Unofficial Copy E2 SB 177/97 - JPR 1998 Regular Session 8lr0741

By: Senators Ferguson and Middleton

Introduced and read first time: February 6, 1998

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Assigned to: Judicial Proceedings

A BILL ENTITLED

1	A TAT		•
1	AIN	ACL	concerning
	7 11 1	1101	concerning

- 2 Child Sexual Offenses and Kidnapping Imprisonment for Life Without 3 Possibility of Parole
- 4 FOR the purpose of establishing a maximum penalty of imprisonment for life without
- 5 the 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
- 7 a certain notice; providing for the application of this Act; and generally relating
- 8 to sexual offenses, kidnapping, and imprisonment for life without the possibility
- 9 of 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 and 1997 Supplement)
- 15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
- 16 MARYLAND, That the Laws of Maryland read as follows:

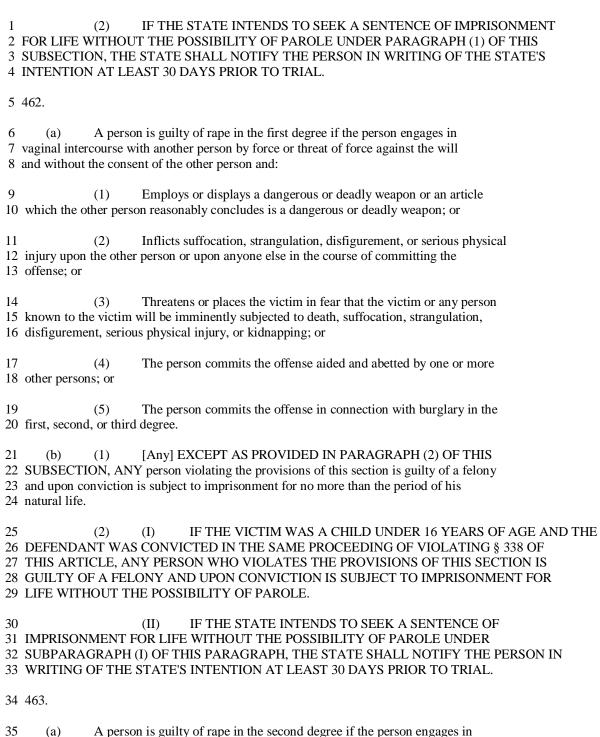
17 Article 27 - Crimes and Punishments

18 338.

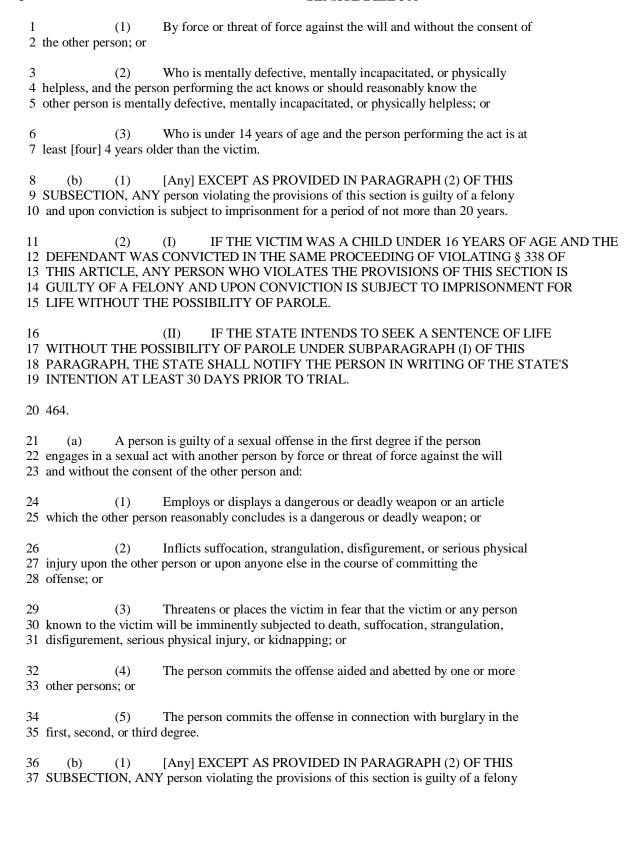
- 19 (A) Every person, his counsellors, aiders or abettors, who shall be convicted of
- 20 kidnapping and forcibly or fraudulently stealing, taking or carrying away any child
- 21 under the age of [sixteen] 16 years, except by a parent thereof, shall be guilty of a
- 22 felony and, EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, shall be
- 23 sentenced to the 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, ANY
- 26 PERSON WHO VIOLATES THE PROVISIONS OF THIS SECTION IS GUILTY OF A FELONY
- 27 AND UPON CONVICTION IS SUBJECT TO IMPRISONMENT FOR LIFE WITHOUT THE
- 28 POSSIBILITY OF PAROLE.

35

36 vaginal intercourse with another person:



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- 1 and upon conviction is subject to imprisonment for no more than the period of his 2 natural life. 3 IF THE VICTIM WAS A CHILD UNDER 16 YEARS OF AGE AND THE 4 DEFENDANT WAS CONVICTED IN THE SAME PROCEEDING OF VIOLATING § 338 OF 5 THIS ARTICLE, ANY PERSON WHO VIOLATES THE PROVISIONS OF THIS SECTION IS 6 GUILTY OF A FELONY AND UPON CONVICTION IS SUBJECT TO IMPRISONMENT FOR 7 LIFE WITHOUT THE POSSIBILITY OF PAROLE. IF THE STATE INTENDS TO SEEK A SENTENCE OF LIFE 8 9 WITHOUT THE POSSIBILITY OF PAROLE UNDER SUBPARAGRAPH (I) OF THIS 10 PARAGRAPH, THE STATE SHALL NOTIFY THE PERSON IN WRITING OF THE STATE'S 11 INTENTION AT LEAST 30 DAYS PRIOR TO TRIAL. 12 464A. 13 A person is guilty of a sexual offense in the second degree if the person 14 engages in a sexual act with another person: 15 By force or threat of force against the will and without the consent of (1) 16 the other person; or 17 (2) Who is mentally defective, mentally incapacitated, or physically 18 helpless, and the person performing the act knows or should reasonably know the other person is mentally defective, mentally incapacitated, or physically helpless; or 20 Under 14 years of age and the person performing the sexual act is 21 [four] 4 or more years older than the victim. 22 [Any] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS (b) (1)23 SUBSECTION, ANY person violating the provisions of this section is guilty of a felony 24 and upon conviction is subject to imprisonment for a period of not more than 20 years. 25 IF THE VICTIM WAS A CHILD UNDER 16 YEARS OF AGE AND THE (2) 26 DEFENDANT WAS CONVICTED IN THE SAME PROCEEDING OF VIOLATING § 338 OF 27 THIS ARTICLE, ANY PERSON WHO VIOLATES THE PROVISIONS OF THIS SECTION IS 28 GUILTY OF A FELONY AND UPON CONVICTION IS SUBJECT TO IMPRISONMENT FOR 29 LIFE WITHOUT THE POSSIBILITY OF PAROLE. 30 IF THE STATE INTENDS TO SEEK A SENTENCE OF LIFE (II)31 WITHOUT THE POSSIBILITY OF PAROLE UNDER SUBPARAGRAPH (I) OF THIS 32 PARAGRAPH, THE STATE SHALL NOTIFY THE PERSON IN WRITING OF THE STATE'S 33 INTENTION AT LEAST 30 DAYS PRIOR TO TRIAL.
- 34 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
- 35 construed only prospectively to offenses that are committed after the effective date of
- 36 this Act and may not be applied or interpreted to have any effect on or application to
- 37 any offense committed before the effective date of this Act.

- SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect 2 October 1, 1998.