

# SENATE BILL 164

E4, E1

4lr0602

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By: **Senators Brochin, Feldman, Getty, and Pugh**

Introduced and read first time: January 13, 2014

Assigned to: Judicial Proceedings

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## A BILL ENTITLED

AN ACT concerning

### **Crimes – Use of a Firearm in the Commission of a Crime – Diminution Credits and Sentencing**

FOR the purpose of prohibiting the earning of diminution credits to reduce the term of confinement of an inmate committed to the custody of the Commissioner of Correction or sentenced to a term of imprisonment in a local correctional facility who is serving a sentence for the use of certain firearms in the commission of certain crimes; clarifying that a court may not impose less than a certain mandatory minimum sentence for the use of certain firearms in the commission of certain crimes; prohibiting a court from suspending any part of a certain mandatory minimum sentence; providing for the application of this Act; and generally relating to the use of a firearm in the commission of a crime.

BY repealing and reenacting, with amendments,  
Article – Correctional Services  
Section 3–702 and 11–502  
Annotated Code of Maryland  
(2008 Replacement Volume and 2013 Supplement)

BY repealing and reenacting, with amendments,  
Article – Criminal Law  
Section 4–204  
Annotated Code of Maryland  
(2012 Replacement Volume and 2013 Supplement)

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

### **Article – Correctional Services**

3–702.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(a) Subject to subsections (b) [and], (c), AND (D) of this section, § 3–711 of this subtitle, and Title 7, Subtitle 5 of this article, an inmate committed to the custody of the Commissioner is entitled to a diminution of the inmate’s term of confinement as provided under this subtitle.

(b) An inmate who is serving a sentence for a violation of § 3–303, § 3–304, § 3–305, or § 3–306 of the Criminal Law Article involving a victim who is a child under the age of 16 years is not entitled to a diminution of the inmate’s term of confinement as provided under this subtitle.

(c) An inmate who is serving a sentence for a violation of § 3–307 of the Criminal Law Article involving a victim who is a child under the age of 16 years is not entitled to a diminution of the inmate’s term of confinement as provided under this subtitle, if the inmate was previously convicted of a violation of § 3–307 of the Criminal Law Article involving a victim who is a child under the age of 16 years.

**(D) AN INMATE WHO IS SERVING A SENTENCE FOR A VIOLATION OF § 4–204 OF THE CRIMINAL LAW ARTICLE IS NOT ENTITLED TO A DIMINUTION OF THE INMATE’S TERM OF CONFINEMENT AS PROVIDED UNDER THIS SUBTITLE.**

11–502.

(a) Except as provided in subsections (b) [and], (c), AND (D) of this section, an inmate who has been sentenced to a term of imprisonment shall be allowed deductions from the inmate’s term of confinement as provided under this subtitle for any period of presentence or postsentence confinement in a local correctional facility.

(b) (1) An inmate who is serving a sentence for a violation of § 3–303, § 3–304, § 3–305, or § 3–306 of the Criminal Law Article involving a victim who is a child under the age of 16 years may not be allowed deductions from the inmate’s term of confinement as provided under this subtitle for any period of presentence or postsentence confinement in a local correctional facility.

(2) This subsection may not be construed to require an inmate to serve a longer sentence of confinement than is authorized by the statute under which the inmate was convicted.

(c) (1) An inmate who is serving a sentence for a violation of § 3–307 of the Criminal Law Article involving a victim who is a child under the age of 16 years, who has previously been convicted of violating § 3–307 of the Criminal Law Article involving a victim who is a child under the age of 16 years, may not be allowed deductions from the inmate’s term of confinement as provided under this subtitle for any period of presentence or postsentence confinement in a local correctional facility.

(2) This subsection may not be construed to require an inmate to serve a longer sentence of confinement than is authorized by the statute under which the inmate was convicted.

**(D) AN INMATE WHO IS SERVING A SENTENCE FOR A VIOLATION OF § 4-204 OF THE CRIMINAL LAW ARTICLE MAY NOT BE ALLOWED DEDUCTIONS FROM THE INMATE'S TERM OF CONFINEMENT AS PROVIDED UNDER THIS SUBTITLE FOR ANY PERIOD OF PRESENTENCE OR POSTSENTENCE CONFINEMENT IN A LOCAL CORRECTIONAL FACILITY.**

### **Article – Criminal Law**

4-204.

(a) (1) In this section, “firearm” means:

(i) a weapon that expels, is designed to expel, or may readily be converted to expel a projectile by the action of an explosive; or

(ii) the frame or receiver of such a weapon.

(2) “Firearm” includes an antique firearm, handgun, rifle, shotgun, short-barreled rifle, short-barreled shotgun, starter gun, or any other firearm, whether loaded or unloaded.

(b) A person may not use a firearm in the commission of a crime of violence, as defined in § 5-101 of the Public Safety Article, or any felony, whether the firearm is operable or inoperable at the time of the crime.

(c) (1) (i) A person who violates this section is guilty of a misdemeanor and, in addition to any other penalty imposed for the crime of violence or felony, shall be sentenced to imprisonment for not less than 5 years and not exceeding 20 years.

(ii) **[The] NOTWITHSTANDING § 14-102 OF THIS ARTICLE, THE** court may not impose less than the **MANDATORY** minimum sentence of 5 years **[and, except as otherwise provided in § 4-305 of the Correctional Services Article, the person is not eligible for parole in less than 5 years].**

**(III) THE COURT MAY NOT SUSPEND ANY PART OF THE MANDATORY MINIMUM SENTENCE OF 5 YEARS.**

(2) For each subsequent violation, the sentence shall be consecutive to and not concurrent with any other sentence imposed for the crime of violence or felony.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have

any effect on or application to any offense committed before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2014.