

SENATE BILL 72

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SB 812/01 - JPR

2002 Regular Session
2lr0499

(PRE-FILED)

By: **Senators Van Hollen, Ferguson, Mooney, and Sfikas**
Requested: September 19, 2001
Introduced and read first time: January 9, 2002
Assigned to: Judicial Proceedings

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 - Criminal Law
13 Section 3-303 and 3-305
14 Annotated Code of Maryland
15 (As enacted by Chapter ____ (H.B. 11) of the Acts of the General Assembly of
16 2002)

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

19 **Article - Criminal Law**

20 3-303.

21 (a) A person may not:

22 (1) engage in vaginal intercourse with another by force, or the threat of
23 force, without the consent of the other; and

24 (2) (i) employ or display a dangerous weapon, or a physical object that
25 the victim reasonably believes is a dangerous weapon;

26 (ii) suffocate, strangle, disfigure, or inflict serious physical injury
27 on the victim or another in the course of committing the crime;

1 (iii) threaten, or place the victim in fear, that the victim, or an
2 individual known to the victim, imminently will be subject to death, suffocation,
3 strangulation, disfigurement, serious physical injury, or kidnapping;

4 (iv) commit the crime while aided and abetted by another; or

5 (v) commit the crime in connection with a burglary in the first,
6 second, or third degree.

7 (b) A person who violates this section is guilty of the felony of rape in the first
8 degree and on conviction [is subject] SHALL BE SENTENCED to:

9 (1) imprisonment FOR not LESS THAN 10 YEARS AND NOT exceeding life;
10 or

11 (2) if the person is convicted in the same proceeding of violating §
12 3-503(a)(2) of this article and the victim was a child under the age of 16 years,
13 imprisonment FOR not LESS THAN 10 YEARS AND NOT exceeding life without the
14 possibility of parole.

15 (c) If the State intends to seek a sentence of imprisonment for life without the
16 possibility of parole under subsection (b)(2) of this section, the State shall notify the
17 person in writing of the State's intention at least 30 days before trial.

18 (D) (1) NOTWITHSTANDING § 14-102 OF THIS ARTICLE, THE COURT MAY NOT
19 IMPOSE LESS THAN THE MANDATORY MINIMUM SENTENCE OF 10 YEARS.

20 (2) THE COURT MAY NOT SUSPEND THE MANDATORY MINIMUM
21 SENTENCE TO LESS THAN 10 YEARS.

22 (3) EXCEPT AS PROVIDED IN § 4-305 OF THE CORRECTIONAL SERVICES
23 ARTICLE, A PERSON SENTENCED UNDER THIS SECTION IS NOT ELIGIBLE FOR
24 PAROLE IN LESS THAN 10 YEARS.

25 3-305.

26 (a) A person may not:

27 (1) engage in a sexual act with another by force, or the threat of force,
28 without the consent of the other; and

29 (2) (i) employ or display a dangerous weapon, or a physical object that
30 the victim reasonably believes is a dangerous weapon;

31 (ii) suffocate, strangle, disfigure, or inflict serious physical injury
32 on the victim or another in the course of committing the crime;

33 (iii) threaten, or place the victim in fear, that the victim, or an
34 individual known to the victim, imminently will be subject to death, suffocation,
35 strangulation, disfigurement, serious physical injury, or kidnapping;

1 (iv) commit the crime while aided and abetted by another; or

2 (v) commit the crime in connection with a burglary in the first,
3 second, or third degree.

4 (b) A person who violates this section is guilty of the felony of sexual offense in
5 the first degree and on conviction [is subject] SHALL BE SENTENCED to:

6 (1) imprisonment FOR not LESS THAN 10 YEARS AND NOT exceeding life;
7 or

8 (2) if the person is convicted in the same proceeding of violating §
9 3-503(a)(2) of this article and the victim was a child under the age of 16 years,
10 imprisonment for NOT LESS THAN 10 YEARS AND NOT EXCEEDING life without the
11 possibility of parole.

12 (c) If the State intends to seek a sentence of imprisonment for life without the
13 possibility of parole under subsection (b)(2) of this section, the State shall notify the
14 person in writing of the State's intention at least 30 days before trial.

15 (D) (1) NOTWITHSTANDING § 14-102 OF THIS ARTICLE, THE COURT MAY NOT
16 IMPOSE LESS THAN THE MANDATORY MINIMUM SENTENCE OF 10 YEARS.

17 (2) THE COURT MAY NOT SUSPEND THE MANDATORY MINIMUM
18 SENTENCE TO LESS THAN 10 YEARS.

19 (3) EXCEPT AS PROVIDED IN § 4-305 OF THE CORRECTIONAL SERVICES
20 ARTICLE, A PERSON SENTENCED UNDER THIS SECTION IS NOT ELIGIBLE FOR
21 PAROLE IN LESS THAN 10 YEARS.

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