SENATE BILL 1005

E4, E1 6lr2751
CF HB 1312

By: **The President (By Request – Justice Reinvestment Coordinating Council)**
Introduced and read first time: February 15, 2016
Assigned to: Rules
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Committee Report: Favorable with amendments
Senate action: Adopted with floor amendments
Read second time: March 21, 2016

CHAPTER _____

AN ACT concerning

Justice Reinvestment Act

FOR the purpose of requiring the Division of Parole and Probation to conduct a certain risk and needs assessment on certain inmates and include the results in certain case records; establishing requirements for a certain case plan; requiring the Division of Correction to have a certain study conducted at certain intervals on a certain assessment tool for a certain purpose; increasing a certain monthly deduction allowed to an inmate of a State correctional facility whose term of confinement includes a certain sentence for a certain crime of manufacturing, distributing, dispensing, or possessing a controlled dangerous substance; increasing the maximum monthly deductions allowed to an inmate of a State correctional facility for manifesting satisfactory progress in certain work projects or programs; increasing the maximum number of diminution credits that an inmate of a State correctional facility may earn in a month; requiring the Division of Parole and Probation to administer a <u>certain screening tool and a</u> certain risk and needs assessment on a certain supervised individual; requiring the Division of Parole and Probation to supervise a certain individual based on the results of a certain risk and needs assessment; requiring the Division of Parole and Probation to develop an individualized case plan for each individual with a certain assessment; requiring the Division of Parole and Probation to modify the conditions of probation or suspension of sentence for the purpose of imposing certain graduated sanctions; requiring the Division of Parole and Probation to report to the court on certain <u>violations and certain</u> graduated sanctions imposed under certain circumstances; expanding eligibility for certain earned compliance credits to a person incarcerated, on

EXPLANATION: **CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.**
[Brackets**]** indicate matter deleted from existing law.
<u>Underlining</u> indicates amendments to bill.
~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

probation, or convicted in this State for violation of certain prohibitions relating to manufacturing, distributing, dispensing, or possessing a controlled dangerous substance; requiring the Maryland Parole Commission or the court to adjust the period of a certain supervised individual's supervision on a certain recommendation for earned compliance credits accrued under a certain program; requiring the Division of Parole and Probation to transfer a certain individual to a certain abatement status under certain circumstances; requiring the Division of Parole and Probation to inform a certain supervised individual of a certain transfer date at certain intervals; requiring the Division of Parole and Probation to notify the Maryland Parole Commission or the court of a certain impending transfer at a certain time; providing that a supervised individual who is on abatement may not be required to regularly report to a certain agent or pay a supervision fee; requiring the Department of Public Safety and Correctional Services to develop an automated application for the tracking and awarding of earned compliance credits by the Division of Parole and Probation; requiring the Division of Parole and Probation to use certain methods to aid and encourage a certain person to improve conduct and to reduce the risk of recidivism; requiring the Division of Parole and Probation to have an independent validation study conducted at certain intervals on its risk and needs assessment tool for a certain purpose; requiring the ~~Division of Parole and Probation~~ Department of Public Safety and Correctional Services to require all parole and probation agents, Maryland Parole Commission members, and hearing officers to undergo certain annual training; requiring the Department of Public Safety and Correctional Services, by a certain date, to establish a program to implement certain sanctions for certain violations of conditions of community supervision by a certain individual; requiring the Department of Public Safety and Correctional Services to adopt certain policies and procedures to implement certain programs; requiring the Department to develop a certain matrix for a certain purpose; ~~authorizing the Division of Parole and Probation to modify conditions of community supervision for a certain individual for the limited purpose of imposing certain sanctions; authorizing~~ requiring the Division of Parole and Probation to refer a certain individual to the court or the Maryland Parole Commission for additional sanctions; requiring the Division of Parole and Probation to issue a certificate of rehabilitation to a certain individual; providing that a certificate of rehabilitation ~~precludes a licensing board from disqualifying an applicant from professional or occupational licensure or certification because of a certain criminal conviction~~ shall be considered by a licensing board when considering the qualifications of an applicant for a professional or occupational licensure or certification; providing that an individual may receive only one certificate of rehabilitation under certain circumstances; requiring the Division of Parole and Probation to adopt regulations establishing an application and review process for a certificate of rehabilitation that allows certain parties to object to the issuance of the certificate of rehabilitation; altering the exclusive powers of the Maryland Parole Commission; requiring the Maryland Parole Commission to request that the Division of Parole and Probation conduct a certain investigation for an inmate in a local correctional facility; requiring the Maryland Parole Commission to request that the Division of Correction conduct a certain investigation for an inmate in a State correctional facility; requiring certain investigations to be submitted at certain times; requiring the Maryland Parole

Commission to consider the results of a certain investigation, develop a certain case plan, and provide certain notifications to certain victims and a State's Attorney; providing that a certain inmate be released on administrative ~~parole~~ release under certain circumstances; establishing that a victim has certain rights related to administrative parole; requiring that an inmate's debilitation or incapacitation be permanent to qualify for medical parole; requiring the Maryland Parole Commission to consider certain medical evaluations before granting medical parole; repealing a requirement that a Governor approve medical parole for an individual serving a certain sentence; providing that the Governor may disapprove a medical parole recommendation for a certain individual serving a certain sentence within a certain time; authorizing a parole commissioner to impose a certain period of imprisonment under certain circumstances; authorizing the Commissioner to depart from certain periods of incarceration under certain circumstances; authorizing a commissioner to revoke certain diminution credits previously earned by a certain individual under certain circumstances; altering certain deductions from an certain inmate's earnings to be used for certain purposes; altering a certain monthly deduction from postsentence confinement allowed to a certain inmate of a local correctional facility; altering the maximum penalty for murder in the second degree; altering the maximum penalty for kidnapping; altering certain penalties for possession of a controlled dangerous substance; altering certain penalties for possession of marijuana; ~~requiring~~ authorizing the court to order the ~~Department of Public Safety and Correctional Services~~ Department of Health and Mental Hygiene to evaluate a defendant for drug dependence and provide a certain assessment before imposing a sentence for possession of a controlled dangerous substance; requiring the ~~Department of Public Safety and Correctional Services~~ Department of Health and Mental Hygiene to evaluate a defendant and provide an assessment regarding drug treatment to certain parties; requiring the court to ~~incorporate~~ consider a certain assessment into a sentence for possession of a controlled dangerous substance in a certain manner; requiring the Division of Correction or a local facility to facilitate certain treatment for a certain person; establishing that a court may impose certain mandatory minimum sentences only for certain drug offenses under certain circumstances; requiring the court to state on the record the reason for departing from certain mandatory minimum sentences; authorizing a certain person to apply to the court to modify or reduce a certain sentence under certain circumstances in a certain manner; increasing the amount of crack cocaine to be the same as the amount of powder cocaine that is required to trigger enhanced penalties for certain drug offenders; altering the penalties for theft, issuing or passing a bad check, credit card fraud, identity fraud, counterfeiting, and exploitation of a vulnerable adult; ~~providing that a certain geriatric parole procedure does not apply to a certain sexual offender; altering the age and incarceration time served thresholds for eligibility for geriatric parole; requiring the State Commission on Criminal Sentencing Policy to review judicial compliance with certain guidelines for suspended sentences and include a suspended portion of a sentence in the determination of whether a sentence is compliant with certain sentencing guidelines;~~ authorizing a court to impose a certain period of incarceration for a certain person who has violated a condition of probation under certain circumstances; authorizing a certain person to file a petition for expungement of certain offenses under certain circumstances; establishing

certain procedures for a certain expungement under certain circumstances; authorizing the court to depart from certain periods of imprisonment under certain circumstances; requiring the Department of Health and Mental Hygiene to immediately provide certain services; requiring the Department of Health and Mental Hygiene to facilitate certain treatment ~~without unnecessary delay and in no event~~ no later than a certain time period after a certain order; repealing certain limitations on certain duties of the Department of Health and Mental Hygiene relating to funding; authorizing the court to require the Department of Health and Mental Hygiene to appear in court to explain a certain ~~lack of placement~~ delay under certain circumstances; establishing the Justice Reinvestment Oversight Board; providing for the membership, duties, staffing, procedures, and reporting of the Board; establishing the Performance Incentive County Grant Fund as a special, nonlapsing fund; specifying the purpose of the Fund; requiring the Executive Director of the Governor's Office of Crime Control and Prevention to administer the Fund; requiring the State Treasurer to hold the Fund and the Comptroller to account for the Fund; specifying the contents of the Fund; specifying the purpose for which the Fund may be used; providing for the investment of money in and expenditures from the Fund; establishing the Local Government Justice Reinvestment Commission; providing for the membership, duties, staffing, procedures, and reporting of the Local Government Justice Reinvestment Commission; ~~altering the penalties for certain traffic violations related to a driver's license;~~ requiring the Governor's Office of Crime Control and Prevention, in consultation with certain departments, agencies, and persons, to conduct a certain analysis relating to offender treatment and to submit a certain report; stating the intent of the General Assembly that the Governor provide certain funding in the annual budget; requiring the Maryland Mediation and Conflict Resolution Office to conduct a certain study and submit a certain report with recommendations on or before a certain date; requiring the State Commission on Criminal Sentencing Policy to study how more alternatives to incarceration may be included in the sentencing guidelines and submit a report with recommendations on or before a certain date; requiring the Governor's Office of Crime Control and Prevention to conduct a certain study relating to restitution and victim services and submit a certain report; requiring the Governor to issue a certain order under certain circumstances; requiring local correction authorities in consultation with certain departments to conduct a certain budget analysis and submit a report on or before a certain date; stating the intent of the General Assembly; providing for the application of certain provisions of this Act; providing for a delayed effective date for certain provisions of this Act; making conforming changes; altering certain definitions; defining certain terms; and generally relating to justice reinvestment.

BY repealing and reenacting, with amendments,
Article – Correctional Services
Section 3–601, 3–704, 3–707, 3–708, 6–101, 6–104, 6–111, 6–117, 7–205, 7–305, 7–309, 7–401, 7–504, and 11–504
Annotated Code of Maryland
(2008 Replacement Volume and 2015 Supplement)

BY repealing and reenacting, without amendments,
Article – Correctional Services
Section 3–705, 3–706, 7–101(a) and (m), 7–103, and 7–301(a)
Annotated Code of Maryland
(2008 Replacement Volume and 2015 Supplement)

BY adding to
Article – Correctional Services
Section 6–119, 6–120, 6–121, 7–104, 7–301.1, and 9–614
Annotated Code of Maryland
(2008 Replacement Volume and 2015 Supplement)

BY repealing
Article – Correctional Services
Section 11–604
Annotated Code of Maryland
(2008 Replacement Volume and 2015 Supplement)

BY repealing and reenacting, with amendments,
Article – Criminal Law
Section 2–204, 3–502, and 5–601
Annotated Code of Maryland
(2012 Replacement Volume and 2015 Supplement)
(As enacted by Chapter 4 of the Acts of the General Assembly of 2016)

BY repealing and reenacting, with amendments,
Article – Criminal Law
Section 5–601.1, 5–607, 5–608, 5–609, 5–609.1, 5–612, 7–104(g), 7–108, 8–106, 8–206, 8–207, 8–209, 8–301(g), 8–516, 8–611, and 8–801(c)~~, and 14–101~~
Annotated Code of Maryland
(2012 Replacement Volume and 2015 Supplement)

BY repealing and reenacting, without amendments,
Article – Criminal Law
Section 7–104(a) through (f), 8–301(a), (b), (b–1), and (c) through (f), and 8–801(a) and (b)
Annotated Code of Maryland
(2012 Replacement Volume and 2015 Supplement)

~~BY repealing and reenacting, without amendments,~~
~~Article – Criminal Procedure~~
~~Section 1–101(a)~~
~~Annotated Code of Maryland~~
~~(2008 Replacement Volume and 2015 Supplement)~~

~~BY adding to~~
~~Article – Criminal Procedure~~

~~Section 1–101(p)~~
~~Annotated Code of Maryland~~
~~(2008 Replacement Volume and 2015 Supplement)~~

BY repealing and reenacting, with amendments,
Article – Criminal Procedure
Section ~~6–209~~ 1–101, 6–223, 6–224, and 11–819(b)
Annotated Code of Maryland
(2008 Replacement Volume and 2015 Supplement)

BY adding to
Article – Criminal Procedure
Section 10–110
Annotated Code of Maryland
(2008 Replacement Volume and 2015 Supplement)

BY repealing and reenacting, with amendments,
Article – Health – General
Section 8–505 and 8–507
Annotated Code of Maryland
(2015 Replacement Volume)

BY repealing and reenacting, without amendments,
Article – State Finance and Procurement
Section 6–226(a)(2)(i)
Annotated Code of Maryland
(2015 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 6–226(a)(2)(ii)84. and 85.
Annotated Code of Maryland
(2015 Replacement Volume)

BY adding to
Article – State Finance and Procurement
Section 6–226(a)(2)(ii)86.
Annotated Code of Maryland
(2015 Replacement Volume)

BY adding to
Article – State Government
Section 9–3201 through 9–3212 to be under the new subtitle "Subtitle 32. Justice Reinvestment Oversight Board"
Annotated Code of Maryland
(2014 Replacement Volume and 2015 Supplement)

~~BY repealing and reenacting, without amendments,~~
~~Article – Transportation~~
~~Section 27–101(b)~~
~~Annotated Code of Maryland~~
~~(2012 Replacement Volume and 2015 Supplement)~~

~~BY repealing and reenacting, with amendments,~~
~~Article – Transportation~~
~~Section 27–101(e) and (y)~~
~~Annotated Code of Maryland~~
~~(2012 Replacement Volume and 2015 Supplement)~~

~~BY adding to~~
~~Article – Transportation~~
~~Section 27–101(gg)~~
~~Annotated Code of Maryland~~
~~(2012 Replacement Volume and 2015 Supplement)~~

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

Article – Correctional Services

3–601.

(a) **IN THIS SECTION, "RISK AND NEEDS ASSESSMENT" HAS THE MEANING STATED IN § 6–101 OF THIS ARTICLE.**

(B) Promptly after an inmate is sentenced to the jurisdiction of the Division, the Division shall assemble an adequate case record for the inmate that includes:

(1) a description of the inmate;

(2) a photograph of the inmate;

(3) the family history of the inmate;

(4) any previous record of the inmate;

(5) a summary of the facts of each case for which the inmate is serving a sentence; **[**and**]**

(6) THE RESULTS OF A RISK AND NEEDS ASSESSMENT OF THE INMATE REQUIRED UNDER SUBSECTION (C) OF THIS SECTION; AND

[(6)**] (7)** the results of the physical, mental, and educational examination of the inmate required under subsection **[**(b)**] (C)** of this section.

[(b)**] (C)** The Division shall conduct **A RISK AND NEEDS ASSESSMENT AND** a physical, mental, and educational examination of an inmate as soon as feasible after the individual is sentenced to the jurisdiction of the Division.

[(c)**] (D) (1)** Based on the information assembled under subsection **[**(a)**] (B)** of this section, the Division shall classify an inmate and **[**assign the inmate to any available treatment, training, or employment that the Division considers appropriate**] DEVELOP A CASE PLAN TO GUIDE AN INMATE'S REHABILITATION WHILE UNDER THE CUSTODY OF THE DIVISION.**

(2) THE CASE PLAN DEVELOPED UNDER THIS SUBSECTION SHALL INCLUDE:

(I) PROGRAMMING AND TREATMENT RECOMMENDATIONS BASED ON THE RESULTS OF THE RISK AND NEEDS ASSESSMENT CONDUCTED UNDER SUBSECTION (C) OF THIS SECTION; ~~AND~~

(II) REQUIRED CONDUCT IN ACCORDANCE WITH THE RULES AND POLICIES OF THE DIVISION; AND

(III) A PLAN FOR THE PAYMENT OF RESTITUTION, IF RESTITUTION HAS BEEN ORDERED.

[(d)**] (E)** In accordance with regulations adopted by the Division, the managing official of each correctional facility shall maintain, as a part of an inmate's case record:

(1) an adequate record of the conduct, effort, and progress of the inmate during confinement; and

(2) a record of the character of any offense committed by the inmate and the nature and amount of punishment inflicted.

[(e)**] (F)** To identify an inmate, the Division may photograph and fingerprint the inmate and record a description of the inmate's personal background data.

3–704.

(a) An inmate shall be allowed a deduction in advance from the inmate's term of confinement.

(b) (1) The deduction allowed under subsection (a) of this section 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

(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 SEXUAL OFFENSE FOR WHICH REGISTRATION IS REQUIRED UNDER TITLE 11, SUBTITLE 7 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.

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

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

(2) during which the inmate is not in the custody of the Commissioner because of escape; or

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

3–705.

(a) (1) In addition to any other deductions allowed under this subtitle, an inmate may be allowed a deduction of 5 days from the inmate's term of confinement for each calendar month during which the inmate manifests satisfactory performance of assigned work tasks.

(2) The deduction described in paragraph (1) of this subsection shall be calculated:

(i) from the first day that the work task is performed; and

(ii) on a prorated basis for any portion of a calendar month during which the inmate performed the work task.

(b) The Commissioner shall adopt regulations governing the determination of deductions authorized under this section.

3–706.

(a) In addition to any other deductions allowed under this subtitle, an inmate may be allowed a deduction of 5 days from the inmate's term of confinement for each calendar month during which the inmate manifests satisfactory progress in:

(1) vocational courses; or

(2) other educational and training courses.

(b) The deduction described in subsection (a) of this section shall be calculated:

(1) from the first day that the inmate participates in the course; and

(2) on a prorated basis for any portion of the calendar month during which the inmate participates in the course.

3–707.

(a) **(1) [**In**] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, IN** addition to any other deductions allowed under this subtitle, an inmate may be allowed a deduction of up to **[**10**] 20** days from the inmate's term of confinement for each calendar month during which the inmate manifests satisfactory progress in those special selected work projects or other special programs**, INCLUDING RECIDIVISM REDUCTION PROGRAMMING,** designated by the Commissioner and approved by the Secretary.

(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 SEXUAL OFFENSE FOR WHICH REGISTRATION IS REQUIRED UNDER TITLE 11, SUBTITLE 7 OF THE CRIMINAL ~~LAW~~ PROCEDURE ARTICLE, THE DEDUCTION DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION SHALL BE CALCULATED AT THE RATE OF UP TO 10 DAYS FOR EACH CALENDAR MONTH.

(b) A deduction described in subsection (a) of this section shall be calculated:

(1) from the first day that the inmate is assigned to the work project or program; and

(2) on a prorated basis for any portion of the calendar month during which the inmate participates in the work project or program.

3–708.

Notwithstanding any other provision of this subtitle, an inmate may not be allowed a deduction under this subtitle of more than **[**20**]:**

(1) 20 DAYS FOR A CALENDAR MONTH FOR AN INMATE DESCRIBED IN § 3–707(A)(2) OF THIS SUBTITLE; AND

(2) 30 days for a calendar month **FOR ALL OTHER INMATES**.

6–101.

(a) In this subtitle the following words have the meanings indicated.

(b) **(1) "ABSCONDING" MEANS DISPLAYING AFFIRMATIVE BEHAVIOR WITH THE INTENT TO EVADE SUPERVISION.**

(2) "ABSCONDING" DOES NOT INCLUDE MISSING A SINGLE APPOINTMENT WITH A SUPERVISING AUTHORITY.

(C) "Commission" means the Maryland Parole Commission.

~~(c)~~ **(D)** "Crime of violence" has the meaning stated in § 14–101 of the Criminal Law Article.

~~(D)~~ **(E) "CRIMINAL RISK FACTORS" MEANS AN INDIVIDUAL'S CHARACTERISTICS AND BEHAVIORS THAT:**

(1) AFFECT THE INDIVIDUAL'S RISK OF ENGAGING IN CRIMINAL BEHAVIOR; AND

(2) ARE DIMINISHED WHEN ADDRESSED BY EFFECTIVE TREATMENT, SUPERVISION, AND OTHER SUPPORT SERVICES, RESULTING IN A REDUCED RISK OF CRIMINAL BEHAVIOR.

[(d)**]** ~~(E)~~ **(F)** "Director" means the Director of the Division or the Director's designee.

[(e)**]** ~~(F)~~ **(G)** "Division" means the Division of Parole and Probation.

[(f)**]** ~~(G)~~ **(H)** "Mandatory supervision" has the meaning stated in § 7–101 of this article.

[(g)**]** ~~(H)~~ **(I)** "Offender" means an individual on parole or under mandatory supervision.

[(h)**]** ~~(I)~~ **(J)** "Parolee" means an individual who has been released on parole.

[(i)**]** ~~**(J)**~~ **(K)** "Program" means a home detention program established under § 6–108 of this subtitle.

~~**(K)**~~ **(L)** **"RISK AND NEEDS ASSESSMENT" MEANS AN ACTUARIAL TOOL VALIDATED ON THE STATE'S CORRECTIONAL POPULATION THAT DETERMINES:**

(1) AN INDIVIDUAL'S RISK OF REOFFENDING; AND

(2) THE CRIMINAL RISK FACTORS THAT, WHEN ADDRESSED, REDUCE THE INDIVIDUAL'S RISK OF REOFFENDING.

~~**(L)**~~ **(M)** **"TECHNICAL VIOLATION" MEANS A VIOLATION OF A CONDITION OF PROBATION, PAROLE, OR MANDATORY SUPERVISION THAT DOES NOT INVOLVE:**

(1) AN ARREST OR A SUMMONS ISSUED BY A COMMISSIONER ON A STATEMENT OF CHARGES FILED BY A LAW ENFORCEMENT OFFICER;

(2) A CONVICTION; ~~**OR**~~

(3) A VIOLATION OF A NO–CONTACT OR STAY–AWAY ORDER; OR

(4) ABSCONDING.

6–104.

(a) Subject to the authority of the Secretary and in addition to any other duties established by law, the Division:

(1) shall:

(I) ADMINISTER A ~~**RISK AND NEEDS ASSESSMENT**~~ **VALIDATED SCREENING TOOL ON EACH INDIVIDUAL ON PAROLE OR MANDATORY SUPERVISION UNDER THE SUPERVISION OF THE DIVISION;**

(II) ADMINISTER A RISK AND NEEDS ASSESSMENT AND DEVELOP AN INDIVIDUALIZED CASE PLAN FOR EACH INDIVIDUAL ON PAROLE OR MANDATORY SUPERVISION WHO HAS BEEN ~~**ASSESSED**~~ **SCREENED AS MODERATE OR HIGH RISK TO REOFFEND;**

[(i)**] (III)** supervise **[**the conduct of parolees**] AN INDIVIDUAL ON PAROLE OR MANDATORY SUPERVISION BASED ON THE RESULTS OF A VALIDATED SCREENING TOOL OR RISK AND NEEDS ASSESSMENT CONDUCTED UNDER** ~~**ITEM**~~ **ITEMS (I) OR (II) OF THIS ITEM**;

[(ii)**] (IV)** supervise an individual under mandatory supervision until the expiration of the individual's maximum term or terms of confinement;

(V) NOTWITHSTANDING ANY OTHER LAW, MODIFY THE CONDITIONS OF PAROLE AND MANDATORY SUPERVISION FOR THE PURPOSE OF IMPOSING GRADUATED SANCTIONS UNDER § 6–121 OF THIS SUBTITLE IN RESPONSE TO TECHNICAL VIOLATIONS AS AN ALTERNATIVE TO REVOCATION UNDER § 7–401 OR § 7–504 OF THIS ARTICLE;

[(iii)**] (VI)** regularly inform the Commission of the activities of offenders who are supervised by the Division**, INCLUDING, IF REQUESTED BY THE COMMISSION, ANY GRADUATED SANCTIONS IMPOSED UNDER § 6–121 OF THIS SUBTITLE**;

[(iv)**] (VII)** issue a warrant for the retaking of an offender charged with a violation of a condition of parole or mandatory supervision, if this authority is delegated by the Commission to the Director of the Division; and

[(v)**] (VIII)** administer the Drinking Driver Monitor Program, collect supervision fees, and adopt guidelines for collecting the monthly program fee assessed in accordance with § 6–115 of this subtitle; and

(2) may recommend:

(i) that the Commission modify any condition of parole or mandatory supervision; and

(ii) that the Commission issue a warrant for the retaking of an offender.

(b) Funding for the Drinking Driver Monitor Program shall be as provided in the State budget.

6–111.

If a court suspends the sentence of an individual convicted of a crime and orders the individual to continue under the supervision of the Division for a specified time or until ordered otherwise, the Division shall:

(1) **[**supervise the conduct of**] ADMINISTER A RISK AND NEEDS ASSESSMENT ON** the individual;

(2) **[**determine whether the individual is complying with the conditions of probation or suspension of sentence**] SUPERVISE THE INDIVIDUAL BASED ON THE**

RESULTS OF THE RISK AND NEEDS ASSESSMENT CONDUCTED UNDER ITEM (1) OF THIS SECTION; **[**and**]**

(3) DEVELOP AN INDIVIDUALIZED CASE PLAN FOR EACH INDIVIDUAL ASSESSED AS MODERATE OR HIGH RISK TO REOFFEND;

(4) NOTWITHSTANDING ANY OTHER LAW, ~~**MODIFY THE CONDITIONS OF PROBATION OR SUSPENSION OF SENTENCE FOR THE PURPOSE OF IMPOSING**~~ **IMPOSE GRADUATED SANCTIONS UNDER § 6–121 OF THIS SUBTITLE IN RESPONSE TO TECHNICAL VIOLATIONS AS AN ALTERNATIVE TO REVOCATION UNDER § 6–223 OR § 6–224 OF THE CRIMINAL PROCEDURE ARTICLE;** ~~**AND**~~

[(3)**] (5) PROVIDE PROMPT NOTICE TO THE COURT OF ANY TECHNICAL VIOLATIONS COMMITTED AND GRADUATED SANCTIONS IMPOSED UNDER § 6–121 OF THIS SUBTITLE; AND**

(6) report to the court on the individual's compliance ~~**AND, IF REQUESTED BY THE COURT, ANY GRADUATED SANCTIONS IMPOSED UNDER § 6–121 OF THIS SUBTITLE**~~.

6–117.

(a) (1) In this section the following words have the meanings indicated.

(2) "Abatement" means an end to active supervision of a supervised individual, without effect on the legal expiration date of the case or the supervised individual's obligation to:

(i) obey all laws; **AND**

(ii) **[**report as instructed; and

(iii)**]** obtain written permission from the Division of Parole and Probation before relocating the supervised individual's residence outside the State.

(3) "Earned compliance credit" means a 20–day reduction from the period of active supervision of the supervised individual for every month that a supervised individual:

(i) exhibits **[**full compliance**]** ~~**PROGRESS**~~ **COMPLIANCE** with the conditions**[**,**]** **AND** goals**[**, and treatment as part**]** of the supervised individual's probation, parole, or mandatory release supervision, as determined by the Department;

(ii) has no new arrests;

(iii) has not violated any conditions of no contact imposed on the supervised individual;

(iv) is current on court ordered payments for restitution, fines, and fees relating to the offense for which earned compliance credits are being accrued; and

(v) is current in completing any community supervision requirements included in the conditions of the supervised individual's probation, parole, or mandatory release supervision.

(4) (i) "Supervised individual" means an individual placed on probation by a court or serving a period of parole or mandatory release supervision after release from a correctional facility.

(ii) "Supervised individual" does not include:

1. a person incarcerated, on probation, or convicted in this State for a crime of violence;

2. a person incarcerated, on probation, or convicted in this State for a crime under Title 3, Subtitle 3 of the Criminal Law Article;

3. a person incarcerated, on probation, or convicted in this State for a violation of § 2–503, **[**§**] §§** ~~5–602 through **5–606, OR** § 5–617~~ **5–612 THROUGH 5–614[**, § 5–627, or § 5–628**]** of the Criminal Law Article;

4. a person registered or eligible for registration under Title 11, Subtitle 7 of the Criminal Procedure Article;

5. a person who was convicted in any other jurisdiction of a crime and the person's supervision was transferred to this State; or

6. a person who was convicted in this State of a crime and the person's supervision was transferred to another state.

(b) The Department shall:

(1) establish a program to implement earned compliance credits; and

(2) adopt policies and procedures to implement the program.

(c) **(1)** Notwithstanding any other law, the Maryland Parole Commission or the court **[**may**]** **SHALL** adjust the period of a supervised individual's supervision on the recommendation of the Division of Parole and Probation for earned compliance credits accrued under a program created under this section.

(2) ONCE A COMBINATION OF ~~TIME SERVED IN CUSTODY, IF APPLICABLE,~~ TIME SERVED ON PROBATION, PAROLE, OR MANDATORY SUPERVISION, AND EARNED COMPLIANCE CREDITS SATISFY THE SUPERVISED INDIVIDUAL'S ACTIVE TERM OF SUPERVISION, THE DIVISION SHALL ~~TRANSFER THE INDIVIDUAL TO~~ PLACE THE INDIVIDUAL ON ABATEMENT.

(D) THE DIVISION SHALL:

(1) PROVIDE REGULAR NOTIFICATION TO A SUPERVISED INDIVIDUAL OF THE TENTATIVE ABATEMENT TRANSFER DATE; AND

(2) DEVELOP POLICIES FOR NOTIFYING A SUPERVISED INDIVIDUAL OF CHANGE TO THE ABATEMENT TRANSFER DATE.

(E) AT LEAST 90 DAYS BEFORE THE DATE OF TRANSFER TO ABATEMENT, THE DIVISION SHALL NOTIFY THE COMMISSION OR THE COURT OF THE IMPENDING TRANSFER.

[(d)**] (F)** A supervised individual whose period of active supervision has been completely reduced as a result of earned compliance credits shall remain on abatement until the expiration of the supervised individual's sentence, unless:

(1) the supervised individual consents to continued active supervision; or

(2) the supervised individual violates a condition of probation, parole, or mandatory release supervision including failure to pay a required payment of restitution.

(G) A SUPERVISED INDIVIDUAL WHO IS PLACED ON ABATEMENT UNDER THIS SECTION MAY NOT BE REQUIRED TO:

(1) REGULARLY REPORT TO A PAROLE OR PROBATION AGENT; OR

(2) PAY A SUPERVISION FEE.

[(e)**] (H)** If a supervised individual violates a condition of probation while on abatement, a court may order the supervised individual to be returned to active supervision.

[(f)**] (I)** (1) Twenty–five percent of the savings realized by the Department as a result of the application of earned compliance credits shall revert to the Department.

(2) After the savings revert to the Department in accordance with paragraph (1) of this subsection, any remaining savings shall revert to the General Fund.

[(g)**] (J)** This section may not be construed to limit the authority of a court or the Parole Commission to extend probation, parole, or mandatory release supervision under § 6–222 of the Criminal Procedure Article.

(K) THE DEPARTMENT SHALL DEVELOP AN AUTOMATED APPLICATION FOR THE TRACKING AND AWARDING OF EARNED COMPLIANCE CREDITS BY THE DIVISION.

6–119.

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

(2) "EVIDENCE–BASED PROGRAMS AND PRACTICES" MEANS PROGRAMS PROVEN BY SCIENTIFIC RESEARCH TO RELIABLY PRODUCE REDUCTIONS IN RECIDIVISM.

(3) "INNOVATIVE PROGRAMS AND PRACTICES" MEANS PROGRAMS THAT DO NOT MEET THE STANDARD OF EVIDENCE–BASED PRACTICES BUT WHICH PRELIMINARY RESEARCH OR DATA INDICATES WILL REDUCE THE LIKELIHOOD OF OFFENDER RECIDIVISM.

(B) THE DIVISION SHALL USE PRACTICABLE AND SUITABLE METHODS THAT ARE CONSISTENT WITH EVIDENCE–BASED PROGRAMS AND PRACTICES AND INNOVATIVE PROGRAMS AND PRACTICES TO AID AND ENCOURAGE A PROBATIONER OR PAROLEE TO IMPROVE CONDUCT AND TO REDUCE THE RISK OF RECIDIVISM.

(C) THE DIVISION SHALL HAVE AN INDEPENDENT VALIDATION STUDY CONDUCTED EVERY 3 YEARS ON THE RISK AND NEEDS ASSESSMENT TOOL.

6–120.

THE ~~DIVISION~~ DEPARTMENT SHALL REQUIRE ALL PAROLE AND PROBATION AGENTS AND SUPERVISORS, COMMISSION MEMBERS, AND HEARING OFFICERS TO UNDERGO ANNUAL TRAINING BASED ON THE MOST CURRENT RESEARCH, REGARDING:

(1) IDENTIFYING, UNDERSTANDING, AND TARGETING AN INDIVIDUAL'S CRIMINAL RISK FACTORS;

(2) PRINCIPLES OF EFFECTIVE RISK INTERVENTIONS; AND

(3) SUPPORTING AND ENCOURAGING COMPLIANCE AND BEHAVIOR CHANGE.

6–121.

(A) THIS SECTION SHALL APPLY TO ALL INDIVIDUALS UNDER THE SUPERVISION OF THE DIVISION.

(B) (1) THE DIVISION SHALL IMPOSE GRADUATED SANCTIONS IN RESPONSE TO TECHNICAL VIOLATIONS OF CONDITIONS OF SUPERVISION.

(2) THE DIVISION SHALL PROVIDE NOTICE TO THE COURT OF A TECHNICAL VIOLATION COMMITTED AND A GRADUATED SANCTION IMPOSED AS A RESULT OF THE VIOLATION.

(C) ON OR BEFORE JULY 1, 2017, THE DEPARTMENT SHALL:

(1) ESTABLISH A PROGRAM TO IMPLEMENT THE USE OF GRADUATED SANCTIONS IN RESPONSE TO TECHNICAL VIOLATIONS OF THE CONDITIONS OF COMMUNITY SUPERVISION;

(2) ADOPT POLICIES AND PROCEDURES TO IMPLEMENT THE PROGRAM AND TO ENSURE THAT DUE PROCESS PROTECTIONS ARE IN PLACE FOR AN INDIVIDUAL UNDER THE SUPERVISION OF THE DIVISION TO CHALLENGE GRADUATED SANCTIONS IMPOSED UNDER THE PROGRAM; AND

(3) DEVELOP A MATRIX TO GUIDE A PAROLE AND PROBATION AGENT IN DETERMINING THE SUITABLE RESPONSE TO A TECHNICAL VIOLATION THAT INCLUDES A RANGE OF THE MOST COMMON VIOLATIONS AND A RANGE OF POSSIBLE NONCUSTODIAL SANCTIONS TO BE IMPOSED.

~~**(D) NOTWITHSTANDING ANY OTHER LAW, THE DIVISION MAY MODIFY THE CONDITIONS OF COMMUNITY SUPERVISION FOR AN INDIVIDUAL FOR THE LIMITED PURPOSE OF IMPOSING GRADUATED SANCTIONS.**~~

~~**(E)**~~ **(D) IF THE AVAILABLE GRADUATED SANCTIONS HAVE BEEN EXHAUSTED, THE DIVISION** ~~**MAY**~~ **SHALL REFER THE INDIVIDUAL TO THE COURT OR THE COMMISSION FOR ADDITIONAL SANCTIONS, INCLUDING FORMAL REVOCATION OF PROBATION, PAROLE, OR MANDATORY SUPERVISION UNDER § 7–401 OR § 7–504 OF THIS ARTICLE OR § 6–223 OR § 6–224 OF THE CRIMINAL PROCEDURE ARTICLE.**

7–101.

(a) In this title the following words have the meanings indicated.

(m) "Violent crime" means:

(1) a crime of violence as defined in § 14–101 of the Criminal Law Article; or

(2) burglary in the first, second, or third degree.

7–103.

(a) In this section, "offender" has the meaning stated in § 6–101 of this article.

(b) The Department may issue a certificate of completion to an offender who:

(1) was supervised by the Department under conditions of:

(i) parole;

(ii) probation; or

(iii) mandatory release supervision;

(2) has completed all special and general conditions of supervision, including paying all required restitution, fines, fees, and other payment obligations; and

(3) is no longer under the jurisdiction of the Department.

7–104.

(A) THE DEPARTMENT SHALL ISSUE A CERTIFICATE OF REHABILITATION TO AN INDIVIDUAL WHO:

(1) WAS CONVICTED OF A MISDEMEANOR OR FELONY THAT IS NOT:

(I) A CRIME OF VIOLENCE, AS DEFINED IN § 14–101 OF THE CRIMINAL LAW ARTICLE; OR

(II) A SEXUAL OFFENSE FOR WHICH REGISTRATION IS REQUIRED UNDER TITLE 11, SUBTITLE 7 OF THE CRIMINAL PROCEDURE ARTICLE;

(2) WAS SUPERVISED BY THE DIVISION OF PAROLE AND PROBATION UNDER CONDITIONS OF:

(I) PAROLE;

(II) PROBATION; OR

(III) MANDATORY RELEASE SUPERVISION;

(3) HAS COMPLETED ALL SPECIAL AND GENERAL CONDITIONS OF SUPERVISION, INCLUDING PAYING ALL REQUIRED RESTITUTION, FINES, FEES, AND OTHER PAYMENT OBLIGATIONS; AND

(4) IS NO LONGER UNDER THE JURISDICTION OF THE DIVISION OF PAROLE AND PROBATION.

(B) ~~A CERTIFICATE OF REHABILITATION PRECLUDES A LICENSING BOARD FROM DISQUALIFYING AN APPLICANT FROM PROFESSIONAL OR OCCUPATIONAL LICENSURE OR CERTIFICATION BECAUSE OF THE UNDERLYING CRIMINAL CONVICTION~~ A LICENSING BOARD SHALL CONSIDER A CERTIFICATE OF REHABILITATION WHEN DETERMINING THE QUALIFICATION OF AN APPLICANT FOR A PROFESSIONAL OR OCCUPATIONAL LICENSURE OR CERTIFICATION.

(C) AN INDIVIDUAL MAY RECEIVE ONLY ONE CERTIFICATE OF REHABILITATION PER LIFETIME.

(D) THE DEPARTMENT SHALL ADOPT REGULATIONS ESTABLISHING AN APPLICATION AND REVIEW PROCESS FOR A CERTIFICATE OF REHABILITATION THAT ALLOWS ~~THE SENTENCING JUDGE,~~ THE STATE'S ATTORNEY~~,~~ AND THE VICTIM TO OBJECT TO THE ISSUANCE OF THE CERTIFICATE OF REHABILITATION.

7–205.

(a) The Commission has the exclusive power to:

(1) authorize the parole of an individual sentenced under the laws of the State to any correctional facility in the State;

(2) negotiate, enter into, and sign predetermined parole release agreements as provided under subsection (b) of this section;

(3) hear cases for parole **OR ADMINISTRATIVE RELEASE** in which:

(i) the Commissioner of Correction, after reviewing the recommendation of the appropriate managing official, objects to a parole;

(ii) the inmate was convicted of a homicide;

(iii) the inmate is serving a sentence of life imprisonment; **[**or**]**

(iv) the parole hearing is open to the public under § 7–304 of this title;

(V) THE INMATE FAILS TO MEET THE REQUIREMENTS OF THE ADMINISTRATIVE ~~PAROLE~~ RELEASE PROCESS ESTABLISHED UNDER § 7–301.1 OF THIS TITLE; OR

(VI) A VICTIM OR A STATE'S ATTORNEY REQUESTS A HEARING AS PROVIDED UNDER § 7–301.1 OF THIS TITLE;

(4) hear exceptions to recommendations of a hearing examiner or a commissioner acting as a hearing examiner;

(5) review summarily all recommendations of a hearing examiner or a commissioner acting as a hearing examiner to which an exception has not been filed;

(6) hear a case for parole in absentia when an individual who was sentenced in this State to serve a term of imprisonment is in a correctional facility of a jurisdiction other than this State;

(7) hear cases of parole revocation; **[**and**]**

(8) if delegated by the Governor, hear cases involving an alleged violation of a conditional pardon**; AND**

(9) DETERMINE CONDITIONS FOR ADMINISTRATIVE ~~PAROLE~~ RELEASE UNDER § 7–301.1 OF THIS TITLE.

(b) (1) (i) The Commission may negotiate, enter into, and sign a predetermined parole release agreement with the Commissioner of Correction and an inmate under the jurisdiction of the Commission.

(ii) The agreement may provide for the release of the inmate on parole at a predetermined time if, during the inmate's term of confinement, the inmate participates in the programs designated by the Commission and fulfills any other conditions specified in the agreement.

(2) This subsection does not affect any diminution of an inmate's term of confinement awarded under Title 3, Subtitle 7 and §§ 9–506 and 9–513 of this article **OR AN INMATE'S ELIGIBILITY FOR ADMINISTRATIVE ~~PAROLE~~ RELEASE UNDER § 7–301.1 OF THIS TITLE**.

7–301.

(a) (1) Except as otherwise provided in this section, the Commission shall request that the Division of Parole and Probation make an investigation for inmates in a local correctional facility and the Division of Correction make an investigation for inmates in a State correctional facility that will enable the Commission to determine the advisability of granting parole to an inmate who:

(i) has been sentenced under the laws of the State to serve a term of 6 months or more in a correctional facility; and

(ii) has served in confinement one–fourth of the inmate's aggregate sentence.

(2) Except as provided in paragraph (3) of this subsection, or as otherwise provided by law or in a predetermined parole release agreement, an inmate is not eligible for parole until the inmate has served in confinement one–fourth of the inmate's aggregate sentence.

(3) An inmate may be released on parole at any time in order to undergo drug or alcohol treatment, mental health treatment, or to participate in a residential program of treatment in the best interest of an inmate's expected or newborn child if the inmate:

(i) is not serving a sentence for a crime of violence, as defined in § 14–101 of the Criminal Law Article;

(ii) is not serving a sentence for a violation of Title 3, Subtitle 6, § 5–608(d), § 5–609(d), § 5–612, § 5–613, § 5–614, § 5–621, § 5–622, or § 5–628 of the Criminal Law Article; and

(iii) has been determined to be amenable to treatment.

(4) The Division of Parole and Probation shall complete and submit to the Commission each investigation of an inmate in a local correctional facility required under paragraph (1) of this subsection within 60 days of commitment.

7–301.1.

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

(2) "ADMINISTRATIVE ~~PAROLE~~ RELEASE" MEANS RELEASE ~~TO PAROLE~~ OF AN ELIGIBLE INMATE WHO HAS SERVED ONE–FOURTH OF THE INMATE'S SENTENCE AND MET THE REQUIREMENTS ESTABLISHED UNDER THIS SECTION.

(3) "ELIGIBLE INMATE" MEANS AN INMATE WHO:

(I) HAS BEEN SENTENCED UNDER THE LAWS OF THE STATE TO SERVE A TERM OF 6 MONTHS OR MORE IN A CORRECTIONAL FACILITY;

(II) HAS BEEN SCREENED AS LOW RISK TO REOFFEND UNDER § 6–104 OF THIS ARTICLE;

(III) IS NOT SERVING A SENTENCE FOR:

1. A VIOLENT CRIME; OR

2. A SEXUAL OFFENSE FOR WHICH REGISTRATION IS REQUIRED UNDER TITLE 11, SUBTITLE 7 OF THE CRIMINAL PROCEDURE ARTICLE; AND

~~(III)~~ (IV) IF SERVING A SENTENCE WITH A TERM OF CONFINEMENT THAT INCLUDES A MANDATORY MINIMUM SENTENCE, HAS SERVED THE MANDATORY PORTION OF THE SENTENCE.

(B) (1) FOR AN INMATE IN A LOCAL CORRECTIONAL FACILITY, THE COMMISSION SHALL:

(I) REQUEST THAT THE DIVISION OF PAROLE AND PROBATION CONDUCT AN INVESTIGATION TO~~:~~

~~(I)~~ DETERMINE THE INMATE'S ELIGIBILITY FOR ADMINISTRATIVE ~~PAROLE~~ RELEASE;

(II) DETERMINE THE CONDITIONS UNDER WHICH AN ELIGIBLE INMATE MAY BE RELEASED ~~TO PAROLE~~ AFTER HAVING SERVED ONE–FOURTH OF THE INMATE'S TERM OF CONFINEMENT; AND

(III) CALCULATE A TENTATIVE ~~PAROLE~~ RELEASE ELIGIBILITY DATE FOR AN ELIGIBLE INMATE.

(2) THE COMMISSION SHALL:

(I) REQUEST THAT FOR AN INMATE IN A STATE CORRECTIONAL FACILITY, THE DIVISION OF CORRECTION CONDUCT AN INVESTIGATION TO~~:~~

~~(I)~~ DETERMINE THE INMATE'S ELIGIBILITY FOR ADMINISTRATIVE ~~PAROLE~~ RELEASE;

(II) DETERMINE THE CONDITIONS UNDER WHICH AN ELIGIBLE INMATE MAY BE RELEASED ~~TO PAROLE~~ AFTER HAVING SERVED ONE–FOURTH OF THE INMATE'S TERM OF CONFINEMENT; AND

(III) CALCULATE A TENTATIVE ~~PAROLE~~ RELEASE ELIGIBILITY DATE FOR AN ELIGIBLE INMATE.

(3) THE INVESTIGATIONS REQUIRED UNDER PARAGRAPHS (1) AND (2) OF THIS SUBSECTION SHALL BE COMPLETED AND SUBMITTED TO THE COMMISSION WITHIN 60 DAYS OF COMMITMENT.

(C) FOR AN INMATE IN A LOCAL CORRECTIONAL FACILITY, THE COMMISSION, IN COLLABORATION WITH THE LOCAL CORRECTIONAL FACILITY, SHALL CONSIDER THE RESULTS OF THE INVESTIGATION CONDUCTED UNDER SUBSECTION (B)(1) OF THIS SECTION AND DEVELOP AN INDIVIDUAL CASE PLAN WITH WHICH AN ELIGIBLE INMATE MUST COMPLY IN ORDER TO BE RELEASED ON ADMINISTRATIVE ~~PAROLE~~ RELEASE.

(D) (1) THE INDIVIDUAL CASE PLANS DEVELOPED UNDER SUBSECTION (C) OF THIS SECTION AND § 3–601(D) OF THIS ARTICLE SHALL INCLUDE CONDITIONS THAT AN INMATE WILL BE ABLE TO COMPLETE BEFORE THE INMATE'S ADMINISTRATIVE ~~PAROLE~~ RELEASE DATE.

(2) AN INDIVIDUAL CASE PLAN MAY INCLUDE CONDITIONS THAT APPLY AFTER AN INMATE IS RELEASED ON ADMINISTRATIVE ~~PAROLE~~ RELEASE.

(E) (1) A VICTIM HAS ALL THE RIGHTS UNDER THIS SECTION THAT ARE GRANTED TO A VICTIM UNDER THIS TITLE FOR A PAROLE HEARING.

(2) AS PROVIDED IN § 7–801 OF THIS TITLE, THE COMMISSION SHALL NOTIFY A VICTIM OF:

~~(1)~~ (I) THE ELIGIBLE INMATE'S ADMINISTRATIVE ~~PAROLE~~ RELEASE ELIGIBILITY DATE;

~~(2)~~ (II) THE VICTIM'S RIGHT TO REQUEST AN OPEN ~~PAROLE~~ HEARING UNDER § 7–304 OF THIS SUBTITLE; AND

~~(3)~~ (III) THE VICTIM'S RIGHT TO SUBMIT WRITTEN TESTIMONY CONCERNING THE CRIME AND THE IMPACT OF THE CRIME ON THE VICTIM.

(F) (1) THE COMMISSION SHALL NOTIFY THE STATE'S ATTORNEY OF THE ELIGIBLE INMATE'S ADMINISTRATIVE RELEASE ELIGIBILITY DATE.

(2) THE STATE'S ATTORNEY MAY SUBMIT A WRITTEN OBJECTION TO AN INMATE'S RELEASE ON ADMINISTRATIVE RELEASE AND REQUEST AN OPEN HEARING.

(G) AN ELIGIBLE INMATE SHALL BE RELEASED ON ADMINISTRATIVE ~~PAROLE~~ RELEASE, WITHOUT A HEARING BEFORE THE COMMISSION, AT THE INMATE'S ~~PAROLE~~ RELEASE ELIGIBILITY DATE IF:

(1) THE INMATE HAS COMPLIED WITH THE CASE PLAN DEVELOPED UNDER SUBSECTION (C) OF THIS SECTION OR § 3–601(D) OF THIS ARTICLE;

(2) THE INMATE HAS NOT COMMITTED A SERIOUS RULE VIOLATION WITHIN ~~30~~ 120 DAYS OF THE INMATE'S ~~PAROLE~~ ADMINISTRATIVE RELEASE ELIGIBILITY DATE; AND

(3) A VICTIM OR THE STATE'S ATTORNEY HAS NOT REQUESTED A HEARING UNDER SUBSECTION (E) OR (F) OF THIS SECTION.

~~(G)~~ (H) THE DIVISION OF CORRECTION AND EACH LOCAL CORRECTIONAL FACILITY SHALL NOTIFY THE COMMISSION OF AN ELIGIBLE INMATE'S COMPLIANCE OR NONCOMPLIANCE WITH THE CASE PLAN AT LEAST 30 DAYS BEFORE THE INMATE'S TENTATIVE ~~PAROLE~~ ADMINISTRATIVE RELEASE ELIGIBILITY DATE.

~~(H)~~ (I) AN ELIGIBLE INMATE WHO IS NOT RELEASED ON ADMINISTRATIVE ~~PAROLE~~ RELEASE UNDER THIS SECTION IS OTHERWISE ELIGIBLE FOR ~~PAROLE~~ RELEASE AS PROVIDED UNDER THIS SUBTITLE.

7–305.

Each hearing examiner and commissioner determining whether an inmate is suitable for parole, and the Commission before entering into a predetermined parole release agreement, shall consider:

(1) the circumstances surrounding the crime;

(2) the physical, mental, and moral qualifications of the inmate;

(3) the progress of the inmate during confinement, including the academic progress of the inmate in the mandatory education program required under § 22–102 of the Education Article;

(4) a report on a drug or alcohol evaluation that has been conducted on the inmate, including any recommendations concerning the inmate's amenability for treatment and the availability of an appropriate treatment program;

(5) whether there is reasonable probability that the inmate, if released on parole, will remain at liberty without violating the law;

(6) whether release of the inmate on parole is compatible with the welfare of society;

(7) an updated victim impact statement or recommendation prepared under § 7–801 of this title;

(8) any recommendation made by the sentencing judge at the time of sentencing;

(9) any information that is presented to a commissioner at a meeting with the victim; **[**and**]**

(10) any testimony presented to the Commission by the victim or the victim's designated representative under § 7–801 of this title**; AND**

(11) COMPLIANCE WITH THE CASE PLAN DEVELOPED UNDER § 7–301.1 OF THIS SUBTITLE OR § 3–601 OF THIS ARTICLE.

7–309.

(a) This section applies to any inmate who is sentenced to a term of incarceration for which all sentences being served, including any life sentence, are with the possibility of parole.

(b) An inmate who is so **PERMANENTLY** debilitated or incapacitated by a medical or mental health condition, disease, or syndrome as to be physically incapable of presenting a danger to society may be released on medical parole at any time during the term of that inmate's sentence, without regard to the eligibility standards specified in § 7–301 of this subtitle.

(c) (1) A request for a medical parole under this section may be filed with the Maryland Parole Commission by:

(i) the inmate seeking the medical parole;

(ii) an attorney;

(iii) a prison official or employee;

(iv) a medical professional;

(v) a family member; or

(vi) any other person.

(2) The request shall be in writing and shall articulate the grounds that support the appropriateness of granting the medical parole.

(d) Following review of the request, the Commission may:

(1) find the request to be inconsistent with the best interests of public safety and take no further action; or

(2) request that department or local correctional facility personnel provide information for formal consideration of parole release.

(e) The information to be considered by the Commission before granting medical parole shall, at a minimum, include:

(1) TWO MEDICAL EVALUATIONS CONDUCTED BY MEDICAL PROFESSIONALS THAT ARE INDEPENDENT FROM THE DIVISION OF CORRECTION, PAID FOR BY THE DIVISION OF CORRECTION;

[(1)**] (2)** the inmate's medical information, including:

(i) a description of the inmate's condition, disease, or syndrome;

(ii) a prognosis concerning the likelihood of recovery from the condition, disease, or syndrome;

(iii) a description of the inmate's physical incapacity and score on the Karnofsky Performance Scale Index or similar classification of physical impairment; and

(iv) a mental health evaluation, where relevant;

[(2)**] (3)** discharge information, including:

(i) availability of treatment or professional services within the community;

(ii) family support within the community; and

(iii) housing availability, including hospital or hospice care; and

[(3)**] (4)** case management information, including:

(i) the circumstances of the current offense;

(ii) institutional history;

(iii) pending charges, sentences and other jurisdictions, and any other detainers; and

(iv) criminal history information.

(f) The Commission may require as a condition of release on medical parole that:

(1) the parolee agree to placement for a definite or indefinite period of time in a hospital or hospice or other housing accommodation suitable to the parolee's medical condition, including the family home of the parolee, as specified by the Commission or the supervising agent; and

(2) the parolee forward authentic copies of applicable medical records to indicate that the particular medical condition giving rise to the release continues to exist.

(g) (1) If the Commission has reason to believe that a parolee is no longer so debilitated or incapacitated as to be physically incapable of presenting a danger to society, the parolee shall be returned to the custody of the Division of Correction or the local correctional facility from which the inmate was released.

(2) (i) A parole hearing for a parolee returned to custody shall be held to consider whether the parolee remains incapacitated and shall be heard promptly.

(ii) A parolee returned to custody under this subsection shall be maintained in custody, if the incapacitation is found to no longer exist.

(3) An inmate whose medical parole is revoked for lack of continued incapacitation may be considered for parole in accordance with the eligibility requirements specified in § 7–301 of this subtitle.

(h) (1) Subject to paragraph (2) of this subsection, provisions of law relating to victim notification and opportunity to be heard shall apply to proceedings relating to medical parole.

(2) In cases of imminent death, time limits relating to victim notification and opportunity to be heard may be waived in the discretion of the Commission.

(i) ~~Consistent with § 7–301(d)(4) of this subtitle, a medical parole under this section for a person serving a life sentence shall require the approval of the Governor~~

(1) IF THE COMMISSION DECIDES TO GRANT MEDICAL PAROLE TO AN INMATE SENTENCED TO LIFE IMPRISONMENT, THE DECISION SHALL BE TRANSMITTED TO THE GOVERNOR.

(2) THE GOVERNOR MAY DISAPPROVE THE DECISION BY WRITTEN TRANSMITTAL TO THE COMMISSION.

(3) IF THE GOVERNOR DOES NOT DISAPPROVE THE DECISION WITHIN 180 DAYS AFTER RECEIPT, THE DECISION BECOMES EFFECTIVE.

(j) The Commission shall issue regulations to implement the provisions of this section.

7–401.

(a) If a parolee is alleged to have violated a condition of parole, one commissioner shall hear the case on revocation of the parole at the time and place that the Commission designates.

(b) (1) Each individual charged with a parole violation is entitled to be represented by counsel of the individual's choice or, if eligible, counsel provided by the Public Defender's office.

(2) The Commission shall keep a record of the hearing.

(c) If the commissioner finds from the evidence that the parolee has violated a condition of parole, the commissioner may take any action that the commissioner considers appropriate, including:

(1) (i) **SUBJECT TO SUBSECTION (D)(1) OF THIS SECTION,** revoking the order of parole;

(ii) setting a future hearing date for consideration for reparole; and

(iii) remanding the individual to the Division of Correction or local correctional facility from which the individual was paroled; or

(2) continuing parole:

(i) without modification of its conditions; or

(ii) with modification of its conditions, including a requirement that the parolee spend all or part of the remaining parole period in a home detention program.

(d) (1) ~~**IF**~~ **SUBJECT TO PARAGRAPH (4) OF THIS SUBSECTION, IF AN ORDER OF PAROLE IS REVOKED DUE TO A TECHNICAL VIOLATION, AS DEFINED IN § 6–101 OF THIS ARTICLE, THE COMMISSIONER HEARING THE PAROLE REVOCATION MAY REQUIRE THE INDIVIDUAL TO SERVE A PERIOD OF IMPRISONMENT OF:**

(I) FOR A FIRST VIOLATION, NOT MORE THAN 15 DAYS;

(II) FOR A SECOND VIOLATION, NOT MORE THAN 30 DAYS; AND

(III) FOR A THIRD VIOLATION, NOT MORE THAN 45 DAYS.

(2) Subject to paragraph **[**(2)**] (3)** of this subsection and further action by the Commission, if the order of parole is revoked **FOR A FOURTH OR SUBSEQUENT TECHNICAL VIOLATION OR A VIOLATION THAT IS NOT A TECHNICAL VIOLATION**, the

commissioner hearing the parole revocation, in the commissioner's discretion, may require the inmate to serve any unserved portion of the sentence originally imposed.

[(2)**] (3)** An inmate may not receive credit for time between release on parole and revocation of parole if:

(i) the inmate was serving a sentence for a violent crime when parole was revoked; and

(ii) the parole was revoked due to a finding that the inmate committed a violent crime while on parole.

(4) THE COMMISSIONER MAY DEPART FROM THE LIMITS PROVIDED UNDER THIS SUBSECTION IF THE COMMISSIONER MAKES AN AFFIRMATIVE FINDING THAT ADHERING TO THE LIMITS WOULD CREATE A RISK TO PUBLIC SAFETY OR TO A VICTIM OR WITNESS ~~OR FOR OTHER GOOD CAUSE~~.

(e) Subject to subsection (d) of this section, if a sentence has commenced as provided under § 9–202(c)(2) of this article and the inmate is serving that sentence when the order of parole is revoked, any reimposed portion of the sentence originally imposed shall begin at the expiration of any sentences which were begun under § 9–202(c)(2) of this article.

(f) (1) The inmate may seek judicial review in the circuit court within 30 days after receiving the written decision of the Commission.

(2) The court shall hear the action on the record.

7–504.

(a) **(1)** In this section**[**, "term**]** **THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**

(2) "TERM of confinement" has the meaning stated in § 3–701 of this article.

(3) "TECHNICAL VIOLATION" HAS THE MEANING STATED IN § 6–101 OF THIS ARTICLE.

(b) (1) ~~The~~ **SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, THE** commissioner presiding at an individual's mandatory supervision revocation hearing may revoke **[**any or all of the**]** diminution credits previously earned by the individual on the individual's term of confinement **IN ACCORDANCE WITH THE FOLLOWING SCHEDULE:**

(I) NOT MORE THAN 15 DAYS FOR A FIRST TECHNICAL VIOLATION;

(II) NOT MORE THAN 30 DAYS FOR A SECOND TECHNICAL VIOLATION;

(III) NOT MORE THAN 45 DAYS FOR A THIRD TECHNICAL VIOLATION; AND

(IV) UP TO ALL REMAINING DAYS FOR A FOURTH OR SUBSEQUENT TECHNICAL VIOLATION OR A VIOLATION THAT IS NOT A TECHNICAL VIOLATION.

(2) Nothing in this section affects the prohibition against the application of diminution credits under § 7–502 of this subtitle to the term of confinement of an inmate convicted and sentenced to imprisonment for a crime committed while on mandatory supervision.

(3) THE COMMISSIONER MAY DEPART FROM THE LIMITS PROVIDED UNDER THIS SUBSECTION IF THE COMMISSIONER MAKES AN AFFIRMATIVE FINDING THAT ADHERING TO THE LIMITS WOULD CREATE A RISK TO PUBLIC SAFETY OR TO A VICTIM OR WITNESS ~~OR FOR OTHER GOOD CAUSE~~.

(c) After an inmate's mandatory supervision has been revoked, the inmate may not be awarded any new diminution credits on the term of confinement for which the inmate was on mandatory supervision.

9–614.

(A) THIS SECTION APPLIES TO AN INMATE IN A STATE OR LOCAL CORRECTIONAL FACILITY.

(B) THE DEPARTMENT SHALL COLLECT AN INMATE'S EARNINGS.

(C) FROM AN INMATE'S EARNINGS, THE DEPARTMENT SHALL:

(1) IF REQUIRED BY LAW, REIMBURSE THE COUNTY OR STATE FOR THE COST OF PROVIDING FOOD, LODGING, AND CLOTHING TO THE INMATE;

(2) PAY COURT ORDERED PAYMENTS FOR SUPPORT OF DEPENDENTS;

(3) PAY COURT ORDERED PAYMENTS FOR RESTITUTION; AND

(4) PAY COMPENSATION FOR VICTIMS OF CRIME IN ACCORDANCE WITH SUBSECTION (D) OF THIS SECTION.

(D) (1) OF THE EARNINGS OF AN INMATE IN THE PRIVATE SECTOR/PRISON INDUSTRY ENHANCEMENT CERTIFICATION PROGRAM OF THE UNITED STATES DEPARTMENT OF JUSTICE, BUREAU OF JUSTICE ASSISTANCE, THE DEPARTMENT SHALL WITHHOLD 20% FOR COMPENSATION FOR VICTIMS OF CRIME, IN ACCORDANCE WITH THE REQUIREMENTS OF THE PROGRAM.

(2) ~~(II)~~ IF AN INMATE HAS EARNINGS THAT ARE NOT COVERED UNDER THE PROVISIONS OF PARAGRAPH (1) OF THIS SUBSECTION, THE DEPARTMENT SHALL WITHHOLD 25% FOR COMPENSATION FOR VICTIMS OF CRIME.

~~**(II) THE REQUIREMENTS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH APPLY ONLY WHEN AN INMATE HAS AT LEAST $50 IN THE INMATE'S FINANCIAL ACCOUNTS.**~~

(3) (I) IF A COURT IN A CRIMINAL OR JUVENILE DELINQUENCY PROCEEDING HAS ORDERED THE INMATE TO PAY RESTITUTION, THE DEPARTMENT SHALL FORWARD THE MONEY WITHHELD UNDER PARAGRAPH (1) OR (2) OF THIS SUBSECTION TO THE CRIMINAL INJURIES COMPENSATION FUND ESTABLISHED UNDER § 11–819 OF THE CRIMINAL PROCEDURE ARTICLE.

(II) THE CRIMINAL INJURIES COMPENSATION BOARD SHALL DISTRIBUTE FROM THE CRIMINAL INJURIES COMPENSATION FUND ANY AMOUNT RECEIVED UNDER THIS PARAGRAPH TO THE PERSON OR GOVERNMENTAL UNIT SPECIFIED IN THE JUDGMENT OF RESTITUTION TO PAY THE RESTITUTION AS REQUIRED UNDER § 11–607(B)(2) OF THE CRIMINAL PROCEDURE ARTICLE.

(4) IF THE INMATE IS NOT SUBJECT TO A JUDGMENT OF RESTITUTION OR THE JUDGMENT OF RESTITUTION IS SATISFIED, OF THE MONEY WITHHELD UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE DEPARTMENT SHALL PAY:

(I) 50% INTO THE CRIMINAL INJURIES COMPENSATION FUND ESTABLISHED UNDER § 11–819 OF THE CRIMINAL PROCEDURE ARTICLE; AND

(II) 50% INTO THE STATE VICTIMS OF CRIME FUND ESTABLISHED UNDER § 11–916 OF THE CRIMINAL PROCEDURE ARTICLE.

(E) THE DEPARTMENT SHALL:

(1) CREDIT TO THE INMATE'S ACCOUNT ANY BALANCE THAT REMAINS AFTER PAYING THE ITEMS IN SUBSECTION (C)(1) THROUGH (4) OF THIS SECTION; AND

(2) PAY THE BALANCE IN THE INMATE'S ACCOUNT TO THE INMATE WITHIN 15 DAYS AFTER THE INMATE IS RELEASED.

11–504.

(a) An inmate who is sentenced to a local correctional facility shall be allowed an initial deduction from the inmate's term of confinement.

(b) The deduction described in subsection (a) of this section shall be calculated:

(1) from the first day of the inmate's postsentence commitment to the custody of the local correctional facility to the last day of the inmate's maximum term of confinement;

(2) **(I)** at the rate of 5 days for each calendar month **IF THE 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**

(II) AT THE RATE OF 10 DAYS FOR EACH CALENDAR MONTH FOR ALL OTHER INMATES; and

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

[11–604.

(a) The Department shall collect an inmate's earnings.

(b) From an inmate's earnings, the Department shall:

(1) reimburse the county or State for the cost of providing food, lodging, and clothing to the inmate in a local correctional facility;

(2) pay court ordered payments for support of dependents;

(3) pay court ordered payments for restitution; and

(4) pay compensation for victims of crime in accordance with subsection (c) of this section.

(c) (1) Of the earnings of an inmate in the Private Sector/Prison Industry Enhancement Certification Program of the United States Department of Justice, Bureau of Justice Assistance, the Department shall withhold 20% for compensation for victims of crime, in accordance with the requirements of the Program.

(2) (i) If a court in a criminal or juvenile delinquency proceeding has ordered the inmate to pay restitution, the Department shall forward the 20% withheld

under paragraph (1) of this subsection to the Criminal Injuries Compensation Fund established under § 11–819 of the Criminal Procedure Article.

(ii) The Criminal Injuries Compensation Board shall distribute from the Criminal Injuries Compensation Fund any amount received under this paragraph to the person or governmental unit specified in the judgment of restitution to pay the restitution as required under § 11–607(b)(2) of the Criminal Procedure Article.

(3) If the inmate is not subject to a judgment of restitution or the judgment of restitution is satisfied, of the money withheld under paragraph (1) of this subsection, the Department shall pay:

(i) 50% into the Criminal Injuries Compensation Fund established under § 11–819 of the Criminal Procedure Article; and

(ii) 50% into the State Victims of Crime Fund established under § 11–916 of the Criminal Procedure Article.

(d) The Department shall:

(1) credit to the inmate's account any balance that remains after paying the items in subsection (b)(1) through (3) of this section; and

(2) pay the balance in the inmate's account to the inmate within 15 days after the inmate is released.**]**

Article – Criminal Law

2–204.

(a) A murder that is not in the first degree under § 2–201 of this subtitle is in the second degree.

(b) A person who commits a murder in the second degree is guilty of a felony and on conviction is subject to imprisonment not exceeding **[**30**] 40** years.

3–502.

(a) A person may not, by force or fraud, carry or cause a person to be carried in or outside the State with the intent to have the person carried or concealed in or outside the State.

(b) A person who violates this section is guilty of the felony of kidnapping and on conviction is subject to imprisonment not exceeding **[**30**] 40** years.

(c) Kidnapping does not include the act of a parent in carrying a minor child of that parent in or outside the State.

5–601.

(a) Except as otherwise provided in this title, a person may not:

(1) possess or administer to another a controlled dangerous substance, unless obtained directly or by prescription or order from an authorized provider acting in the course of professional practice; or

(2) obtain or attempt to obtain a controlled dangerous substance, or procure or attempt to procure the administration of a controlled dangerous substance by:

(i) fraud, deceit, misrepresentation, or subterfuge;

(ii) the counterfeiting or alteration of a prescription or a written order;

(iii) the concealment of a material fact;

(iv) the use of a false name or address;

(v) falsely assuming the title of or representing to be a manufacturer, distributor, or authorized provider; or

(vi) making, issuing, or presenting a false or counterfeit prescription or written order.

(b) Information that is communicated to a physician in an effort to obtain a controlled dangerous substance in violation of this section is not a privileged communication.

(c) **[**(1)**]** Except as provided in **[**paragraphs (2), (3), and (4) of this subsection**]** **SUBSECTION (D) OF THIS SECTION**, a person who violates this section is guilty of a misdemeanor and on conviction is subject to **[**imprisonment not exceeding 4 years or a fine not exceeding $25,000 or both**]:**

(1) FOR A FIRST CONVICTION, IMPRISONMENT NOT EXCEEDING 1 YEAR OR A FINE NOT EXCEEDING ~~$25,000~~ $5,000 OR BOTH;

(2) FOR A SECOND OR THIRD CONVICTION, IMPRISONMENT NOT EXCEEDING 18 MONTHS OR A FINE NOT EXCEEDING ~~$25,000~~ $5,000 OR BOTH; AND

(3) FOR A FOURTH OR SUBSEQUENT CONVICTION, IMPRISONMENT NOT EXCEEDING 2 YEARS OR A FINE NOT EXCEEDING ~~$25,000~~ $5,000 OR BOTH.

[(2) (i)**] (D)** Except as provided in **[**subparagraph (ii) of this paragraph**] § 5–601.1 OF THIS ARTICLE**, a person whose violation of this section involves the use or possession of marijuana **IS GUILTY OF A MISDEMEANOR AND** is subject to **[**imprisonment not exceeding ~~1 year~~ **6 MONTHS** or a fine not exceeding $1,000 or both.**]**~~:~~

~~**(1) FOR A FIRST CONVICTION, IMPRISONMENT NOT EXCEEDING 6 MONTHS OR A FINE NOT EXCEEDING $1,000 OR BOTH; AND**~~

~~**(2) FOR A SECOND OR SUBSEQUENT CONVICTION, IMPRISONMENT NOT EXCEEDING 1 YEAR OR A FINE NOT EXCEEDING $1,000 OR BOTH.**~~

[(ii) 1. A first violation of this section involving the use or possession of less than 10 grams of marijuana is a civil offense punishable by a fine not exceeding $100.

2. A second violation of this section involving the use or possession of less than 10 grams of marijuana is a civil offense punishable by a fine not exceeding $250.

3. A third or subsequent violation of this section involving the use or possession of less than 10 grams of marijuana is a civil offense punishable by a fine not exceeding $500.

4. A. In addition to a fine, a court shall order a person under the age of 21 years who commits a violation punishable under subsubparagraph 1, 2, or 3 of this subparagraph to attend a drug education program approved by the Department of Health and Mental Hygiene, refer the person to an assessment for substance abuse disorder, and refer the person to substance abuse treatment, if necessary.

B. In addition to a fine, a court shall order a person at least 21 years old who commits a violation punishable under subsubparagraph 3 of this subparagraph to attend a drug education program approved by the Department of Health and Mental Hygiene, refer the person to an assessment for substance abuse disorder, and refer the person to substance abuse treatment, if necessary.**]**

[(3) (i) 1.**] (E) (1) (I)** In this **[**paragraph**] SUBSECTION** the following words have the meanings indicated.

[2.**] (II)** "Bona fide physician–patient relationship" means a relationship in which the physician has ongoing responsibility for the assessment, care, and treatment of a patient's medical condition.

[3.**] (III)** "Caregiver" means an individual designated by a patient with a debilitating medical condition to provide physical or medical assistance to the patient, including assisting with the medical use of marijuana, who:

[A.**] 1.** is a resident of the State;

[B.**] 2.** is at least 21 years old;

[C.**] 3.** is an immediate family member, a spouse, or a domestic partner of the patient;

[D.**] 4.** has not been convicted of a crime of violence as defined in § 14–101 of this article;

[E.**] 5.** has not been convicted of a violation of a State or federal controlled dangerous substances law;

[F.**] 6.** has not been convicted of a crime of moral turpitude;

[G.**] 7.** has been designated as caregiver by the patient in writing that has been placed in the patient's medical record prior to arrest;

[H.**] 8.** is the only individual designated by the patient to serve as caregiver; and

[I.**] 9.** is not serving as caregiver for any other patient.

[4.**] (IV)** "Debilitating medical condition" means a chronic or debilitating disease or medical condition or the treatment of a chronic or debilitating disease or medical condition that produces one or more of the following, as documented by a physician with whom the patient has a bona fide physician–patient relationship:

[A.**] 1.** cachexia or wasting syndrome;

[B.**] 2.** severe or chronic pain;

[C.**] 3.** severe nausea;

[D.**] 4.** seizures;

[E.**] 5.** severe and persistent muscle spasms; or

[F.**] 6.** any other condition that is severe and resistant to conventional medicine.

[(ii) 1.**] (2) (I)** In a prosecution for the use or possession of marijuana, the defendant may introduce and the court shall consider as a mitigating factor any evidence of medical necessity.

[2.**] (II)** Notwithstanding **[**paragraph (2) of this subsection**] SUBSECTION (C) OF THIS SECTION**, if the court finds that the person used or possessed marijuana because of medical necessity, the court shall dismiss the charge.

[(iii) 1.**] (3) (I)** In a prosecution for the use or possession of marijuana under this section, it is an affirmative defense that the defendant used or possessed marijuana because:

[A.**] 1.** the defendant has a debilitating medical condition that has been diagnosed by a physician with whom the defendant has a bona fide physician–patient relationship;

[B.**] 2.** the debilitating medical condition is severe and resistant to conventional medicine; and

[C.**] 3.** marijuana is likely to provide the defendant with therapeutic or palliative relief from the debilitating medical condition.

[2. A.**] (II) 1.** In a prosecution for the possession of marijuana under this section, it is an affirmative defense that the defendant possessed marijuana because the marijuana was intended for medical use by an individual with a debilitating medical condition for whom the defendant is a caregiver.

[B.**] 2.** A defendant may not assert the affirmative defense under this **[**subsubparagraph**] SUBPARAGRAPH** unless the defendant notifies the State's Attorney of the defendant's intention to assert the affirmative defense and provides the State's Attorney with all documentation in support of the affirmative defense in accordance with the rules of discovery provided in Maryland Rules 4–262 and 4–263.

[3.**] (III)** An affirmative defense under this **[**subparagraph**] PARAGRAPH** may not be used if the defendant was:

[A.**] 1.** using marijuana in a public place or assisting the individual for whom the defendant is a caregiver in using the marijuana in a public place; or

[B.**] 2.** in possession of more than 1 ounce of marijuana.

[(4) A violation of this section involving the smoking of marijuana in a public place is a civil offense punishable by a fine not exceeding $500.

(d) The provisions of subsection (c)(2)(ii) of this section making the possession of marijuana a civil offense may not be construed to affect the laws relating to:

(1) operating a vehicle or vessel while under the influence of or while impaired by a controlled dangerous substance; or

(2) seizure and forfeiture.]

(F) (1) BEFORE IMPOSING A SENTENCE UNDER SUBSECTION (C) OR (D) OF THIS SECTION, THE COURT ~~SHALL~~ MAY ORDER THE DEPARTMENT OF ~~PUBLIC SAFETY AND CORRECTIONAL SERVICES TO EVALUATE THE DEFENDANT FOR DRUG DEPENDENCE AND PROVIDE AN ASSESSMENT TO DETERMINE WHETHER THE DEFENDANT IS IN NEED OF AND MAY BENEFIT FROM DRUG TREATMENT~~ HEALTH AND MENTAL HYGIENE OR A CERTIFIED AND LICENSED DESIGNEE TO CONDUCT AN ASSESSMENT OF THE DEFENDANT FOR SUBSTANCE USE DISORDER AND DETERMINE WHETHER THE DEFENDANT IS IN NEED OF AND MAY BENEFIT FROM DRUG TREATMENT.

(2) ~~THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES SHALL CONDUCT AN EVALUATION OF THE DEFENDANT AND PROVIDE AN ASSESSMENT~~ ON RECEIVING AN ORDER UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE, OR THE DESIGNEE, SHALL CONDUCT AN ASSESSMENT OF THE DEFENDANT FOR SUBSTANCE USE DISORDER AND PROVIDE THE RESULTS TO THE COURT, THE DEFENDANT OR THE DEFENDANT'S ATTORNEY, AND THE STATE IDENTIFYING THE DEFENDANT'S DRUG TREATMENT NEEDS.

(3) THE COURT SHALL CONSIDER ~~AND INCORPORATE~~ THE RESULTS OF ~~THE~~ AN ASSESSMENT PERFORMED IN PARAGRAPH (2) OF THIS SUBSECTION ~~INTO~~ WHEN IMPOSING THE DEFENDANT'S SENTENCE AND:

(I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH IF THE COURT FINDS THAT THE DEFENDANT IS NOT ~~AN~~ A ~~IMMINENT~~ RISK TO PUBLIC SAFETY, THE COURT SHALL SUSPEND THE EXECUTION OF THE SENTENCE AND ORDER PROBATION AND, IF THE ASSESSMENT SHOWS THAT THE DEFENDANT IS IN NEED OF SUBSTANCE ABUSE TREATMENT, REQUIRE THE ~~DIVISION OF PAROLE AND PROBATION TO PROVIDE APPROPRIATE TREATMENT IN THE COMMUNITY~~ DEPARTMENT OF HEALTH AND MENTAL HYGIENE TO PROVIDE THE MEDICALLY APPROPRIATE LEVEL OF TREATMENT AS IDENTIFIED IN THE ASSESSMENT; OR

(II) IF THE COURT FINDS THAT THE DEFENDANT POSES ~~AN~~ A ~~IMMINENT~~ RISK TO PUBLIC SAFETY OR OTHERWISE FOR GOOD CAUSE, THE COURT MAY IMPOSE A TERM OF IMPRISONMENT UNDER SUBSECTION (C) OR (D) OF THIS SECTION AND ORDER THE DIVISION OF CORRECTION OR LOCAL CORRECTIONAL FACILITY TO ~~PROVIDE~~ FACILITATE THE MEDICALLY APPROPRIATE LEVEL OF TREATMENT FOR THE DEFENDANT AS IDENTIFIED IN THE ASSESSMENT.

(4) THE COURT MAY NOT FIND GOOD CAUSE UNDER PARAGRAPH (3)(II) OF THIS SUBSECTION SOLELY BECAUSE THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE LACKS SUFFICIENT RESOURCES TO COMPLY WITH AN ORDER TO PROVIDE TREATMENT.

5–601.1.

(A) A VIOLATION OF § 5–601 OF THIS PART INVOLVING THE SMOKING OF MARIJUANA IN A PUBLIC PLACE IS A CIVIL OFFENSE PUNISHABLE BY A FINE NOT EXCEEDING $500.

(B) (1) A FIRST VIOLATION OF § 5–601 OF THIS PART INVOLVING THE USE OR POSSESSION OF LESS THAN 10 GRAMS OF MARIJUANA IS A CIVIL OFFENSE PUNISHABLE BY A FINE NOT EXCEEDING $100.

(2) A SECOND VIOLATION OF § 5–601 OF THIS PART INVOLVING THE USE OR POSSESSION OF LESS THAN 10 GRAMS OF MARIJUANA IS A CIVIL OFFENSE PUNISHABLE BY A FINE NOT EXCEEDING $250.

(3) A THIRD OR SUBSEQUENT VIOLATION OF § 5–601 OF THIS PART INVOLVING THE USE OR POSSESSION OF LESS THAN 10 GRAMS OF MARIJUANA IS A CIVIL OFFENSE PUNISHABLE BY A FINE NOT EXCEEDING $500.

(4) (I) IN ADDITION TO A FINE, A COURT SHALL ORDER A PERSON UNDER THE AGE OF 21 YEARS WHO COMMITS A VIOLATION PUNISHABLE UNDER PARAGRAPH (1), (2), OR (3) OF THIS SUBSECTION TO ATTEND A DRUG EDUCATION PROGRAM APPROVED BY THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE, REFER THE PERSON TO AN ASSESSMENT FOR SUBSTANCE ABUSE DISORDER, AND REFER THE PERSON TO SUBSTANCE ABUSE TREATMENT, IF NECESSARY.

(II) IN ADDITION TO A FINE, A COURT SHALL ORDER A PERSON AT LEAST 21 YEARS OLD WHO COMMITS A VIOLATION PUNISHABLE UNDER PARAGRAPH (3) OF THIS SUBSECTION TO ATTEND A DRUG EDUCATION PROGRAM APPROVED BY THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE, REFER THE PERSON TO AN ASSESSMENT FOR SUBSTANCE ABUSE DISORDER, AND REFER THE PERSON TO SUBSTANCE ABUSE TREATMENT, IF NECESSARY.

[(a)**] (C)** A police officer shall issue a citation to a person who the police officer has probable cause to believe has committed a violation of § 5–601 of this part involving the use or possession of less than 10 grams of marijuana.

[(b)**] (D)** (1) A violation of § 5–601 of this part involving the use or possession of less than 10 grams of marijuana is a civil offense.

(2) Adjudication of a violation under § 5–601 of this part involving the use or possession of less than 10 grams of marijuana:

(i) is not a criminal conviction for any purpose; and

(ii) does not impose any of the civil disabilities that may result from a criminal conviction.

[(c)**] (E)** (1) A citation issued for a violation of § 5–601 of this part involving the use or possession of less than 10 grams of marijuana shall be signed by the police officer who issues the citation and shall contain:

(i) the name and address of the person charged;

(ii) the date and time that the violation occurred;

(iii) the location at which the violation occurred;

(iv) the fine that may be imposed;

(v) a notice stating that prepayment of the fine is allowed, except as provided in paragraph (2) of this subsection; and

(vi) a notice in boldface type that states that the person shall:

1. pay the full amount of the preset fine; or

2. request a trial date at the date, time, and place established by the District Court by writ or trial notice.

(2) (i) If a citation for a violation of § 5–601 of this part involving the use or possession of less than 10 grams of marijuana is issued to a person under the age of 21 years, the court shall summon the person for trial.

(ii) If the court finds that a person at least 21 years old has committed a third or subsequent violation of § 5–601 of this part involving the use or possession of less than 10 grams of marijuana, the court shall summon the person for trial.

[(d)**] (F)** The form of the citation shall be uniform throughout the State and shall be prescribed by the District Court.

[(e)**] (G)** The Chief Judge of the District Court shall establish a schedule for the prepayment of the fine.

[(f)**] (H)** A person issued a citation for a violation of § 5–601 of this part involving the use or possession of less than 10 grams of marijuana who is under the age of 18 years

shall be subject to the procedures and dispositions provided in Title 3, Subtitle 8A of the Courts Article.

[(g)**] (I)** A citation for a violation of § 5–601 of this part involving the use or possession of less than 10 grams of marijuana and the official record of a court regarding the citation are not subject to public inspection and may not be included on the public Web site maintained by the Maryland Judiciary.

(J) THE PROVISIONS OF THIS SECTION MAKING THE USE OR POSSESSION OF LESS THAN 10 GRAMS OF MARIJUANA A CIVIL OFFENSE MAY NOT BE CONSTRUED TO AFFECT THE LAWS RELATING TO:

(1) OPERATING A VEHICLE OR VESSEL WHILE UNDER THE INFLUENCE OF OR WHILE IMPAIRED BY A CONTROLLED DANGEROUS SUBSTANCE; OR

(2) SEIZURE AND FORFEITURE.

5–607.

(a) Except as provided in §§ 5–608 and 5–609 of this subtitle, a person who violates a provision of §§ 5–602 through 5–606 of this subtitle is guilty of a felony and on conviction is subject to imprisonment not exceeding 5 years or a fine not exceeding $15,000 or both.

(b) (1) **[**Except as provided in**] SUBJECT TO** § 5–609.1 of this subtitle, a person who has been convicted previously under subsection (a) of this section shall be sentenced to imprisonment for not less than 2 years.

(2) The court may not suspend the mandatory minimum sentence to less than 2 years.

(3) Except as provided in § 4–305 of the Correctional Services Article, the person is not eligible for parole during the mandatory minimum sentence.

(c) A person convicted under subsection (a) of this section is not prohibited from participating in a drug treatment program under § 8–507 of the Health – General Article because of the length of the sentence.

5–608.

(a) Except as otherwise provided in this section, a person who violates a provision of §§ 5–602 through 5–606 of this subtitle with respect to a Schedule I or Schedule II narcotic drug is guilty of a felony and on conviction is subject to: imprisonment not exceeding 20 years or a fine not exceeding $25,000 or both.

(b) (1) **[**Except as provided in**] SUBJECT TO** § 5–609.1 of this subtitle, a person who is convicted under subsection (a) of this section or of conspiracy to commit a crime included in subsection (a) of this section shall be sentenced to imprisonment for not less than 10 years and is subject to a fine not exceeding $100,000 if the person previously has been convicted once:

(i) under subsection (a) of this section or § 5–609 of this subtitle;

(ii) of conspiracy to commit a crime included in subsection (a) of this section or § 5–609 of this subtitle; or

(iii) of a crime under the laws of another state or the United States that would be a crime included in subsection (a) of this section or § 5–609 of this subtitle if committed in this State.

(2) The court may not suspend the mandatory minimum sentence to less than 10 years.

(3) Except as provided in § 4–305 of the Correctional Services Article, the person is not eligible for parole during the mandatory minimum sentence.

(c) (1) **[**Except as provided in**] SUBJECT TO** § 5–609.1 of this subtitle, a person who is convicted under subsection (a) of this section or of conspiracy to commit a crime included in subsection (a) of this section shall be sentenced to imprisonment for not less than 25 years and is subject to a fine not exceeding $100,000 if the person previously:

(i) has served at least one term of confinement of at least 180 days in a correctional institution as a result of a conviction:

1. under subsection (a) of this section or § 5–609 or § 5–614 of this subtitle;

2. of conspiracy to commit a crime included in subsection (a) of this section or § 5–609 of this subtitle; or

3. of a crime under the laws of another state or the United States that would be a crime included in subsection (a) of this section or § 5–609 of this subtitle if committed in this State; and

(ii) has been convicted twice, if the convictions arise from separate occasions:

1. under subsection (a) of this section or § 5–609 of this subtitle;

2. of conspiracy to commit a crime included in subsection (a) of this section or § 5–609 of this subtitle;

3. of a crime under the laws of another state or the United States that would be a crime included in subsection (a) of this section or § 5–609 of this subtitle if committed in this State; or

4. of any combination of these crimes.

(2) The court may not suspend any part of the mandatory minimum sentence of 25 years.

(3) Except as provided in § 4–305 of the Correctional Services Article, the person is not eligible for parole during the mandatory minimum sentence.

(4) A separate occasion is one in which the second or succeeding crime is committed after there has been a charging document filed for the preceding crime.

(d) (1) **[**Except as provided in**] SUBJECT TO** § 5–609.1 of this subtitle, a person who is convicted under subsection (a) of this section or of conspiracy to commit a crime included in subsection (a) of this section shall be sentenced to imprisonment for not less than 40 years and is subject to a fine not exceeding $100,000 if the person previously has served three or more separate terms of confinement as a result of three or more separate convictions:

(i) under subsection (a) of this section or § 5–609 of this subtitle;

(ii) of conspiracy to commit a crime included in subsection (a) of this section or § 5–609 of this subtitle;

(iii) of a crime under the laws of another state or the United States that would be a crime included in subsection (a) of this section or § 5–609 of this subtitle if committed in this State; or

(iv) of any combination of these crimes.

(2) The court may not suspend any part of the mandatory minimum sentence of 40 years.

(3) Except as provided in § 4–305 of the Correctional Services Article, the person is not eligible for parole during the mandatory minimum sentence.

(e) A person convicted under subsection (a) of this section or of conspiracy to commit a crime included in subsection (a) of this section is not prohibited from participating in a drug treatment program under § 8–507 of the Health – General Article because of the length of the sentence.

5–609.

(a) Except as otherwise provided in this section, a person who violates a provision of §§ 5–602 through 5–606 of this subtitle with respect to any of the following controlled dangerous substances is guilty of a felony and on conviction is subject to imprisonment not exceeding 20 years or a fine not exceeding $20,000 or both:

(1) phencyclidine;

(2) 1–(1–phenylcyclohexyl) piperidine;

(3) 1–phenylcyclohexylamine;

(4) 1–piperidinocyclohexanecarbonitrile;

(5) N–ethyl–1–phenylcyclohexylamine;

(6) 1–(1–phenylcyclohexyl)–pyrrolidine;

(7) 1–(1–(2–thienyl)–cyclohexyl)–piperidine;

(8) lysergic acid diethylamide; or

(9) 750 grams or more of 3, 4–methylenedioxymethamphetamine (MDMA).

(b) (1) **[**Except as provided in**]** **SUBJECT TO** § 5–609.1 of this subtitle, a person who is convicted under subsection (a) of this section or of conspiracy to commit a crime included in subsection (a) of this section shall be sentenced to imprisonment for not less than 10 years and is subject to a fine not exceeding $100,000 if the person previously has been convicted once:

(i) under subsection (a) of this section or § 5–608 of this subtitle;

(ii) of conspiracy to commit a crime included in subsection (a) of this section or § 5–608 of this subtitle;

(iii) of a crime under the laws of another state or the United States that would be a crime included in subsection (a) of this section or § 5–608 of this subtitle if committed in this State; or

(iv) of any combination of these crimes.

(2) The court may not suspend the mandatory minimum sentence to less than 10 years.

(3) Except as provided in § 4–305 of the Correctional Services Article, the person is not eligible for parole during the mandatory minimum sentence.

(c) (1) **[**Except as provided in**]** **SUBJECT TO** § 5–609.1 of this subtitle, a person who is convicted under subsection (a) of this section or of conspiracy to commit a crime included in subsection (a) of this section shall be sentenced to imprisonment for not less than 25 years and is subject to a fine not exceeding $100,000 if the person previously:

(i) has served at least one term of confinement of at least 180 days in a correctional institution as a result of a conviction under subsection (a) of this section, § 5–608 of this subtitle, or § 5–614 of this subtitle; and

(ii) if the convictions do not arise from a single incident, has been convicted twice:

1. under subsection (a) of this section or § 5–608 of this subtitle;

2. of conspiracy to commit a crime included in subsection (a) of this section or § 5–608 of this subtitle;

3. of a crime under the laws of another state or the United States that would be a crime included in subsection (a) of this section or § 5–608 of this subtitle if committed in this State; or

4. of any combination of these crimes.

(2) The court may not suspend any part of the mandatory minimum sentence of 25 years.

(3) Except as provided in § 4–305 of the Correctional Services Article, the person is not eligible for parole during the mandatory minimum sentence.

(4) A separate occasion is one in which the second or succeeding crime is committed after there has been a charging document filed for the preceding crime.

(d) (1) **[**Except as provided in**]** **SUBJECT TO** § 5–609.1 of this subtitle, a person who is convicted under subsection (a) of this section or of conspiracy to commit a crime included in subsection (a) of this section shall be sentenced to imprisonment for not less than 40 years and is subject to a fine not exceeding $100,000 if the person previously has served three separate terms of confinement as a result of three separate convictions:

(i) under subsection (a) of this section or § 5–608 of this subtitle;

(ii) of conspiracy to commit a crime included in subsection (a) of this section or § 5–608 of this subtitle;

(iii) of a crime under the laws of another state or the United States that would be a crime included in subsection (a) of this section or § 5–608 of this subtitle if committed in this State; or

(iv) of any combination of these crimes.

(2) The court may not suspend any part of the mandatory minimum sentence of 40 years.

(3) Except as provided in § 4–305 of the Correctional Services Article, the person is not eligible for parole during the mandatory minimum sentence.

(e) A person convicted under subsection (a) of this section or of conspiracy to commit a crime included in subsection (a) of this section is not prohibited from participating in a drug treatment program under § 8–507 of the Health – General Article because of the length of the sentence.

5–609.1.

(A) A court may **[**depart from**]** **IMPOSE** a mandatory minimum sentence prescribed in § 5–607, § 5–608, or § 5–609 of this subtitle **[**if the court finds and states on the record**]** **ONLY IF THE STATE SHOWS** that, giving due regard to the nature of the crime, the history and character of the defendant, and the defendant's chances of successful rehabilitation:

(1) imposition of the mandatory minimum sentence would **NOT** result in substantial injustice to the defendant; and

(2) the mandatory minimum sentence is **[**not**]** necessary for the protection of the public.

(B) A COURT SHALL STATE ON THE RECORD THE REASONS FOR DEPARTING FROM A MANDATORY MINIMUM SENTENCE.

(C) (1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW AND SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, A PERSON WHO IS SERVING A TERM OF CONFINEMENT THAT INCLUDES A MANDATORY MINIMUM SENTENCE IMPOSED ON OR BEFORE SEPTEMBER 30, 2016, FOR A VIOLATION OF §§ 5–602 THROUGH 5–606 OF THIS SUBTITLE MAY APPLY TO THE COURT TO MODIFY OR REDUCE THE MANDATORY MINIMUM SENTENCE AS PROVIDED IN MARYLAND RULE 4–345, REGARDLESS OF WHETHER THE DEFENDANT FILED A TIMELY MOTION FOR RECONSIDERATION OR A MOTION FOR RECONSIDERATION WAS DENIED BY THE COURT.

(2) THE COURT MAY MODIFY THE SENTENCE AND DEPART FROM THE MANDATORY MINIMUM SENTENCE AS PROVIDED IN SUBSECTION (A) OF THIS SECTION.

(3) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, AN APPLICATION FOR A HEARING UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE SUBMITTED TO THE COURT OR REVIEW PANEL ON OR BEFORE SEPTEMBER 30, 2017.

(II) THE COURT MAY CONSIDER AN APPLICATION AFTER SEPTEMBER 30, 2017, ONLY FOR GOOD CAUSE SHOWN.

(III) THE COURT SHALL NOTIFY THE STATE'S ATTORNEY OF A REQUEST FOR A HEARING.

(IV) A PERSON MAY NOT FILE MORE THAN ONE APPLICATION FOR A HEARING UNDER PARAGRAPH (1) OF THIS SUBSECTION FOR A MANDATORY MINIMUM SENTENCE FOR A VIOLATION OF §§ 5–602 THROUGH 5–606 OF THIS SUBTITLE.

5–612.

(a) A person may not manufacture, distribute, dispense, or possess:

(1) 50 pounds or more of marijuana;

(2) 448 grams or more of cocaine;

(3) 448 grams or more of any mixture containing a detectable amount of cocaine;

(4) **[**50**] 448** grams or more of cocaine base, commonly known as "crack";

(5) 28 grams or more of morphine or opium or any derivative, salt, isomer, or salt of an isomer of morphine or opium;

(6) any mixture containing 28 grams or more of morphine or opium or any derivative, salt, isomer, or salt of an isomer of morphine or opium;

(7) 1,000 dosage units or more of lysergic acid diethylamide;

(8) any mixture containing the equivalent of 1,000 dosage units of lysergic acid diethylamide;

(9) 16 ounces or more of phencyclidine in liquid form;

(10) 448 grams or more of any mixture containing phencyclidine;

(11) 448 grams or more of methamphetamine; or

(12) any mixture containing 448 grams or more of methamphetamine.

(b) For the purpose of determining the quantity of a controlled dangerous substance involved in individual acts of manufacturing, distributing, dispensing, or possessing under subsection (a) of this section, the acts may be aggregated if each of the acts occurred within a 90–day period.

(c) (1) A person who is convicted of a violation of subsection (a) of this section shall be sentenced to imprisonment for not less than 5 years and is subject to a fine not exceeding $100,000.

(2) The court may not suspend any part of the mandatory minimum sentence of 5 years.

(3) Except as provided in § 4–305 of the Correctional Services Article, the person is not eligible for parole during the mandatory minimum sentence.

7–104.

(a) A person may not willfully or knowingly obtain or exert unauthorized control over property, if the person:

(1) intends to deprive the owner of the property;

(2) willfully or knowingly uses, conceals, or abandons the property in a manner that deprives the owner of the property; or

(3) uses, conceals, or abandons the property knowing the use, concealment, or abandonment probably will deprive the owner of the property.

(b) A person may not obtain control over property by willfully or knowingly using deception, if the person:

(1) intends to deprive the owner of the property;

(2) willfully or knowingly uses, conceals, or abandons the property in a manner that deprives the owner of the property; or

(3) uses, conceals, or abandons the property knowing the use, concealment, or abandonment probably will deprive the owner of the property.

(c) (1) A person may not possess stolen personal property knowing that it has been stolen, or believing that it probably has been stolen, if the person:

(i) intends to deprive the owner of the property;

(ii) willfully or knowingly uses, conceals, or abandons the property in a manner that deprives the owner of the property; or

(iii) uses, conceals, or abandons the property knowing that the use, concealment, or abandonment probably will deprive the owner of the property.

(2) In the case of a person in the business of buying or selling goods, the knowledge required under this subsection may be inferred if:

(i) the person possesses or exerts control over property stolen from more than one person on separate occasions;

(ii) during the year preceding the criminal possession charged, the person has acquired stolen property in a separate transaction; or

(iii) being in the business of buying or selling property of the sort possessed, the person acquired it for a consideration that the person knew was far below a reasonable value.

(3) In a prosecution for theft by possession of stolen property under this subsection, it is not a defense that:

(i) the person who stole the property has not been convicted, apprehended, or identified;

(ii) the defendant stole or participated in the stealing of the property;

(iii) the property was provided by law enforcement as part of an investigation, if the property was described to the defendant as being obtained through the commission of theft; or

(iv) the stealing of the property did not occur in the State.

(4) Unless the person who criminally possesses stolen property participated in the stealing, the person who criminally possesses stolen property and a person who has stolen the property are not accomplices in theft for the purpose of any rule of evidence requiring corroboration of the testimony of an accomplice.

(d) A person may not obtain control over property knowing that the property was lost, mislaid, or was delivered under a mistake as to the identity of the recipient or nature or amount of the property, if the person:

(1) knows or learns the identity of the owner or knows, is aware of, or learns of a reasonable method of identifying the owner;

(2) fails to take reasonable measures to restore the property to the owner; and

(3) intends to deprive the owner permanently of the use or benefit of the property when the person obtains the property or at a later time.

(e) A person may not obtain the services of another that are available only for compensation:

(1) by deception; or

(2) with knowledge that the services are provided without the consent of the person providing them.

(f) Under this section, an offender's intention or knowledge that a promise would not be performed may not be established by or inferred solely from the fact that the promise was not performed.

(g) (1) A person convicted of theft of property or services with a value of:

(i) at least **[**$1,000**] $2,000** but less than **[**$10,000**] $25,000** is guilty of a felony and:

1. is subject to imprisonment not exceeding **[**10**] 5** years or a fine not exceeding $10,000 or both; and

2. shall restore the property taken to the owner or pay the owner the value of the property or services;

(ii) at least **[**$10,000**] $25,000** but less than $100,000 is guilty of a felony and:

1. is subject to imprisonment not exceeding **[**15**] 10** years or a fine not exceeding $15,000 or both; and

2. shall restore the property taken to the owner or pay the owner the value of the property or services; or

(iii) $100,000 or more is guilty of a felony and:

1. is subject to imprisonment not exceeding **[**25**] 20** years or a fine not exceeding $25,000 or both; and

2. shall restore the property taken to the owner or pay the owner the value of the property or services.

(2) Except as provided in **[**paragraphs (3) and (4)**]** **PARAGRAPH (3)** of this subsection, a person convicted of theft of property or services with a value of ~~**AT LEAST $100 BUT**~~ less than **[**$1,000**]** **$2,000**, is guilty of a misdemeanor and:

(i) is subject to imprisonment not exceeding **[**18**]** **12** months or a fine not exceeding $500 or both; and

(ii) shall restore the property taken to the owner or pay the owner the value of the property or services.

(3) A person convicted of theft of property or services with a value of less than $100 is guilty of a misdemeanor and:

(i) is subject to imprisonment not exceeding 90 days or a fine not exceeding $500 or both; and

(ii) shall restore the property taken to the owner or pay the owner the value of the property or services.

~~**[**~~(4) Subject to paragraph (5) of this subsection, a person who has ~~two~~ **FOUR** or more prior convictions under this subtitle and who is convicted of theft of property or services with a value of less than ~~$1,000~~ **$2,000** under paragraph (2) of this subsection is guilty of a misdemeanor and:

(i) is subject to imprisonment not exceeding 5 years or a fine not exceeding $5,000 or both; and

(ii) shall restore the property taken to the owner or pay the owner the value of the property or services.

(5) The court may not impose the penalties under paragraph (4) of this subsection unless the State's Attorney serves notice on the defendant or the defendant's counsel before the acceptance of a plea of guilty or nolo contendere or at least 15 days before trial that:

(i) the State will seek the penalties under paragraph (4) of this subsection; and

(ii) lists the alleged prior convictions.~~**]**~~

7–108.

(a) An indictment, information, warrant, or other charging document for theft under this part, other than for taking a motor vehicle under § 7–105 of this part, is sufficient if it substantially states:

"(name of defendant) on (date) in (county) stole (property or services stolen) of (name of victim), having a value of (less than **[**$1,000, at least $1,000 but less than $10,000, at least $10,000**] $2,000, AT LEAST $2,000 BUT LESS THAN $25,000, AT LEAST $25,000** but less than $100,000, or $100,000 or more) in violation of § 7–104 of the Criminal Law Article, against the peace, government, and dignity of the State.".

(b) An indictment, information, warrant, or other charging document for theft under this part for taking a motor vehicle under § 7–105 of this part is sufficient if it substantially states:

"(name of defendant) on (date) in (county) knowingly and willfully took a motor vehicle out of (name of victim)'s lawful custody, control, or use, without the consent of (name of victim), in violation of § 7–105 of the Criminal Law Article, against the peace, government, and dignity of the State.".

(c) In a case in the circuit court in which the general form of indictment or information is used to charge a defendant with a crime under this part, the defendant, on timely demand, is entitled to a bill of particulars.

(d) Unless specifically charged by the State, theft of property or services with a value of less than $100 as provided under § 7–104(g)(3) of this subtitle may not be considered a lesser included crime of any other crime.

8–106.

(a) (1) A person who obtains property or services with a value of at least **[**$1,000**] $2,000** but less than **[**$10,000**] $25,000** by issuing or passing a check in violation of § 8–103 of this subtitle is guilty of a felony and on conviction is subject to imprisonment not exceeding **[**10**] 5** years or a fine not exceeding $10,000 or both.

(2) A person who obtains property or services with a value of at least **[**$10,000**] $25,000** but less than $100,000 by issuing or passing a check in violation of § 8–103 of this subtitle is guilty of a felony and on conviction is subject to imprisonment not exceeding **[**15**] 10** years or a fine not exceeding $15,000 or both.

(3) A person who obtains property or services with a value of $100,000 or more by issuing or passing a check in violation of § 8–103 of this subtitle is guilty of a felony and on conviction is subject to imprisonment not exceeding **[**25**] 20** years or a fine not exceeding $25,000 or both.

(b) A person who obtains property or services by issuing or passing more than one check in violation of § 8–103 of this subtitle is guilty of a felony and on conviction is subject to imprisonment not exceeding **[**10**] 5** years or a fine not exceeding $10,000 or both if:

(1) each check that is issued is for **[**less than $1,000**] AT LEAST $2,000 BUT LESS THAN $25,000** and is issued to the same person within a 30–day period; and

(2) the cumulative value of the property or services is **[**$1,000 or more**] AT LEAST $2,000 BUT LESS THAN $25,000**.

(c) Except as provided in subsections (b) and (d) of this section, a person who obtains property or services with a value of **AT LEAST $100 BUT** less than **[**$1,000**] $2,000** by issuing or passing a check in violation of § 8–103 of this subtitle is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding **[**18**] 12** months or a fine not exceeding $500 or both.

(d) (1) A person who obtains property or services with a value of less than $100 by issuing or passing a check in violation of § 8–103 of this subtitle is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 90 days or a fine not exceeding $500 or both.

(2) It is not a defense to the crime of obtaining property or services with a value of less than $100 by issuing or passing a check in violation of § 8–103 of this subtitle that the value of the property or services at issue is $100 or more.

8–206.

(a) A person may not for the purpose of obtaining money, goods, services, or anything of value, and with the intent to defraud another, use:

(1) a credit card obtained or retained in violation of § 8–204 or § 8–205 of this subtitle; or

(2) a credit card that the person knows is counterfeit.

(b) A person may not, with the intent to defraud another, obtain money, goods, services, or anything of value by representing:

(1) without the consent of the cardholder, that the person is the holder of a specified credit card; or

(2) that the person is the holder of a credit card when the credit card had not been issued.

(c) (1) (i) If the value of all money, goods, services, and other things of value obtained in violation of this section is at least **[**$1,000**] $2,000** but less than **[**$10,000**] $25,000**, a person who violates this section is guilty of a felony and on conviction is subject to imprisonment not exceeding **[**10**] 5** years or a fine not exceeding $10,000 or both.

(ii) If the value of all money, goods, services, and other things of value obtained in violation of this section is at least **[**$10,000**] $25,000** but less than

$100,000, a person who violates this section is guilty of a felony and on conviction is subject to imprisonment not exceeding **[**15**] 10** years or a fine not exceeding $15,000 or both.

(iii) If the value of all money, goods, services, and other things of value obtained in violation of this section is $100,000 or more, a person who violates this section is guilty of a felony and on conviction is subject to imprisonment not exceeding **[**25**] 20** years or a fine not exceeding $25,000 or both.

(2) Except as provided in paragraph (3) of this subsection, if the value of all money, goods, services, and other things of value obtained in violation of this section is **AT LEAST $100 BUT** less than **[**$1,000**] $2,000**, a person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding **[**18**] 12** months or a fine not exceeding $500 or both.

(3) If the value of all money, goods, services, and other things of value obtained in violation of this section **[**does not exceed**] IS LESS THAN** $100, a person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 90 days or a fine not exceeding $500 or both.

8–207.

(a) If a person is authorized by an issuer to furnish money, goods, services, or anything of value on presentation of a credit card by the cardholder, the person or an agent or employee of the person may not, with the intent to defraud the issuer or cardholder:

(1) furnish money, goods, services, or anything of value on presentation of:

(i) a credit card obtained or retained in violation of § 8–204 or § 8–205 of this subtitle; or

(ii) a credit card that the person knows is counterfeit; or

(2) fail to furnish money, goods, services, or anything of value that the person represents in writing to the issuer that the person has furnished.

(b) (1) (i) If the value of all money, goods, services, and other things of value furnished or not furnished in violation of this section is at least **[**$1,000**] $2,000** but less than **[**$10,000**] $25,000**, a person who violates this section is guilty of a felony and on conviction is subject to imprisonment not exceeding **[**10**] 5** years or a fine not exceeding $10,000 or both.

(ii) If the value of all money, goods, services, and other things of value furnished or not furnished in violation of this section is at least **[**$10,000**] $25,000** but less than $100,000, a person who violates this section is guilty of a felony and on conviction is subject to imprisonment not exceeding **[**15**] 10** years or a fine not exceeding $15,000 or both.

(iii) If the value of all money, goods, services, and other things of value furnished or not furnished in violation of this section is $100,000 or more, a person who violates this section is guilty of a felony and on conviction is subject to imprisonment not exceeding **[**25**] 20** years or a fine not exceeding $25,000 or both.

(2) Except as provided in paragraph (3) of this subsection, if the value of all money, goods, services, and other things of value furnished or not furnished in violation of this section is **AT LEAST $100 BUT** less than **[**$1,000**] $2,000**, a person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding **[**18**] 12** months or a fine not exceeding $500 or both.

(3) If the value of all money, goods, services, and other things of value furnished or not furnished in violation of this section **[**does not exceed**] IS LESS THAN** $100, a person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 90 days or a fine not exceeding $500 or both.

8–209.

(a) A person may not receive money, goods, services, or anything of value if the person knows or believes that the money, goods, services, or other thing of value was obtained in violation of § 8–206 of this subtitle.

(b) (1) (i) If the value of all money, goods, services, and other things of value obtained in violation of this section is at least **[**$1,000**] $2,000** but less than **[**$10,000**] $25,000**, a person who violates this section is guilty of a felony and on conviction is subject to imprisonment not exceeding **[**10**] 5** years or a fine not exceeding $10,000 or both.

(ii) If the value of all money, goods, services, and other things of value obtained in violation of this section is at least **[**$10,000**] $25,000** but less than $100,000, a person who violates this section is guilty of a felony and on conviction is subject to imprisonment not exceeding **[**15**] 10** years or a fine not exceeding $15,000 or both.

(iii) If the value of all money, goods, services, and other things of value obtained in violation of this section is $100,000 or more, a person who violates this section is guilty of a felony and on conviction is subject to imprisonment not exceeding **[**25**] 20** years or a fine not exceeding $25,000 or both.

(2) Except as provided in paragraph (3) of this subsection, if the value of all money, goods, services, and other things of value obtained in violation of this section is **AT LEAST $100 BUT** less than **[**$1,000**] $2,000**, a person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding **[**18**] 12** months or a fine not exceeding $500 or both.

(3) If the value of all money, goods, services, and other things of value obtained in violation of this section **[**does not exceed**] IS LESS THAN** $100, a person who

violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 90 days or a fine not exceeding $500 or both.

8–301.

(a) (1) In this section the following words have the meanings indicated.

(2) "Health care" means care, services, or supplies related to the health of an individual that includes the following:

(i) preventative, diagnostic, therapeutic, rehabilitative, maintenance care, palliative care and counseling, service assessment, or procedure:

1. with respect to the physical or mental condition or functional status of an individual; or

2. that affects the structure or function of the body; and

(ii) the sale or dispensing of a drug, device, equipment, or other item in accordance with a prescription.

(3) "Health information" means any information, whether oral or recorded in any form or medium, that:

(i) is created or received by:

1. a health care provider;

2. a health care carrier;

3. a public health authority;

4. an employer;

5. a life insurer;

6. a school or university; or

7. a health care clearinghouse; and

(ii) relates to the:

1. past, present, or future physical or mental health or condition of an individual;

2. provision of health care to an individual; or

3. past, present, or future payment for the provision of health care to an individual.

(4) "Interactive computer service" means an information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including a system that provides access to the Internet and cellular phones.

(5) "Payment device number" has the meaning stated in § 8–213 of this title.

(6) (i) "Personal identifying information" includes a name, address, telephone number, driver's license number, Social Security number, place of employment, employee identification number, health insurance identification number, medical identification number, mother's maiden name, bank or other financial institution account number, date of birth, personal identification number, unique biometric data, including fingerprint, voice print, retina or iris image or other unique physical representation, digital signature, credit card number, or other payment device number.

(ii) "Personal identifying information" may be derived from any element in subparagraph (i) of this paragraph, alone or in conjunction with any other information to identify a specific natural or fictitious individual.

(7) "Re–encoder" means an electronic device that places encoded personal identifying information or a payment device number from the magnetic strip or stripe of a credit card onto the magnetic strip or stripe of a different credit card or any electronic medium that allows such a transaction to occur.

(8) "Skimming device" means a scanner, skimmer, reader, or any other electronic device that is used to access, read, scan, obtain, memorize, or store, temporarily or permanently, personal identifying information or a payment device number encoded on the magnetic strip or stripe of a credit card.

(b) A person may not knowingly, willfully, and with fraudulent intent possess, obtain, or help another to possess or obtain any personal identifying information of an individual, without the consent of the individual, in order to use, sell, or transfer the information to get a benefit, credit, good, service, or other thing of value or to access health information or health care.

(b–1) A person may not maliciously use an interactive computer service to disclose or assist another person to disclose the driver's license number, bank or other financial institution account number, credit card number, payment device number, Social Security number, or employee identification number of an individual, without the consent of the individual, in order to annoy, threaten, embarrass, or harass the individual.

(c) A person may not knowingly and willfully assume the identity of another, including a fictitious person:

(1) to avoid identification, apprehension, or prosecution for a crime; or

(2) with fraudulent intent to:

(i) get a benefit, credit, good, service, or other thing of value;

(ii) access health information or health care; or

(iii) avoid the payment of debt or other legal obligation.

(d) A person may not knowingly, willfully, and with fraudulent intent to obtain a benefit, credit, good, service, or other thing of value or to access health information or health care, use:

(1) a re–encoder to place information encoded on the magnetic strip or stripe of a credit card onto the magnetic strip or stripe of a different credit card or use any other electronic medium that allows such a transaction to occur without the consent of the individual authorized to use the credit card from which the personal identifying information or payment device number is being re–encoded; or

(2) a skimming device to access, read, scan, obtain, memorize, or store personal identifying information or a payment device number on the magnetic strip or stripe of a credit card without the consent of the individual authorized to use the credit card.

(e) A person may not knowingly, willfully, and with fraudulent intent possess, obtain, or help another possess or obtain a re–encoder device or a skimming device for the unauthorized use, sale, or transfer of personal identifying information or a payment device number.

(f) A person may not knowingly and willfully claim to represent another person without the knowledge and consent of that person, with the intent to solicit, request, or take any other action to otherwise induce another person to provide personal identifying information or a payment device number.

(g) (1) (i) A person who violates this section where the benefit, credit, good, service, health information or health care, or other thing of value that is the subject of subsection (b), (c), or (d) of this section has a value of at least **[**$1,000**] $2,000** but less than **[**$10,000**] $25,000** is guilty of a felony and on conviction is subject to imprisonment not exceeding **[**10**] 5** years or a fine not exceeding $10,000 or both.

(ii) A person who violates this section where the benefit, credit, good, service, or other thing of value that is the subject of subsection (b), (c), or (d) of this section has a value of at least **[**$10,000**] $25,000** but less than $100,000 is guilty of a felony and on conviction is subject to imprisonment not exceeding **[**15**] 10** years or a fine not exceeding $15,000 or both.

(iii) A person who violates this section where the benefit, credit, good, service, or other thing of value that is the subject of subsection (b), (c), or (d) of this section has a value of $100,000 or more is guilty of a felony and on conviction is subject to imprisonment not exceeding **[**25**] 20** years or a fine not exceeding $25,000 or both.

(2) A person who violates this section where the benefit, credit, good, service, health information or health care, or other thing of value that is the subject of subsection (b), (c), or (d) of this section has a value of **AT LEAST $100 BUT** less than **[**$1,000**] $2,000** is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding **[**18**] 12** months or a fine not exceeding $500 or both.

(3) A person who violates this section under circumstances that reasonably indicate that the person's intent was to manufacture, distribute, or dispense another individual's personal identifying information without that individual's consent is guilty of a felony and on conviction is subject to imprisonment not exceeding **[**15**] 10** years or a fine not exceeding $25,000 or both.

(4) A person who violates subsection (b–1), (c)(1), (e), or (f) of this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding **[**18**] 12** months or a fine not exceeding $500 or both.

(5) When the violation of this section is pursuant to one scheme or continuing course of conduct, whether from the same or several sources, the conduct may be considered as one violation and the value of the benefit, credit, good, service, or other thing of value may be aggregated in determining whether the violation is a felony or misdemeanor.

8–516.

(a) If a violation of this part results in the death of an individual, a person who violates a provision of this part is guilty of a felony and on conviction is subject to imprisonment not exceeding life or a fine not exceeding $200,000 or both.

(b) If a violation of this part results in serious injury to an individual, a person who violates a provision of this part is guilty of a felony and on conviction is subject to imprisonment not exceeding 20 years or a fine not exceeding $100,000 or both.

(c) If the value of the money, health care services, or other goods or services involved is **[**$1,000**] $2,000** or more in the aggregate, a person who violates a provision of this part is guilty of a felony and on conviction is subject to imprisonment not exceeding 5 years or a fine not exceeding $100,000 or both.

(d) A person who violates any other provision of this part is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding $50,000 or both.

(e) (1) In this subsection, "business entity" includes an association, firm, institution, partnership, and corporation.

(2) A business entity that violates a provision of this part is subject to a fine not exceeding:

(i) $250,000 for each felony; and

(ii) $100,000 for each misdemeanor.

8–611.

(a) (1) In this section the following words have the meanings indicated.

(2) "Counterfeit mark" means:

(i) an unauthorized copy of intellectual property; or

(ii) intellectual property affixed to goods knowingly sold, offered for sale, manufactured, or distributed, to identify services offered or rendered, without the authority of the owner of the intellectual property.

(3) "Intellectual property" means a trademark, service mark, trade name, label, term, device, design, or word adopted or used by a person to identify the goods or services of the person.

(4) "Retail value" means:

(i) a trademark counterfeiter's selling price for the goods or services that bear or are identified by the counterfeit mark; or

(ii) a trademark counterfeiter's selling price of the finished product, if the goods that bear a counterfeit mark are components of the finished product.

(5) "Trademark counterfeiter" means a person who commits the crime of trademark counterfeiting prohibited by this section.

(b) A person may not willfully manufacture, produce, display, advertise, distribute, offer for sale, sell, or possess with the intent to sell or distribute goods or services that the person knows are bearing or are identified by a counterfeit mark.

(c) If the aggregate retail value of the goods or services is **[**$1,000**] $2,000** or more, a person who violates this section is guilty of the felony of trademark counterfeiting and on conviction:

(1) is subject to imprisonment not exceeding **[**15**] 10** years or a fine not exceeding $10,000 or both; and

(2) shall transfer all of the goods to the owner of the intellectual property.

(d) If the aggregate retail value of the goods or services is less than **[**$1,000**] $2,000**, a person who violates this section is guilty of the misdemeanor of trademark counterfeiting and on conviction:

(1) is subject to**[**:

(i) for a first violation,**]** imprisonment not exceeding **[**18**] 12** months or a fine not exceeding $1,000 or both**[**; or

(ii) for each subsequent violation, imprisonment not exceeding 18 months or a fine not exceeding $5,000 or both**]**; and

(2) shall transfer all of the goods to the owner of the intellectual property.

(e) An action or prosecution for trademark counterfeiting in which the aggregate retail value of the goods or services is less than **[**$1,000**] $2,000** shall be commenced within 2 years after the commission of the crime.

(f) Any goods bearing a counterfeit mark are subject to seizure by a law enforcement officer to preserve the goods for transfer to the owner of the intellectual property either:

(1) under an agreement with the person alleged to have committed the crime; or

(2) after a conviction under this section.

(g) State or federal registration of intellectual property is prima facie evidence that the intellectual property is a trademark or trade name.

8–801.

(a) (1) In this section the following words have the meanings indicated.

(2) "Deception" has the meaning stated in § 7–101 of this article.

(3) "Deprive" has the meaning stated in § 7–101 of this article.

(4) "Obtain" has the meaning stated in § 7–101 of this article.

(5) "Property" has the meaning stated in § 7–101 of this article.

(6) (i) "Undue influence" means domination and influence amounting to force and coercion exercised by another person to such an extent that a vulnerable adult or an individual at least 68 years old was prevented from exercising free judgment and choice.

(ii) "Undue influence" does not include the normal influence that one member of a family has over another member of the family.

(7) "Value" has the meaning stated in § 7–103 of this article.

(8) "Vulnerable adult" has the meaning stated in § 3–604 of this article.

(b) (1) A person may not knowingly and willfully obtain by deception, intimidation, or undue influence the property of an individual that the person knows or reasonably should know is a vulnerable adult with intent to deprive the vulnerable adult of the vulnerable adult's property.

(2) A person may not knowingly and willfully obtain by deception, intimidation, or undue influence the property of an individual that the person knows or reasonably should know is at least 68 years old, with intent to deprive the individual of the individual's property.

(c) (1) (i) A person convicted of a violation of this section when the value of the property is at least **[**$1,000**] $2,000** but less than **[**$10,000**] $25,000** is guilty of a felony and:

1. is subject to imprisonment not exceeding **[**10**] 5** years or a fine not exceeding $10,000 or both; and

2. shall restore the property taken or its value to the owner, or, if the owner is deceased, restore the property or its value to the owner's estate.

(ii) A person convicted of a violation of this section when the value of the property is at least **[**$10,000**] $25,000** but less than $100,000 is guilty of a felony and:

1. is subject to imprisonment not exceeding **[**15**] 10** years or a fine not exceeding $15,000 or both; and

2. shall restore the property taken or its value to the owner, or, if the owner is deceased, restore the property or its value to the owner's estate.

(iii) A person convicted of a violation of this section when the value of the property is $100,000 or more is guilty of a felony and:

1. is subject to imprisonment not exceeding **[**25**] 20** years or a fine not exceeding $25,000 or both; and

2. shall restore the property taken or its value to the owner, or, if the owner is deceased, restore the property or its value to the owner's estate.

(2) A person convicted of a violation of this section when the value of the property is less than **[**$1,000**] $2,000** is guilty of a misdemeanor and:

(i) is subject to imprisonment not exceeding **[**18**] 12** months or a fine not exceeding $500 or both; and

(ii) shall restore the property taken or its value to the owner, or, if the owner is deceased, restore the property or its value to the owner's estate.

~~14–101.~~

~~(a) In this section, "crime of violence" means:~~

~~(1) abduction;~~

~~(2) arson in the first degree;~~

~~(3) kidnapping;~~

~~(4) manslaughter, except involuntary manslaughter;~~

~~(5) mayhem;~~

~~(6) maiming, as previously proscribed under former Article 27, §§ 385 and 386 of the Code;~~

~~(7) murder;~~

~~(8) rape;~~

~~(9) robbery under § 3–402 or § 3–403 of this article;~~

~~(10) carjacking;~~

~~(11) armed carjacking;~~

~~(12) sexual offense in the first degree;~~

~~(13) sexual offense in the second degree;~~

~~(14) use of a handgun in the commission of a felony or other crime of violence;~~

~~(15) child abuse in the first degree under § 3–601 of this article;~~

~~(16) sexual abuse of a minor under § 3–602 of this article if:~~

~~(i) the victim is under the age of 13 years and the offender is an adult at the time of the offense; and~~

~~(ii) the offense involved:~~

~~1. vaginal intercourse, as defined in § 3–301 of this article;~~

~~2. a sexual act, as defined in § 3–301 of this article;~~

~~3. an act in which a part of the offender's body penetrates, however slightly, into the victim's genital opening or anus; or~~

~~4. the intentional touching, not through the clothing, of the victim's or the offender's genital, anal, or other intimate area for sexual arousal, gratification, or abuse;~~

~~(17) an attempt to commit any of the crimes described in items (1) through (16) of this subsection;~~

~~(18) continuing course of conduct with a child under § 3–315 of this article;~~

~~(19) assault in the first degree;~~

~~(20) assault with intent to murder;~~

~~(21) assault with intent to rape;~~

~~(22) assault with intent to rob;~~

~~(23) assault with intent to commit a sexual offense in the first degree; and~~

~~(24) assault with intent to commit a sexual offense in the second degree.~~

~~(b) (1) Except as provided in subsection (f) of this section, on conviction for a fourth time of a crime of violence, a person who has served three separate terms of confinement in a correctional facility as a result of three separate convictions of any crime of violence shall be sentenced to life imprisonment without the possibility of parole.~~

~~(2) Notwithstanding any other law, the provisions of this subsection are mandatory.~~

~~(c) (1) Except as provided in subsection (f) of this section, on conviction for a third time of a crime of violence, a person shall be sentenced to imprisonment for the term allowed by law but not less than 25 years, if the person:~~

~~(i) has been convicted of a crime of violence on two prior separate occasions:~~

~~1. in which the second or succeeding crime is committed after there has been a charging document filed for the preceding occasion; and~~

~~2. for which the convictions do not arise from a single incident; and~~

~~(ii) has served at least one term of confinement in a correctional facility as a result of a conviction of a crime of violence.~~

~~(2) The court may not suspend all or part of the mandatory 25–year sentence required under this subsection.~~

~~(3) A person sentenced under this subsection is not eligible for parole except in accordance with the provisions of § 4–305 of the Correctional Services Article.~~

~~(d) (1) On conviction for a second time of a crime of violence committed on or after October 1, 1994, a person shall be sentenced to imprisonment for the term allowed by law, but not less than 10 years, if the person:~~

~~(i) has been convicted on a prior occasion of a crime of violence, including a conviction for a crime committed before October 1, 1994; and~~

~~(ii) served a term of confinement in a correctional facility for that conviction.~~

~~(2) The court may not suspend all or part of the mandatory 10–year sentence required under this subsection.~~

~~(e) If the State intends to proceed against a person as a subsequent offender under this section, it shall comply with the procedures set forth in the Maryland Rules for the indictment and trial of a subsequent offender.~~

~~(f) (1) **THIS SUBSECTION DOES NOT APPLY TO A PERSON REGISTERED OR ELIGIBLE FOR REGISTRATION UNDER TITLE 11, SUBTITLE 7 OF THE CRIMINAL PROCEDURE ARTICLE.**~~

~~**(2)** A person sentenced under this section may petition for and be granted parole if the person:~~

~~(i) is at least **[**65**] 60** years old; and~~

~~(ii) has served at least [15] 10 years of the sentence imposed under this section OR ONE–THIRD OF THE PERSON'S TOTAL AGGREGATE SENTENCE.~~

~~[(2)] (3) The Maryland Parole Commission shall adopt regulations to implement this subsection.~~

Article – Criminal Procedure

1–101.

(a) In this article the following words have the meanings indicated.

(b) **"ABSCONDING" HAS THE MEANING STATED IN § 6–101 OF THE CORRECTIONAL SERVICES ARTICLE.**

(C) (1) "Charging document" means a written accusation alleging that a defendant has committed a crime.

(2) "Charging document" includes a citation, an indictment, an information, a statement of charges, and a warrant.

[(c)**] (D)** "Correctional facility" has the meaning stated in § 1–101 of the Correctional Services Article.

[(d)**] (E)** "County" means a county of the State or Baltimore City.

[(e)**] (F)** "Crime of violence" has the meaning stated in § 14–101 of the Criminal Law Article.

[(f)**] (G)** "Department" means the Department of Public Safety and Correctional Services.

[(g)**] (H)** "Inmate" has the meaning stated in § 1–101 of the Correctional Services Article.

[(h)**] (I)** "Local correctional facility" has the meaning stated in § 1–101 of the Correctional Services Article.

[(i)**] (J)** "Managing official" has the meaning stated in § 1–101 of the Correctional Services Article.

[(j)**] (K)** "Nolle prosequi" means a formal entry on the record by the State that declares the State's intention not to prosecute a charge.

[(k)**] (L)** "Nolo contendere" means a plea stating that the defendant will not contest the charge but does not admit guilt or claim innocence.

[(l)**] (M)** "Person" means an individual, receiver, trustee, guardian, personal representative, fiduciary, representative of any kind, partnership, firm, association, corporation, or other entity.

[(m)**] (N)** "Secretary" means the Secretary of the Department of Public Safety and Correctional Services.

[(n)**] (O)** "State" means:

(1) a state, possession, territory, or commonwealth of the United States; or

(2) the District of Columbia.

[(o)**] (P)** "State correctional facility" has the meaning stated in § 1–101 of the Correctional Services Article.

~~(P)~~ (Q) "TECHNICAL VIOLATION" MEANS A VIOLATION OF A CONDITION OF PROBATION THAT DOES NOT INCLUDE:

(1) AN ARREST OR A SUMMONS ISSUED BY A COMMISSIONER ON A STATEMENT OF CHARGES FILED BY A LAW ENFORCEMENT OFFICER;

(2) A CONVICTION; ~~OR~~

(3) A VIOLATION OF A NO CONTACT OR STAY–AWAY ORDER; OR

(4) ABSCONDING.

~~6–209.~~

~~(a) The Commission shall review annually sentencing policy and practice and, on or before January 31 of each year, report to the General Assembly, in accordance with § 2–1246 of the State Government Article, on the activities of the preceding calendar year.~~

~~(b) (1) The report shall:~~

~~(i) include any changes to the sentencing guidelines made during the preceding year;~~

~~(ii) review judicial compliance with the sentencing guidelines, including compliance by crime and by judicial circuit;~~

~~(iii) review reductions or increases in original sentences that have occurred because of reconsiderations of sentences imposed under § 14–101 of the Criminal Law Article;~~ **[**~~and~~**]**

~~(iv) categorize information on the number of reconsiderations of sentences by crimes as listed in § 14–101(a) of the Criminal Law Article and by judicial circuit~~**~~; AND~~**

~~**(V) REVIEW JUDICIAL COMPLIANCE WITH THE GUIDELINES FOR SUSPENDED SENTENCES ESTABLISHED UNDER PARAGRAPH (3) OF THIS SUBSECTION.**~~

~~(2) The Commission shall consider a sentence to a corrections options program to be within the sentencing guidelines if the sentence falls within a corrections options zone shown on the matrix.~~

~~**(3) THE COMMISSION SHALL INCLUDE A SUSPENDED PORTION OF A SENTENCE IN THE DETERMINATION OF WHETHER A SENTENCE IS COMPLIANT WITH THE SENTENCING GUIDELINES.**~~

6–223.

(a) A circuit court or the District Court may end the period of probation at any time.

(b) On receipt of written charges, filed under oath, that a probationer or defendant violated a condition of probation during the period of probation, the District Court may, during the period of probation or within 30 days after the violation, whichever is later, issue a warrant or notice requiring the probationer or defendant to be brought or appear before the judge issuing the warrant or notice:

(1) to answer the charge of violation of a condition of probation or of suspension of sentence; and

(2) to be present for the setting of a timely hearing date for that charge.

(c) Pending the hearing or determination of the charge, a circuit court or the District Court may remand the probationer or defendant to a correctional facility or release the probationer or defendant with or without bail.

(d) If, at the hearing, a circuit court or the District Court finds that the probationer or defendant has violated a condition of probation, the court may:

(1) revoke the probation granted or the suspension of sentence; and

(2) **(I)** **SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, FOR A TECHNICAL VIOLATION, IMPOSE A PERIOD OF INCARCERATION OF:**

1. NOT MORE THAN 15 DAYS FOR A FIRST TECHNICAL VIOLATION;

2. NOT MORE THAN 30 DAYS FOR A SECOND TECHNICAL VIOLATION; AND

3. NOT MORE THAN 45 DAYS FOR A THIRD TECHNICAL VIOLATION; AND

(II) FOR A FOURTH OR SUBSEQUENT TECHNICAL VIOLATION OR A VIOLATION THAT IS NOT A TECHNICAL VIOLATION, impose any sentence that might have originally been imposed for the crime of which the probationer or defendant was convicted or pleaded nolo contendere.

(3) THE COURT MAY DEPART FROM THE LIMITS PROVIDED UNDER THIS SUBSECTION IF:

(I) THE COURT FINDS AND STATES ON THE RECORD~~:~~

~~1.~~ THAT ADHERING TO THE LIMITS WOULD CREATE A RISK TO PUBLIC SAFETY OR TO A VICTIM OR WITNESS; OR

~~2. OTHER GOOD CAUSE; OR~~

(II) THE COURT COMMITS THE PROBATIONER OR DEFENDANT TO THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE FOR TREATMENT UNDER § 8–507 OF THE HEALTH – GENERAL ARTICLE.

6–224.

(a) This section applies to a defendant who is convicted of a crime for which the court:

(1) does not impose a sentence;

(2) suspends the sentence generally;

(3) places the defendant on probation for a definite time; or

(4) passes another order and imposes other conditions of probation.

(b) If a defendant is brought before a circuit court to be sentenced on the original charge or for violating a condition of probation, and the judge then presiding finds that the defendant violated a condition of probation, the judge:

(1) **SUBJECT TO SUBSECTION (C) OF THIS SECTION,** may sentence the defendant to:

(i) all or any part of the period of imprisonment imposed in the original sentence; or

(ii) any sentence allowed by law, if a sentence was not imposed before; and

(2) may suspend all or part of a sentence and place the defendant on further probation on any conditions that the judge considers proper, and that do not exceed the maximum set under § 6–222 of this subtitle.

(c) **~~IF~~ (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, IF THE JUDGE FINDS THAT THE DEFENDANT VIOLATED A CONDITION OF PROBATION THAT IS A TECHNICAL VIOLATION, THE JUDGE MAY IMPOSE A PERIOD OF INCARCERATION OF:**

~~(1)~~ (I) NOT MORE THAN 15 DAYS FOR A FIRST TECHNICAL VIOLATION;

~~(2)~~ (II) NOT MORE THAN 30 DAYS FOR A SECOND TECHNICAL VIOLATION;

~~(3)~~ (III) NOT MORE THAN 45 DAYS FOR A THIRD TECHNICAL VIOLATION; AND

~~(4)~~ (IV) ALL OR ANY PART OF THE PERIOD OF IMPRISONMENT IMPOSED IN THE ORIGINAL SENTENCE FOR A FOURTH OR SUBSEQUENT TECHNICAL VIOLATION.

(2) THE COURT MAY DEPART FROM THE LIMITS PROVIDED UNDER THIS SUBSECTION IF:

(I) THE COURT FINDS AND STATES ON THE RECORD~~:~~

~~1.~~ THAT ADHERING TO THE LIMITS WOULD CREATE A RISK TO PUBLIC SAFETY OR TO A VICTIM OR WITNESS; OR

~~2. OTHER GOOD CAUSE; OR~~

(II) THE COURT COMMITS THE PROBATIONER OR DEFENDANT TO THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE FOR TREATMENT UNDER § 8–507 OF THE HEALTH – GENERAL ARTICLE.

(D) (1) The District Court judge who originally imposed conditions of probation or suspension of sentence shall hear any charge of violation of the conditions of probation or suspension of sentence.

(2) Except as provided in paragraph (3) of this subsection, the judge shall sentence the defendant if probation is revoked or suspension stricken.

(3) If the judge has been removed from office, has died or resigned, or is otherwise incapacitated, any other judge of the District Court may act in the matter.

10–110.

(A) A PERSON MAY FILE A PETITION LISTING RELEVANT FACTS FOR EXPUNGEMENT OF A POLICE RECORD, COURT RECORD, OR OTHER RECORD MAINTAINED BY THE STATE OR A POLITICAL SUBDIVISION OF THE STATE IF THE PERSON IS CONVICTED OF A MISDEMEANOR THAT IS A VIOLATION OF:

(1) § 6–320 OF THE ALCOHOLIC BEVERAGES ARTICLE;

(2) AN OFFENSE LISTED IN § 17–613(A) OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE;

(3) § 5–712, § 19–304, § 19–308, OR TITLE 5, SUBTITLE 6 OR SUBTITLE 9 OF THE BUSINESS REGULATION ARTICLE;

(4) § 3–1508 OR § 10–402 OF THE COURTS ARTICLE;

(5) § 14–1915, § 14–2902, OR § 14–2903 OF THE COMMERCIAL LAW ARTICLE;

(6) § 5–211 OF THE CRIMINAL PROCEDURE ARTICLE;

(7) § 3–203 OR § 3–808 OF THE CRIMINAL LAW ARTICLE;

(8) § 5–601, § 5–618, § 5–619, § 5–620, § 5–703, § 5–708, OR § 5–902 OF THE CRIMINAL LAW ARTICLE;

(9) § 6–105, § 6–108, § 6–206, § 6–303, § 6–306, § 6–307, § 6–402, OR § 6–503 OF THE CRIMINAL LAW ARTICLE;

(10) § 7–104, § 7–203, § 7–205, § 7–304, § 7–308, OR § 7–309 OF THE CRIMINAL LAW ARTICLE;

(11) § 8–103, § 8–206, § 8–401, § 8–402, § 8–404, § 8–406, § 8–408, § 8–503, § 8–521, § 8–523, OR § 8–904 OF THE CRIMINAL LAW ARTICLE;

(12) § 9–204, § 9–205, § 9–503, OR § 9–506 OF THE CRIMINAL LAW ARTICLE;

(13) § 10–110, § 10–201, § 10–402, § 10–404, OR § 10–502 OF THE CRIMINAL LAW ARTICLE;

(14) § 11–306(A) OF THE CRIMINAL LAW ARTICLE;

(15) § 12–102, § 12–103, § 12–104, § 12–105, § 12–109, § 12–203, § 12–204, § 12–205, OR § 12–302 OF THE CRIMINAL LAW ARTICLE;

(16) § 13–401, § 13–602, OR § 16–201 OF THE ELECTION LAW ARTICLE;

(17) § 4–509 OF THE FAMILY LAW ARTICLE;

(18) § 18–215 OF THE HEALTH – GENERAL ARTICLE;

(19) § 4–411 OR § 4–2005 OF THE HUMAN SERVICES ARTICLE;

(20) § 27–403, § 27–404, § 27–405, § 27–406, § 27–406.1, § 27–407, § 27–407.1, OR § 27–407.2 OF THE INSURANCE ARTICLE;

(21) § 5–307, § 5–308, § 6–602, § 7–402, OR § 14–114 OF THE PUBLIC SAFETY ARTICLE;

(22) § 7–318.1, § 7–509, OR § 10–507 OF THE REAL PROPERTY ARTICLE;

(23) § 9–124 OF THE STATE GOVERNMENT ARTICLE;

(24) § 13–1001, § 13–1004, § 13–1007, OR § 13–1024 OF THE TAX – GENERAL ARTICLE;

(25) THE COMMON LAW OFFENSES OF AFFRAY, RIOTING, CRIMINAL CONTEMPT, OR HINDERING; OR

(26) AN ATTEMPT, CONSPIRACY, OR SOLICITATION OF ANY OFFENSE LISTED IN ITEMS (1) THROUGH (25) OF THIS SUBSECTION.

(B) (1) EXCEPT AS PROVIDED IN PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, A PERSON SHALL FILE A PETITION FOR EXPUNGEMENT IN THE COURT IN WHICH THE PROCEEDING BEGAN.

(2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, IF THE PROCEEDING BEGAN IN ONE COURT AND WAS TRANSFERRED TO ANOTHER COURT, THE PERSON SHALL FILE THE PETITION IN THE COURT TO WHICH THE PROCEEDING WAS TRANSFERRED.

(II) IF THE PROCEEDING BEGAN IN ONE COURT AND WAS TRANSFERRED TO THE JUVENILE COURT UNDER § 4–202 OR § 4–202.2 OF THIS ARTICLE, THE PERSON SHALL FILE THE PETITION IN THE COURT OF ORIGINAL JURISDICTION FROM WHICH THE ORDER OF TRANSFER WAS ENTERED.

(3) (I) IF THE PROCEEDING IN A COURT OF ORIGINAL JURISDICTION WAS APPEALED TO A COURT EXERCISING APPELLATE JURISDICTION, THE PERSON SHALL FILE THE PETITION IN THE APPELLATE COURT.

(II) THE APPELLATE COURT MAY REMAND THE MATTER TO THE COURT OF ORIGINAL JURISDICTION.

(C) A PETITION FOR EXPUNGEMENT UNDER THIS SECTION MAY NOT BE FILED EARLIER THAN 10 YEARS AFTER THE PERSON SATISFIES THE SENTENCE OR SENTENCES IMPOSED FOR ALL CONVICTIONS FOR WHICH EXPUNGEMENT IS REQUESTED, INCLUDING PAROLE, PROBATION, OR MANDATORY SUPERVISION.

(D) (1) IF THE PERSON IS CONVICTED OF A NEW CRIME DURING THE APPLICABLE TIME PERIOD SET FORTH IN SUBSECTION (C) OF THIS SECTION, THE ORIGINAL CONVICTION OR CONVICTIONS ARE NOT ELIGIBLE FOR EXPUNGEMENT UNLESS THE NEW CONVICTION BECOMES ELIGIBLE FOR EXPUNGEMENT.

(2) A PERSON IS NOT ELIGIBLE FOR EXPUNGEMENT IF THE PERSON IS A DEFENDANT IN A PENDING CRIMINAL PROCEEDING.

(3) IF A PERSON IS NOT ELIGIBLE FOR EXPUNGEMENT OF ONE CONVICTION IN A UNIT, THE PERSON IS NOT ELIGIBLE FOR EXPUNGEMENT OF ANY OTHER CONVICTION IN THE UNIT.

(E) (1) THE COURT SHALL HAVE A COPY OF A PETITION FOR EXPUNGEMENT SERVED ON THE STATE'S ATTORNEY.

(2) THE COURT SHALL SEND WRITTEN NOTICE OF THE EXPUNGEMENT REQUEST TO ALL LISTED VICTIMS IN THE CASE IN WHICH THE PETITIONER IS SEEKING EXPUNGEMENT AT THE ADDRESS LISTED IN THE COURT

FILE, ADVISING THE VICTIM OR VICTIMS OF THE RIGHT TO OFFER ADDITIONAL INFORMATION RELEVANT TO THE EXPUNGEMENT PETITION TO THE COURT.

(3) UNLESS THE STATE'S ATTORNEY OR A VICTIM FILES AN OBJECTION TO THE PETITION FOR EXPUNGEMENT WITHIN 30 DAYS AFTER THE PETITION IS SERVED, THE COURT SHALL PASS AN ORDER REQUIRING THE EXPUNGEMENT OF ALL POLICE RECORDS AND COURT RECORDS ABOUT THE CHARGE.

(F) (1) IF THE STATE'S ATTORNEY OR A VICTIM FILES A TIMELY OBJECTION TO THE PETITION, THE COURT SHALL HOLD A HEARING.

(2) THE COURT SHALL ORDER THE EXPUNGEMENT OF ALL POLICE RECORDS AND COURT RECORDS ABOUT THE CHARGE AFTER A HEARING, IF THE COURT FINDS AND STATES ON THE RECORD:

(I) THAT THE CONVICTION IS ELIGIBLE FOR EXPUNGEMENT UNDER SUBSECTION (A) OF THIS SECTION;

(II) THAT THE PERSON IS ELIGIBLE FOR EXPUNGEMENT UNDER SUBSECTION (D) OF THIS SECTION;

(III) THAT GIVING DUE REGARD TO THE NATURE OF THE CRIME, THE HISTORY AND CHARACTER OF THE PERSON, AND THE PERSON'S SUCCESS AT REHABILITATION, THE PERSON IS NOT A RISK TO PUBLIC SAFETY; AND

(IV) THAT AN EXPUNGEMENT WOULD BE IN THE INTEREST OF JUSTICE.

(G) IF AT A HEARING THE COURT FINDS THAT A PERSON IS NOT ENTITLED TO EXPUNGEMENT, THE COURT SHALL DENY THE PETITION.

(H) UNLESS AN ORDER IS STAYED PENDING APPEAL, WITHIN 60 DAYS AFTER ENTRY OF ORDER, EVERY CUSTODIAN OF THE POLICE RECORDS AND COURT RECORDS THAT ARE SUBJECT TO THE ORDER OF EXPUNGEMENT SHALL ADVISE IN WRITING THE COURT AND THE PERSON WHO IS SEEKING EXPUNGEMENT OF COMPLIANCE WITH THE ORDER.

(I) (1) THE STATE'S ATTORNEY IS A PARTY TO THE PROCEEDING.

(2) A PARTY AGGRIEVED BY THE DECISION OF THE COURT IS ENTITLED TO THE APPELLATE REVIEW AS PROVIDED IN THE COURTS ARTICLE.

11–819.

(b) The Criminal Injuries Compensation Fund:

(1) shall be used to:

(i) carry out the provisions of this subtitle; and

(ii) distribute restitution payments forwarded to the Fund under **[**§ 11–604**] § 9–614** of the Correctional Services Article; and

(2) may be used for:

(i) any award given under this subtitle; and

(ii) the costs of carrying out this subtitle.

Article – Health – General

8–505.

(a) (1) Before or during a criminal trial, before or after sentencing, or before or during a term of probation, the court may order the Department to evaluate a defendant to determine whether, by reason of drug or alcohol abuse, the defendant is in need of and may benefit from treatment if:

(i) It appears to the court that the defendant has an alcohol or drug abuse problem; or

(ii) The defendant alleges an alcohol or drug dependency.

(2) A court shall set and may change the conditions under which an examination is to be conducted under this section.

(3) The Department shall ensure that each evaluation under this section is conducted in accordance with regulations adopted by the Department.

(b) On consideration of the nature of the charge, the court:

(1) May require or permit an examination to be conducted on an outpatient basis; and

(2) If an outpatient examination is authorized, shall set bail for the defendant or authorize the release of the defendant on personal recognizance.

(c) (1) If a defendant is to be held in custody for examination under this section:

(i) The defendant may be confined in a detention facility until the Department is able to conduct the examination; or

(ii) The court may order confinement of the defendant in a medical wing or other isolated and secure unit of a detention facility, if the court finds it appropriate for the health or safety of the defendant.

(2) (i) If the court finds that, because of the apparent severity of the alcohol or drug dependency or other medical or psychiatric complications, a defendant in custody would be endangered by confinement in a jail, the court may order the Department to either:

1. Place the defendant, pending examination, in an appropriate health care facility; or

2. Immediately conduct an evaluation of the defendant.

(ii) Unless the Department retains a defendant, the defendant shall be promptly returned to the court after an examination.

(iii) A defendant who is detained for an examination under this section may question at any time the legality of the detention by a petition for a writ of habeas corpus.

(d) (1) If a court orders an evaluation under this section, the evaluator shall:

(i) Conduct an evaluation of the defendant; and

(ii) Submit a complete report of the evaluation within 7 days to the:

1. Court;

2. Department; and

3. Defendant or the defendant's attorney.

(2) On good cause shown, a court may extend the time for an evaluation under this section.

(3) Whenever an evaluator recommends treatment, the evaluator's report shall:

(i) Name a specific program able to **IMMEDIATELY** provide the recommended treatment; and

(ii) Give an actual or estimated date when the program can begin treatment of the defendant.

(e) (1) The Department shall **IMMEDIATELY** provide the services required by this section.

(2) A designee of the Department may carry out any of its duties under this section **[**if appropriate funding is provided**]**.

(f) Evaluations performed in facilities operated by the Department of Public Safety and Correctional Services shall be conducted by the Administration.

8–507.

(a) Subject to the limitations in this section, a court that finds in a criminal case or during a term of probation that a defendant has an alcohol or drug dependency may commit the defendant as a condition of release, after conviction, or at any other time the defendant voluntarily agrees to participate in treatment, to the Department for treatment that the Department recommends, even if:

(1) The defendant did not timely file a motion for reconsideration under Maryland Rule 4–345; or

(2) The defendant timely filed a motion for reconsideration under Maryland Rule 4–345 which was denied by the court.

(b) Before a court commits a defendant to the Department under this section, the court shall:

(1) Offer the defendant the opportunity to receive treatment;

(2) Obtain the written consent of the defendant:

(i) To receive treatment; and

(ii) To have information reported back to the court;

(3) Order an evaluation of the defendant under § 8–505 or § 8–506 of this subtitle;

(4) Consider the report on the defendant's evaluation; and

(5) Find that the treatment that the Department recommends to be appropriate and necessary.

(c) Immediately on receiving an order for treatment under this section, the Department shall order a report of all pending cases, warrants, and detainers for the defendant and forward a copy of the report to the court, the defendant, and the defendant's last attorney of record.

(d) (1) The Department shall provide the services required by this section.

(2) A designee of the Department may carry out any of the Department's duties under this section ~~if appropriate funding is provided~~.

(e) (1) A court may not order that the defendant be delivered for treatment until:

(i) ~~The Department gives the court notice that an appropriate treatment program is able to begin treatment of the defendant;~~

~~(ii)~~ Any detainer based on an untried indictment, information, warrant, or complaint for the defendant has been removed; and

~~(iii)~~ **(II)** Any sentence of incarceration for the defendant is no longer in effect.

(2) The Department shall facilitate **[**the prompt**]** **THE IMMEDIATE** treatment of a defendant ~~**WITHOUT UNNECESSARY DELAY AND IN NO EVENT LATER THAN 30 DAYS FROM THE ORDER**~~ **UNLESS THE COURT FINDS EXIGENT CIRCUMSTANCES TO DELAY COMMITMENT FOR TREATMENT FOR NO LONGER THAN 30 DAYS**.

(3) IF A DEFENDANT WHO HAS BEEN COMMITTED FOR TREATMENT UNDER THIS SECTION IS NOT PLACED IN TREATMENT WITHIN ~~30~~ 7 DAYS OF THE ORDER, THE COURT ~~MAY ORDER THE DEPARTMENT TO APPEAR TO EXPLAIN THE REASON FOR THE LACK OF PLACEMENT~~ MAY ISSUE A SHOW CAUSE ORDER FOR THE DEPARTMENT TO APPEAR AND EXPLAIN WHY THE DEPARTMENT SHOULD NOT BE HELD IN CONTEMPT UNDER TITLE 15 OF THE MARYLAND RULES.

(f) For a defendant committed for treatment under this section, a court shall order supervision of the defendant:

(1) By an appropriate pretrial release agency, if the defendant is released pending trial;

(2) By the Division of Parole and Probation under appropriate conditions in accordance with §§ 6–219 through 6–225 of the Criminal Procedure Article and Maryland Rule 4–345, if the defendant is released on probation; or

(3) By the Department, if the defendant remains in the custody of a local correctional facility.

(g) A court may order law enforcement officials, detention center staff, Department of Public Safety and Correctional Services staff, or sheriff's department staff

within the appropriate local jurisdiction to transport a defendant to and from treatment under this section.

(h) The Department shall promptly report to a court a defendant's withdrawal of consent to treatment and have the defendant returned to the court within 7 days for further proceedings.

(i) A defendant who is committed for treatment under this section may question at any time the legality of the commitment by a petition for a writ of habeas corpus.

(j) (1) A commitment under this section shall be for at least 72 hours and not more than 1 year.

(2) On good cause shown by the Department, the court, or the State, the court may extend the time period for providing the necessary treatment services in increments of 6 months.

(3) Except during the first 72 hours after admission of a defendant to a treatment program, the Department may terminate the treatment if the Department determines that:

(i) Continued treatment is not in the best interest of the defendant; or

(ii) The defendant is no longer amenable to treatment.

(k) When a defendant is to be released from treatment under this section, the Department shall notify the court that ordered the treatment.

(l) (1) If a defendant leaves treatment without authorization, the responsibility of the Department is limited to the notification of the court that ordered the defendant's treatment as soon as it is reasonably possible.

(2) Notice under this subsection shall constitute probable cause for a court to issue a warrant for the arrest of a defendant.

(m) Nothing in this section imposes any obligation on the Department:

(1) To treat any defendant who knowingly and willfully declines to consent to further treatment; or

(2) In reporting to the court under this section, to include an assessment of a defendant's dangerousness to one's self, to another individual, or to the property of another individual by virtue of a drug or alcohol problem.

(n) Time during which a defendant is held under this section for inpatient evaluation or inpatient or residential treatment shall be credited against any sentence imposed by the court that ordered the evaluation or treatment.

(o) This section may not be construed to limit a court's authority to order drug treatment in lieu of incarceration under Title 5 of the Criminal Law Article.

Article – State Finance and Procurement

6–226.

(a) (2) (i) Notwithstanding any other provision of law, and unless inconsistent with a federal law, grant agreement, or other federal requirement or with the terms of a gift or settlement agreement, net interest on all State money allocated by the State Treasurer under this section to special funds or accounts, and otherwise entitled to receive interest earnings, as accounted for by the Comptroller, shall accrue to the General Fund of the State.

(ii) The provisions of subparagraph (i) of this paragraph do not apply to the following funds:

84. the Economic Development Marketing Fund; **[**and**]**

85. the Military Personnel and Veteran–Owned Small Business No–Interest Loan Fund**; AND**

86. THE PERFORMANCE INCENTIVE COUNTY GRANT FUND.

Article – State Government

SUBTITLE 32. JUSTICE REINVESTMENT OVERSIGHT BOARD.

9–3201.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) "BOARD" MEANS THE JUSTICE REINVESTMENT OVERSIGHT BOARD.

(C) "EXECUTIVE DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF THE GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION.

(D) "FUND" MEANS THE PERFORMANCE INCENTIVE COUNTY GRANT FUND ESTABLISHED IN § 9–3209 OF THIS SUBTITLE.

9–3202.

THERE IS A JUSTICE REINVESTMENT OVERSIGHT BOARD IN THE GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION.

9–3203.

(A) THE BOARD CONSISTS OF THE FOLLOWING MEMBERS:

(1) ONE MEMBER OF THE SENATE OF MARYLAND, APPOINTED BY THE PRESIDENT OF THE SENATE;

(2) ONE MEMBER OF THE HOUSE OF DELEGATES, APPOINTED BY THE SPEAKER OF THE HOUSE;

(3) THE EXECUTIVE DIRECTOR, OR THE EXECUTIVE DIRECTOR'S DESIGNEE;

(4) THE SECRETARY OF PUBLIC SAFETY AND CORRECTIONAL SERVICES, OR THE SECRETARY'S DESIGNEE;

(5) THE CHAIR OF THE MARYLAND PAROLE COMMISSION, OR THE CHAIR'S DESIGNEE;

(6) THE SECRETARY OF STATE POLICE, OR THE SECRETARY'S DESIGNEE;

(7) THE ATTORNEY GENERAL, OR THE ATTORNEY GENERAL'S DESIGNEE;

(8) THE PUBLIC DEFENDER, OR THE PUBLIC DEFENDER'S DESIGNEE;

(9) THE SECRETARY OF BUDGET AND MANAGEMENT, OR THE SECRETARY'S DESIGNEE;

(10) THE SECRETARY OF HEALTH AND MENTAL HYGIENE, OR THE SECRETARY'S DESIGNEE;

(11) THE CHAIR OF THE LOCAL GOVERNMENT JUSTICE REINVESTMENT COMMISSION, OR THE CHAIR'S DESIGNEE;

(12) ~~ONE MEMBER~~ TWO MEMBERS APPOINTED BY THE CHIEF JUDGE OF THE COURT OF APPEALS;

(13) ~~ONE MEMBER APPOINTED BY THE CHIEF JUDGE OF THE DISTRICT COURT OF MARYLAND~~ ONE MEMBER APPOINTED BY THE MARYLAND SHERIFFS' ASSOCIATION; AND

(14) THE FOLLOWING INDIVIDUALS, APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE:

(I) ONE MEMBER REPRESENTING VICTIMS OF CRIME;

(II) ONE MEMBER REPRESENTING THE MARYLAND STATE'S ATTORNEYS' ASSOCIATION;

(III) ONE MEMBER REPRESENTING LAW ENFORCEMENT; AND

(IV) ~~ONE MEMBER~~ TWO MEMBERS REPRESENTING THE MARYLAND CORRECTIONAL ADMINISTRATORS ASSOCIATION THAT INCLUDES ONE REPRESENTATIVE FROM A LARGE CORRECTIONAL FACILITY AND ONE REPRESENTATIVE FROM A SMALL CORRECTIONAL FACILITY.

(B) TO THE EXTENT PRACTICABLE, IN MAKING APPOINTMENTS UNDER THIS SECTION, THE GOVERNOR SHALL ENSURE GEOGRAPHIC DIVERSITY AMONG THE MEMBERSHIP OF THE BOARD.

(C) (1) THE TERM OF AN APPOINTED MEMBER OF THE BOARD IS 4 YEARS.

(2) THE TERMS OF THE APPOINTED MEMBERS OF THE BOARD ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE BOARD ON OCTOBER 1, 2016.

(3) AT THE END OF A TERM, AN APPOINTED MEMBER:

(I) IS ELIGIBLE FOR REAPPOINTMENT; AND

(II) CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(4) A MEMBER WHO IS APPOINTED OR REAPPOINTED AFTER A TERM HAS BEGUN SERVES ONLY FOR THE REMAINDER OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

9–3204.

(A) THE ~~EXECUTIVE DIRECTOR IS~~ GOVERNOR SHALL APPOINT THE CHAIR OF THE BOARD.

(B) WITH THE APPROVAL OF THE BOARD, THE CHAIR MAY APPOINT A VICE CHAIR WHO SHALL HAVE THE DUTIES ASSIGNED BY THE CHAIR.

9–3205.

(A) A MAJORITY OF THE AUTHORIZED MEMBERSHIP OF THE BOARD IS A QUORUM.

(B) THE BOARD SHALL MEET AT LEAST TWICE EACH YEAR AT THE TIMES AND PLACES DETERMINED BY THE BOARD OR THE CHAIR OF THE BOARD.

(C) A MEMBER OF THE BOARD:

(1) MAY NOT RECEIVE COMPENSATION FOR SERVICE ON THE BOARD; BUT

(2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

9–3206.

THE GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION SHALL PROVIDE STAFF FOR THE BOARD.

9–3207.

(A) THE BOARD SHALL:

(1) MONITOR PROGRESS AND COMPLIANCE WITH THE IMPLEMENTATION OF THE RECOMMENDATIONS OF THE JUSTICE REINVESTMENT COORDINATING COUNCIL;

(2) CONSIDER THE RECOMMENDATIONS OF THE LOCAL GOVERNMENT <u>JUSTICE</u> REINVESTMENT COMMISSION AND ANY LEGISLATION, REGULATIONS, RULES, BUDGETARY CHANGES, OR OTHER ACTIONS TAKEN TO IMPLEMENT THE RECOMMENDATIONS OF THE JUSTICE REINVESTMENT COORDINATING COUNCIL;

(3) MAKE ADDITIONAL LEGISLATIVE AND BUDGETARY RECOMMENDATIONS FOR FUTURE DATA–DRIVEN, FISCALLY SOUND CRIMINAL JUSTICE POLICY CHANGES;

(4) COLLECT AND ANALYZE THE DATA SUBMITTED UNDER § 9–3208 OF THIS SUBTITLE REGARDING PRETRIAL DETAINEES;

~~**(5) IN COLLABORATION WITH THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES, THE MARYLAND PAROLE COMMISSION, THE ADMINISTRATIVE OFFICE OF THE COURTS, AND THE MARYLAND STATE COMMISSION ON CRIMINAL SENTENCING POLICY, CREATE PERFORMANCE MEASURES TO TRACK AND ASSESS THE OUTCOMES OF THE LAWS RELATED TO THE RECOMMENDATIONS OF THE JUSTICE REINVESTMENT COORDINATING COUNCIL;**~~

~~**(6) CREATE PERFORMANCE MEASURES TO ASSESS THE EFFECTIVENESS OF THE GRANTS ADMINISTERED UNDER § 9–3209 OF THIS SUBTITLE; AND**~~

~~**(7) CONSULT AND COORDINATE WITH:**~~

~~**(I) THE LOCAL GOVERNMENT JUSTICE REINVESTMENT COMMISSION; AND**~~

~~**(II) OTHER UNITS OF THE STATE AND LOCAL JURISDICTIONS CONCERNING JUSTICE REINVESTMENT ISSUES.**~~

(5) CREATE PERFORMANCE MEASURES TO ASSESS THE EFFECTIVENESS OF THE GRANTS;

(6) IN COLLABORATION WITH THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES, THE MARYLAND PAROLE COMMISSION, THE ADMINISTRATIVE OFFICE OF THE COURTS, AND THE MARYLAND STATE COMMISSION ON CRIMINAL SENTENCING POLICY, CREATE PERFORMANCE MEASURES TO TRACK AND ASSESS THE OUTCOMES OF THE IMPLEMENTATION OF THE RECOMMENDATIONS OF THE JUSTICE REINVESTMENT COORDINATING COUNCIL;

(7) CREATE PERFORMANCE MEASURES TO ASSESS THE EFFECTIVENESS OF THE GRANTS ADMINISTERED UNDER § 9–3209 OF THIS SUBTITLE; AND

(8) CONSULT AND COORDINATE WITH:

(I) THE LOCAL GOVERNMENT JUSTICE REINVESTMENT COMMISSION; AND

(II) OTHER UNITS OF THE STATE AND LOCAL JURISDICTIONS CONCERNING JUSTICE REINVESTMENT ISSUES.

(B) (1) IN COLLABORATION WITH THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES, THE BOARD SHALL DETERMINE THE ANNUAL SAVINGS FROM THE IMPLEMENTATION OF THE RECOMMENDATIONS OF THE JUSTICE REINVESTMENT COORDINATING COUNCIL BASED ON THE DIFFERENCE BETWEEN THE PRISON POPULATION AS MEASURED ON OCTOBER 1, 2017, THE BASELINE DAY, AND THE PRISON POPULATION AS MEASURED ON OCTOBER 1, 2018, THE COMPARISON DAY, AND THE VARIABLE COST OF INCARCERATION.

(2) IF THE PRISON POPULATION ON THE COMPARISON DAY IS LESS THAN THE PRISON POPULATION ON THE BASELINE DAY, THE BOARD SHALL DETERMINE A SAVINGS BASED ON THE DIFFERENCE IN THE PRISON POPULATION MULTIPLIED BY THE VARIABLE COST.

(3) THE BOARD SHALL ANNUALLY DETERMINE THE DIFFERENCE BETWEEN THE PRISON POPULATION ON OCTOBER 1, 2017, AND THE PRISON POPULATION ON OCTOBER 1 OF THE CURRENT YEAR AND CALCULATE ANY SAVINGS IN ACCORDANCE WITH PARAGRAPH (2) OF THIS SUBSECTION.

(4) IF A PRISON POPULATION DECLINE CAUSES A CORRECTIONAL UNIT, WING, OR FACILITY TO CLOSE, THE BOARD SHALL CONDUCT AN ASSESSMENT TO DETERMINE THE SAVINGS FROM THE CLOSURE AND DISTRIBUTE THE SAVINGS, REALIZED ANNUALLY, ACCORDING TO THE SCHEDULE IN PARAGRAPH (5) OF THIS SUBSECTION.

(5) THE BOARD SHALL ANNUALLY RECOMMEND THAT THE SAVINGS IDENTIFIED IN PARAGRAPHS (2) THROUGH (4) OF THIS SUBSECTION BE DISTRIBUTED AS FOLLOWS:

(I) UP TO 50% OF THE SAVINGS SHALL BE PLACED IN THE PERFORMANCE INCENTIVE COUNTY GRANT FUND FOR PURPOSES ESTABLISHED UNDER § 9–3209(B)(1) OF THIS SUBTITLE; AND

(II) THE REMAINING SAVINGS SHALL BE USED FOR ADDITIONAL SERVICES IDENTIFIED AS REINVESTMENT PRIORITIES IN THE JUSTICE REINVESTMENT COORDINATING COUNCIL'S FINAL REPORT.

~~(B)~~ (C) THE BOARD MAY ENTER INTO AN AGREEMENT WITH ~~THE MARYLAND DATA ANALYSIS CENTER AT THE UNIVERSITY OF MARYLAND~~ AN ACADEMIC INSTITUTION OR ANOTHER SIMILAR ENTITY THAT IS QUALIFIED TO COLLECT AND INTERPRET DATA IN ORDER TO ASSIST THE BOARD WITH ITS DUTIES.

9–3208.

(A) SEMIANNUALLY, EACH COUNTY, THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES, THE MARYLAND PAROLE COMMISSION, THE ADMINISTRATIVE OFFICE OF THE COURTS, AND THE MARYLAND STATE COMMISSION ON CRIMINAL SENTENCING POLICY SHALL COLLECT AND REPORT DATA TO THE BOARD IN ORDER FOR THE BOARD TO PERFORM ITS DUTIES UNDER § 9–3207 OF THIS SUBTITLE, INCLUDING DATA RELATING TO:

(1) THE ADMISSION OF INMATES TO STATE AND LOCAL CORRECTIONAL FACILITIES;

(2) THE LENGTH OF INMATE SENTENCES;

(3) THE LENGTH OF TIME BEING SERVED BY INMATES;

(4) RECIDIVISM;

(5) THE POPULATION OF COMMUNITY SUPERVISION; ~~AND~~

(6) INFORMATION ABOUT THE INMATE POPULATION; AND

(7) DEPARTURES BY THE COURT AND THE COMMISSION FROM THE SENTENCING LIMITS FOR TECHNICAL VIOLATIONS UNDER §§ 6–223 AND 6–224 OF THE CRIMINAL PROCEDURE ARTICLE AND §§ 7–401 AND 7–504 OF THE CORRECTIONAL SERVICES ARTICLE.

(B) ON OR BEFORE MARCH 31 EACH YEAR, EACH COUNTY, THE DIVISION OF PRETRIAL DETENTION AND SERVICES, AND THE ADMINISTRATIVE OFFICE OF THE COURTS SHALL REPORT TO THE BOARD THE FOLLOWING INFORMATION FOR THE PRIOR CALENDAR YEAR REGARDING INDIVIDUALS HELD IN PRETRIAL DETENTION:

(1) THE NUMBER OF INDIVIDUALS DETAINED PRETRIAL ON THE SAME DAY EACH YEAR;

(2) THE MEAN AND MEDIAN DAYS INDIVIDUALS WERE DETAINED IN PRETRIAL DETENTION;

(3) THE CHARGES UNDER WHICH INDIVIDUALS WERE DETAINED IN PRETRIAL DETENTION;

(4) THE REASONS WHY INDIVIDUALS WERE UNABLE TO SECURE RELEASE;

(5) THE NUMBER OF INDIVIDUALS WHO WERE RELEASED DURING THE PRETRIAL PERIOD; AND

(6) THE DISPOSITION OF EACH CASE.

9–3209.

(A) THERE IS A PERFORMANCE INCENTIVE COUNTY GRANT FUND.

(B) (1) THE PURPOSE OF THE FUND IS TO MAKE USE OF THE SAVINGS FROM THE IMPLEMENTATION OF THE RECOMMENDATIONS OF THE JUSTICE REINVESTMENT COORDINATING COUNCIL.

(2) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, THE BOARD MAY RECOMMEND TO THE EXECUTIVE DIRECTOR THAT GRANTS BE MADE TO COUNTIES TO:

(I) ENSURE THAT THE RIGHTS OF CRIME VICTIMS ARE PROTECTED AND ENHANCED;

(II) PROVIDE FOR PRETRIAL RISK ASSESSMENTS;

(III) PROVIDE FOR SERVICES TO REDUCE PRETRIAL DETENTION;

(IV) PROVIDE FOR DIVERSION PROGRAMS, INCLUDING MEDIATION AND RESTORATIVE JUSTICE PROGRAMS;

(V) PROVIDE FOR RECIDIVISM REDUCTION PROGRAMMING;

(VI) PROVIDE FOR EVIDENCE–BASED PRACTICES AND POLICIES;

(VII) PROVIDE FOR SPECIALTY COURTS;

(VIII) PROVIDE FOR REENTRY PROGRAMS; ~~AND~~

(IX) <u>PROVIDE FOR SUBSTANCE USE DISORDER AND MENTAL HEALTH SERVICE PROGRAMS; AND</u>

<u>(X)</u> PROVIDE FOR ANY OTHER PROGRAM OR SERVICE THAT WILL FURTHER THE PURPOSES ESTABLISHED IN PARAGRAPH (1) OF THIS SUBSECTION.

(3) AT LEAST 5% OF THE GRANTS PROVIDED TO A COUNTY UNDER THIS SECTION SHALL BE USED TO FUND PROGRAMS AND SERVICES TO ENSURE THAT THE RIGHTS OF CRIME VICTIMS ARE PROTECTED AND ENHANCED.

(4) THE GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION SHALL RECEIVE FROM THE FUND EACH FISCAL YEAR THE AMOUNT NECESSARY TO OFFSET THE COSTS OF ADMINISTERING THE FUND.

(C) (1) SUBJECT TO THE AUTHORITY OF THE EXECUTIVE DIRECTOR, THE BOARD SHALL ADMINISTER THE FUND.

(2) THE EXECUTIVE DIRECTOR MAY APPROVE OR DISAPPROVE ANY GRANTS FROM THE FUND.

(D) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO § 7–302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(2) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY, AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

(E) THE FUND CONSISTS OF:

(1) MONEY APPROPRIATED IN THE STATE BUDGET;

(2) INTEREST EARNED ON MONEY IN THE FUND; AND

(3) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR THE BENEFIT OF THE FUND.

(F) THE FUND MAY BE USED ONLY FOR THE PURPOSES ESTABLISHED IN SUBSECTION (B) OF THIS SECTION.

(G) (1) THE STATE TREASURER SHALL INVEST THE MONEY OF THE FUND IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.

(2) ANY INTEREST EARNINGS OF THE FUND SHALL BE CREDITED TO THE FUND.

(H) EXPENDITURES FROM THE FUND MAY BE MADE ONLY IN ACCORDANCE WITH THE STATE BUDGET.

(I) MONEY EXPENDED FROM THE FUND FOR PROGRAMS TO REDUCE RECIDIVISM AND CONTROL CORRECTIONAL COSTS IS SUPPLEMENTAL TO AND IS NOT INTENDED TO TAKE THE PLACE OF FUNDING THAT OTHERWISE WOULD BE APPROPRIATED FOR THESE PURPOSES.

9–3210.

THE BOARD MAY PERFORM ANY ACTS NECESSARY AND APPROPRIATE TO CARRY OUT THE POWERS AND DUTIES SET FORTH IN THIS SUBTITLE.

9–3211.

(A) IN THIS SECTION, "COMMISSION" MEANS THE LOCAL GOVERNMENT JUSTICE REINVESTMENT COMMISSION.

(B) THERE IS A LOCAL GOVERNMENT JUSTICE REINVESTMENT COMMISSION.

(C) THE COMMISSION SHALL:

(1) ADVISE THE BOARD ON MATTERS RELATED TO LEGISLATION, REGULATIONS, RULES, BUDGETARY CHANGES, AND ALL OTHER ACTIONS NEEDED TO IMPLEMENT THE RECOMMENDATIONS OF THE JUSTICE REINVESTMENT COORDINATING COUNCIL AS THEY RELATE TO LOCAL GOVERNMENTS;

(2) MAKE RECOMMENDATIONS TO THE BOARD REGARDING GRANTS TO LOCAL GOVERNMENTS FROM THE FUND; AND

(3) CREATE PERFORMANCE MEASURES TO ASSESS THE EFFECTIVENESS OF THE GRANTS.

(D) (1) THE COMMISSION CONSISTS OF ONE MEMBER FROM EACH COUNTY APPOINTED BY THE GOVERNING BODY OF THE COUNTY.

(2) THE EXECUTIVE DIRECTOR SHALL APPOINT THE CHAIR OF THE COMMISSION.

(E) (1) THE TERM OF A MEMBER OF THE COMMISSION IS 4 YEARS.

(2) THE TERMS OF THE MEMBERS OF THE COMMISSION ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE COMMISSION ON OCTOBER 1, 2016.

(3) AT THE END OF A TERM, A MEMBER:

(I) IS ELIGIBLE FOR REAPPOINTMENT; AND

(II) CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(4) A MEMBER WHO IS APPOINTED OR REAPPOINTED AFTER A TERM HAS BEGUN SERVES ONLY FOR THE REMAINDER OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(F) A MEMBER OF THE COMMISSION:

(1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE COMMISSION; BUT

(2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

(G) THE GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION SHALL PROVIDE STAFF FOR THE COMMISSION.

9–3212.

ON OR BEFORE DECEMBER 31, 2017, AND EACH YEAR THEREAFTER, THE BOARD SHALL REPORT TO THE GOVERNOR AND, SUBJECT TO § 2–1246 OF THIS ARTICLE, TO THE GENERAL ASSEMBLY ON THE ACTIVITIES OF THE BOARD AND THE LOCAL GOVERNMENT JUSTICE REINVESTMENT COMMISSION.

~~**Article – Transportation**~~

~~27–101.~~

~~(b) Except as otherwise provided in this section, any person convicted of a misdemeanor for the violation of any of the provisions of the Maryland Vehicle Law is subject to a fine of not more than $500.~~

~~(c) Any person who is convicted of a violation of any of the provisions of the following sections of this article is subject to a fine of not more than $500 or imprisonment for not more than 2 months or both:~~

~~(1) § 12–301(e) or (f) ("Special identification cards: Unlawful use of identification card prohibited");~~

~~(2) § 14–102 ("Taking or driving vehicle without consent of owner");~~

~~(3) § 14–104 ("Damaging or tampering with vehicle");~~

~~(4) § 14–107 ("Removed, falsified, or unauthorized identification number or registration card or plate");~~

~~(5) § 14–110 ("Altered or forged documents and plates");~~

~~(6) § 15–312 ("Dealers: Prohibited acts – Vehicle sales transactions");~~

~~(7) § 15–313 ("Dealers: Prohibited acts – Advertising practices");~~

~~(8) § 15–314 ("Dealers: Prohibited acts – Violation of licensing laws");~~

~~(9) § 15–411 ("Vehicle salesmen: Prohibited acts");~~

~~(10) § 16–113(j) ("Violation of alcohol restriction");~~

~~(11) § 16–301, except § 16–301(a) or (b) ("Unlawful use of license");~~

~~(12) [§ 16–303(h) ("Licenses suspended under certain provisions of Code");~~

~~(13) § 16–303(i) ("Licenses suspended under certain provisions of the traffic laws or regulations of another state");~~

~~(15)]~~ ~~§ 20–103 ("Driver to remain at scene – Accidents resulting only in damage to attended vehicle or property");~~

~~[(16)]~~ **(13)** ~~§ 20–104 ("Duty to give information and render aid");~~

~~[(17)]~~ **(14)** ~~§ 20–105 ("Duty on striking unattended vehicle or other property");~~

~~[(18)]~~ **(15)** ~~§ 20–108 ("False reports prohibited");~~

~~[(19)]~~ **(16)** ~~§ 21–206 ("Interference with traffic control devices or railroad signs and signals");~~

~~[(20)]~~ **(17)** ~~As to a pedestrian in a marked crosswalk, § 21–502(a) ("Pedestrians' right–of–way in crosswalks: In general"), if the violation contributes to an accident;~~

~~[(21)]~~ **(18)** ~~As to another vehicle stopped at a marked crosswalk, § 21–502(c) ("Passing of vehicle stopped for pedestrian prohibited"), if the violation contributes to an accident;~~

~~[(22)]~~ **(19)** ~~Except as provided in subsections (f) and (q) of this section, § 21–902(b) ("Driving while impaired by alcohol");~~

~~[(23)]~~ **(20)** ~~Except as provided in subsections (f) and (q) of this section, § 21–902(c) ("Driving while impaired by drugs or drugs and alcohol");~~

~~[(24)]~~ **(21)** ~~§ 21–902.1 ("Driving within 12 hours after arrest");~~

~~[(25)] (22) Title 21, Subtitle 10A ("Towing or Removal of Vehicles from Parking Lots"); or~~

~~[(26)] (23) § 27–107(d), (e), (f), or (g) ("Prohibited acts — Ignition interlock systems").~~

~~(y) Any person who is convicted of a violation of § 16–101 of this article ("Drivers must be licensed") is subject to:~~

~~(1) FOR A FIRST OFFENSE, A FINE OF NOT MORE THAN $500;~~

~~(2) For a [first] SECOND offense, a fine of not more than $500 or imprisonment for not more than 60 days or both; and~~

~~(3) For a [second] THIRD or subsequent offense, a fine of not more than $500 or imprisonment for not more than 1 year or both.~~

~~(GG) ANY PERSON WHO IS CONVICTED OF A VIOLATION OF § 16–303(H) ("LICENSES SUSPENDED UNDER CERTAIN PROVISIONS OF CODE") OF THIS ARTICLE OR § 16–303(I) ("LICENSES SUSPENDED UNDER CERTAIN PROVISIONS OF THE TRAFFIC LAWS OR REGULATIONS OF ANOTHER STATE") OF THIS ARTICLE IS SUBJECT TO:~~

~~(1) FOR A FIRST OFFENSE, A FINE OF NOT MORE THAN $500; AND~~

~~(2) FOR A SECOND OR SUBSEQUENT OFFENSE, A FINE OF NOT MORE THAN $500 OR IMPRISONMENT OF NOT MORE THAN 60 DAYS OR BOTH.~~

SECTION 2. AND BE IT FURTHER ENACTED, That the Governor's Office of Crime Control and Prevention shall, in coordination with the Department of Public Safety and Correctional Services, the Department of Health and Mental Hygiene, the Judiciary, public health and treatment professionals, and local corrections authorities, conduct an analysis to determine the gap between offender treatment needs and available treatment services in the State, including a feasibility study of local jail and service provider capacity for substance use and mental health disorder and related treatment, and shall report the results of the analysis with recommendations to the General Assembly, in accordance with § 2–1246 of the State Government Article, on or before December 31, 2016.

SECTION 3. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that the Governor provide funding annually in the budget bill for:

(1) the Department of Health and Mental Hygiene to expand the use of drug treatment under § 8–507 of the Health – General Article, as enacted by Section 1 of this Act;

(2) the Division of Correction to expand treatment and programming within correctional institutions for substance abuse treatment, mental health treatment, cognitive–behavioral programming, and other evidence–based interventions for offenders; and

(3) the Division of Parole and Probation to expand treatment and programming in the community to include day reporting centers, mental health treatment, cognitive–behavioral programming, and other evidence–based interventions for offenders.

SECTION 4. AND BE IT FURTHER ENACTED, That, on or before January 1, 2017, the Maryland Mediation and Conflict Resolution Office shall study and identify best practices for criminal referrals to mediation, based on experiences across the State and research, and submit a report of its findings and recommendations to the Justice Reinvestment Coordinating Council, the Governor, and, in accordance with § 2–1246 of the State Government Article, the General Assembly.

SECTION 5. AND BE IT FURTHER ENACTED, That, on or before January 1, 2017, the State Commission on Criminal Sentencing Policy shall study how more alternatives to incarceration may be included in the sentencing guidelines and shall submit a report of the findings and recommendations to the Justice Reinvestment Coordinating Council, the Governor, and, in accordance with § 2–1246 of the State Government Article, the General Assembly.

SECTION 6. AND BE IT FURTHER ENACTED, That the terms of the initial appointed members of the Justice Reinvestment Oversight Board shall expire as follows:

(1) two members in ~~2017~~ 2018;

(2) two members in ~~2018~~ 2019;

(3) two members in ~~2019~~ 2020; and

(4) two members in ~~2020~~ 2021.

SECTION 7. AND BE IT FURTHER ENACTED, That the terms of the initial members of the Local Government Justice Reinvestment Commission shall expire as follows:

(1) six members in ~~2017~~ 2018;

(2) six members in ~~2018~~ 2019;

(3) six members in ~~2019~~ 2020; and

(4) six members in ~~2020~~ 2021.

SECTION 8. AND BE IT FURTHER ENACTED, That the Governor's Office of Crime Control and Prevention shall:

(1) study the restitution process in the State and make recommendations concerning the restitution process, including:

(i) recommending a process and State unit for collecting data and developing evidence–based practices for restitution collection; and

(ii) recommending methods for developing additional enforcement and data collection technology infrastructure;

(2) determine which State unit should assume the duties currently undertaken by the Division of Parole and Probation regarding collection of restitution;

(3) determine whether the Criminal Injuries Compensation Board and any other victim services programs should be transferred to another entity, including considering whether a transfer would:

(i) minimize fragmentation of functions that the State government performs on behalf of victims of crime and delinquent acts; and

(ii) improve the coordination, efficiency, and effectiveness of State assistance to victims of crime and delinquent acts;

(4) consider any other ways to improve the collection of restitution; and

(5) report to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly by December 1, 2016, on its findings and recommendations.

SECTION 9. AND BE IT FURTHER ENACTED, That unless the Governor determines that transferring the collection of restitution from the Division of Parole and Probation to another State unit will not improve the collection of restitution, the Governor shall order the new State unit to assume the responsibility of collecting restitution by issuing an executive order to reorganize State government under Article II, Section 24 of the Maryland Constitution for the 2017 regular session of the General Assembly. The Governor shall include a provision in the executive order providing that the transfer may not be effective until 30 days after the Governor's Office of Crime Control and Prevention notifies in writing the Governor, the President of the Senate, and the Speaker of the House that the new State unit is able to assume the collection roles and responsibilities.

<u>SECTION 10. AND BE IT FURTHER ENACTED, That local correctional facilities shall, in coordination with the Department of Health and Mental Hygiene and local health departments, conduct an analysis to determine the budgetary requirements of this Act and shall report a plan for meeting the budgetary requirements to the General Assembly, in accordance with § 2–1246 of the State Government Article, on or before June 30, 2017.</u>

SECTION 11. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that local correctional facilities and local health departments provide funding for treatment required for individuals diverted from incarceration for a violation of § 5–601 of the Criminal Law Article as enacted by Section 1 of this Act.

SECTION 12. AND BE IT FURTHER ENACTED, That § 3–704 of the Correctional Services Article, as enacted by Section 1 of this Act, shall be construed prospectively to apply only to inmates that are sentenced on or after October 1, 2017.

SECTION 13. AND BE IT FURTHER ENACTED, That Section 1, Section 6, and Section 7 of this Act shall take effect October 1, 2017.

SECTION ~~10.~~ 14. AND BE IT FURTHER ENACTED, That, except as provided in Section 13 of this Act, this Act shall take effect October 1, 2016.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.