

HOUSE BILL 34

E4, E2, E1

8lr0617

(PRE-FILED)

By: **Delegate Minnick**

Requested: September 7, 2007

Introduced and read first time: January 9, 2008

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Violent Crimes and Sexual Offenses – Diminution Credits and Mandatory**
3 **Minimum Sentencing**

4 FOR the purpose of providing that the term of confinement of an inmate committed to
5 the custody of the Commissioner of Correction for committing certain violent
6 crimes is not subject to the entitlement to certain diminution credits;
7 prohibiting the allowance of diminution credits to an inmate sentenced to a
8 term of confinement for committing certain violent crimes and sentenced to a
9 term of imprisonment in a local correctional facility; repealing certain
10 provisions limiting the number of diminution credits an inmate convicted of
11 certain crimes can earn; increasing the mandatory minimum sentence for the
12 crime of rape in the first degree of a child under the age of 13 years; increasing
13 the mandatory minimum sentence for the crime of sexual offense in the first
14 degree against a child under the age of 13 years; providing for the application of
15 this Act; and generally relating to terms of confinement for inmates convicted of
16 violent crimes and sexual offenses.

17 BY repealing and reenacting, with amendments,
18 Article – Correctional Services
19 Section 3–702, 3–704(b), and 11–502
20 Annotated Code of Maryland
21 (1999 Volume and 2007 Supplement)

22 BY repealing and reenacting, without amendments,
23 Article – Correctional Services
24 Section 7–101(m)
25 Annotated Code of Maryland
26 (1999 Volume and 2007 Supplement)

27 BY repealing and reenacting, with amendments,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – Criminal Law
2 Section 3–303 and 3–305
3 Annotated Code of Maryland
4 (2002 Volume and 2007 Supplement)

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

7 **Article – Correctional Services**

8 3–702.

9 (A) Subject to **SUBSECTION (B) OF THIS SECTION**, § 3–711 of this [subtitle]
10 **SUBTITLE**, and Title 7, Subtitle 5 of this article, an inmate committed to the custody
11 of the Commissioner is entitled to a diminution of the inmate’s term of confinement as
12 provided under this subtitle.

13 (B) **AN INMATE COMMITTED TO THE CUSTODY OF THE COMMISSIONER**
14 **FOR COMMITTING A VIOLENT CRIME, AS DEFINED IN § 7–101 OF THIS ARTICLE,**
15 **IS NOT ENTITLED TO A DIMINUTION OF THE INMATE’S TERM OF CONFINEMENT**
16 **AS PROVIDED UNDER THIS SUBTITLE.**

17 3–704.

18 (b) (1) The deduction allowed under subsection (a) of this section shall be
19 calculated:

20 (i) from the first day of commitment to the custody of the
21 Commissioner through the last day of the inmate’s term of confinement;

22 (ii) except as provided in paragraph (2) of this subsection, at the
23 rate of 10 days for each calendar month; and

24 (iii) on a prorated basis for any portion of a calendar month.

25 (2) If an inmate’s term of confinement includes a consecutive or
26 concurrent sentence for [a crime of violence as defined in § 14–101 of the Criminal
27 Law Article or] a crime of manufacturing, distributing, dispensing, or possessing a
28 controlled dangerous substance in violation of §§ 5–602 through 5–609, § 5–612, or §
29 5–613 of the Criminal Law Article, the deduction described in subsection (a) of this
30 section shall be calculated at the rate of 5 days for each calendar month.

31 7–101.

32 (m) “Violent crime” means:

1 (1) a crime of violence as defined in § 14–101 of the Criminal Law
2 Article; or

3 (2) burglary in the first, second, or third degree.

4 11–502.

5 (A) [An] **EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION,**
6 **AN** inmate who has been sentenced to a term of imprisonment shall be allowed
7 deductions from the inmate’s term of confinement as provided under this subtitle for
8 any period of presentence or postsentence confinement in a local correctional facility.

9 (B) **AN INMATE WHO HAS BEEN SENTENCED TO A TERM OF**
10 **IMPRISONMENT FOR COMMITTING A VIOLENT CRIME, AS DEFINED IN § 7–101 OF**
11 **THIS ARTICLE, MAY NOT BE ALLOWED DEDUCTIONS FROM THE INMATE’S TERM**
12 **OF CONFINEMENT AS PROVIDED UNDER THIS SUBTITLE FOR ANY PERIOD OF**
13 **PRESENTENCE OR POSTSENTENCE CONFINEMENT IN A LOCAL CORRECTIONAL**
14 **FACILITY.**

15 Article – Criminal Law

16 3–303.

17 (a) A person may not:

18 (1) engage in vaginal intercourse with another by force, or the threat
19 of force, without the consent of the other; and

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

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

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

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

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

30 (b) A person may not violate subsection (a) of this section while also violating
31 § 3–503(a)(2) of this title involving a victim who is a child under the age of 16 years.

1 (c) A person 18 years of age or older may not violate subsection (a) of this
2 section involving a victim who is a child under the age of 13 years.

3 (d) (1) Except as provided in paragraphs (2), (3), and (4) of this
4 subsection, a person who violates subsection (a) of this section is guilty of the felony of
5 rape in the first degree and on conviction is subject to imprisonment not exceeding life.

6 (2) A person who violates subsection (b) of this section is guilty of the
7 felony of rape in the first degree and on conviction is subject to imprisonment not
8 exceeding life without the possibility of parole.

9 (3) A person who violates this section is guilty of the felony of rape in
10 the first degree and on conviction is subject to imprisonment not exceeding life without
11 the possibility of parole if the defendant was previously convicted of violating this
12 section or § 3–305 of this subtitle.

13 (4) (i) Subject to subparagraph (iv) of this paragraph, a person 18
14 years of age or older who violates subsection (c) of this section is guilty of the felony of
15 rape in the first degree and on conviction is subject to imprisonment for not less than
16 [25] **30** years and not exceeding life without the possibility of parole.

17 (ii) A court may not suspend any part of the mandatory
18 minimum sentence of [25] **30** years.

19 (iii) The person is not eligible for parole during the mandatory
20 minimum sentence.

21 (iv) If the State fails to comply with subsection (e) of this section,
22 the mandatory minimum sentence shall not apply.

23 (e) If the State intends to seek a sentence of imprisonment for life without
24 the possibility of parole under subsection (d)(2), (3), or (4) of this section, or
25 imprisonment for not less than [25] **30** years under subsection (d)(4) of this section,
26 the State shall notify the person in writing of the State's intention at least 30 days
27 before trial.

28 3–305.

29 (a) A person may not:

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

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

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

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

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

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

9 (b) A person may not violate subsection (a) of this section while also violating
10 § 3–503(a)(2) of this title involving a victim who is a child under the age of 16 years.

11 (c) A person 18 years of age or older may not violate subsection (a) of this
12 section involving a victim who is a child under the age of 13 years.

13 (d) (1) Except as provided in paragraphs (2), (3), and (4) of this
14 subsection, a person who violates subsection (a) of this section is guilty of the felony of
15 sexual offense in the first degree and on conviction is subject to imprisonment not
16 exceeding life.

17 (2) A person who violates subsection (b) of this section is guilty of the
18 felony of sexual offense in the first degree and on conviction is subject to imprisonment
19 not exceeding life without the possibility of parole.

20 (3) A person who violates this section is guilty of the felony of sexual
21 offense in the first degree and on conviction is subject to imprisonment not exceeding
22 life without the possibility of parole if the defendant was previously convicted of
23 violating this section or § 3–303 of this subtitle.

24 (4) (i) Subject to subparagraph (iv) of this paragraph, a person 18
25 years of age or older who violates subsection (c) of this section is guilty of the felony of
26 sexual offense in the first degree and on conviction is subject to imprisonment for not
27 less than [25] **30** years and not exceeding life without the possibility of parole.

28 (ii) A court may not suspend any part of the mandatory
29 minimum sentence of [25] **30** years.

30 (iii) The person is not eligible for parole during the mandatory
31 minimum sentence.

32 (iv) If the State fails to comply with subsection (e) of this section,
33 the mandatory minimum sentence shall not apply.

1 (e) If the State intends to seek a sentence of imprisonment for life without
2 the possibility of parole under subsection (d)(2), (3), or (4) of this section, or
3 imprisonment for not less than [25] **30** years under subsection (d)(4) of this section,
4 the State shall notify the person in writing of the State's intention at least 30 days
5 before trial.

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

10 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
11 October 1, 2008.