
By: **Delegates Shank and Kelly**

Introduced and read first time: February 7, 2005

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure - Abuse and Sexual Abuse of a Minor - Diminution**
3 **Credits and Parole Eligibility**

4 FOR the purpose of decreasing the number of days per month that an inmate serving
5 a term of confinement that includes a consecutive or concurrent sentence for a
6 crime of abuse of a minor or sexual abuse of a minor is allowed as a deduction in
7 advance from the inmate's term of confinement; expanding certain limitations
8 on parole eligibility and the receipt of certain credits prior to the revocation of
9 parole to include crimes of abuse of a minor and sexual abuse of a minor;
10 altering a certain definition; making technical corrections; and generally
11 relating to abuse of a minor and sexual abuse of a minor.

12 BY repealing and reenacting, with amendments,
13 Article - Correctional Services
14 Section 3-704, 7-101(m), and 7-801
15 Annotated Code of Maryland
16 (1999 Volume and 2004 Supplement)

17 BY repealing and reenacting, without amendments,
18 Article - Correctional Services
19 Section 7-301 and 7-401
20 Annotated Code of Maryland
21 (1999 Volume and 2004 Supplement)

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

24 **Article - Correctional Services**

25 3-704.

26 (a) An inmate shall be allowed a deduction in advance from the inmate's term
27 of confinement.

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

3 (i) from the first day of commitment to the custody of the
4 Commissioner through the last day of the inmate's term of confinement;

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

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

8 [(2) If an inmate's term of confinement includes a consecutive or
9 concurrent sentence for a crime of violence as defined in § 14-101 of the Criminal Law
10 Article or a crime of manufacturing, distributing, dispensing, or possessing a
11 controlled dangerous substance in violation of §§ 5-602 through 5-609, § 5-612, or §
12 5-613 of the Criminal Law Article, the deduction described in subsection (a) of this
13 section shall be calculated at the rate of 5 days for each calendar month.]

14 (2) THE DEDUCTION DESCRIBED IN SUBSECTION (A) OF THIS SECTION
15 SHALL BE CALCULATED AT THE RATE OF 5 DAYS FOR EACH CALENDAR MONTH IF AN
16 INMATE'S TERM OF CONFINEMENT INCLUDES A CONSECUTIVE OR CONCURRENT
17 SENTENCE FOR:

18 (I) ABUSE OF A MINOR UNDER § 3-601 OF THE CRIMINAL LAW
19 ARTICLE;

20 (II) SEXUAL ABUSE OF A MINOR UNDER § 3-602 OF THE CRIMINAL
21 LAW ARTICLE;

22 (III) A CRIME OF VIOLENCE AS DEFINED IN § 14-101 OF THE
23 CRIMINAL LAW ARTICLE; OR

24 (IV) A CRIME OF MANUFACTURING, DISTRIBUTING, DISPENSING, OR
25 POSSESSING A CONTROLLED DANGEROUS SUBSTANCE IN VIOLATION OF §§ 5-602
26 THROUGH 5-609, § 5-612, OR § 5-613 OF THE CRIMINAL LAW ARTICLE.

27 (c) A deduction under this section may not be allowed for a period during
28 which an inmate does not receive credit for service of the inmate's term of
29 confinement, including a period:

30 (1) during which the inmate's sentence is stayed;

31 (2) during which the inmate is not in the custody of the Commissioner
32 because of escape; or

33 (3) for which the Maryland Parole Commission has declined to grant
34 credit after revocation of parole or mandatory supervision.

35 7-101.

36 (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 (3) ABUSE OF A MINOR UNDER § 3-601 OF THE CRIMINAL LAW ARTICLE;
5 OR
- 6 (4) SEXUAL ABUSE OF A MINOR UNDER § 3-602 OF THE CRIMINAL LAW
7 ARTICLE.
8 7-301.

9 (a) (1) Except as otherwise provided in this section, the Commission shall
10 request that the Division of Parole and Probation make an investigation for inmates
11 in a local correctional facility and the Division of Correction make an investigation for
12 inmates in a State correctional facility that will enable the Commission to determine
13 the advisability of granting parole to an inmate who:

- 14 (i) has been sentenced under the laws of the State to serve a term
15 of 6 months or more in a correctional facility; and
- 16 (ii) has served in confinement one-fourth of the inmate's aggregate
17 sentence.

18 (2) Except as provided in paragraph (3) of this subsection, or as
19 otherwise provided by law or in a predetermined parole release agreement, an inmate
20 is not eligible for parole until the inmate has served in confinement one-fourth of the
21 inmate's aggregate sentence.

22 (3) An inmate may be released on parole at any time in order to undergo
23 drug or alcohol treatment if the inmate:

- 24 (i) is not serving a sentence for a crime of violence, as defined in §
25 14-101 of the Criminal Law Article;
- 26 (ii) is not serving a sentence for a violation of Title 3, Subtitle 6, §
27 5-608(d), § 5-609(d), § 5-612, § 5-613, § 5-614, § 5-621, § 5-622, or § 5-628 of the
28 Criminal Law Article; and
- 29 (iii) has been determined to be amenable to drug or alcohol
30 treatment.

31 (b) Except as provided in subsection (c) of this section, if an inmate has been
32 sentenced to a term of imprisonment during which the inmate is eligible for parole
33 and a term of imprisonment during which the inmate is not eligible for parole, the
34 inmate is not eligible for parole consideration under subsection (a) of this section until
35 the inmate has served the greater of:

- 36 (1) one-fourth of the inmate's aggregate sentence; or

1 (2) a period equal to the term during which the inmate is not eligible for
2 parole.

3 (c) (1) (i) Except as provided in subparagraph (ii) of this paragraph, an
4 inmate who has been sentenced to the Division of Correction after being convicted of
5 a violent crime committed on or after October 1, 1994, is not eligible for parole until
6 the inmate has served the greater of:

7 1. one-half of the inmate's aggregate sentence for violent
8 crimes; or

9 2. one-fourth of the inmate's total aggregate sentence.

10 (ii) An inmate who has been sentenced to the Division of Correction
11 after being convicted of a violent crime committed on or after October 1, 1994, and
12 who has been sentenced to more than one term of imprisonment, including a term
13 during which the inmate is eligible for parole and a term during which the inmate is
14 not eligible for parole, is not eligible for parole until the inmate has served the greater
15 of:

16 1. one-half of the inmate's aggregate sentence for violent
17 crimes;

18 2. one-fourth of the inmate's total aggregate sentence; or

19 3. a period equal to the term during which the inmate is not
20 eligible for parole.

21 (2) An inmate who is serving a term of imprisonment for a violent crime
22 committed on or after October 1, 1994, shall receive an administrative review of the
23 inmate's progress in the correctional facility after the inmate has served the greater
24 of:

25 (i) one-fourth of the inmate's aggregate sentence; or

26 (ii) if the inmate is serving a term of imprisonment that includes a
27 mandatory term during which the inmate is not eligible for parole, a period equal to
28 the term during which the inmate is not eligible for parole.

29 (d) (1) Except as provided in paragraphs (2) and (3) of this subsection, an
30 inmate who has been sentenced to life imprisonment is not eligible for parole
31 consideration until the inmate has served 15 years or the equivalent of 15 years
32 considering the allowances for diminution of the inmate's term of confinement under
33 § 6-218 of the Criminal Procedure Article and Title 3, Subtitle 7 of this article.

34 (2) An inmate who has been sentenced to life imprisonment as a result of
35 a proceeding under § 2-303 or § 2-304 of the Criminal Law Article is not eligible for
36 parole consideration until the inmate has served 25 years or the equivalent of 25
37 years considering the allowances for diminution of the inmate's term of confinement
38 under § 6-218 of the Criminal Procedure Article and Title 3, Subtitle 7 of this article.

1 (3) (i) If an inmate has been sentenced to imprisonment for life
2 without the possibility of parole under § 2-203 or § 2-304 of the Criminal Law Article,
3 the inmate is not eligible for parole consideration and may not be granted parole at
4 any time during the inmate's sentence.

5 (ii) This paragraph does not restrict the authority of the Governor
6 to pardon or remit any part of a sentence under § 7-601 of this title.

7 (4) If eligible for parole under this subsection, an inmate serving a term
8 of life imprisonment may only be paroled with the approval of the Governor.

9 7-401.

10 (a) If a parolee is alleged to have violated a condition of parole, one
11 commissioner shall hear the case on revocation of the parole at the time and place
12 that the Commission designates.

13 (b) (1) Each individual charged with a parole violation is entitled to be
14 represented by counsel of the individual's choice or, if eligible, counsel provided by the
15 Public Defender's office.

16 (2) The Commission shall keep a record of the hearing.

17 (c) If the commissioner finds from the evidence that the parolee has violated a
18 condition of parole, the commissioner may take any action that the commissioner
19 considers appropriate, including:

20 (1) (i) revoking the order of parole;

21 (ii) setting a future hearing date for consideration for reparole; and

22 (iii) remanding the individual to the Division of Correction or local
23 correctional facility from which the individual was paroled; or

24 (2) continuing parole:

25 (i) without modification of its conditions; or

26 (ii) with modification of its conditions, including a requirement that
27 the parolee spend all or part of the remaining parole period in a home detention
28 program.

29 (d) (1) Subject to paragraph (2) of this subsection and further action by the
30 Commission, if the order of parole is revoked, the inmate shall serve the remainder of
31 the sentence originally imposed unless the commissioner hearing the parole
32 revocation, in the commissioner's discretion, grants credit for time between release on
33 parole and revocation of parole.

34 (2) An inmate may not receive credit for time between release on parole
35 and revocation of parole if:

1 (i) the inmate was serving a sentence for a violent crime when
2 parole was revoked; and

3 (ii) the parole was revoked due to a finding that the inmate
4 committed a violent crime while on parole.

5 (e) Subject to subsection (d) of this section, if a sentence has commenced as
6 provided under § 9-202(c)(2) of this article and the inmate is serving that sentence
7 when the order of parole is revoked, the remainder of the sentence originally imposed
8 shall begin at the expiration of any sentences which were begun under § 9-202(c)(2) of
9 this article.

10 (f) (1) The inmate may seek judicial review in the circuit court within 30
11 days after receiving the written decision of the Commission.

12 (2) The court shall hear the action on the record.

13 7-801.

14 (a) In this section, "victim" means:

15 (1) an individual who suffers personal physical injury or death as a
16 direct result of a crime;

17 (2) [a victim of child abuse under § 3-601 or § 3-602 of the Criminal
18 Law Article;

19 (3)] a victim of a violent crime; or

20 [(4)] (3) if the victim is deceased, disabled, or a minor, a designated
21 family member or other representative of the victim.

22 (b) (1) At least 90 days before an inmate's parole release hearing, the
23 Department shall notify the victim or the victim's designated representative in
24 writing, directed to the most current address on file, that the parole release hearing
25 has been scheduled if:

26 (i) the victim or the victim's representative filed a notification
27 request form under § 11-104 of the Criminal Procedure Article; or

28 (ii) the victim makes a written request to the Department for
29 notification and maintains a current address on file with the Department.

30 (2) The victim may designate in writing to the Department the name and
31 address of a representative who is a resident of the State to receive notice for the
32 victim.

33 (c) (1) Not later than 30 days after the date of the Department's notice
34 under subsection (b) of this section, the victim of a violent crime may submit to the
35 Department a written request that the Division of Parole and Probation be required
36 to complete an updated victim impact statement.

1 (2) If the victim submits a request as authorized by paragraph (1) of this
2 subsection, the Department shall direct the Division of Parole and Probation to:

3 (i) complete the updated statement at least 30 days before the
4 parole release hearing; and

5 (ii) send promptly the updated victim impact statement to the
6 Commission.

7 (d) A victim may:

8 (1) at least 30 days before the parole release hearing:

9 (i) make a written recommendation to the Commission on the
10 advisability of releasing the inmate on parole; and

11 (ii) request that the inmate be prohibited from having any contact
12 with the victim as a condition of parole, mandatory supervision, work release, or other
13 administrative release; and

14 (2) request a meeting with a commissioner.

15 (e) The Commission shall make an updated victim impact statement and a
16 victim's written recommendation available for review by the inmate or the inmate's
17 representative under § 7-303(b) of this title.

18 (f) The Commission shall consider an updated victim impact statement or
19 victim's written recommendation at the parole release hearing.

20 (g) If a victim requested an open hearing under § 7-304 of this title, the victim
21 may present oral testimony at the inmate's parole release hearing in a manner
22 established in regulations adopted by the Commission.

23 (h) The Department shall notify promptly the victim or the victim's designated
24 representative of the decision of the Commission regarding parole for the inmate.

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