

# Chapter 352

## (House Bill 96)

AN ACT concerning

### **Criminal Procedure – Probation Before Judgment – ~~Subsequent Possession~~ of a Controlled Dangerous Substance Crime**

FOR the purpose of authorizing a court to impose probation before judgment for a certain second ~~or subsequent~~ controlled dangerous substance crime if the court requires the defendant to graduate from drug court or successfully complete a substance abuse treatment program as a condition of probation and the defendant meets that requirement; and generally relating to probation before judgment.

BY repealing and reenacting, with amendments,  
Article – Criminal Procedure  
Section 6–220(d)  
Annotated Code of Maryland  
(2008 Replacement Volume and 2011 Supplement)

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

#### **Article – Criminal Procedure**

6–220.

(d) Notwithstanding subsections (b) and (c) of this section, a court may not stay the entering of judgment and place a defendant on probation for:

(1) a violation of § 21–902 of the Transportation Article or § 2–503, § 2–504, § 2–505, § 2–506, or § 3–211 of the Criminal Law Article, if within the preceding 10 years the defendant has been convicted under § 21–902 of the Transportation Article or § 2–503, § 2–504, § 2–505, § 2–506, or § 3–211 of the Criminal Law Article, or has been placed on probation in accordance with this section, after being charged with a violation of § 21–902 of the Transportation Article or § 2–503, § 2–504, § 2–505, § 2–506, or § 3–211 of the Criminal Law Article;

(2) a second or subsequent controlled dangerous substance crime under Title 5 of the Criminal Law Article ~~UNLESS THE COURT REQUIRES THE DEFENDANT TO GRADUATE FROM DRUG COURT AS A CONDITION OF PROBATION,~~  
EXCEPT THAT THE COURT MAY STAY THE ENTERING OF JUDGMENT AND PLACE

**A DEFENDANT ON PROBATION FOR POSSESSION OF A CONTROLLED DANGEROUS SUBSTANCE UNDER § 5-601 OF THE CRIMINAL LAW ARTICLE IF:**

**(I) THE DEFENDANT HAS BEEN CONVICTED ONCE PREVIOUSLY OF OR RECEIVED PROBATION BEFORE JUDGMENT ONCE PREVIOUSLY FOR POSSESSION OF A CONTROLLED DANGEROUS SUBSTANCE UNDER § 5-601 OF THE CRIMINAL LAW ARTICLE;**

**(II) THE COURT REQUIRES THE DEFENDANT TO GRADUATE FROM DRUG COURT OR SUCCESSFULLY COMPLETE A SUBSTANCE ABUSE TREATMENT PROGRAM AS A CONDITION OF PROBATION; AND**

**(III) THE DEFENDANT GRADUATES FROM DRUG COURT OR SUCCESSFULLY COMPLETES A SUBSTANCE ABUSE TREATMENT PROGRAM AS REQUIRED;**

(3) a violation of any of the provisions of §§ 3-303 through 3-307, §§ 3-309 through 3-312, § 3-315, or § 3-602 of the Criminal Law Article for a crime involving a person under the age of 16 years; or

(4) a moving violation, as defined in § 11-136.1 of the Transportation Article, if:

(i) the defendant holds a provisional license under § 16-111 of the Transportation Article; and

(ii) the defendant has previously been placed on probation under this section for the commission of a moving violation while the defendant held a provisional license.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

**Approved by the Governor, May 2, 2012.**