

HOUSE BILL 1080

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1998 Regular Session  
8r2057  
CF 8r1932

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By: **Delegates Comeau, W. Baker, Bissett, Bonsack, E. Burns, M. Burns, Conroy, DeCarlo, Dembrow, Dewberry, Donoghue, Finifter, Getty, Harkins, Hecht, Holt, Hutchins, Jacobs, Jones, Klausmeier, Malone, McClenahan, McHale, McKee, V. Mitchell, Moe, Mohorovic, Montague, O'Donnell, Owings, Perry, Petzold, Poole, Rudolph, and Miller**

Introduced and read first time: February 13, 1998  
Assigned to: Judiciary

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Committee Report: Favorable with amendments  
House action: Adopted  
Read second time: March 20, 1998

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **~~Murder in the First Degree – Felony Murder – Child Abuse~~**  
3 **Child Abuse - Death of a Child - Penalties**

4 ~~FOR the purpose of providing that murder committed during the course of the felony~~  
5 ~~of child abuse shall be considered murder in the first degree; and generally~~  
6 ~~relating to felony murder.~~

7 FOR the purpose of increasing the maximum period of imprisonment that a person is  
8 subject to upon conviction of the felony of child abuse if the violation results in  
9 the death of the victim; and generally relating to child abuse.

10 BY repealing and reenacting, with amendments,  
11 Article 27 - Crimes and Punishments  
12 Section 410 35C  
13 Annotated Code of Maryland  
14 (1996 Replacement Volume and 1997 Supplement)

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

1

## Article 27 - Crimes and Punishments

2 410.

3 All murder which shall be committed in the perpetration of, or attempt to  
 4 perpetrate, any rape in any degree, sexual offense in the first or second degree,  
 5 sodomy, mayhem, robbery, carjacking or armed carjacking, CHILD ABUSE AS DEFINED  
 6 IN § 35C OF THIS ARTICLE, burglary in the first, second, or third degree, a violation of  
 7 § 139C of this article concerning destructive devices, kidnapping as defined in §§ 337  
 8 and 338 of this article, or in the escape or attempt to escape from the Patuxent  
 9 Institution, any institution or facility under the jurisdiction of the Division of  
 10 Correction or the Division of Pretrial Detention and Services, or from any jail or penal  
 11 institution in any of the counties of this State, shall be murder in the first degree.

12 35C.13 (a) (1) In this section the following words have the meanings indicated.14 (2) "Abuse" means:

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

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

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

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

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

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

31 (ii) "Sexual abuse" includes, but is not limited to:32 1. Incest, rape, or sexual offense in any degree;33 2. Sodomy; and34 3. Unnatural or perverted sexual practices.

1       (b)     (1)     A parent or other person who has permanent or temporary care or  
2 custody or responsibility for the supervision of a child or a household or family  
3 member who causes abuse to the child is guilty of a felony and on conviction is subject  
4 to imprisonment in the penitentiary for not more than 15 years.

5               (2)     If the violation results in the death of the victim, the person is guilty  
6 of a felony and upon conviction is subject to imprisonment for not more than [20] 30  
7 years.

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

11       SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
12 October 1, 1998.