

SENATE BILL 673

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2001 Regular Session
1r1475

By: ~~Senator Ferguson~~ Senators Ferguson, Forchand, Mitchell, Mooney, and Stone

Introduced and read first time: February 2, 2001
Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: March 22, 2001

CHAPTER _____

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:

1 **Article 27 - Crimes and Punishments**

2 462.

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

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

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

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

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

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

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

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

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

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

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

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

1 463.

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

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

6 (2) Who is mentally defective, mentally incapacitated, or physically
7 helpless, and the person performing the act knows or should reasonably know the
8 other person is mentally defective, mentally incapacitated, or physically helpless; or

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

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

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

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

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

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

26 464.

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

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

32 (2) Inflicts suffocation, strangulation, disfigurement, or serious physical
33 injury upon the other person or upon anyone else in the course of committing the
34 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 § 462, § 463, 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 life without the
24 possibility of parole under subparagraph (i) of this paragraph, the State shall notify
25 the person in writing of the State's intention at least 30 days prior to trial.

26 464A.

27 (a) A person is guilty of a sexual offense in the second degree if the person
28 engages in a sexual act 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) Under 14 years of age and the person performing the sexual act is
35 four or more 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, § 463, OR § 464 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 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
17 construed only prospectively and may not be applied or interpreted to have any effect
18 on or application to any offense committed before the effective date of this Act.

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