
By: **Delegates Hecht and Dembrow**
Introduced and read first time: February 8, 2002
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Crimes - Sexually Violent Predators - Sentences**

3 FOR the purpose of allowing the State to seek a determination that a person is a
4 sexual predator if the person is charged with certain sexual crimes; requiring
5 the State to provide a certain notice if the State intends to seek a determination
6 that a person is a sexual predator; clarifying that a certain notice satisfies
7 another notice requirement; requiring a separate proceeding under certain
8 circumstances to determine if a person is a sexual predator; establishing certain
9 procedures; allowing the court to impose a certain sentence if a determination is
10 made that a person is a sexual predator; providing for the application of this Act;
11 and generally relating to sexual crimes.

12 BY renumbering

13 Article - Criminal Law
14 Section 3-313 through 3-321, respectively
15 to be Section 3-314 through 3-322, respectively
16 Annotated Code of Maryland
17 (As enacted by Chapter _____ (H.B. 11) of the Acts of the General Assembly of
18 2002)

19 BY adding to

20 Article - Criminal Law
21 Section 3-313
22 Annotated Code of Maryland
23 (As enacted by Chapter _____ (H.B. 11) of the Acts of the General Assembly of
24 2002)

25 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
26 MARYLAND, That Section(s) 3-313 through 3-321, respectively, of Article - Criminal
27 Law of the Annotated Code of Maryland be renumbered to be Section(s) 3-314
28 through 3-322, respectively.

29 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
30 read as follows:

1

Article - Criminal Law

2 3-313.

3 (A) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE, IF A
4 PERSON IS CHARGED WITH A VIOLATION OF §§ 3-303 THROUGH 3-307 OR §§ 3-309
5 THROUGH 3-312 OF THIS SUBTITLE, THE STATE MAY SEEK A DETERMINATION THAT
6 THE PERSON IS A SEXUAL PREDATOR FOR PURPOSES OF SENTENCING UNDER THIS
7 SECTION.

8 (B) (1) IF THE STATE SEEKS A DETERMINATION THAT A PERSON DESCRIBED
9 IN SUBSECTION (A) OF THIS SECTION IS A SEXUAL PREDATOR, AT LEAST 30 DAYS
10 BEFORE TRIAL THE STATE SHALL GIVE WRITTEN NOTICE TO THE DEFENDANT OR
11 THE DEFENDANT'S ATTORNEY THAT THE STATE INTENDS TO SEEK A
12 DETERMINATION THAT THE PERSON IS A SEXUAL PREDATOR AND SUBJECT TO
13 IMPRISONMENT NOT EXCEEDING LIFE.

14 (2) IF THE STATE PROVIDES NOTICE UNDER PARAGRAPH (1) OF THIS
15 SUBSECTION, THE NOTICE PROVISIONS OF § 11-703 OF THE CRIMINAL PROCEDURE
16 ARTICLE ARE ALSO SATISFIED.

17 (C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, IF
18 THE STATE PROVIDES NOTICE UNDER THIS SECTION, A SEPARATE PROCEEDING
19 SHALL BE HELD BEFORE THE SAME TRIER OF FACT THAT TRIED THE ISSUE OF GUILT
20 AS SOON AS PRACTICABLE AFTER A PERSON IS FOUND GUILTY OF A VIOLATION
21 DESCRIBED IN SUBSECTION (A) OF THIS SECTION.

22 (2) UNLESS A PERSON WAIVES THE RIGHT TO A JURY, A PROCEEDING
23 UNDER THIS SECTION SHALL BE HELD BEFORE A JURY IMPANELED FOR THE
24 PURPOSE OF DETERMINING WHETHER THE PERSON IS A SEXUAL PREDATOR IF:

25 (I) THE PERSON PLEADS GUILTY TO A VIOLATION DESCRIBED IN
26 SUBSECTION (A) OF THIS SECTION; OR

27 (II) AN APPELLATE COURT AFFIRMS THE JUDGMENT OF GUILT BUT
28 REMANDS FOR A NEW PROCEEDING ON THE ISSUE OF WHETHER THE PERSON IS A
29 SEXUAL PREDATOR.

30 (D) THE BURDEN OF PROOF IS ON THE STATE TO PROVE BEYOND A
31 REASONABLE DOUBT THAT A PERSON IS A SEXUAL PREDATOR.

32 (E) IF THE TRIER OF FACT FINDS THAT THE PERSON IS A SEXUAL PREDATOR,
33 THE COURT MAY SENTENCE THE PERSON TO IMPRISONMENT NOT EXCEEDING LIFE.

34 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall be
35 construed to apply only prospectively to crimes committed on or after the effective
36 date of this Act and may not be applied or interpreted to have any effect on or
37 application to any crimes committed before the effective date of this Act.

1 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2002.