

SENATE BILL 329

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1998 Regular Session
8r1932
CF 8r2057

By: **Senator Middlebrooks**
Introduced and read first time: February 5, 1998
Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: March 25, 1998

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 to which a
8 person is subject upon conviction of the felony of child abuse if the violation
9 results in 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:

17 **Article 27 - Crimes and Punishments**

18 ~~410.~~

19 ~~All murder which shall be committed in the perpetration of, or attempt to~~
20 ~~perpetrate, any rape in any degree, sexual offense in the first or second degree,~~
21 ~~sodomy, mayhem, robbery, carjacking or armed carjacking, CHILD ABUSE AS DEFINED~~
22 ~~IN § 35C OF THIS ARTICLE, burglary in the first, second, or third degree, a violation of~~

~~1 § 139C of this article concerning destructive devices, kidnapping as defined in §§ 337
2 and 338 of this article, or in the escape or attempt to escape from the Patuxent
3 Institution, any institution or facility under the jurisdiction of the Division of
4 Correction or the Division of Pretrial Detention and Services, or from any jail or penal
5 institution in any of the counties of this State, shall be murder in the first degree.~~

6 35C.

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

8 (2) "Abuse" means:

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

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

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

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

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

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

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

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

27 2. Sodomy; and

28 3. Unnatural or perverted sexual practices.

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

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

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

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