

SB1005/723125/1

BY: Senator Simonaire

AMENDMENTS TO SENATE BILL 1005, AS AMENDED
(First Reading File Bill)

AMENDMENT NO. 1

On page 2 of the Judicial Proceedings Committee Amendments (SB1005/508476/1), in line 2 of Amendment No. 1, before “authorizing” insert “providing that, on a certain motion, the State may appeal the sentence in a certain manner; authorizing a certain review panel to review a certain sentence modification; prohibiting a certain review panel from increasing a certain sentence in a certain manner;”; and in the fourth line from the bottom, after “Section” insert “6-234 and”.

On page 5 of the bill, in line 19, after “6-224,” insert “8-105”.

AMENDMENT NO. 2

On page 67 of the bill, in line 13, strike the period and substitute “.

6-234.

IF THE COURT GRANTS A MOTION FOR A MODIFICATION OF SENTENCE FOR A CRIME OF VIOLENCE AS DEFINED IN § 14-101 OF THE CRIMINAL LAW ARTICLE, AND REDUCES THE SENTENCE BELOW THE MINIMUM SENTENCE RECOMMENDED BY THE SENTENCING GUIDELINES ESTABLISHED UNDER § 6-208 OF THIS SUBTITLE IN EFFECT AT THE TIME OF THE ORIGINAL SENTENCE, THE STATE MAY APPEAL THE SENTENCE TO A THREE-JUDGE PANEL DESCRIBED IN § 8-105 OF THIS ARTICLE.

8-105.

(a) A review panel consists of three or more circuit court judges of the judicial circuit in which the sentencing court is located.

(Over)

(b) Notwithstanding any Maryland Rule, the sentencing judge may not be a member of the review panel, but on request of the sentencing judge, the sentencing judge may sit with the review panel only in an advisory capacity.

(c) (1) A review panel shall consider each application for review of a sentence OR SENTENCE MODIFICATION UNDER § 6-234 OF THIS ARTICLE.

(2) A review panel may require the Division of Parole and Probation to make investigations, reports, and recommendations.

(3) A review panel:

(i) with or without a hearing, may decide that the sentence OR SENTENCE MODIFICATION UNDER § 6-234 OF THIS ARTICLE under review should remain unchanged; or

(ii) SUBJECT TO PARAGRAPH (4) OF THIS SUBSECTION, after a hearing, may order a different sentence to be imposed or served, including:

1. an increased sentence;
2. subject to § 8-107(c) of this subtitle, a decreased sentence;
3. a suspended sentence to be served wholly or partly; or
4. a sentence to be suspended with or without probation.

(4) IF A REVIEW PANEL REVIEWING A SENTENCE MODIFICATION UNDER § 6-234 OF THIS ARTICLE CHOOSES TO INCREASE THE SENTENCE BEING

REVIEWED, THE SENTENCE MAY NOT EXCEED A SENTENCE THAT CORRESPONDS WITH THE MINIMUM SENTENCE RECOMMENDED BY THE SENTENCING GUIDELINES FOR THE CRIME ESTABLISHED UNDER § 6-208 OF THIS SUBTITLE IN EFFECT AT THE TIME OF THE ORIGINAL SENTENCE.

[(4)] (5) In deciding to order a different sentence, the review panel may impose conditions that the review panel considers just and that could have been imposed lawfully by the sentencing court when the sentence OR SENTENCE MODIFICATION UNDER § 6-234 OF THIS ARTICLE was imposed.

(d) If the review panel orders a different sentence, the review panel shall resentence and notify the defendant AND THE STATE in accordance with the order of the panel.”.