

SENATE BILL 801

Unofficial Copy
E2
SB 673/01 - JPR

2002 Regular Session
2lr1542

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**

Introduced and read first time: February 11, 2002
Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Christopher's Law II - Repeat Child Sexual Offenses - Imprisonment for Life**
3 **Without the Possibility of Parole**

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

12 BY repealing and reenacting, with amendments,
13 Article - Criminal Law
14 Section 3-303 through 3-306
15 Annotated Code of Maryland
16 (As enacted by Chapter ___(H.B.11) of the Acts of the General Assembly of 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

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

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

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

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

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

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

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

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

18 (I) [if] the person is convicted in the same proceeding of violating §
19 3-503(a)(2) of this article and the victim was a child under the age of 16 [years,]
20 YEARS; OR

21 (II) THE DEFENDANT WAS PREVIOUSLY CONVICTED OF VIOLATING
22 THIS SECTION OR §§ 3-304, 3-305, OR 3-306 OF THIS ARTICLE AND THE VICTIM IN THE
23 PREVIOUS VIOLATION WAS A CHILD UNDER THE AGE OF 16 YEARS [imprisonment not
24 exceeding life without the possibility of parole].

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

28 3-304.

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

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

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

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

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

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

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

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

13 (C) IF THE STATE INTENDS TO SEEK A SENTENCE OF IMPRISONMENT
14 FOR 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 3-305.

18 (a) A person may not:

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

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

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

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

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

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

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

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

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

4 (I) [if] the person is convicted in the same proceeding of violating §
5 3-503(a)(2) of this article and the victim was a child under the age of 16 [years,]
6 YEARS; OR

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

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

14 3-306.

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

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

17 (2) if the victim is a mentally defective individual, a mentally
18 incapacitated individual, or a physically helpless individual, and the person
19 performing the sexual act knows or reasonably should know that the victim is a
20 mentally defective individual, a mentally incapacitated individual, or a physically
21 helpless individual; or

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

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

27 (2) A PERSON WHO VIOLATES THE PROVISIONS OF THIS SECTION IS
28 GUILTY OF THE FELONY OF SEXUAL OFFENSE IN THE SECOND DEGREE AND ON
29 CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING LIFE WITHOUT THE
30 POSSIBILITY OF PAROLE IF:

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

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

35 (C) IF THE STATE INTENDS TO SEEK A SENTENCE OF IMPRISONMENT FOR
36 LIFE WITHOUT THE POSSIBILITY OF PAROLE UNDER SUBSECTION (B)(2) OF THIS

1 SECTION, THE STATE SHALL NOTIFY THE PERSON IN WRITING OF THE STATE'S
2 INTENTION AT LEAST 30 DAYS BEFORE THE TRIAL.

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

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