
By: **Senator Van Hollen**

Introduced and read first time: February 14, 2001

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **First Degree Rape and First Degree Sexual Offense - Mandatory Minimum**
3 **Penalty**

4 FOR the purpose of imposing a certain mandatory minimum term of imprisonment on
5 a person who is convicted of first degree rape or first degree sexual offense;
6 providing that the mandatory minimum term of imprisonment may not be
7 suspended; providing that a person sentenced to a mandatory minimum term of
8 imprisonment for certain convictions may not be granted parole except under
9 certain circumstances; and generally relating to a mandatory minimum penalty
10 for first degree rape and first degree sexual offense.

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

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

18 **Article 27 - Crimes and Punishments**

19 462.

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

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

25 (2) Inflicts suffocation, strangulation, disfigurement, or serious physical
26 injury upon the other person or upon anyone else in the course of committing the
27 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] NOT LESS THAN 10 YEARS NOR more than the period
11 of his natural life.

12 (2) (i) If the victim was a child under 16 years of age and the
13 defendant was convicted in the same proceeding of violating § 338 of this article, any
14 person who violates the provisions of this section is guilty of a felony and upon
15 conviction is subject to imprisonment for not LESS THAN 10 YEARS NOR more than life
16 without the possibility of parole.

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

20 (3) NOTWITHSTANDING ARTICLE 27, § 643 OF THE CODE, IT IS
21 MANDATORY ON THE COURT TO IMPOSE NO LESS THAN THE MINIMUM SENTENCE OF
22 10 YEARS IMPRISONMENT.

23 (4) THE MANDATORY MINIMUM SENTENCE OF 10 YEARS IMPRISONMENT
24 MAY NOT BE SUSPENDED.

25 (5) EXCEPT AS PROVIDED IN TITLE 4 OF THE CORRECTIONAL SERVICES
26 ARTICLE, A PERSON SENTENCED UNDER THIS SECTION IS NOT ELIGIBLE FOR
27 PAROLE IN LESS THAN 10 YEARS.

28 464.

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

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

34 (2) Inflicts suffocation, strangulation, disfigurement, or serious physical
35 injury upon the other person or upon anyone else in the course of committing the
36 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] NOT LESS THAN 10 YEARS NOR more than the period
11 of his natural life.

12 (2) (i) If the victim was a child under 16 years of age and the
13 defendant was convicted in the same proceeding of violating § 338 of this article, any
14 person who violates the provisions of this section is guilty of a felony and upon
15 conviction is subject to imprisonment for not LESS THAN 10 YEARS NOR more than life
16 without the possibility of parole.

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

20 (3) NOTWITHSTANDING ARTICLE 27, § 643 OF THE CODE, IT IS
21 MANDATORY ON THE COURT TO IMPOSE NO LESS THAN THE MINIMUM SENTENCE OF
22 10 YEARS IMPRISONMENT.

23 (4) THE MANDATORY MINIMUM SENTENCE OF 10 YEARS IMPRISONMENT
24 MAY NOT BE SUSPENDED.

25 (5) EXCEPT AS PROVIDED IN TITLE 4 OF THE CORRECTIONAL SERVICES
26 ARTICLE, A PERSON SENTENCED UNDER THIS SECTION IS NOT ELIGIBLE FOR
27 PAROLE IN LESS THAN 10 YEARS.

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
29 October 1, 2001.