

SENATE BILL 801

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SB 673/01 - JPR

2002 Regular Session
2r1542

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
Re-referred to: Judicial Proceedings, February 18, 2002

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: March 19, 2002

CHAPTER _____

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:

1

Article - Criminal Law

2 3-303.

3 (a) A person may not:

4 (1) engage in vaginal intercourse with another by force, or the threat of
5 force, without the consent of the other; and6 (2) (i) employ or display a dangerous weapon, or a physical object that
7 the victim reasonably believes is a dangerous weapon;8 (ii) suffocate, strangle, disfigure, or inflict serious physical injury
9 on the victim or another in the course of committing the crime;10 (iii) threaten, or place the victim in fear, that the victim, or an
11 individual known to the victim, imminently will be subject to death, suffocation,
12 strangulation, disfigurement, serious physical injury, or kidnapping;

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

14 (v) commit the crime in connection with a burglary in the first,
15 second, or third degree.16 (b) (1) [A] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,
17 A person who violates this section is guilty of the felony of rape in the first degree and
18 on conviction is subject to[

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

20 (2) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF THE FELONY
21 OF RAPE IN THE FIRST DEGREE AND UPON CONVICTION IS SUBJECT TO
22 IMPRISONMENT NOT EXCEEDING LIFE WITHOUT THE POSSIBILITY OF PAROLE IF:23 (I) [if] the person is convicted in the same proceeding of violating §
24 3-503(a)(2) of this article and the victim was a child under the age of 16 [years,]
25 YEARS; OR26 (II) THE DEFENDANT WAS PREVIOUSLY CONVICTED OF VIOLATING
27 THIS SECTION OR ~~§§ 3-304, 3-305, OR 3-306~~ § 3-304, § 3-305, OR § 3-306 OF THIS ARTICLE
28 AND THE VICTIM IN THE PREVIOUS VIOLATION WAS A CHILD UNDER THE AGE OF 16
29 YEARS [imprisonment not exceeding life without the possibility of parole].30 (c) If the State intends to seek a sentence of imprisonment for life without the
31 possibility of parole under subsection (b)(2) of this section, the State shall notify the
32 person in writing of the State's intention at least 30 days before trial.

33 3-304.

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

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

2 (2) if the victim is a mentally defective individual, a mentally
3 incapacitated individual, or a physically helpless individual, and the person
4 performing the act knows or reasonably should know that the victim is a mentally
5 defective individual, a mentally incapacitated individual, or a physically helpless
6 individual; or

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

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 rape in the second degree and
11 on conviction is subject to imprisonment not exceeding 20 years.

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

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

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

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

24 3-305.

25 (a) A person may not:

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

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

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

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

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

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

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 sexual offense in the first
5 degree and on conviction is subject to[:

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

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

10 (I) [if] the person is convicted in the same proceeding of violating §
11 3-503(a)(2) of this article and the victim was a child under the age of 16 [years,]
12 YEARS; OR

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

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

20 3-306.

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

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

23 (2) if the victim is a mentally defective individual, a mentally
24 incapacitated individual, or a physically helpless individual, and the person
25 performing the sexual act knows or reasonably should know that the victim is a
26 mentally defective individual, a mentally incapacitated individual, or a physically
27 helpless individual; or

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

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

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

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

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

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

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

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