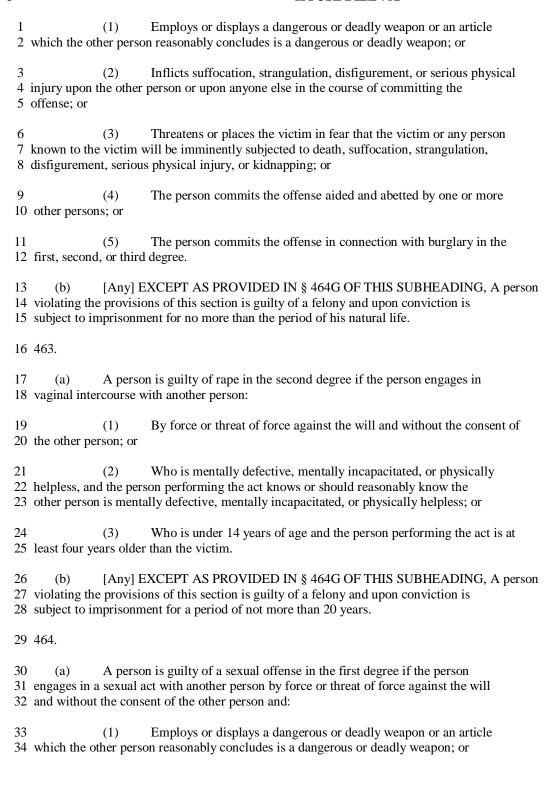
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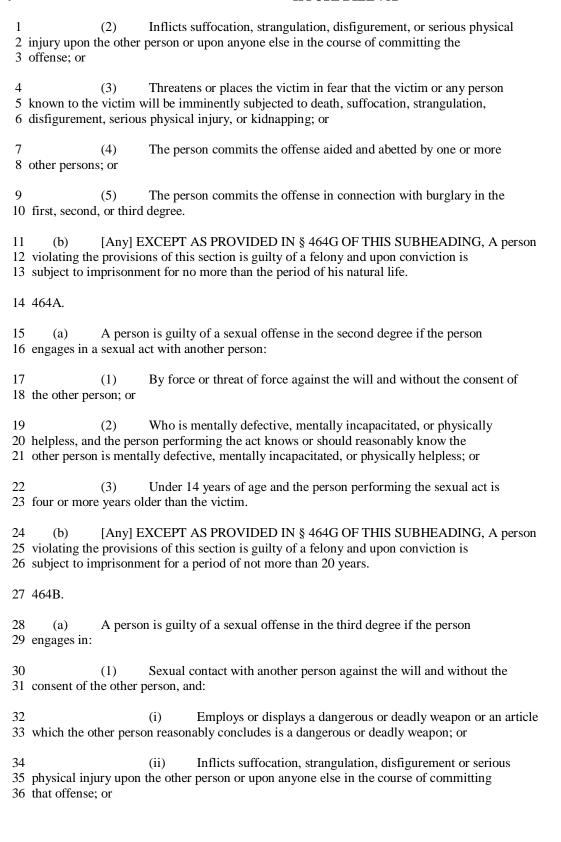
(2)

"Abuse" means:

	A BILL ENTITLED					
1	AN ACT concerning					
2	Crimes - Sexually Violent Offenses - Penalties					
3 4 5 6 7 8 9	FOR the purpose of providing that a person who has been convicted on a prior occasion of certain sexually violent offenses is subject to imprisonment for not more than life without parole on conviction of a second or subsequent sexually violent offense; providing that this Act may not be construed to abrogate or affect the operation of a certain law concerning crimes of violence; providing for the application of this Act; defining a certain term; and generally relating to penalties for sexually violent offenses.					
10 11 12 13 14	Section 35C, 462, 463, 464, 464A, and 464B Annotated Code of Maryland					
15 16 17 18 19	 Section 464G Annotated Code of Maryland 					
20 21	SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF 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.					

3 4	(i) The sustaining of physical injury by a child as a result of cruel or inhumane treatment or as a result of a malicious act by any parent or other person who has permanent or temporary care or custody or responsibility for supervision of a child, or by any household or family member, under circumstances that indicate that the child's health or welfare is harmed or threatened thereby; or					
6 7	or not.	(ii)	Sexual a	abuse of a child, whether physical injuries are sustained		
8	(3)	"Child"	means ar	ny individual under the age of 18 years.		
9 10	(4) marriage.	"Family	member" means a relative of a child by blood, adoption, or			
11 12	(5) "Household member" means a person who lives with or is a regular presence in a home of a child at the time of the alleged abuse.					
15	(6) (i) "Sexual abuse" means any act that involves sexual molestation or exploitation of a child by a parent or other person who has permanent or temporary care or custody or responsibility for supervision of a child, or by any household or 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.		
23 24	(b) (1) [A] EXCEPT AS PROVIDED IN § 464G OF THIS ARTICLE, A parent or other person who has permanent or temporary care or custody or responsibility for the supervision of a child or a household or family member who causes abuse to the child is guilty of a felony and on conviction is subject to imprisonment in the penitentiary for not more than 15 years.					
	(2) [If] EXCEPT AS PROVIDED IN § 464G OF THIS ARTICLE, IF the violation results in the death of the victim, the person is guilty of a felony and upon conviction is subject to imprisonment for not more than 20 years.					
	(3) The sentence imposed under this section may be imposed separate from and consecutive to or concurrent with a sentence for any offense based upon the act or acts establishing the abuse.					
32	462.					
	(a) A person is guilty of rape in the first degree if the person engages in vaginal intercourse with another person by force or threat of force against the will and without the consent of the other person and:					





1 Threatens or places the victim in fear that the victim or any (iii) 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 Sexual contact with another person who is mentally defective, (2) 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 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 Vaginal intercourse with another person who is 14 or 15 years of age (5) 16 and the person performing the act is at least 21 years of age. 17 [Any] EXCEPT AS PROVIDED IN § 464G OF THIS SUBHEADING, A person (b) violating the provisions of this section is guilty of a felony and upon conviction is 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 A VIOLATION OF § 462, § 463, § 464, § 464A, OR § 464B OF THIS (2) 24 SUBHEADING; AN ATTEMPT TO COMMIT AN OFFENSE SPECIFIED IN ITEM (1) OR (2) 25 (3) 26 OF THIS SUBSECTION; OR 27 AN OFFENSE UNDER THE LAWS OF ANOTHER STATE, THE DISTRICT (4) 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 A PERSON WHO HAS BEEN CONVICTED ON A PRIOR OCCASION OF A (B) 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.

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