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By: **Delegates Quinter and Shank**

Introduced and read first time: February 11, 2005

Assigned to: Judiciary

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: April 5, 2005

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CHAPTER\_\_\_\_\_

1 AN ACT concerning

2 **Criminal Procedure - Crimes of Violence - ~~Abuse and Sexual Abuse of a~~**  
3 **Child Child Abuse**

4 FOR the purpose of adding the ~~crimes~~ crime of child abuse in the first degree ~~and~~  
5 ~~sexual abuse of a minor under a certain age~~ to the list of crimes of violence for  
6 which certain enhanced penalties shall be applied to certain offenders; and  
7 generally relating to crimes of violence.

8 BY repealing and reenacting, with amendments,  
9 Article - Criminal Law  
10 Section 14-101  
11 Annotated Code of Maryland  
12 (2002 Volume and 2004 Supplement)

13 ~~BY repealing and reenacting, without amendments,~~  
14 ~~Article - Public Safety~~  
15 ~~Section 5-101(a)~~  
16 ~~Annotated Code of Maryland~~  
17 ~~(2003 Volume and 2004 Supplement)~~

18 ~~BY repealing and reenacting, with amendments,~~  
19 ~~Article - Public Safety~~  
20 ~~Section 5-101(e)~~  
21 ~~Annotated Code of Maryland~~  
22 ~~(2003 Volume and 2004 Supplement)~~

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

3 **Article - Criminal Law**

4 14-101.

5 (a) In this section, "crime of violence" means:

6 (1) abduction;

7 (2) arson in the first degree;

8 (3) kidnapping;

9 (4) manslaughter, except involuntary manslaughter;

10 (5) mayhem;

11 (6) maiming, as previously proscribed under former Article 27, §§ 385  
12 and 386 of the Code;

13 (7) murder;

14 (8) rape;

15 (9) robbery under § 3-402 or § 3-403 of this article;

16 (10) carjacking;

17 (11) armed carjacking;

18 (12) sexual offense in the first degree;

19 (13) sexual offense in the second degree;

20 (14) use of a handgun in the commission of a felony or other crime of  
21 violence;

22 (15) CHILD ABUSE IN THE FIRST DEGREE UNDER § 3-601 OF THIS  
23 ARTICLE;

24 (16) ~~SEXUAL ABUSE OF A MINOR UNDER § 3-602 OF THIS ARTICLE~~  
25 ~~COMMITTED ON A MINOR UNDER THE AGE OF 14 YEARS;~~

26 [(15)] ~~(17)~~ an attempt to commit any of the crimes described in items (1)  
27 through [(14)] (15) of this subsection;

28 [(16)] ~~(18)~~ (17) assault in the first degree;

29 [(17)] ~~(19)~~ (18) assault with intent to murder;

- 1            [(18)]    ~~(20)~~    (19)    assault with intent to rape;
- 2            [(19)]    ~~(21)~~    (20)    assault with intent to rob;
- 3            [(20)]    ~~(22)~~    (21)    assault with intent to commit a sexual offense in the  
4 first degree; and
- 5            [(21)]    ~~(23)~~    (22)    assault with intent to commit a sexual offense in the  
6 second degree.

7            (b)        This section does not apply if a person is sentenced to death.

8            (c)        (1)        Except as provided in subsection (g) of this section, on conviction for  
9 a fourth time of a crime of violence, a person who has served three separate terms of  
10 confinement in a correctional facility as a result of three separate convictions of any  
11 crime of violence shall be sentenced to life imprisonment without the possibility of  
12 parole.

13            (2)        Notwithstanding any other law, the provisions of this subsection are  
14 mandatory.

15            (d)        (1)        Except as provided in subsection (g) of this section, on conviction for  
16 a third time of a crime of violence, a person shall be sentenced to imprisonment for  
17 the term allowed by law but not less than 25 years, if the person:

18                            (i)        has been convicted of a crime of violence on two prior separate  
19 occasions:

20    1.        in which the second or succeeding crime is committed after  
21 there has been a charging document filed for the preceding occasion; and

22    2.        for which the convictions do not arise from a single  
23 incident; and

24                            (ii)       has served at least one term of confinement in a correctional  
25 facility as a result of a conviction of a crime of violence.

26            (2)        The court may not suspend all or part of the mandatory 25-year  
27 sentence required under this subsection.

28            (3)        A person sentenced under this subsection is not eligible for parole  
29 except in accordance with the provisions of § 4-305 of the Correctional Services  
30 Article.

31            (e)        (1)        On conviction for a second time of a crime of violence committed on or  
32 after October 1, 1994, a person shall be sentenced to imprisonment for the term  
33 allowed by law, but not less than 10 years, if the person:

34                            (i)        has been convicted on a prior occasion of a crime of violence,  
35 including a conviction for a crime committed before October 1, 1994; and

1 (ii) served a term of confinement in a correctional facility for that  
2 conviction.

3 (2) The court may not suspend all or part of the mandatory 10-year  
4 sentence required under this subsection.

5 (f) If the State intends to proceed against a person as a subsequent offender  
6 under this section, it shall comply with the procedures set forth in the Maryland  
7 Rules for the indictment and trial of a subsequent offender.

8 (g) (1) A person sentenced under this section may petition for and be  
9 granted parole if the person:

10 (i) is at least 65 years old; and

11 (ii) has served at least 15 years of the sentence imposed under this  
12 section.

13 (2) The Maryland Parole Commission shall adopt regulations to  
14 implement this subsection.

15 **~~Article – Public Safety~~**

16 ~~5-101.~~

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

18 (e) ~~"Crime of violence" means:~~

19 (1) ~~abduction;~~

20 (2) ~~arson in the first degree;~~

21 (3) ~~assault in the first or second degree;~~

22 (4) ~~burglary in the first, second, or third degree;~~

23 (5) ~~carjacking and armed carjacking;~~

24 (6) ~~escape in the first degree;~~

25 (7) ~~kidnapping;~~

26 (8) ~~voluntary manslaughter;~~

27 (9) ~~maiming as previously proscribed under former Article 27, § 386 of~~  
28 ~~the Code;~~

29 (10) ~~mayhem as previously proscribed under former Article 27, § 384 of~~  
30 ~~the Code;~~

1 (11) murder in the first or second degree;

2 (12) rape in the first or second degree;

3 (13) robbery;

4 (14) robbery with a dangerous weapon;

5 (15) sexual offense in the first, second, or third degree;

6 (16) CHILD ABUSE IN THE FIRST DEGREE UNDER § 3-601 OF THE  
7 CRIMINAL LAW ARTICLE;

8 (17) SEXUAL ABUSE OF A MINOR UNDER § 3-602 OF THE CRIMINAL LAW  
9 ARTICLE COMMITTED ON A MINOR UNDER THE AGE OF 14 YEARS;

10 [(16)] (18) an attempt to commit any of the crimes listed in items (1)  
11 through [(15)] (17) of this subsection; or

12 [(17)] (19) assault with intent to commit any of the crimes listed in items  
13 (1) through [(15)] (17) of this subsection or a crime punishable by imprisonment for  
14 more than 1 year.

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take  
16 effect October 1, 2005.