
By: The Speaker (Administration) and Delegates Genn, Doory, Preis, Harkins, Perry, Jacobs, E. Burns, Hutchins, D. Murphy, M. Burns, O'Donnell, Valderrama, Bissett, Turner, Finifter, Pitkin, and Morhaim

Introduced and read first time: January 24, 1996

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 18, 1996

CHAPTER _____

1 AN ACT concerning

2 **Maryland Commission on Criminal Sentencing Reform**

3 FOR the purpose of creating a Sentencing and Policy Advisory Commission; providing for
4 the appointment or designation of members of the Commission; establishing that
5 members of the Commission may not receive a salary but shall be reimbursed for
6 certain expenses; designating staff for the Commission; requiring the Commission to
7 hold its first meeting by a certain date; ~~requiring the Commission to perform certain~~
8 ~~duties; granting the Commission certain powers; requiring the Commission to make~~
9 ~~certain recommendations; requiring the Commission to submit certain draft~~
10 ~~legislation to the General Assembly by a certain date; providing for the termination~~
11 ~~of the Commission; defining certain terms; establishing certain policy goals and~~
12 ~~objectives; providing for the application of the established policies; establishing~~
13 ~~certain procedures, powers, and duties; establishing the purposes and objectives of~~
14 ~~the Commission; requiring the Commission to develop a correctional population~~
15 ~~simulation model for certain purposes; requiring the Commission to submit a~~
16 ~~certain report; making this Act subject to a certain contingency; defining certain~~
17 ~~terms;~~and generally relating to the Maryland Commission on Criminal Sentencing
18 Reform.

19 BY adding to

20 Article 41 - Governor - Executive and Administrative Departments

21 Section 18-310

22 Annotated Code of Maryland

23 (1993 Replacement Volume and 1995 Supplement)

2

1 Preamble

2 WHEREAS, The effective administration of justice and protection of public
3 safety require a sentencing and correctional process that has credibility with the general
4 public and with criminal offenders; and

5 WHEREAS, The credibility and effectiveness of the current sentencing and
6 correctional process is diminished by common beliefs that prisoners do not serve an
7 adequate portion of their sentences, that traditional probation and parole supervision are
8 not meaningful punishments, and that there is substantial unwarranted disparity in
9 sentences for similar crimes; and

10 WHEREAS, Over the past 10 years, the Maryland prison population has grown 72
11 percent, from 12,400 to 21,300 inmates, at a cost of more than \$465 million in capital
12 funds and more than \$206 million annually in operating funds, and a substantial portion
13 of the growth has been low level, nonviolent offenders and probation violators; and

14 WHEREAS, The criminal justice system often fails to adequately consider the
15 rights and concerns of victims of crime, and to require offenders to restore to the fullest
16 extent possible the damages they have inflicted on individuals and the community; and

17 WHEREAS, There exist effective intermediate punishments, such as boot camps
18 and home detention, which protect public safety, which serve to punish and incapacitate
19 offenders, which hold offenders accountable to crime victims and the community, and
20 which, because of their emphasis on discipline and the work ethic, are perceived by many
21 offenders to be stricter punishment than incarceration; and

22 WHEREAS, The insufficient availability of intermediate punishments throughout
23 the State means that some offenders receive sentences that are too lenient while other
24 offenders occupy prison space that should be used to lengthen sentences for violent
25 offenders; and

26 WHEREAS, The development of a sentencing structure that provides for a full
27 continuum of intermediate punishments and sufficient determinacy in sentencing is
28 essential to the most effective allocation of correctional resources for the protection of
29 public safety; now, therefore

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

32 **Article 41 - Governor - Executive and Administrative Departments**

33 18-310.

34 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
35 INDICATED.

36 (2) "CHAIRPERSON" MEANS THE CHAIRPERSON OF THE COMMISSION.

37 (3) "COMMISSION" MEANS THE MARYLAND COMMISSION ON CRIMINAL
38 SENTENCING REFORM.

1 (4) ~~"INTERMEDIATE PUNISHMENT CORRECTIONAL OPTIONS~~
2 PROGRAM" MEANS A CRIMINAL SANCTION OTHER THAN TRADITIONAL PROBATION,
3 TRADITIONAL PAROLE, OR TOTAL CONFINEMENT.

4 (5) (I) "DESCRIPTIVE SENTENCING GUIDELINES" MEANS A
5 SENTENCING STRUCTURE THAT REFLECTS THE ACTUAL SENTENCING PRACTICES OF
6 JUDGES IN THE STATE OVER A SPECIFIED PERIOD.

7 (II) "DESCRIPTIVE SENTENCING GUIDELINES" INCLUDES THE
8 CURRENT MARYLAND SENTENCING GUIDELINES.

9 (6) "GOOD TIME CREDITS" MEANS DEDUCTIONS FROM AN INMATE'S
10 TERM OF CONFINEMENT UNDER ARTICLE 27, § 700(D) OF THE CODE.

11 (7) (I) "GUIDED DISCRETION SENTENCING GUIDELINES" MEANS A
12 SENTENCING STRUCTURE THAT INCLUDES:

13 1. ELEMENTS OF DETERMINANT SENTENCING THAT BRING
14 GREATER LEVELS OF RATIONALITY AND UNIFORMITY TO THE SENTENCING
15 PROCESS (SUCH AS PRESUMPTIVE OR ORDINARY SENTENCES); AND

16 2. ELEMENTS OF DISCRETIONARY SENTENCING THAT
17 ALLOW A JUDGE TO IMPOSE A SENTENCE THAT IS FAIR AND JUST UNDER THE
18 CIRCUMSTANCES OF A PARTICULAR CASE (SUCH AS THE ABILITY TO DEPART FROM
19 A PRESUMPTIVE OR ORDINARY SENTENCE UNDER CERTAIN SPECIFIED
20 CIRCUMSTANCES).

21 (II) "GUIDED DISCRETION SENTENCING GUIDELINES" DOES NOT
22 INCLUDE THE FEDERAL SENTENCING GUIDELINES OR ANY SIMILAR TYPE OF
23 MECHANICAL SENTENCING STRUCTURE.

24 (8) "MANDATORY SUPERVISION" HAS THE MEANING STATED IN
25 ARTICLE 41, § 4-501(13) OF THE CODE.

26 (9) "PAROLE" HAS THE MEANING STATED IN ARTICLE 41, § 4-501(5) OF
27 THE CODE.

28 (B) THERE IS A MARYLAND COMMISSION ON CRIMINAL SENTENCING
29 REFORM.

30 (C) THE COMMISSION SHALL CONSIST OF ~~33~~ 18 MEMBERS AS FOLLOWS:

31 (1) A CHAIRPERSON, APPOINTED BY THE GOVERNOR;

32 (2) THE CHIEF JUDGE OF THE MARYLAND COURT OF APPEALS OR A
33 DESIGNEE OF THE CHIEF JUDGE WHO IS A JUDGE OR FORMER JUDGE ON THE
34 MARYLAND COURT OF APPEALS OR THE MARYLAND COURT OF SPECIAL APPEALS;

35 (3) ~~TWO JUDGES~~ ONE JUDGE OF THE CIRCUIT COURT OF MARYLAND,
36 APPOINTED BY THE ~~GOVERNOR~~ CHIEF JUDGE OF THE COURT OF APPEALS;

37 (4) ~~TWO JUDGES~~ ONE JUDGE OF THE DISTRICT COURT OF MARYLAND,
38 APPOINTED BY THE ~~GOVERNOR~~ CHIEF JUDGE OF THE DISTRICT COURT;

1 (5) THE ATTORNEY GENERAL OR A DESIGNEE OF THE ATTORNEY
2 GENERAL;

3 (6) ~~TWO ONE~~ STATE'S ATTORNEYS ATTORNEY WHO ~~ARE~~ IS
4 RECOMMENDED BY THE PRESIDENT OF THE MARYLAND STATE'S ATTORNEYS
5 ASSOCIATION, APPOINTED BY THE GOVERNOR;

6 (7) THE MARYLAND PUBLIC DEFENDER OR A DESIGNEE OF THE PUBLIC
7 DEFENDER;

8 (8) A CRIMINAL DEFENSE ATTORNEY WHO IS RECOMMENDED BY THE
9 PRESIDENT OF THE MARYLAND CRIMINAL DEFENSE LAWYERS ASSOCIATION,
10 APPOINTED BY THE GOVERNOR;

11 (9) THREE MEMBERS OF THE SENATE OF MARYLAND WITH AT LEAST
12 ONE MEMBER BEING FROM THE SENATE JUDICIAL PROCEEDINGS COMMITTEE,
13 APPOINTED BY THE PRESIDENT OF THE SENATE;

14 (10) THREE MEMBERS OF THE HOUSE OF DELEGATES WITH AT LEAST
15 ONE MEMBER BEING FROM THE HOUSE JUDICIARY COMMITTEE, APPOINTED BY THE
16 SPEAKER OF THE HOUSE;

17 ~~(11) THE PRESIDENT OF THE MARYLAND CORRECTIONAL
18 ADMINISTRATORS ASSOCIATION OR A DESIGNEE OF THE PRESIDENT;~~

19 ~~(12)~~ (11) THE SECRETARY OF THE DEPARTMENT OF PUBLIC SAFETY
20 AND CORRECTIONAL SERVICES OR A DESIGNEE OF THE SECRETARY;

21 ~~(13) THE SECRETARY OF THE DEPARTMENT OF BUDGET AND FISCAL
22 PLANNING OR A DESIGNEE OF THE SECRETARY;~~

23 ~~(14) THE CHAIRPERSON OF THE MARYLAND PAROLE COMMISSION OR A
24 DESIGNEE OF THE CHAIRPERSON;~~

25 ~~(15) THE SECRETARY OF THE DEPARTMENT OF JUVENILE JUSTICE OR A
26 DESIGNEE OF THE SECRETARY;~~

27 ~~(16) THE CHAIRPERSON OF THE STATE BOARD OF VICTIM SERVICES OR
28 A DESIGNEE OF THE CHAIRPERSON;~~

29 ~~(17) TWO REPRESENTATIVES FROM SEPARATE VICTIMS' ADVOCACY
30 GROUPS OR VICTIMS' ORGANIZATIONS, APPOINTED BY THE GOVERNOR;~~

31 ~~(18) THE SECRETARY OF THE STATE POLICE OR A DESIGNEE OF THE
32 SECRETARY;~~

33 ~~(19) THE PRESIDENT OF THE MARYLAND SHERIFF'S ASSOCIATION OR A
34 DESIGNEE OF THE PRESIDENT;~~

35 ~~(20) THE PRESIDENT OF THE MARYLAND CHIEFS OF POLICE OR A
36 DESIGNEE OF THE PRESIDENT;~~

37 ~~(21) THE PRESIDENT OF THE FRATERNAL ORDER OF POLICE,
38 MARYLAND STATE LODGE, OR A DESIGNEE OF THE PRESIDENT;~~

1 ~~(22) TWO MEMBERS OF THE GENERAL PUBLIC, APPOINTED BY THE~~
2 ~~GOVERNOR; AND~~

3 ~~(23) TWO MEMBERS WITH BACKGROUNDS IN CRIMINAL JUSTICE OR~~
4 ~~CORRECTIONS POLICY WHO ARE EITHER A MEMBER OF THE FACULTY OF A~~
5 ~~COLLEGE OR UNIVERSITY WITHIN THIS STATE, A MEMBER OF A NONPROFIT PUBLIC~~
6 ~~POLICY RESEARCH ORGANIZATION, OR OTHER RECOGNIZED EXPERT IN THE FIELD,~~
7 ~~APPOINTED BY THE GOVERNOR.~~

8 (12) ONE REPRESENTATIVE FROM A VICTIM'S ADVOCACY GROUP,
9 APPOINTED BY THE GOVERNOR;

10 (13) ONE REPRESENTATIVE FROM LAW ENFORCEMENT, APPOINTED BY
11 THE GOVERNOR; AND

12 (14) ONE MEMBER WITH A BACKGROUND IN CRIMINAL JUSTICE OR
13 CORRECTIONS POLICY WHO IS A RECOGNIZED EXPERT IN THE FIELD, APPOINTED
14 BY THE GOVERNOR.

15 (D) (1) THE COMMISSION SHALL HAVE ITS FIRST MEETING NO LATER THAN
16 JUNE 14, 1996, AT THE CALL OF THE CHAIRPERSON.

17 (2) THE COMMISSION SHALL MEET AT LEAST SIX TIMES.

18 (3) THE COMMISSION MAY ALSO HOLD OTHER MEETINGS AT THE CALL
19 OF THE CHAIRPERSON OR OF ANY ~~ELEVEN~~ SIX MEMBERS OF THE COMMISSION
20 AFTER PROPER NOTICE IS GIVEN IN THE MANNER ESTABLISHED BY THE RULES OF
21 THE COMMISSION.

22 (4) A MAJORITY OF THE MEMBERS OF THE COMMISSION SHALL
23 CONSTITUTE A QUORUM.

24 (5) THE COMMISSION MAY ESTABLISH SUBCOMMITTEES OR ADVISORY
25 COMMITTEES ~~COMPOSED OF COMMISSION MEMBERS~~ TO ACCOMPLISH THE DUTIES
26 IMPOSED BY THIS SECTION.

27 (6) THE COMMISSION MAY ESTABLISH RULES GOVERNING THE
28 ADMINISTRATION AND PROCEEDINGS OF THE COMMISSION.

29 (7) THE COMMISSION MAY REQUIRE STATE, COUNTY, AND MUNICIPAL
30 AGENCIES TO PROVIDE DATA AS ~~IT IS~~ REQUESTED BY THE COMMISSION.

31 ~~(8) ALL MEETINGS OF THE COMMISSION SHALL BE OPEN TO THE PUBLIC~~
32 ~~AND THE INFORMATION PRESENTED TO THE COMMISSION SHALL BE AVAILABLE TO~~
33 ~~ANY STATE AGENCY OR MEMBER OF THE GENERAL ASSEMBLY.~~

34 ~~(9)~~ (8) THE COMMISSION MAY APPLY FOR, ACCEPT, AND USE GRANTS
35 OR FINANCIAL OR OTHER AID FROM ~~THE FEDERAL OR STATE GOVERNMENT OR~~
36 ~~AGENCY OR ANY OTHER~~ PUBLIC OR PRIVATE SOURCE TO ACCOMPLISH THE DUTIES
37 PROVIDED FOR IN THIS SECTION.

38 ~~(10)~~ (9) A MEMBER OF THE COMMISSION:

39 (I) MAY NOT RECEIVE COMPENSATION; BUT

6

1 (II) SHALL BE REIMBURSED FOR EXPENSES UNDER THE
2 STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

3 (E) (1) THE GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION
4 SHALL SERVE AS PRINCIPAL STAFF TO THE COMMISSION.

5 ~~(2) THE DEPARTMENT OF LEGISLATIVE REFERENCE, THE DEPARTMENT~~
6 ~~OF FISCAL SERVICES, THE ADMINISTRATIVE OFFICE OF THE COURTS, THE~~
7 ~~DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES, AND THE~~
8 ~~DEPARTMENT OF BUDGET AND FISCAL PLANNING SHALL PROVIDE STAFF TO~~
9 ~~COMMISSION.~~

10 (2) THE FOLLOWING STATE AGENCIES SHALL PROVIDE STAFF AND
11 COOPERATE FULLY WITH THE COMMISSION:

12 (I) THE DEPARTMENT OF LEGISLATIVE REFERENCE;

13 (II) THE DEPARTMENT OF FISCAL SERVICES;

14 (III) THE ADMINISTRATIVE OFFICE OF THE COURTS;

15 (IV) THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL
16 SERVICES; AND

17 (V) THE DEPARTMENT OF BUDGET AND FISCAL PLANNING.

18 (3) ALL COUNTY AND MUNICIPAL GOVERNMENTS AND STATE
19 AGENCIES SHALL COOPERATE FULLY WITH THE COMMISSION.

20 (F) (1) THE PURPOSE OF THE COMMISSION IS TO EVALUATE THE STATE'S
21 SENTENCING AND CORRECTIONAL LAWS AND POLICIES AND MAKE
22 RECOMMENDATIONS TO THE GOVERNOR AND THE GENERAL ASSEMBLY IN
23 ACCORDANCE WITH THE POLICY GOALS AND OBJECTIVES OF THIS SUBSECTION
24 REGARDING THE FOLLOWING ISSUES:

25 (I) WHETHER DESCRIPTIVE SENTENCING GUIDELINES SHOULD BE
26 RETAINED BY THE STATE AS A SENTENCING STRUCTURE, EITHER IN THEIR
27 CURRENT FORM OR IN A MODIFIED FORM;

28 (II) WHETHER THE STATE SHOULD ADOPT GUIDED DISCRETION
29 SENTENCING GUIDELINES AND, IF SO, WHAT TYPE OF GUIDED DISCRETION
30 SENTENCING GUIDELINES SHOULD BE ADOPTED;

31 (III) WHETHER THE STATE SHOULD RETAIN PAROLE AS A
32 CORRECTIONAL OPTION OR ELIMINATE PAROLE FOR ALL INMATES OR ANY
33 PARTICULAR CATEGORY OF INMATES;

34 (IV) WHETHER THE STATE SHOULD INCREASE THE MINIMUM
35 PORTION OF A SENTENCE THAT MUST BE SERVED BY ALL INMATES OR ANY
36 PARTICULAR CATEGORY OF INMATES BEFORE BECOMING ELIGIBLE FOR PAROLE;

37 (V) WHETHER THE STATE SHOULD ELIMINATE GOOD TIME
38 CREDITS OR OTHERWISE ALTER THE MANNER IN WHICH AN INMATE MAY OBTAIN
39 RELEASE ON MANDATORY SUPERVISION;

7

1 (VI) WHETHER THE STATE NEEDS TO TAKE ACTION TO ENSURE
2 THAT THERE IS A COORDINATED SYSTEM OF CORRECTIONAL OPTIONS PROGRAMS
3 AT THE STATE AND COUNTY LEVELS AND, IF SO, WHAT ACTION SHOULD BE TAKEN;
4 AND

5 (VII) ANY OTHER MATTER RELATING TO STATE AND LOCAL LAWS
6 AND POLICIES GOVERNING SENTENCING, PAROLE, MANDATORY SUPERVISION, AND
7 CORRECTIONAL OPTIONS PROGRAMS.

8 ~~(2) THE GOALS OF THE SENTENCING AND CORRECTIONAL PROCESS~~
9 ~~ARE:~~

10 ~~(I) JUST AND APPROPRIATE PUNISHMENT OF OFFENDERS;~~

11 ~~(II) PROTECTION OF PUBLIC SAFETY AND PREVENTION OF CRIME~~
12 ~~THROUGH:~~

13 ~~1. GENERAL AND SPECIFIC DETERRENCE OF CRIMINAL~~
14 ~~CONDUCT;~~

15 ~~2. INCAPACITATION OF OFFENDERS; AND~~

16 ~~3. REMEDIATION OF OFFENDERS;~~

17 ~~(III) RESTORATION OF CRIME VICTIMS AND THE COMMUNITY; AND~~

18 ~~(IV) PUBLIC CONFIDENCE IN THE ADMINISTRATION OF JUSTICE~~
19 ~~AND RESPECT FOR THE LAW.~~

20 ~~(3) (2) THE SENTENCING AND CORRECTIONAL PROCESS SHALL~~
21 ~~PURSUE ITS POLICY GOALS THROUGH THE FOLLOWING PRIORITIES AND THE~~
22 ~~FOLLOWING OBJECTIVES:~~

23 ~~(I) PROMOTE TRUTH IN SENTENCING THROUGH A SENTENCING~~
24 ~~STRUCTURE THAT ENSURES THAT THE SENTENCES IMPOSED WILL DETERMINE THE~~
25 ~~SENTENCES SERVED;~~

26 (I) PROMOTE SENTENCING THAT MORE ACCURATELY REFLECTS
27 THE TIME THAT AN OFFENDER WILL ACTUALLY BE INCARCERATED;

28 (II) CONCENTRATE PRISON CAPACITY ON THE INCARCERATION OF
29 VIOLENT AND CAREER OFFENDERS;

30 (III) REDUCE UNWARRANTED DISPARITY IN SENTENCES FOR
31 OFFENDERS WHO HAVE COMMITTED SIMILAR OFFENSES AND HAVE SIMILAR
32 CRIMINAL HISTORIES;

33 (IV) PRESERVE MEANINGFUL JUDICIAL DISCRETION IN THE
34 IMPOSITION OF SENTENCES AND SUFFICIENT FLEXIBILITY TO PERMIT
35 INDIVIDUALIZED SENTENCES; AND

36 (V) ENSURE THAT SENTENCING JUDGES IN EVERY JURISDICTION
37 IN THE STATE ARE ABLE TO IMPOSE THE MOST APPROPRIATE CRIMINAL PENALTIES
38 ~~BY DEVELOPING A FULL CONTINUUM OF CREDIBLE SANCTIONS, INCLUDING~~

1 ~~INTERMEDIATE PUNISHMENTS, INCLUDING CORRECTIONAL OPTIONS PROGRAMS~~
2 ~~FOR APPROPRIATE NONVIOLENT OFFENDERS;~~

3 ~~(VI) ENSURE THE CREDIBILITY AND EFFECTIVENESS OF~~
4 ~~INTERMEDIATE PUNISHMENTS THROUGH STRICT ENFORCEMENT OF SENTENCE~~
5 ~~CONDITIONS AND ENHANCED INTERAGENCY COORDINATION;~~

6 ~~(VII) ELEVATE THE SIGNIFICANCE OF VICTIMS OF CRIME AND THE~~
7 ~~IMPACT OF CRIME ON VICTIMS AND THE COMMUNITY THROUGH INCREASED~~
8 ~~NOTIFICATION AND PARTICIPATION PROCEDURES, INCREASED EMPHASIS ON~~
9 ~~RESTITUTION PAYMENTS AND COMMUNITY SERVICE AS CRIMINAL SANCTIONS, AND~~
10 ~~IMPLEMENTATION OF OTHER CONCEPTS OF "RESTORATIVE JUSTICE";~~

11 ~~(VIII) INCREASE THE USE AND ENFORCEMENT OF ECONOMIC~~
12 ~~SANCTIONS, SUCH AS FEES, FORFEITURES, AND MEANS-BASED FINES, TO BE~~
13 ~~COLLECTED AFTER RESTITUTION PAYMENTS TO VICTIMS ARE MADE IN FULL; AND~~

14 ~~(IX) ENSURE A RESPONSIBLE RELATIONSHIP BETWEEN SENTENCES~~
15 ~~AND CORRECTIONAL RESOURCES.~~

16 ~~(G) (1) THE COMMISSION SHALL GATHER DATA AND OTHER AVAILABLE~~
17 ~~INFORMATION RELEVANT TO STATE SENTENCING PATTERNS AND PRACTICES,~~
18 ~~INCLUDING:~~

19 ~~(I) THE DISTRIBUTION AND MEDIAN AVERAGE OF CURRENT~~
20 ~~SENTENCES IMPOSED FOR EACH CRIMINAL OFFENSE;~~

21 ~~(II) THE DISTRIBUTION AND MEDIAN AVERAGE OF CURRENT~~
22 ~~SENTENCES SERVED FOR EACH CRIMINAL OFFENSE;~~

23 ~~(III) TRENDS IN THE GROWTH OF THE CORRECTIONAL~~
24 ~~POPULATION, INCARCERATION RATES, AND CORRECTIONAL COSTS;~~

25 ~~(IV) TRENDS IN THE DEMOGRAPHIC AND OFFENSE PROFILE OF~~
26 ~~INCARCERATED OFFENDERS, INCLUDING TRENDS IN INMATES' MOST SERIOUS~~
27 ~~CURRENT CONVICTION OFFENSE;~~

28 ~~(V) THE PREVALENCE OF INTERMEDIATE PUNISHMENTS IN~~
29 ~~JURISDICTIONS THROUGHOUT THE STATE, AND THE NUMBER OF OFFENDERS~~
30 ~~ASSIGNED TO SUCH SANCTIONS; AND~~

31 ~~(VI) TRENDS IN REPORTED CRIME AND CRIME RATES, ARRESTS~~
32 ~~AND ARREST RATES, CONVICTIONS AND CONVICTION RATES, AND VICTIMIZATION~~
33 ~~RATES.~~

34 ~~(2) (3) (I) THE COMMISSION SHALL DEVELOP A CORRECTIONAL~~
35 ~~POPULATION SIMULATION MODEL TO PREDICT ASSIST IN DETERMINING THE STATE~~
36 ~~AND LOCAL CORRECTIONAL RESOURCES THAT:~~

37 ~~1. ARE REQUIRED UNDER CURRENT SENTENCING~~
38 ~~PRACTICES AND THOSE LAWS, POLICIES, AND PRACTICES RELATING TO~~
39 ~~SENTENCING, PAROLE, AND MANDATORY SUPERVISION; AND~~

1 2. WOULD BE REQUIRED TO IMPLEMENT THE
2 COMMISSION'S RECOMMENDATIONS.

3 (II) IF THE COMMISSION'S RECOMMENDATIONS WOULD RESULT IN
4 STATE AND LOCAL INMATE POPULATIONS THAT WOULD EXCEED THE OPERATING
5 CAPACITIES OF AVAILABLE FACILITIES, THEN THE COMMISSION SHALL PRESENT
6 ADDITIONAL SENTENCING MODEL ALTERNATIVES CONSISTENT WITH THESE
7 CAPACITIES.

8 ~~(II) THE COMMISSION SHALL APPLY THE MODEL TO A GIVEN FACT~~
9 ~~SITUATION OR THEORETICAL CHANGE IN THE SENTENCING LAWS OR POLICIES~~
10 ~~WHEN REQUESTED TO DO SO BY THE CHAIRPERSON OR THE COMMISSION AS A~~
11 ~~WHOLE.~~

12 ~~(III) THE CHAIRPERSON SHALL MAKE THE MODEL AVAILABLE TO~~
13 ~~RESPOND TO ANY INQUIRY FROM A STATE LEGISLATOR OR FROM THE SECRETARY~~
14 ~~OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.~~

15 ~~(3) THE COMMISSION SHALL DEVELOP AND RECOMMEND A~~
16 ~~STRUCTURED SENTENCING MODEL CONSISTENT WITH THE POLICY GOALS AND~~
17 ~~OBJECTIVES PROVIDED IN SUBSECTION (F) OF THIS SECTION FOR USE BY~~
18 ~~SENTENCING COURTS AND CORRECTIONAL AGENCIES IN DETERMINING THE MOST~~
19 ~~APPROPRIATE SENTENCE TO BE IMPOSED ON A CRIMINAL OFFENDER. IN~~
20 ~~DEVELOPING THE STRUCTURED SENTENCING MODEL, THE COMMISSION SHALL:~~

21 ~~(I) DEVELOP FOR EACH CRIMINAL OFFENSE A STANDARD RANGE~~
22 ~~OF SENTENCES TO BE IMPOSED ON AND SERVED BY ORDINARY OFFENDERS IN~~
23 ~~ORDINARY CASES, SUBJECT TO THE FOLLOWING:~~

24 1. ~~STANDARD SENTENCE RANGES SHALL BE BASED ON THE~~
25 ~~GRAVITY OF THE CONVICTION OFFENSE, WITH ADJUSTMENT FOR THE OFFENDER'S~~
26 ~~CRIMINAL HISTORY;~~

27 2. ~~THE BREADTH OF THE STANDARD SENTENCE RANGES~~
28 ~~SHALL BE DEFINED SO AS TO AVOID UNWARRANTED DISPARITIES IN SENTENCES~~
29 ~~AND TO PERMIT REASONABLY ACCURATE FORECASTS OF THE AGGREGATE OF~~
30 ~~SENTENCING DECISIONS FOR PURPOSES OF CORRECTIONAL RESOURCE PLANNING;~~

31 3. ~~EACH STANDARD SENTENCE RANGE SHALL SPECIFY THE~~
32 ~~APPROPRIATE LEVEL OF SEVERITY OF SENTENCE AND THE PERMISSIBLE TYPES OF~~
33 ~~SANCTIONS;~~

34 4. ~~PERMISSIBLE TYPES OF SANCTIONS SHALL INCLUDE, BUT~~
35 ~~NOT BE LIMITED TO: TOTAL CONFINEMENT; INTERMITTENT CONFINEMENT; BOOT~~
36 ~~CAMP OR SHOCK INCARCERATION; HOME DETENTION WITH OR WITHOUT~~
37 ~~ELECTRONIC MONITORING; RESIDENTIAL OR OUTPATIENT DRUG AND ALCOHOL~~
38 ~~TREATMENT WITH MANDATORY URINALYSIS; RESIDENTIAL WORK RELEASE; WORK~~
39 ~~RELEASE WITH ELECTRONIC MONITORING; RESTITUTION CENTERS; DAY OR NIGHT~~
40 ~~REPORTING CENTERS; ECONOMIC SANCTIONS, INCLUDING VICTIM RESTITUTION,~~
41 ~~COMMUNITY SERVICE, AND DAY FINES; ACKNOWLEDGMENT SANCTIONS,~~
42 ~~INCLUDING PAID NOTICES ANNOUNCING CONVICTIONS; INTENSIVE SUPERVISION,~~
43 ~~SUPERVISED OR UNSUPERVISED PROBATION WITH OR WITHOUT CONDITIONS; AND~~

10

1 5. RESTITUTION TO VICTIMS, COMMUNITY SERVICES, OR
2 OTHER VICTIM COMPENSATION SHALL BE A PERMISSIBLE SANCTION IN ALL CASES;

3 (II) CLASSIFY EACH TYPE OF SANCTION ACCORDING TO ITS
4 RELATIVE LEVEL OF SEVERITY AND RELATIVE EMPHASIS ON THE GOALS OF
5 PUNISHMENT, GENERAL DETERRENCE, SPECIFIC DETERRENCE, REMEDIATION,
6 INCAPACITATION AND RESTITUTION TO FACILITATE THE IMPOSITION OF
7 COMPOSITE AND INDIVIDUALIZED SENTENCES;

8 (III) DEVELOP CRITERIA AND PROCEDURES FOR THE IMPOSITION
9 OF SENTENCES OUTSIDE THE STANDARD SENTENCE RANGES IN CASES WHERE
10 THERE ARE SUBSTANTIAL AND COMPELLING REASONS JUSTIFYING DEPARTURE.
11 SUCH CRITERIA SHALL INCLUDE:

12 1. AGGRAVATING FACTORS;

13 2. MITIGATING FACTORS;

14 3. TIME ELAPSED SINCE AN OFFENDER'S MOST RECENT
15 PRIOR CONVICTION OR RELEASE FROM PRISON;

16 4. ACKNOWLEDGMENT OF RESPONSIBILITY;

17 5. COOPERATION WITH THE PROSECUTION; AND

18 6. OTHER PERSONAL CHARACTERISTICS OF INDIVIDUAL
19 OFFENDERS THAT SHOULD BE TAKEN INTO ACCOUNT, SUCH AS ECONOMIC
20 CIRCUMSTANCES;

21 (IV) PROVIDE A STATEMENT ESTIMATING THE EFFECT OF THE
22 RECOMMENDED STRUCTURED SENTENCING MODEL ON STATE AND LOCAL
23 CORRECTIONAL POPULATIONS, BOTH IN TERMS OF FISCAL IMPACT AND NUMBERS
24 OF OFFENDERS. IF THE COMMISSION FINDS THAT THE PROPOSED SENTENCING
25 STRUCTURE WOULD RESULT IN STATE AND LOCAL INMATE POPULATIONS THAT
26 EXCEED THE OPERATING CAPACITIES OF AVAILABLE FACILITIES, THEN THE
27 COMMISSION SHALL PRESENT AN ADDITIONAL STRUCTURE THAT SHALL BE
28 CONSISTENT WITH SUCH CAPACITIES;

29 (V) REVIEW AND RECOMMEND, IF NECESSARY, REVISIONS TO
30 PROCEDURES RELATING TO THE IMPOSITION OF SENTENCE, INCLUDING
31 STATEMENTS OR SUMMARIES OF FACT, STATEMENTS OF THE PRECISE TERMS OF
32 SENTENCES IMPOSED, AND REASONS FOR THE SELECTION OF THE LEVEL OF
33 SEVERITY AND TYPES OF SANCTIONS IMPOSED;

34 (VI) DEVELOP PROCEDURES FOR APPELLATE REVIEW OF
35 DEPARTURE SENTENCES AT THE INITIATIVE OF THE OFFENDER OR THE
36 PROSECUTOR;

37 (VII) REVIEW AND RECOMMEND, IF NECESSARY, REVISIONS TO
38 STANDARDS RELATING TO THE CONTENTS, PREPARATION, AND SUBSTANTIATION
39 OF PRESENTENCE REPORTS;

1 ~~(VIII) DEVELOP GUIDELINES AND PROCEDURES, INCLUDING~~
2 ~~ADMINISTRATIVE ACTION, FOR THE SWIFT AND CERTAIN IMPOSITION OF~~
3 ~~REGRESSIVE SANCTIONS FOR VIOLATIONS OF SENTENCE CONDITIONS AND~~
4 ~~PROGRESSIVE INCENTIVES FOR COMPLIANCE;~~

5 ~~(IX) DEVISE A SYSTEM OF BEHAVIORAL INCENTIVES AND~~
6 ~~DISINCENTIVES FOR INCARCERATED OFFENDERS THAT ELIMINATES~~
7 ~~DISCRETIONARY PAROLE RELEASE, UNEARNED DIMINUTION CREDITS, AND ANY~~
8 ~~OTHER AUTOMATIC MECHANISMS FOR EARLY RELEASE;~~

9 ~~(X) DEVISE AND INTEGRATE INTO THE STRUCTURED SENTENCING~~
10 ~~MODEL A SYSTEM OF POST PRISON SUPERVISION;~~

11 ~~(XI) EXAMINE AND MAKE RECOMMENDATIONS REGARDING THE~~
12 ~~ROLE OF EXISTING MANDATORY MINIMUM SENTENCES IN THE RECOMMENDED~~
13 ~~STRUCTURED SENTENCING MODEL; AND~~

14 ~~(XII) DEVELOP A MECHANISM AND A COMMON STANDARD TO~~
15 ~~MEASURE THE EFFECTIVENESS OF THE VARIOUS TYPES OF SANCTIONS IN MEETING~~
16 ~~THEIR SPECIFIC GOALS.~~

17 ~~(4) THE COMMISSION SHALL RECOMMEND A STRATEGY AND~~
18 ~~ORGANIZATIONAL STRUCTURE FOR A COORDINATED SYSTEM OF INTERMEDIATE~~
19 ~~PUNISHMENTS AT THE STATE AND LOCAL LEVELS. THE PARTNERSHIP PLAN SHALL~~
20 ~~INCLUDE:~~

21 ~~(I) AUTHORIZATION FOR EACH LOCAL JURISDICTION IN THE~~
22 ~~STATE TO ESTABLISH A FULL CONTINUUM OF INTERMEDIATE PUNISHMENTS;~~

23 ~~(II) A SYSTEM OF FINANCIAL INCENTIVES AND DISINCENTIVES TO~~
24 ~~ENCOURAGE LOCAL JURISDICTIONS TO ESTABLISH AND EXPAND INTERMEDIATE~~
25 ~~PUNISHMENTS, INCLUDING THE LINKAGE OF STATE FUNDS FOR LOCAL DETENTION~~
26 ~~CENTER CONSTRUCTION TO THE ESTABLISHMENT AND EXPANSION ENHANCEMENT~~
27 ~~OF LOCAL INTERMEDIATE PUNISHMENTS;~~

28 ~~(III) AN INCENTIVE TO LOCAL JURISDICTIONS FOR THE~~
29 ~~ESTABLISHMENT OF LOCAL INTERMEDIATE PUNISHMENT BOARDS, CONSISTING OF~~
30 ~~KEY CRIMINAL JUSTICE ORGANIZATIONS AND VICTIMS' REPRESENTATIVES, TO~~
31 ~~DEVELOP LOCAL PLANS FOR THE EXPANSION AND USE OF INTERMEDIATE~~
32 ~~PUNISHMENTS;~~

33 ~~(IV) AN INCENTIVE TO LOCAL JURISDICTIONS FOR THE~~
34 ~~ESTABLISHMENT OR DESIGNATION OF COMMUNITY SERVICE ORIENTED COURTS,~~
35 ~~COMMUNITY ACCOUNTABILITY BOARDS, OR OTHER MECHANISMS TO~~
36 ~~INSTITUTIONALIZE THE INVOLVEMENT OF VICTIMS AND THE COMMUNITY IN THE~~
37 ~~FASHIONING OF REPARATIVE SENTENCES FOR PUBLIC ORDER VIOLATORS AND~~
38 ~~OTHER MINOR OFFENDERS;~~

39 ~~(V) A FORM OF STATE OVERSIGHT AND COORDINATION TO~~
40 ~~ENSURE THAT STATE AND LOCAL INTERMEDIATE PUNISHMENTS PROMOTE PUBLIC~~
41 ~~SAFETY AND THE ADMINISTRATION OF JUSTICE, WHICH SHALL INCLUDE~~
42 ~~MECHANISMS FOR THE SWIFT AND CERTAIN IMPOSITION OF REGRESSIVE~~

12

1 ~~SANCTIONS FOR VIOLATIONS OF SENTENCE CONDITIONS AND PROGRESSIVE~~
2 ~~INCENTIVES FOR COMPLIANCE, AND GREATER LINKAGES AMONG STATE AND~~
3 ~~LOCAL AGENCIES THAT MONITOR OFFENDER COMPLIANCE WITH SENTENCE~~
4 ~~CONDITIONS AND THAT PROVIDE OFFENDER REMEDIATION SERVICES; AND~~

5 ~~(VI) IDENTIFICATION OF FUNDING SOURCES FOR INTERMEDIATE~~
6 ~~PUNISHMENTS, INCLUDING PAROLE AND PROBATION SUPERVISION FEES, COURT~~
7 ~~FEES, AND ECONOMIC SANCTIONS IMPOSED ON OFFENDERS, AND STATE AND~~
8 ~~FEDERAL AID.~~

9 ~~(5) THE COMMISSION SHALL RECOMMEND THE ESTABLISHMENT OR~~
10 ~~DESIGNATION OF A PERMANENT STATEWIDE AGENCY OR AGENCIES TO~~
11 ~~ADMINISTER THE STRUCTURED SENTENCING MODEL AND STATE LOCAL~~
12 ~~INTERMEDIATE PUNISHMENT PARTNERSHIP AND DEFINE THE RESPONSIBILITIES~~
13 ~~AND AUTHORITY OF SUCH AGENCY OR AGENCIES.~~

14 ~~(H)~~ (G) THE COMMISSION SHALL SUBMIT A FINAL REPORT OF ITS
15 RECOMMENDATIONS ~~IN THE FORM OF DRAFT LEGISLATION TO THE~~ GOVERNOR
16 AND THE GENERAL ASSEMBLY ON OR BEFORE DECEMBER 31, 1996.

17 ~~(H)~~ (H) THIS SECTION SHALL TERMINATE AND BE OF NO EFFECT AFTER
18 JUNE 30, 1997.

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is contingent on
20 the authorization of planning, design, and site work funds in the amount of \$1 million for
21 the Western Maryland Correctional Institution, Housing Unit Number 5, 384 beds, in the
22 Fiscal Year 1997 Capital Budget (Senate Bill 296/House Bill 349) that is enacted into law
23 in 1996. If the Fiscal Year 1997 Capital Budget that is enacted into law in 1996 does not
24 include an authorization of planning, design, and site work funds in the amount of \$1
25 million for the Western Maryland Correctional Institution, Housing Unit Number 5, 384
26 beds, this Act is null and void without the necessity of any further action by the General
27 Assembly.

28 ~~SECTION 2-~~ 3. AND BE IT FURTHER ENACTED, That, subject to Section 2 of
29 this Act, this Act shall take effect June 1, 1996.