

SENATE BILL 801

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2002 Regular Session  
(2lr1542)

**ENROLLED BILL**  
-- Judicial Proceedings/Judiciary --

Introduced by **Senators Ferguson, Baker, Astle, Blount, Bromwell, Colburn, Collins, DeGrange, Della, Dyson, Green, Hafer, Haines, Harris, Hoffman, Hogan, Hooper, Jacobs, Jimeno, Kittleman, Middleton, Miller, Mitchell, Mooney, Munson, Neall, Roesser, Schrader, Sfikas, Stoltzfus, Stone, and Van Hollen**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this  
\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_ M.

\_\_\_\_\_  
President.

CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 ~~Christopher's Law II - Repeat Child Sexual Offenses~~ Crimes - First Degree  
3 Rape and Sexual Offense - Subsequent Offenders - Imprisonment for Life  
4 Without the Possibility of Parole

5 FOR the purpose of establishing a penalty of imprisonment not exceeding life without  
6 the possibility of parole for a person who commits certain sexual offenses  
7 ~~involving a child under a certain age~~ if the person was previously convicted of  
8 certain sexual offenses ~~involving a child under a certain age; requiring the State~~  
9 ~~to provide certain notice if the State intends to seek a penalty of imprisonment~~  
10 ~~for life without the possibility of parole~~ under certain circumstances; providing  
11 for the application of this Act; and generally relating to repeat ~~child~~ sexual  
12 offenses and imprisonment for life without the possibility of parole.

13 BY repealing and reenacting, with amendments,

1 Article - Criminal Law  
 2 Section 3-303 ~~through 3-306 and 3-305~~  
 3 Annotated Code of Maryland  
 4 (As enacted by Chapter \_\_\_(H.B.11) of the Acts of the General Assembly of 2002)

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

7 **Article - Criminal Law**

8 3-303.

9 (a) A person may not:

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

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

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

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

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

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

22 (b) (1) [A] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,  
 23 A person who violates this section is guilty of the felony of rape in the first degree and  
 24 on conviction is subject to:

25 (1)] imprisonment not exceeding life[; or].

26 (2) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF THE FELONY  
 27 OF RAPE IN THE FIRST DEGREE AND ~~UPON~~ ON CONVICTION IS SUBJECT TO  
 28 IMPRISONMENT NOT EXCEEDING LIFE WITHOUT THE POSSIBILITY OF PAROLE IF:

29 (I) [if] the person is convicted in the same proceeding of violating §  
 30 3-503(a)(2) of this article and the victim was a child under the age of 16 [years,]  
 31 YEARS; OR

32 (II) THE DEFENDANT WAS PREVIOUSLY CONVICTED OF VIOLATING  
 33 THIS SECTION OR ~~§§ 3-304, 3-305, OR 3-306 § 3-304, § 3-305, OR § 3-306 OF THIS ARTICLE~~  
 34 ~~AND THE VICTIM IN THE PREVIOUS VIOLATION WAS A CHILD UNDER THE AGE OF 16~~

1 ~~YEARS~~ § 3-305 OF THIS SUBTITLE [imprisonment not exceeding life without the  
2 possibility of parole].

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

6 ~~3-304.~~

7 (a) ~~A person may not engage in vaginal intercourse with another:~~

8 (1) ~~by force, or the threat of force, without the consent of the other;~~

9 (2) ~~if the victim is a mentally defective individual, a mentally~~  
10 ~~incapacitated individual, or a physically helpless individual, and the person~~  
11 ~~performing the act knows or reasonably should know that the victim is a mentally~~  
12 ~~defective individual, a mentally incapacitated individual, or a physically helpless~~  
13 ~~individual; or~~

14 (3) ~~if the victim is under the age of 14 years, and the person performing~~  
15 ~~the act is at least 4 years older than the victim.~~

16 (b) (1) ~~[A] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A~~  
17 ~~person who violates this section is guilty of the felony of rape in the second degree and~~  
18 ~~on conviction is subject to imprisonment not exceeding 20 years.~~

19 (2) ~~A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF THE FELONY~~  
20 ~~OF RAPE IN THE SECOND DEGREE AND ON CONVICTION IS SUBJECT TO~~  
21 ~~IMPRISONMENT NOT EXCEEDING LIFE WITHOUT THE POSSIBILITY OF PAROLE IF:~~

22 (I) ~~THE VICTIM WAS A CHILD UNDER THE AGE OF 16 YEARS;~~

23 (II) ~~THE DEFENDANT WAS PREVIOUSLY CONVICTED OF VIOLATING~~  
24 ~~THIS SECTION OR §§ 3-303, 3-305, OR 3-306 § 3-303, § 3-305, OR § 3-306 OF THIS ARTICLE~~  
25 ~~AND THE VICTIM IN THE PREVIOUS VIOLATION WAS A CHILD UNDER THE AGE OF 16~~  
26 ~~YEARS.~~

27 (C) ~~IF THE STATE INTENDS TO SEEK A SENTENCE OF IMPRISONMENT~~  
28 ~~FOR LIFE WITHOUT THE POSSIBILITY OF PAROLE UNDER SUBSECTION (B)(2) OF THIS~~  
29 ~~SECTION, THE STATE SHALL NOTIFY THE PERSON IN WRITING OF THE STATE'S~~  
30 ~~INTENTION AT LEAST 30 DAYS BEFORE THE TRIAL.~~

31 3-305.

32 (a) A person may not:

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

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

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

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

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

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

9 (b) (1) [A] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A  
10 person who violates this section is guilty of the felony of sexual offense in the first  
11 degree and on conviction is subject to[:

12 (1)] imprisonment not exceeding life[; or].

13 (2) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF THE FELONY  
14 OF SEXUAL OFFENSE IN THE FIRST DEGREE AND ~~UPON~~ ON CONVICTION IS SUBJECT  
15 TO IMPRISONMENT NOT EXCEEDING LIFE WITHOUT THE POSSIBILITY OF PAROLE IF:

16 (I) [if] the person is convicted in the same proceeding of violating §  
17 3-503(a)(2) of this article and the victim was a child under the age of 16 [years,]  
18 YEARS; OR

19 (II) THE DEFENDANT WAS PREVIOUSLY CONVICTED OF VIOLATING  
20 THIS SECTION OR ~~§§ 3-303, 3-304, OR 3-306~~ § 3-303, § 3-304, OR § 3-306 OF THIS ARTICLE  
21 AND THE VICTIM IN THE PREVIOUS VIOLATION WAS A CHILD UNDER THE AGE OF 16  
22 YEARS OF THIS SUBTITLE [imprisonment for life without the possibility of parole].

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

26 ~~3-306.~~

27 (a) ~~A person may not engage in a sexual act with another:~~

28 (1) ~~by force, or the threat of force, without the consent of the other;~~

29 (2) ~~if the victim is a mentally defective individual, a mentally~~  
30 ~~incapacitated individual, or a physically helpless individual, and the person~~  
31 ~~performing the sexual act knows or reasonably should know that the victim is a~~  
32 ~~mentally defective individual, a mentally incapacitated individual, or a physically~~  
33 ~~helpless individual; or~~

34 (3) ~~if the victim is under the age of 14 years, and the person performing~~  
35 ~~the sexual act is at least 4 years older than the victim.~~

1 (b) (1) ~~[A] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,~~  
2 ~~A person who violates this section is guilty of the felony of sexual offense in the second~~  
3 ~~degree and on conviction is subject to imprisonment not exceeding 20 years.~~

4 (2) ~~A PERSON WHO VIOLATES THE PROVISIONS OF THIS SECTION IS~~  
5 ~~GUILTY OF THE FELONY OF SEXUAL OFFENSE IN THE SECOND DEGREE AND ON~~  
6 ~~CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING LIFE WITHOUT THE~~  
7 ~~POSSIBILITY OF PAROLE IF:~~

8 (I) ~~THE VICTIM WAS A CHILD UNDER THE AGE OF 16 YEARS;~~

9 (II) ~~THE DEFENDANT WAS PREVIOUSLY CONVICTED OF VIOLATING~~  
10 ~~THIS SECTION OR §§ 3-303, 3-304, OR 3-305 § 3-303, § 3-304, OR § 3-305 OF THIS ARTICLE~~  
11 ~~AND THE VICTIM IN THE PREVIOUS VIOLATION WAS A CHILD UNDER THE AGE OF 16~~  
12 ~~YEARS.~~

13 (C) ~~IF THE STATE INTENDS TO SEEK A SENTENCE OF IMPRISONMENT FOR~~  
14 ~~LIFE WITHOUT THE POSSIBILITY OF PAROLE UNDER SUBSECTION (B)(2) OF THIS~~  
15 ~~SECTION, THE STATE SHALL NOTIFY THE PERSON IN WRITING OF THE STATE'S~~  
16 ~~INTENTION AT LEAST 30 DAYS BEFORE THE TRIAL.~~

17 ~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be~~  
18 ~~construed to apply only prospectively and may not be applied or interpreted to have~~  
19 ~~any effect on or application to any offense committed before the effective date of this~~  
20 ~~Act.~~

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be  
22 construed to apply to subsequent offenses committed on or after the effective date of  
23 this Act:

24 (1) regardless of whether the previous conviction was for an offense  
25 committed before, on, or after the effective date of this Act; and

26 (2) if the subsequent offense was committed after the date of conviction for  
27 the prior offense.

28 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
29 October 1, 2002.