

# HOUSE BILL 311

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CF SB 265

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By: **Delegate Anderson (By Request – Baltimore City Administration) and Delegates Clippinger, Glenn, Harper, McHale, McIntosh, Mitchell, Oaks, B. Robinson, Stukes, and Tarrant**

Introduced and read first time: January 22, 2014

Assigned to: Judiciary

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## A BILL ENTITLED

AN ACT concerning

### **Gang-Related Crimes – Reporting**

FOR the purpose of requiring the court, on request of the State's Attorney, to make a certain finding as to whether a crime for which a defendant is convicted or receives a probation before judgment disposition is a gang-related crime; establishing that the State has the burden of proving by a preponderance of the evidence that a crime is a gang-related crime; requiring a finding by the court that a crime is a gang-related crime to become part of the court record for certain purposes; expanding the list of events that are required to be reported to the Criminal Justice Information System Central Repository to include a finding by a court that a defendant has been convicted of or received a probation before judgment disposition for a gang-related crime; defining a certain term; and generally relating to the reporting of gang-related crimes.

BY adding to

Article – Criminal Procedure

Section 6-234

Annotated Code of Maryland

(2008 Replacement Volume and 2013 Supplement)

BY repealing and reenacting, with amendments,

Article – Criminal Procedure

Section 10-215

Annotated Code of Maryland

(2008 Replacement Volume and 2013 Supplement)

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

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



**Article – Criminal Procedure****6–234.**

**(A) IN THIS SECTION, “GANG–RELATED CRIME” MEANS A CRIME COMMITTED BY A DEFENDANT AGAINST A VICTIM IN FURTHERANCE OF GANG–RELATED ACTIVITY.**

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

**(2) THE STATE HAS THE BURDEN OF PROVING BY A PREPONDERANCE OF THE EVIDENCE THAT THE CRIME IS A GANG–RELATED CRIME.**

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

**10–215.**

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

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

- (9) an acquittal, conviction, verdict of not criminally responsible, or any other disposition of a case at or following trial, including a finding of probation before judgment;
- (10) the imposition of a sentence;
- (11) a commitment to a State correctional facility or local correctional facility;
- (12) a commitment to the Department of Health and Mental Hygiene under § 3–105 or § 3–111 of this article as incompetent to stand trial or not criminally responsible;
- (13) a release from detention or confinement;
- (14) a conditional release, revocation of conditional release, or discharge of a person committed to the Department of Health and Mental Hygiene under § 3–105 or § 3–111 of this article as incompetent to stand trial or not criminally responsible;
- (15) an escape from confinement or commitment;
- (16) a pardon, reprieve, commutation of a sentence, or other change in a sentence, including a change in a sentence that a court orders;
- (17) an entry of an appeal to an appellate court;
- (18) a judgment of an appellate court;
- (19) an order of a court in a collateral proceeding that affects a person's conviction, sentence, or confinement;
- (20) an adjudication of a child as delinquent:
  - (i) if the child is at least 14 years old, for an act described in § 3–8A–03(d)(1) of the Courts Article; or
  - (ii) if the child is at least 16 years old, for an act described in § 3–8A–03(d)(4) or (5) of the Courts Article;
- (21) the issuance or withdrawal of a writ of attachment by a juvenile court;
- (22) the initial registration of a person under Title 11, Subtitle 7 of this article;

(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]

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

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

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

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2014.