By: **Senators Brochin and Stone** Introduced and read first time: January 21, 2004 Assigned to: Judicial Proceedings

## A BILL ENTITLED

1 AN ACT concerning

2	Parole Eligibility - Child Abuse in the First Degree - Violent Crime					
4 parole 5 circum	5 circumstances to include the felony of child abuse in the first degree; and					
<ul> <li>7 BY repealing and reenacting, with amendments,</li> <li>8 Article - Correctional Services</li> <li>9 Section 7-101(m)</li> <li>10 Annotated Code of Maryland</li> <li>11 (1999 Volume and 2003 Supplement)</li> </ul>						
<ol> <li>Article</li> <li>Article</li> <li>Section</li> <li>Annota</li> </ol>	ng and reenacting, without amendments, - Correctional Services a 7-301 and 7-401 ated Code of Maryland Volume and 2003 Supplement)					
	ON 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF ND, That the Laws of Maryland read as follows:					
19	<b>Article - Correctional Services</b>					
20 7-101.						
21 (m)	"Violent crime" means:					
22 23 Article; [or	(1) a crime of violence as defined in § 14-101 of the Criminal Law					
24	(2) burglary in the first, second, or third degree; OR					
25 26 CRIMINA	(3) CHILD ABUSE IN THE FIRST DEGREE UNDER § 3-601 OF THE L LAW ARTICLE.					

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1 7-301.						
2 (a) (1) Except as otherwise provided in this section, the Commission shall 3 request that the Division of Parole and Probation make an investigation for inmates 4 in a local correctional facility and the Division of Correction make an investigation for 5 inmates in a State correctional facility that will enable the Commission to determine 6 the advisability of granting parole to an inmate who:						
7 (i) has been sentenced under the laws of the State to serve a term 8 of 6 months or more in a correctional facility; and						
9 (ii) has served in confinement one-fourth of the inmate's aggregate 10 sentence.	9					
11 (2) Except as otherwise provided by law or in a predetermined parole 12 release agreement, an inmate is not eligible for parole until the inmate has served in 13 confinement one-fourth of the inmate's aggregate sentence.						
14 (b) Except as provided in subsection (c) of this section, if an inmate has been 15 sentenced to a term of imprisonment during which the inmate is eligible for parole 16 and a term of imprisonment during which the inmate is not eligible for parole, the 17 inmate is not eligible for parole consideration under subsection (a) of this section until 18 the inmate has served the greater of:						
19 (1) one-fourth of the inmate's aggregate sentence; or						
20 (2) a period equal to the term during which the inmate is not eligible for 21 parole.						
<ul> <li>(c) (1) (i) Except as provided in subparagraph (ii) of this paragraph, an</li> <li>inmate who has been sentenced to the Division of Correction after being convicted of</li> <li>a violent crime committed on or after October 1, 1994, is not eligible for parole until</li> <li>the inmate has served the greater of:</li> </ul>						
261.one-half of the inmate's aggregate sentence for violen27 crimes; or	lt					
28 2. one-fourth of the inmate's total aggregate sentence.						
29 (ii) An inmate who has been sentenced to the Division of Correction 30 after being convicted of a violent crime committed on or after October 1, 1994, and 31 who has been sentenced to more than one term of imprisonment, including a term 32 during which the inmate is eligible for parole and a term during which the inmate is 33 not eligible for parole, is not eligible for parole until the inmate has served the greater 34 of:						
35 1. one-half of the inmate's aggregate sentence for violen						
36 crimes;	ıt					

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3. a period equal to the term during which the inmate is not 2 eligible for parole. (2)An inmate who is serving a term of imprisonment for a violent crime 4 committed on or after October 1, 1994, shall receive an administrative review of the 5 inmate's progress in the correctional facility after the inmate has served the greater 6 of: (i) one-fourth of the inmate's aggregate sentence; or if the inmate is serving a term of imprisonment that includes a (ii) 9 mandatory term during which the inmate is not eligible for parole, a period equal to 10 the term during which the inmate is not eligible for parole. (d) (1)Except as provided in paragraphs (2) and (3) of this subsection, an 12 inmate who has been sentenced to life imprisonment is not eligible for parole 13 consideration until the inmate has served 15 years or the equivalent of 15 years 14 considering the allowances for diminution of the inmate's term of confinement under 15 § 6-218 of the Criminal Procedure Article and Title 3, Subtitle 7 of this article. An inmate who has been sentenced to life imprisonment as a result of (2)17 a proceeding under § 2-303 or § 2-304 of the Criminal Law Article is not eligible for 18 parole consideration until the inmate has served 25 years or the equivalent of 25 19 years considering the allowances for diminution of the inmate's term of confinement 20 under § 6-218 of the Criminal Procedure Article and Title 3, Subtitle 7 of this article. If an inmate has been sentenced to imprisonment for life (3)(i) 22 without the possibility of parole under § 2-203 or § 2-304 of the Criminal Law Article, 23 the inmate is not eligible for parole consideration and may not be granted parole at 24 any time during the inmate's sentence. This paragraph does not restrict the authority of the Governor (ii) 26 to pardon or remit any part of a sentence under § 7-601 of this title. If eligible for parole under this subsection, an inmate serving a term (4)28 of life imprisonment may only be paroled with the approval of the Governor. 29 7-401. If a parolee is alleged to have violated a condition of parole, one (a) 31 commissioner shall hear the case on revocation of the parole at the time and place 32 that the Commission designates. Each individual charged with a parole violation is entitled to be (b) (1)34 represented by counsel of the individual's choice or, if eligible, counsel provided by the 35 Public Defender's office. (2)The Commission shall keep a record of the hearing.

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	(c) If the commissioner finds from the evidence that the parolee has violated a condition of parole, the commissioner may take any action that the commissioner considers appropriate, including:					
4	(1)	(i)	revoking the order of parole;			
5		(ii)	setting a future hearing date for consideration for reparole; and			
6 7 correctional	facility	(iii) from whic	remanding the individual to the Division of Correction or local ch the individual was paroled; or			
8	(2)	continu	ing parole:			
9		(i)	without modification of its conditions; or			
<ul><li>10</li><li>11 the parolee</li><li>12 program.</li></ul>	spend al	(ii) l or part o	with modification of its conditions, including a requirement that of the remaining parole period in a home detention			
<ul> <li>(d) (1) Subject to paragraph (2) of this subsection and further action by the</li> <li>Commission, if the order of parole is revoked, the inmate shall serve the remainder of</li> <li>the sentence originally imposed unless the commissioner hearing the parole</li> <li>revocation, in the commissioner's discretion, grants credit for time between release on</li> <li>parole and revocation of parole.</li> </ul>						
18 19 and revocat	(2) ion of pa		ate may not receive credit for time between release on parole			
20 21 parole was	revoked;	(i) and	the inmate was serving a sentence for a violent crime when			
<ul><li>22</li><li>23 committed a</li></ul>	a violent	(ii) crime wł	the parole was revoked due to a finding that the inmate nile on parole.			
24 (e) 25 days after re	(1) eceiving		nate may seek judicial review in the circuit court within 30 en decision of the Commission.			
26	(2)	The co	urt shall hear the action on the record.			
27SECTION28October 1, 2		ND BE I'I	FURTHER ENACTED, That this Act shall take effect			

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