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By: Delegate Burns

Introduced and read first time: February 8, 2002 Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 3	Third Degree Sexual Offense - Prior Conviction - Mandatory Minimum Penalty
4 5 6 7 8 9	FOR the purpose of imposing a certain mandatory minimum term of imprisonment on a person who is convicted of a third degree sexual offense involving a minor when the person has previously been convicted of a certain crime involving a minor; providing that the mandatory minimum term of imprisonment may not be suspended; and generally relating to a mandatory minimum penalty for a third degree sexual offense.
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15 16	SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:
17	Article - Criminal Law
18	3-307.
19	(a) A person may not:
20 21	(1) (i) engage in sexual contact with another without the consent of the other; and
22 23	(ii) 1. employ or display a dangerous weapon, or a physical object that the victim reasonably believes is a dangerous weapon;
24 25	2. suffocate, strangle, disfigure, or inflict serious physical injury on the victim or another in the course of committing the crime;

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 3. threaten, or place the victim in fear, that the victim, or an individual known to the victim, imminently will be subject to death, suffocation, strangulation, disfigurement, serious physical injury, or kidnapping; or
4 4. commit the crime while aided and abetted by another;
5 (2) engage in sexual contact with another if the victim is a mentally 6 defective individual, a mentally incapacitated individual, or a physically helpless 7 individual, and the person performing the act knows or reasonably should know the 8 victim is a mentally defective individual, a mentally incapacitated individual, or a 9 physically helpless individual;
10 (3) engage in sexual contact with another if the victim is under the age of 11 14 years, and the person performing the sexual contact is at least 4 years older than 12 the victim;
13 (4) engage in a sexual act with another if the victim is 14 or 15 years old, 14 and the person performing the sexual act is at least 21 years old; or
15 (5) engage in vaginal intercourse with another if the victim is 14 or 15 16 years old, and the person performing the act is at least 21 years old.
 (b) (1) A person who violates this section is guilty of the felony of sexual offense in the third degree and on conviction is subject to THE PENALTIES PROVIDED IN THIS SUBSECTION.
 20 (2) IF THE PERSON HAS NOT PREVIOUSLY BEEN CONVICTED UNDER §§ 21 3-303 THROUGH 3-307 OF THIS SUBTITLE INVOLVING A MINOR, THE PERSON IS 22 SUBJECT TO imprisonment not exceeding 10 years.
 (3) (I) IF THE PERSON HAS PREVIOUSLY BEEN CONVICTED OF A CRIME UNDER §§ 3-303 THROUGH 3-307 OF THIS SUBTITLE INVOLVING A MINOR AND THE CURRENT VIOLATION OF THIS SECTION INVOLVED A MINOR, THE PERSON SHALL BE SENTENCED TO IMPRISONMENT FOR NOT LESS THAN 1 YEAR AND NOT EXCEEDING 10 YEARS.
28(II)NOTWITHSTANDING § 14-102 OF THIS ARTICLE, THE COURT29MAY NOT IMPOSE LESS THAN THE MANDATORY MINIMUM SENTENCE OF 1 YEAR.

30(III)THE COURT MAY NOT SUSPEND ANY PART OF THE MANDATORY31MINIMUM SENTENCE OF 1 YEAR.

32 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect 33 October 1, 2002.

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