

HOUSE BILL 678

E1
HB 1173/16 – JUD

8lr2744

By: **Delegates Buckel, Cluster, Corderman, Glass, Hornberger, Kittleman, Malone, McComas, Parrott, and Rey**

Introduced and read first time: January 31, 2018

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Sentencing – Subsequent Offenders**
3 **(Career Criminal Truth in Sentencing Act)**

4 FOR the purpose of providing that certain subsequent criminal offenders are not entitled
5 to a diminution of their term of confinement; requiring that certain subsequent
6 criminal offenders be sentenced to imprisonment for the maximum term allowed by
7 law; prohibiting the court from suspending all or part of a mandatory sentence for
8 certain subsequent criminal offenders; providing that certain subsequent criminal
9 offenders are not eligible for parole; requiring that the State follow certain
10 procedural rules when prosecuting certain subsequent criminal offenders; and
11 generally relating to sentencing.

12 BY repealing and reenacting, with amendments,
13 Article – Correctional Services
14 Section 3–702(a)
15 Annotated Code of Maryland
16 (2017 Replacement Volume)

17 BY adding to
18 Article – Correctional Services
19 Section 3–702(d)
20 Annotated Code of Maryland
21 (2017 Replacement Volume)

22 BY repealing and reenacting, without amendments,
23 Article – Criminal Law
24 Section 14–101(a) through (d)
25 Annotated Code of Maryland
26 (2012 Replacement Volume and 2017 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY adding to
2 Article – Criminal Law
3 Section 14–104
4 Annotated Code of Maryland
5 (2012 Replacement Volume and 2017 Supplement)

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

8 **Article – Correctional Services**

9 3–702.

10 (a) Subject to subsections (b) [and], (c), **AND (D)** of this section, § 3–711 of this
11 subtitle, and Title 7, Subtitle 5 of this article, an inmate committed to the custody of the
12 Commissioner is entitled to a diminution of the inmate’s term of confinement as provided
13 under this subtitle.

14 **(D) AN INMATE WHO IS SERVING A SENTENCE UNDER § 14–104 OF THE**
15 **CRIMINAL LAW ARTICLE IS NOT ENTITLED TO A DIMINUTION OF THE INMATE’S**
16 **TERM OF CONFINEMENT AS PROVIDED UNDER THIS SUBTITLE.**

17 **Article – Criminal Law**

18 14–101.

19 (a) In this section, “crime of violence” means:

20 (1) abduction;

21 (2) arson in the first degree;

22 (3) kidnapping;

23 (4) manslaughter, except involuntary manslaughter;

24 (5) mayhem;

25 (6) maiming, as previously proscribed under former Article 27, §§ 385 and
26 386 of the Code;

27 (7) murder;

28 (8) rape;

29 (9) robbery under § 3–402 or § 3–403 of this article;

- 1 (10) carjacking;
- 2 (11) armed carjacking;
- 3 (12) sexual offense in the first degree;
- 4 (13) sexual offense in the second degree;
- 5 (14) use of a handgun in the commission of a felony or other crime of
6 violence;
- 7 (15) child abuse in the first degree under § 3–601 of this article;
- 8 (16) sexual abuse of a minor under § 3–602 of this article if:
- 9 (i) the victim is under the age of 13 years and the offender is an
10 adult at the time of the offense; and
- 11 (ii) the offense involved:
- 12 1. vaginal intercourse, as defined in § 3–301 of this article;
- 13 2. a sexual act, as defined in § 3–301 of this article;
- 14 3. an act in which a part of the offender’s body penetrates,
15 however slightly, into the victim’s genital opening or anus; or
- 16 4. the intentional touching, not through the clothing, of the
17 victim’s or the offender’s genital, anal, or other intimate area for sexual arousal,
18 gratification, or abuse;
- 19 (17) home invasion under § 6–202(b) of this article;
- 20 (18) an attempt to commit any of the crimes described in items (1) through
21 (17) of this subsection;
- 22 (19) continuing course of conduct with a child under § 3–315 of this article;
- 23 (20) assault in the first degree;
- 24 (21) assault with intent to murder;
- 25 (22) assault with intent to rape;
- 26 (23) assault with intent to rob;
- 27 (24) assault with intent to commit a sexual offense in the first degree; and

1 (25) assault with intent to commit a sexual offense in the second degree.

2 (b) (1) Except as provided in subsection (f) of this section, on conviction for a
3 fourth time of a crime of violence, a person who has served three separate terms of
4 confinement in a correctional facility as a result of three separate convictions of any crime
5 of violence shall be sentenced to life imprisonment without the possibility of parole.

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

8 (c) (1) Except as provided in subsection (f) of this section, on conviction for a
9 third time of a crime of violence, a person shall be sentenced to imprisonment for the term
10 allowed by law but not less than 25 years, if the person:

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

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

15 2. for which the convictions do not arise from a single
16 incident; and

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

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

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

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

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

28 (ii) served a term of confinement in a correctional facility for that
29 conviction.

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

32 **14–104.**

1 **(A) (1) EXCEPT AS PROVIDED IN § 14-101 OF THIS SUBTITLE, ON**
2 **CONVICTION OF A CRIME, A PERSON SHALL BE SENTENCED TO IMPRISONMENT FOR**
3 **THE MAXIMUM TERM ALLOWED BY LAW IF:**

4 **(I) WITHIN THE LAST 15 YEARS THE PERSON HAS BEEN**
5 **CONVICTED OF AT LEAST THREE OTHER CRIMES ARISING OUT OF SEPARATE ACTS**
6 **OR CIRCUMSTANCES; AND**

7 **(II) AT LEAST TWO OF THE PERSON'S CONVICTIONS ARE**
8 **FELONIES.**

9 **(2) THE COURT MAY NOT SUSPEND ALL OR PART OF THE MANDATORY**
10 **SENTENCE.**

11 **(3) A PERSON IS NOT ELIGIBLE FOR PAROLE DURING THE**
12 **MANDATORY SENTENCE.**

13 **(B) (1) EXCEPT AS PROVIDED IN § 14-101 OF THIS SUBTITLE, ON**
14 **CONVICTION OF A FELONY, A PERSON SHALL BE SENTENCED TO IMPRISONMENT FOR**
15 **THE MAXIMUM TERM ALLOWED BY LAW IF THE PERSON WAS PREVIOUSLY**
16 **SENTENCED UNDER SUBSECTION (A) OF THIS SECTION.**

17 **(2) THE COURT MAY NOT SUSPEND ALL OR PART OF THE MANDATORY**
18 **SENTENCE.**

19 **(3) A PERSON IS NOT ELIGIBLE FOR PAROLE DURING THE**
20 **MANDATORY SENTENCE.**

21 **(C) IF THE STATE INTENDS TO PROCEED AGAINST A PERSON AS A**
22 **SUBSEQUENT OFFENDER UNDER THIS SECTION, IT SHALL COMPLY WITH THE**
23 **PROCEDURES SET FORTH IN THE MARYLAND RULES FOR THE INDICTMENT AND**
24 **TRIAL OF A SUBSEQUENT OFFENDER.**

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
26 October 1, 2018.