
By: **Senators Stone, Haines, Jacobs, and Jimeno**
Introduced and read first time: January 30, 2004
Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure - Sexually Violent Predators - Sentencing**

3 FOR the purpose of requiring that a person found to be a sexually violent predator
4 under a certain provision of law shall be sentenced to imprisonment for life
5 without the possibility of parole; providing for the application of this Act; and
6 generally relating to the sentencing of sexually violent predators.

7 BY repealing and reenacting, without amendments,
8 Article - Criminal Procedure
9 Section 11-701(a), (g), and (h)
10 Annotated Code of Maryland
11 (2001 Volume and 2003 Supplement)

12 BY repealing and reenacting, with amendments,
13 Article - Criminal Procedure
14 Section 11-703
15 Annotated Code of Maryland
16 (2001 Volume and 2003 Supplement)

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

19 **Article - Criminal Procedure**

20 11-701.

21 (a) In this subtitle the following words have the meanings indicated.

22 (g) "Sexually violent offense" means:

23 (1) a violation of §§ 3-303 through 3-307 or §§ 3-309 through 3-312 of
24 the Criminal Law Article;

1 (2) assault with intent to commit rape in the first or second degree or a
2 sexual offense in the first or second degree as prohibited on or before September 30,
3 1996, under former Article 27, § 12 of the Code; or

4 (3) a crime committed in another state or in a federal, military, or Native
5 American tribal jurisdiction that, if committed in this State, would constitute one of
6 the crimes listed in item (1) or (2) of this subsection.

7 (h) "Sexually violent predator" means:

8 (1) a person who:

9 (i) is convicted of a sexually violent offense; and

10 (ii) has been determined in accordance with this subtitle to be at
11 risk of committing another sexually violent offense; or

12 (2) a person who is or was required to register every 90 days for life
13 under the laws of another state or a federal, military, or Native American tribal
14 jurisdiction.

15 11-703.

16 (a) (1) Subject to subsections (b) and (c) of this section, if a person is
17 convicted of a sexually violent offense, the State's Attorney before sentencing may ask
18 the court to determine whether the person is a sexually violent predator.

19 (2) If the State's Attorney makes a request under paragraph (1) of this
20 subsection, the court shall determine, before or at sentencing, whether the person is a
21 sexually violent predator.

22 (b) In making a determination under subsection (a) of this section, the court
23 shall consider:

24 (1) evidence that the court considers appropriate to the determination of
25 whether the person is a sexually violent predator, including the presentencing
26 investigation and sexually violent offender's inmate record;

27 (2) evidence introduced by the person convicted; and

28 (3) at the request of the State's Attorney, evidence that a victim of the
29 sexually violent offense presents.

30 (c) The State's Attorney may not ask a court to determine whether a person is
31 a sexually violent predator under this section unless the State's Attorney serves
32 written notice of intent to make the request on the defendant or the defendant's
33 counsel at least 30 days before trial.

34 (D) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A PERSON FOUND TO
35 BE A SEXUALLY VIOLENT PREDATOR PURSUANT TO THIS SECTION SHALL BE
36 SENTENCED TO IMPRISONMENT FOR LIFE WITHOUT THE POSSIBILITY OF PAROLE.

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

5 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 October 1, 2004.