
By: **Delegates Vallario and Kullen**

Introduced and read first time: March 7, 2005

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure - Drunk and Drugged Driving Offenses - Alcohol or**
3 **Drug Abuse - Residential Intensive Treatment Program**

4 FOR the purpose of providing that a certain type of residential intensive treatment
5 program is appropriate for certain individuals convicted of or placed on
6 probation for certain driving offenses under certain circumstances; requiring the
7 Alcohol and Drug Abuse Administration to adopt regulations relating to
8 standards for alcohol and drug abuse treatment programs that include certain
9 residential intensive treatment programs; and generally relating to approved
10 alcohol or drug abuse treatment programs.

11 BY repealing and reenacting, without amendments,
12 Article - Criminal Procedure
13 Section 6-219(c) and 6-220(c)
14 Annotated Code of Maryland
15 (2001 Volume and 2004 Supplement)

16 BY repealing and reenacting, with amendments,
17 Article - Health - General
18 Section 8-401(a) and 8-404(a)
19 Annotated Code of Maryland
20 (2000 Replacement Volume and 2004 Supplement)

21 BY repealing and reenacting, without amendments,
22 Article - Transportation
23 Section 21-902 and 27-101(j)(4) and (5)
24 Annotated Code of Maryland
25 (2002 Replacement Volume and 2004 Supplement)

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

1

Article - Criminal Procedure

2 6-219.

3 (c) (1) If the court places on probation a defendant who has been convicted
4 of a violation of § 21-902 of the Transportation Article or § 2-503, § 2-504, § 2-505, §
5 2-506, or § 3-211 of the Criminal Law Article, the court shall require as a condition
6 that the defendant participate in an alcohol or drug treatment or education program
7 approved by the Department of Health and Mental Hygiene, unless the court finds
8 and states on the record that the interests of the defendant and the public do not
9 require the imposition of this condition.

10 (2) If the court places on probation a defendant who has been convicted
11 of a violation of any provision of Title 5 of the Criminal Law Article, the court shall
12 require as a condition that the defendant participate in a drug treatment or education
13 program approved by the Department of Health and Mental Hygiene, unless the court
14 finds and states on the record that the interests of the defendant and the public do not
15 require the imposition of this condition.

16 6-220.

17 (c) (1) When the crime for which the judgment is being stayed is for a
18 violation of § 21-902 of the Transportation Article or § 2-503, § 2-504, § 2-505, §
19 2-506, or § 3-211 of the Criminal Law Article, the court:

20 (i) before imposing a period of probation, may order the
21 Department of Health and Mental Hygiene to evaluate the defendant in accordance
22 with § 8-505 of the Health - General Article;

23 (ii) if an evaluation was ordered under item (i) of this paragraph,
24 shall review the evaluation before imposing a period of probation; and

25 (iii) shall impose a period of probation and, as a condition of the
26 probation:

27 1. shall require the defendant to participate in an alcohol or
28 drug treatment or education program approved by the Department of Health and
29 Mental Hygiene, unless the court finds and states on the record that the interests of
30 the defendant and the public do not require the imposition of this condition; and

31 2. may prohibit the defendant from operating a motor vehicle
32 unless the motor vehicle is equipped with an ignition interlock system under § 27-107
33 of the Transportation Article.

34 (2) When the crime for which the judgment is being stayed is for a
35 violation of any provision of Title 5 of the Criminal Law Article, the court shall impose
36 a period of probation and, as a condition of probation, require the defendant to
37 participate in a drug treatment or education program approved by the Department of
38 Health and Mental Hygiene, unless the court finds and states on the record that the

1 interests of the defendant and the public do not require the imposition of this
2 condition.

3

Article - Health - General

4 8-401.

5 (a) (1) The Administration shall:

6 (i) Promote, develop, establish, conduct, certify, and monitor
7 programs for the prevention, treatment, and rehabilitation related to the misuse of
8 alcohol and drugs; and9 (ii) Promote and conduct training and research related to the
10 misuse of alcohol and drugs.11 (2) (i) In cooperation with the Motor Vehicle Administration, courts,
12 police, and other agencies, the Administration shall approve appropriate programs of
13 alcohol and drug abuse education or treatment for individuals who are convicted
14 under § 21-902 of the Transportation Article.15 (ii) The programs under this paragraph shall be coordinated with
16 and integrated into broad planning for comprehensive community health and welfare
17 services.

18 (3) The Administration shall:

19 (i) Review and, in accordance with regulations that the
20 Administration shall adopt, approve or disapprove each program that a public or
21 private agency wants to offer under § 6-219(c) or § 6-220(c) of the Criminal Procedure
22 Article;23 (ii) Promptly give the Administrative Office of the Courts notice of
24 each program approved under this paragraph;25 (iii) Monitor and biennially review each program approved under
26 this paragraph;27 (iv) Investigate each complaint made in connection with a program;
28 and29 (v) Promptly give the Administrative Office of the Courts notice if
30 the Department withdraws its approval of any program.31 (4) THE ADMINISTRATION SHALL INCLUDE AS AN APPROPRIATE
32 PROGRAM UNDER THIS SUBSECTION A CLINICALLY MANAGED, SHORT-TERM
33 RESIDENTIAL TREATMENT PROGRAM THAT PROVIDES WORK THERAPY AND OTHER
34 INTENSIVE THERAPY FOR A PERIOD OF AT LEAST 21 DAYS BUT NOT MORE THAN 35
35 DAYS FOR INDIVIDUALS WHO DO NOT NEED MEDICAL MONITORING.

1 8-404.

2 (a) The Department shall adopt regulations for establishing, operating, and
3 certifying alcohol abuse and drug abuse treatment programs that include:

4 (1) Procedures for consulting with the Administration to set standards
5 relating to alcohol abuse and drug abuse treatment care and rehabilitation services;

6 (2) Standards relating to environmental and safety requirements
7 concerning physical plant, equipment, and structure;

8 (3) Standards relating to programmatic operations of alcohol and drug
9 abuse treatment, care, and rehabilitation services, INCLUDING RESIDENTIAL
10 TREATMENT PROGRAMS DESCRIBED IN § 8-401(A)(4) OF THIS SUBTITLE; and

11 (4) Provisions for denials, suspensions, and revocations of certification.

12 **Article - Transportation**

13 21-902.

14 (a) (1) A person may not drive or attempt to drive any vehicle while under
15 the influence of alcohol.

16 (2) A person may not drive or attempt to drive any vehicle while the
17 person is under the influence of alcohol per se.

18 (b) A person may not drive or attempt to drive any vehicle while impaired by
19 alcohol.

20 (c) (1) A person may not drive or attempt to drive any vehicle while he is so
21 far impaired by any drug, any combination of drugs, or a combination of one or more
22 drugs and alcohol that he cannot drive a vehicle safely.

23 (2) It is not a defense to any charge of violating this subsection that the
24 person charged is or was entitled under the laws of this State to use the drug,
25 combination of drugs, or combination of one or more drugs and alcohol, unless the
26 person was unaware that the drug or combination would make the person incapable
27 of safely driving a vehicle.

28 (d) A person may not drive or attempt to drive any vehicle while the person is
29 impaired by any controlled dangerous substance, as that term is defined in § 5-101 of
30 the Criminal Law Article, if the person is not entitled to use the controlled dangerous
31 substance under the laws of this State.

32 (e) For purposes of the application of subsequent offender penalties under §
33 27-101 of this article, a conviction for a crime committed in another state or federal
34 jurisdiction that, if committed in this State, would constitute a violation of subsection
35 (a), (b), (c), or (d) of this section shall be considered a violation of subsection (a), (b),
36 (c), or (d) of this section.

1 27-101.

2 (j) (4) A person who is convicted of an offense under § 21-902(a) of this
3 article within 5 years of a prior conviction of any offense under that subsection shall
4 be required by the court to:

5 (i) Undergo a comprehensive alcohol abuse assessment; and

6 (ii) If recommended at the conclusion of the assessment, participate
7 in an alcohol program as ordered by the court that is:

8 1. Certified by the Department of Health and Mental
9 Hygiene;

10 2. Certified by an agency in an adjacent state that has
11 powers and duties similar to the Department of Health and Mental Hygiene; or

12 3. Approved by the court.

13 (5) A person who is convicted of an offense under § 21-902(d) of this
14 article within 5 years of a prior conviction of any offense under that subsection shall
15 be required by the court to:

16 (i) Undergo a comprehensive drug abuse assessment; and

17 (ii) If recommended at the conclusion of the assessment, participate
18 in a drug program as ordered by the court that is:

19 1. Certified by the Department of Health and Mental
20 Hygiene;

21 2. Certified by an agency in an adjacent state that has
22 powers and duties similar to the Department of Health and Mental Hygiene; or

23 3. Approved by the court.

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