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By: **Senator Ferguson**

Introduced and read first time: February 2, 2001

Assigned to: Judicial Proceedings

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A BILL ENTITLED

1 AN ACT concerning

2 **Christopher's Law II - Repeat Child Sexual Offenses - Imprisonment for Life**  
3 **Without the Possibility of Parole**

4 FOR the purpose of establishing a penalty of imprisonment for not more than life  
5 without the possibility of parole for a person who commits certain sexual  
6 offenses involving a child under a certain age if the person was previously  
7 convicted of certain sexual offenses involving a child under a certain age;  
8 requiring the State to provide certain notice if the State intends to seek a  
9 penalty of imprisonment for life without the possibility of parole; providing for  
10 the application of this Act; and generally relating to repeat child sexual offenses  
11 and imprisonment for life without the possibility of parole.

12 BY repealing and reenacting, with amendments,  
13 Article 27 - Crimes and Punishments  
14 Section 462 through 464A  
15 Annotated Code of Maryland  
16 (1996 Replacement Volume and 2000 Supplement)

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

19 **Article 27 - Crimes and Punishments**

20 462.

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

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

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

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

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

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

8     (b)     (1)     Except as provided in paragraph (2) of this subsection, any person  
9 violating the provisions of this section is guilty of a felony and upon conviction is  
10 subject to imprisonment for no more than the period of his natural life.

11           (2)     (i)     [If the victim was a child under 16 years of age and the  
12 defendant was convicted in the same proceeding of violating § 338 of this article, any]  
13 A person who violates the provisions of this section is guilty of a felony and upon  
14 conviction is subject to imprisonment for not more than life without the possibility of  
15 parole IF:

16                                 1.     THE VICTIM WAS A CHILD UNDER THE AGE OF 16 YEARS;  
17 AND

18                                 2.     A.     THE DEFENDANT WAS CONVICTED IN THE SAME  
19 PROCEEDING OF VIOLATING § 338 OF THIS ARTICLE; OR

20                                 B.     THE DEFENDANT WAS PREVIOUSLY CONVICTED OF  
21 VIOLATING THIS SECTION OR § 463, § 464, OR § 464A OF THIS ARTICLE AND THE VICTIM  
22 IN THE PREVIOUS VIOLATION WAS A CHILD UNDER THE AGE OF 16 YEARS.

23                                 (ii)     If the State intends to seek a sentence of imprisonment for life  
24 without the possibility of parole under subparagraph (i) of this paragraph, the State  
25 shall notify the person in writing of the State's intention at least 30 days prior to trial.  
26 463.

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

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

31           (2)     Who is mentally defective, mentally incapacitated, or physically  
32 helpless, and the person performing the act knows or should reasonably know the  
33 other person is mentally defective, mentally incapacitated, or physically helpless; or

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

1 (b) (1) [Any] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS  
2 SUBSECTION, A person violating the provisions of this section is guilty of a felony and  
3 upon conviction is subject to imprisonment for a period of not more than 20 years.

4 (2) (I) A PERSON WHO VIOLATES THE PROVISIONS OF THIS SECTION IS  
5 GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT FOR NOT  
6 MORE THAN LIFE WITHOUT THE POSSIBILITY OF PAROLE IF:

7 1. THE VICTIM WAS A CHILD UNDER THE AGE OF 16 YEARS;  
8 AND

9 2. THE DEFENDANT WAS PREVIOUSLY CONVICTED OF  
10 VIOLATING THIS SECTION OR § 462, § 464, OR § 464A OF THIS ARTICLE AND THE VICTIM  
11 IN THE PREVIOUS VIOLATION WAS A CHILD UNDER THE AGE OF 16 YEARS.

12 (II) IF THE STATE INTENDS TO SEEK A SENTENCE OF  
13 IMPRISONMENT FOR LIFE WITHOUT THE POSSIBILITY OF PAROLE UNDER  
14 SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE STATE SHALL NOTIFY THE PERSON IN  
15 WRITING OF THE STATE'S INTENTION AT LEAST 30 DAYS PRIOR TO TRIAL.

16 464.

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

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

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

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

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

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

32 (b) (1) Except as provided in paragraph (2) of this subsection, any person  
33 violating the provisions of this section is guilty of a felony and upon conviction is  
34 subject to imprisonment for no more than the period of his natural life.

35 (2) (i) [If the victim was a child under 16 years of age and the  
36 defendant was convicted in the same proceeding of violating § 338 of this article, any]  
37 A person who violates the provisions of this section is guilty of a felony and upon

1 conviction is subject to imprisonment for not more than life without the possibility of  
2 parole IF:

3                                   1.         THE VICTIM WAS A CHILD UNDER THE AGE OF 16 YEARS;  
4 AND

5                                   2.         A.         THE DEFENDANT WAS CONVICTED IN THE SAME  
6 PROCEEDING OF VIOLATING § 338 OF THIS ARTICLE; OR

7   B.         THE DEFENDANT WAS PREVIOUSLY CONVICTED OF  
8 VIOLATING THIS SECTION OR § 462, § 463, OR § 464A OF THIS ARTICLE AND THE VICTIM  
9 IN THE PREVIOUS VIOLATION WAS A CHILD UNDER THE AGE OF 16 YEARS.

10                                   (ii)        If the State intends to seek a sentence of life without the  
11 possibility of parole under subparagraph (i) of this paragraph, the State shall notify  
12 the person in writing of the State's intention at least 30 days prior to trial.  
13 464A.

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

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

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

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

23         (b)         (1)        [Any] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS  
24 SUBSECTION, A person violating the provisions of this section is guilty of a felony and  
25 upon conviction is subject to imprisonment for a period of not more than 20 years.

26                                   (2)        (I)        A PERSON WHO VIOLATES THE PROVISIONS OF THIS SECTION IS  
27 GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT FOR NOT  
28 MORE THAN LIFE WITHOUT THE POSSIBILITY OF PAROLE IF:

29   1.         THE VICTIM WAS A CHILD UNDER THE AGE OF 16 YEARS;  
30 AND

31   2.         THE DEFENDANT WAS PREVIOUSLY CONVICTED OF  
32 VIOLATING THIS SECTION OR § 462, § 463, OR § 464 OF THIS ARTICLE AND THE VICTIM  
33 IN THE PREVIOUS VIOLATION WAS A CHILD UNDER THE AGE OF 16 YEARS.

34   (II)       IF THE STATE INTENDS TO SEEK A SENTENCE OF  
35 IMPRISONMENT FOR LIFE WITHOUT THE POSSIBILITY OF PAROLE UNDER

1 SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE STATE SHALL NOTIFY THE PERSON IN  
2 WRITING OF THE STATE'S INTENTION AT LEAST 30 DAYS PRIOR TO TRIAL.

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be  
4 construed only prospectively and may not be applied or interpreted to have any effect  
5 on or application to any offense committed before the effective date of this Act.

6 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
7 October 1, 2001.