

SENATE BILL 865

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3lr2852
CF 3lr2046

By: Senator Zirkin

Introduced and read first time: February 7, 2013

Assigned to: Rules

A BILL ENTITLED

- 1 AN ACT concerning
- 2 **Correctional Services – Good Conduct Credits – Firearm Related Crime**
- 3 FOR the purpose of providing that an inmate who is serving a sentence in a State or
4 local correctional facility for a second or subsequent conviction of a certain
5 firearm related crime is not entitled to a certain deduction from the inmate's
6 term of confinement; requiring the court, on request of the State's Attorney, to
7 make a certain finding as to whether a crime for which a defendant is convicted
8 or receives a probation before judgment disposition is a firearm related crime;
9 establishing that the State has the burden of proving by a preponderance of the
10 evidence that the crime is a firearm related crime; requiring a finding by the
11 court that a crime is a firearm related crime to become part of the court record
12 for certain purposes; expanding the list of events that are required to be
13 reported to the Criminal Justice Information System Central Repository to
14 include a finding by a court that a defendant has been convicted of or received a
15 probation before judgment disposition for a firearm related crime; defining
16 certain terms; providing for the application of this Act; and generally relating to
17 good conduct credits.
- 18 BY repealing and reenacting, with amendments,
19 Article – Correctional Services
20 Section 3–704 and 11–503
21 Annotated Code of Maryland
22 (2008 Replacement Volume and 2012 Supplement)
- 23 BY adding to
24 Article – Criminal Procedure
25 Section 6–234
26 Annotated Code of Maryland
27 (2008 Replacement Volume and 2012 Supplement)
- 28 BY repealing and reenacting, with amendments,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article – Criminal Procedure
Section 10–215
Annotated Code of Maryland
(2008 Replacement Volume and 2012 Supplement)

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

Article – Correctional Services

8 3-704.

(a) [An] EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, AN inmate shall be allowed a deduction in advance from the inmate's term of confinement.

11 (B) AN INMATE WHO IS SERVING A SENTENCE FOR A SECOND OR
12 SUBSEQUENT CONVICTION OF A FIREARM RELATED CRIME, AS DEFINED IN §
13 6-234 OF THE CRIMINAL PROCEDURE ARTICLE, IS NOT ENTITLED TO A
14 DEDUCTION UNDER THIS SECTION.

15 [(b)] (c) (1) The deduction allowed under subsection (a) of this section
16 shall be calculated:

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

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

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

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

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

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

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

3 11-503.

4 (a) [An] EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, AN
5 inmate shall be allowed a deduction of 5 days from the inmate's term of confinement
6 for each calendar month of presentence confinement during which the inmate:

7 (1) does not violate the rules of discipline; and

8 (2) labors with diligence and fidelity when the opportunity for labor is
9 available.

10 **(B) AN INMATE WHO IS SERVING A SENTENCE FOR A SECOND OR
11 SUBSEQUENT CONVICTION OF A FIREARM RELATED CRIME, AS DEFINED IN §
12 6-234 OF THE CRIMINAL PROCEDURE ARTICLE, IS NOT ENTITLED TO A
13 DEDUCTION UNDER THIS SECTION.**

14 [(b)] (c) The deductions described in this section shall:

15 (1) begin on the day the inmate arrives at the local correctional
16 facility;

17 (2) be made on a prorated basis for any portion of a calendar month of
18 presentence confinement during which the inmate is committed to the local
19 correctional facility; and

20 (3) cease on the day the inmate is:

21 (i) sentenced to a local correctional facility;

22 (ii) committed to the custody of the Commissioner of Correction;
23 or

24 (iii) released.

25 **Article – Criminal Procedure**

26 **6-234.**

27 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
28 MEANINGS INDICATED.**

1 **(2) "FIREARM" HAS THE MEANING STATED IN § 5–101 OF THE**
2 **PUBLIC SAFETY ARTICLE.**

3 **(3) "FIREARM RELATED CRIME" MEANS A CRIME COMMITTED BY**
4 **A DEFENDANT WHILE DISPLAYING, BRANDISHING, OR USING A FIREARM.**

5 **(B) (1) IF A DEFENDANT IS CONVICTED OF OR RECEIVES A**
6 **PROBATION BEFORE JUDGMENT DISPOSITION FOR A CRIME, ON REQUEST OF**
7 **THE STATE'S ATTORNEY, THE COURT SHALL MAKE A FINDING OF FACT, BASED**
8 **ON EVIDENCE PRODUCED AT TRIAL, AS TO WHETHER THE CRIME IS A FIREARM**
9 **RELATED CRIME.**

10 **(2) THE STATE HAS THE BURDEN OF PROVING BY A**
11 **PREPONDERANCE OF THE EVIDENCE THAT THE CRIME IS A FIREARM RELATED**
12 **CRIME.**

13 **(C) IF THE COURT FINDS THAT THE CRIME IS A FIREARM RELATED**
14 **CRIME UNDER SUBSECTION (B) OF THIS SECTION, THAT FINDING SHALL**
15 **BECOME PART OF THE COURT RECORD FOR PURPOSES OF REPORTING TO THE**
16 **CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY UNDER §**
17 **10–215 OF THIS ARTICLE.**

18 10–215.

19 (a) The following events are reportable events under this subtitle that must
20 be reported to the Central Repository in accordance with § 10–214 of this subtitle:

- 21 (1) the issuance or withdrawal of an arrest warrant;
- 22 (2) an arrest;
- 23 (3) the filing of a charging document;
- 24 (4) a release pending trial or an appeal;
- 25 (5) a commitment to an institution of pretrial detention;
- 26 (6) the dismissal of an indictment or criminal information;
- 27 (7) a nolle prosequi;
- 28 (8) the marking of a charge "stet" on the docket;

(23) the imposition of lifetime sexual offender supervision under Title 11, Subtitle 7 of this article;

(24) a finding that a defendant has been convicted of or received a probation before judgment disposition for a domestically related crime under § 6–233 of this article; [and]

6 **(25) A FINDING THAT A DEFENDANT HAS BEEN CONVICTED OF OR**
7 **RECEIVED A PROBATION BEFORE JUDGMENT DISPOSITION FOR A FIREARM**
8 **RELATED CRIME UNDER § 6-234 OF THIS ARTICLE; AND**

9 **[(25)] (26)** any other event arising out of or occurring during the course
10 of a criminal proceeding that the Secretary by regulation or the Court of Appeals by
11 rule makes a reportable event.

12 (b) To avoid duplication in the reporting of criminal history record
13 information, the Secretary by regulation and the Court of Appeals by rule may
14 determine those reportable events described under subsection (a) of this section to be
15 reported by each criminal justice unit to the Central Repository.

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
17 construed to apply only prospectively and may not be applied or interpreted to have
18 any effect on or application to any crime committed before the effective date of this
19 Act.

20 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
21 October 1, 2013.