

MARYLAND REGISTER

## Proposed Action on Regulations

|  |   |  |
|--|---|--|
| <b>Transmittal Sheet</b><br><br><b>PROPOSED<br/>OR REPROPOSED</b><br><br><b>Actions on Regulations</b> | <b>Date Filed with AELR<br/>Committee</b> | <b>TO BE COMPLETED BY<br/>DSD</b>              |
|  | 07/22/2014                                | Date Filed with Division of<br>State Documents |
|  |   | Document Number                                |
|  |   | Date of Publication in MD<br>Register          |

1. Desired date of publication in Maryland Register: 9/5/2014

2. COMAR Codification

**Title Subtitle Chapter Regulation**

14 22 02 01

14 22 02 02

3. Name of Promulgating Authority

Commission on Criminal Sentencing Policy

**4. Name of Regulations Coordinator Telephone Number**  
David A Soule 301-403-2707

**Mailing Address**

4511 Knox Road, Suite 309

**City State Zip Code**  
College Park MD 20742

**Email**  
dsoule@crim.umd.edu

**5. Name of Person to Call About this Document Telephone No.**  
David Soule 301-403-2707

**Email Address**  
dsoule@umd.edu

6. Check applicable items:

New Regulations  
 Amendments to Existing Regulations  
Date when existing text was downloaded from COMAR online: July 15, 2014.  
 Repeal of Existing Regulations  
 Recodification  
 Incorporation by Reference of Documents Requiring DSD Approval  
 Reproposal of Substantively Different Text:  
: Md. R  
(vol.) (issue) (page nos) (date)  
Under Maryland Register docket no.: --P.

**7. Is there emergency text which is identical to this proposal:**

Yes  No

**8. Incorporation by Reference**

Check if applicable: Incorporation by Reference (IBR) approval form(s) attached and 18 copies of documents proposed for incorporation submitted to DSD. (Submit 18 paper copies of IBR document to DSD and one copy to AELR.)

**9. Public Body - Open Meeting**

OPTIONAL - If promulgating authority is a public body, check to include a sentence in the Notice of Proposed Action that proposed action was considered at an open meeting held pursuant to State Government Article, §10-506(c), Annotated Code of Maryland.

OPTIONAL - If promulgating authority is a public body, check to include a paragraph that final action will be considered at an open meeting.

**10. Children's Environmental Health and Protection**

Check if the system should send a copy of the proposal to the Children's Environmental Health and Protection Advisory Council.

**11. Certificate of Authorized Officer**

I certify that the attached document is in compliance with the Administrative Procedure Act. I also certify that the attached text has been approved for legality by Stuart Nathan, Assistant Attorney General, (telephone #410-585-3070) on July 22, 2014. A written copy of the approval is on file at this agency.

**Name of Authorized Officer**

David Soule

**Title**

Executive Director

**Telephone No.**

301-403-2707

**Date**

July 22, 2014

# **Title 14**

## **INDEPENDENT AGENCIES**

### **Subtitle 22 COMMISSION ON CRIMINAL SENTENCING POLICY**

#### **14.22.02 Criminal Offenses and Seriousness Categories**

### **Subtitle 22 COMMISSION ON CRIMINAL SENTENCING POLICY**

#### **14.22.02 Criminal Offenses and Seriousness Categories**

Authority: Criminal Procedure Article, §6-211, Annotated Code of Maryland.

#### **Notice of Proposed Action**

□

The Maryland State Commission on Criminal Sentencing Policy proposes to amend Regulations .01 and .02 under COMAR 14.22.02 Criminal Offenses and Seriousness Categories.

This action was considered by the Maryland State Commission on Criminal Sentencing Policy at an open meeting held on July 15, 2014, notice of which was given by publication in the Maryland Register, Vol 41, Issue 13, June 27 2014, pursuant to State Government Article, §10-506(c), Annotated Code of Maryland.

#### **Statement of Purpose**

The purpose of this action is to indicate modifications to the table of seriousness categories in Regulations .01 and .02 under COMAR 14.22.02.

#### **Comparison to Federal Standards**

There is no corresponding federal standard to this proposed action.

#### **Estimate of Economic Impact**

The proposed action has no economic impact.

#### **Economic Impact on Small Businesses**

The proposed action has minimal or no economic impact on small businesses.

#### **Impact on Individuals with Disabilities**

The proposed action has no impact on individuals with disabilities.

#### **Opportunity for Public Comment**

Comments may be sent to David Soule, Executive Director, Maryland State Commission on Criminal Sentencing Policy, 4511 Knox Road, Suite 309, College Park, MD 20742, or call 301-403-4165, or email to [dsoule@umd.edu](mailto:dsoule@umd.edu), or fax to 301-403-4164. Comments will be accepted through October 6, 2014. A public hearing has not been scheduled.

### **Economic Impact Statement Part C**

- A. Fiscal Year in which regulations will become effective: FY 15
- B. Does the budget for the fiscal year in which regulations become effective contain funds to implement the regulations?  
Yes
- C. If 'yes', state whether general, special (exact name), or federal funds will be used:  
General.
- D. If 'no', identify the source(s) of funds necessary for implementation of these regulations:
- E. If these regulations have no economic impact under Part A, indicate reason briefly:
- F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.
- G. Small Business Worksheet:

Attached Document:

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## **Title 14 INDEPENDENT AGENCIES**

### **Subtitle 22 COMMISSION ON CRIMINAL SENTENCING POLICY**

#### **02 Criminal Offenses and Seriousness Categories**

Authority: Criminal Procedure Article, §6-211, Annotated Code of Maryland

##### **.01 List of Offense Headings.**

A—E (text unchanged)

F

*False Advertising and Related Crimes*

False Statements, Other

Fraud, Financial Crimes Against Vulnerable Adults

Fraud, Miscellaneous

Fraud, Telecommunication Service Providers

G—L (text unchanged)

M

Machine Guns

Malicious Destruction and Related Crimes

Manslaughter and Related Crimes

Marriage, Crimes Against

*Maryland Credit Services Businesses Act*

Motor Vehicle Offenses

Murder

N—R (text unchanged)

S

Sabotage and Related Crimes

*Securities Fraud and Related Crimes*

Sexual Crimes

Stalking and Harassment

Statewide DNA Data Base System, Crimes Involving

Surveillance & Other Crimes Against Privacy

T

Telecommunications and Electronics, Crimes Involving

Theft, Crimes Involving

*Threat of mass violence*

Trespass

U—W (text unchanged)

.02 Seriousness Categories.

|                          | Offense Literal   | CJIS Code        | Source             | Felony or Misd. | Max Term | Min Term | Offense Type | Ser. Category | Fine    |
|--------------------------|---|------------------|--------------------|-----------------|----------|----------|--------------|---------------|---------|
| 1—4-2 (text unchanged)   |   |                  |                    |                 |          |          |              |               |         |
| 4-3                      | <b>Abuse and Other Offensive Conduct</b><br><i>Commit crime of violence in the presence of a minor</i>  |                  | CR, §3-601.1       | Misd.           | 5Y       |          | Person       | VI            |         |
| 5—9-1 (text unchanged)   |   |                  |                    |                 |          |          |              |               |         |
| 9-2                      | <b>Animals, Crimes Against</b><br><i>Animal cruelty</i>   | 1-0500           | CR, §10-604        | Misd.           | 90D      |          | Property     | VII           | \$1,000 |
| [9-2]<br>9-3             | <b>Animals, Crimes Against</b><br>Aggravated animal cruelty   | 1-0505<br>1-0508 | CR, §10-606        | Felony          | 3Y       |          | Property     | VI            | \$5,000 |
| 10—30-1 (text unchanged) |   |                  |                    |                 |          |          |              |               |         |
| 30-2                     | <b>Assault and Other Bodily Woundings</b><br>Assault by inmate on employee or other inmate of State, local, or sheriff's office correctional facility, 1 <sup>st</sup> degree | 1-1435           | CR, §3-210         | Felony          | 25Y ♦    |          | Person       | III           |         |
| 30-3—40 (text unchanged) |   |                  |                    |                 |          |          |              |               |         |
| 41                       | <b>Burglary and Related Crimes</b><br>Burglary, 1 <sup>st</sup> degree  | 2-3000           | CR, §6-202[(a)](c) | Felony          | 20Y ♦    |          | Property     | III           |         |
| 41-1                     | <b>Burglary and Related Crimes</b><br><i>Home invasion</i>  |                  | CR, §6-202(d)      | Felony          | 25Y      |          | Person       | III           |         |
| 42                       | <b>Burglary and Related Crimes</b><br>Burglary, with explosives   | 2-3060           | CR, §6-207[(a)]    | Felony          | 20Y ♦    |          | Property     | III           |         |

|                         |   |          |                        |         |       |  |            |       |          |
|-------------------------|---|----------|------------------------|---------|-------|--|------------|-------|----------|
| 43                      | <b>Burglary and Related Crimes</b><br>Burglary, 2 <sup>nd</sup> degree  | 2-3010   | CR, §6-203[(a)](c)(1)  | Felony  | 15Y ♦ |  | Property   | IV    |          |
| 44                      | <b>Burglary and Related Crimes</b><br>Burglary, 2 <sup>nd</sup> degree, steal or take firearm   | 2-3015   | CR, §6-203[(b)](c)(2)  | Felony  | 20Y ♦ |  | Property   | IV    | \$10,000 |
| 45                      | <b>Burglary and Related Crimes</b><br>Burglary, 3 <sup>rd</sup> degree  | 2-3020   | CR, §6-204[(a)]        | Felony  | 10Y ♦ |  | Property   | IV    |          |
| 46                      | <b>Burglary and Related Crimes</b><br>Breaking and entering—research facility   | 2-3070   | CR, §6-208[(b)]        | Felony  | 5Y    |  | Property   | VI    | \$5,000  |
| 47—69 (text unchanged)  |   |          |                        |         |       |  |            |       |          |
| 69-1<br>Vacant          | <b>[CDS and Paraphernalia</b><br>Possession of less than 10 grams of marijuana]   | [1-1635] | [CR, §5-601(c)(2)(ii)] | [Misd.] | [90D] |  | [Drug]     | [VII] | [\$500]  |
| 70—93 (text unchanged)  |   |          |                        |         |       |  |            |       |          |
| 94<br>Vacant            | <b>[Commercial Fraud, Other</b><br>Fraud—false advertising]   | [5-2607] | [CL, §14-2903]         | [Misd.] | [1Y]  |  | [Property] | [VII] | [\$500]  |
| 95—144 (text unchanged) |   |          |                        |         |       |  |            |       |          |
| 145<br>[Vacant]         | <b>False Advertising and Related Crimes</b><br><i>False and fraudulent advertising</i>  |          | CL, §14-2902           | Misd.   | 1Y    |  | Property   | VII   | \$1,000  |
| 146<br>[Vacant]         | <b>False Advertising and Related Crimes</b><br><i>Bait and switch</i>   | 5-2607   | CL, §14-2903           | Misd.   | 1Y    |  | Property   | VII   | \$500    |
| 146-1                   | <b>False Statements, Other</b><br><i>False statement—to Department of Housing and Community Development, in document required under or to influence action on a Rental Housing Program loan</i> |          | HS, §4-411             | Misd.   | 5Y    |  | Property   | VII   | \$50,000 |

|                              |  |  |   |         |            |  |            |       |                      |
|------------------------------|--|--|---|---------|------------|--|------------|-------|----------------------|
| 146-2                        | <b>False Statements, Other</b><br><i>False statement—to Department of Housing and Community Development, in document required under or to influence action on an Energy-Efficient Homes Construction Loan Program loan</i> |  | HS, §4-2005                                       | Misd.   | 5Y         |  | Property   | VII   | \$50,000             |
| 147—159-3 (text unchanged)   |  |  |   |         |            |  |            |       |                      |
| 159-4                        | <b>Fraud, Miscellaneous</b><br><i>Practicing naturopathic medicine without a license</i>   |  | HO, §14-5F-29                                     | Felony  | 5Y         |  | Person     | VI    | \$10,000             |
| 160—160-3 (text unchanged)   |  |  |   |         |            |  |            |       |                      |
| 161<br>Vacant                | <b>[Fraud, Miscellaneous]</b><br>False advertising]  |  | [CL, §14-2902(a)]                                 | [Misd.] | [1Y]       |  | [Property] | [VII] | [\$1,000]            |
| 162—199 (text unchanged)     |  |  |   |         |            |  |            |       |                      |
| 199-1                        | <b>Harboring, Escape, and Contraband</b><br><i>Possess, possess with intent to deliver, receive telecommunication device or accessory</i>  | [1-0719]<br>[1-0721]<br>[1-0722]<br>[1-0723] | CR, §9-417  | Misd.   | [3Y]<br>5Y |  | Property   | VI    | [\$1,000]<br>\$3,000 |
| 200—207-3 (text unchanged)   |  |  |   |         |            |  |            |       |                      |
| 207-4<br>[Vacant]            | <b>Identity Fraud</b><br><i>Use an interactive computer service to disclose personal identifying information of an individual in order to annoy, threaten, embarrass, or harass</i>  |  | CR, §8-301(b)(1)<br>CR, §8-301(g)(4)<br>(penalty) | Misd.   | 18M        |  | Property   | VII   | \$500                |
| 207-5—215-2 (text unchanged) |  |  |   |         |            |  |            |       |                      |

|                          |  |        |  |       |    |  |          |     |         |
|--------------------------|--|--------|--|-------|----|--|----------|-----|---------|
| 215-3<br>[Vacant]        | <b>Influencing or Intimidating Judicial Process</b><br><i>Tampering with or fabricating physical evidence</i>                  |        | CR, §9-307                                       | Misd. | 3Y |  | Person   | V   | \$5,000 |
| 216—231 (text unchanged) |  |        |  |       |    |  |          |     |         |
| 232<br>[Vacant]          | <b>Lotteries</b><br><i>Prohibited acts relating to State lottery</i>   |        | SG, §9-124                                       | Misd. | 3Y |  | Property | VII | \$2,500 |
| 233—244 (text unchanged) |  |        |  |       |    |  |          |     |         |
| 244-1                    | <b>Maryland Credit Services Businesses Act</b><br><i>Violation of any provision of Maryland Credit Services Businesses Act</i> |        | CL, §14-1915<br>(penalty)                        | Misd. | 3Y |  | Property | VI  | \$5,000 |
| [245-244-2]              | <b>Marriage, Crimes Against Bigamy</b>   | 1-3804 | CR, §10-502(b)                                   | Misd. | 9Y |  | Person   | VI  |         |
| [245-1]<br>244-3         | <b>Motor Vehicle Offense</b><br>Driving while impaired by alcohol, 1 <sup>st</sup> offense                                     |        | TR, §27-101(c)(23),<br>TR, §21-902(b)            | Misd. | 2M |  | Person   | VII | \$500   |
| [245-2]<br>244-4         | <b>Motor Vehicle Offense</b><br>Driving while impaired by alcohol,<br>[subsequent] 2 <sup>nd</sup> offense                     |        | TR, §27-101(f)(1)(ii)<br>[2A],<br>TR, §21-902(b) | Misd. | 1Y |  | Person   | VII | \$500   |
| 244-5                    | <b>Motor Vehicle Offense</b><br>Driving while impaired by alcohol, 3 <sup>rd</sup> or subsequent offense                       |        | TR, §27-101(f)(2),<br>TR, §21-902(b)             | Misd. | 3Y |  | Person   | V   | \$3,000 |
| [245-3]<br>245           | <b>Motor Vehicle Offense</b><br>Driving while impaired by alcohol, while transporting a minor, 1 <sup>st</sup> offense         |        | TR, §27-101(q)(2)(i),<br>TR, §21-902(b)          | Misd. | 6M |  | Person   | VII | \$1,000 |

|                  |   |  |   |       |    |  |        |     |         |
|------------------|---|--|---|-------|----|--|--------|-----|---------|
| [245-4]<br>245-1 | <b>Motor Vehicle Offense</b><br>Driving while impaired by alcohol, while transporting a minor, <b>[subsequent]</b> 2 <sup>nd</sup> offense                    |  | TR, §27-101(q)(2)(ii),<br>TR, §21-902(b)      | Misd. | 1Y |  | Person | VII | \$2,000 |
| 245-2            | <b>Motor Vehicle Offense</b><br>Driving while impaired by alcohol, while transporting a minor, 3 <sup>rd</sup> or subsequent offense                          |  | TR, §27-101(q)(2)(iii),<br>TR, §21-902(b)     | Misd. | 4Y |  | Person | V   | \$4,000 |
| [245-5]<br>245-3 | <b>Motor Vehicle Offense</b><br>Driving while impaired by drugs or drugs and alcohol, 1 <sup>st</sup> offense   |  | TR, §27-101(c)(24),<br>TR, §21-902(c)         | Misd. | 2M |  | Person | VII | \$500   |
| [245-6]<br>245-4 | <b>Motor Vehicle Offense</b><br>Driving while impaired by drugs or drugs and alcohol, <b>[subsequent]</b> 2 <sup>nd</sup> offense                             |  | TR, §27-101(f)(1)(ii)[2 B],<br>TR, §21-902(c) | Misd. | 1Y |  | Person | VII | \$500   |
| 245-5            | <b>Motor Vehicle Offense</b><br>Driving while impaired by drugs or drugs and alcohol, 3 <sup>rd</sup> or subsequent offense                                   |  | TR, §27-101(f)(2),<br>TR, §21-902(c)          | Misd. | 3Y |  | Person | V   | \$3,000 |
| [245-7]<br>245-6 | <b>Motor Vehicle Offense</b><br>Driving while impaired by drugs or drugs and alcohol, while transporting a minor, 1 <sup>st</sup> offense                     |  | TR, §27-101(q)(2)(i),<br>TR, §21-902(c)       | Misd. | 6M |  | Person | VII | \$1,000 |
| [245-8]<br>245-7 | <b>Motor Vehicle Offense</b><br>Driving while impaired by drugs or drugs and alcohol, while transporting a minor, <b>[subsequent]</b> 2 <sup>nd</sup> offense |  | TR, §27-101(q)(2)(ii),<br>TR, §21-902(c)      | Misd. | 1Y |  | Person | VII | \$2,000 |

|                              |  |                      |   |                              |                  |  |          |             |          |
|------------------------------|--|----------------------|---|------------------------------|------------------|--|----------|-------------|----------|
| 245-8                        | <b>Motor Vehicle Offense</b><br><i>Driving while impaired by drugs or drugs and alcohol, while transporting a minor, 3<sup>rd</sup> or subsequent offense</i>                                    |                      | TR, §27-101(q)(2)(iii),<br>TR, §21-902(c) | Misd.                        | 4Y               |  | Person   | V           | \$4,000  |
| 245-9—254-1 (text unchanged) |  |                      |   |                              |                  |  |          |             |          |
| 254-2                        | <b>Motor Vehicle Offense</b><br><i>Use of text messaging device or handheld telephone while driving that causes an accident resulting in death or serious bodily injury</i>                      |                      | TR, §27-115<br>TR, §21-1124.3             | Misd.                        | 1Y               |  | Person   | VII         | \$5,000  |
| 255—294 (text unchanged)     |  |                      |   |                              |                  |  |          |             |          |
| 295                          | <b>Obscene Matter</b><br>Sale or display of certain items to persons younger than 18 years old, 1 <sup>st</sup> offense  | 1-3799<br>1-0297     | [CR, §11-202(d)(1)]<br>CR, §11-203(d)(1)  | Misd.                        | 1Y               |  | Person   | VII         | \$1,000  |
| 296—308 (text unchanged)     |  |                      |   |                              |                  |  |          |             |          |
| 308-1                        | <b>Prostitution and Related Crimes</b><br><i>Abduction—Persuade, entice, secrete, or harbor individual younger than 16 years old for [prostitution] the purpose of committing a sexual crime</i> | [1-1091]<br>[1-1092] | CR, §11-305[(a)]                          | [Misd<br>.]<br><i>Felony</i> | [10Y ♦]<br>25Y ♦ |  | Person   | [III]<br>II | \$5,000  |
| 309—345-2 (text unchanged)   |  |                      |   |                              |                  |  |          |             |          |
| 346<br>[Vacant]              | <b>Securities Fraud and Related Crimes</b><br><i>Securities fraud and other violations of Maryland Securities Act</i>  |                      | CA, §11-705(a)(1)<br>(penalty)            | Misd.                        | 3Y               |  | Property | VII         | \$50,000 |

|                            |   |  |   |        |     |  |          |     |           |
|----------------------------|---|--|---|--------|-----|--|----------|-----|-----------|
| 347<br>[Vacant]            | <b>Securities Fraud and Related Crimes</b><br>Use a senior or retiree credential or designation in a way that is misleading in connection with the offer, sale, or purchase of securities, etc. |  | CA, §11-305<br>CA, §11-705(a)(2)<br>(penalty) | Misd.  | 5Y  |  | Property | V   | \$100,000 |
| 348—360-1 (text unchanged) |   |  |   |        |     |  |          |     |           |
| 360-2                      | <b>Sexual Crimes</b><br>Use of personal identifying information of an individual to invite another to commit sexual crime   |  | CR, §3-325                                    | Felony | 20Y |  | Person   | IV  | \$25,000  |
| 361—365-2 (text unchanged) |   |  |   |        |     |  |          |     |           |
| 365-3                      | <b>Stalking and Harassment</b><br>Revenge porn  |  | CR, §3-809                                    | Misd.  | 2Y  |  | Person   | VII | \$5,000   |
| [365-3]<br>365-4           | <b>Statewide DNA Data Base System, Crimes Involving</b><br>Improper disclosure of DNA information to a person/agency not entitled to receive the information                                    |  | PS, §2-512(a), (e)                            | Felony | 5Y  |  | Property | V   | \$5,000   |
| [365-4]<br>365-5           | <b>Statewide DNA Data Base System, Crimes Involving</b><br>Fraudulent obtainment of DNA information from the Statewide DNA data base/repository   |  | PS, §2-512(b), (e)                            | Felony | 5Y  |  | Property | V   | \$5,000   |
| 366—387-1 (text unchanged) |   |  |   |        |     |  |          |     |           |
| 387-2                      | <b>Threat of mass violence</b><br>Threatening to commit or cause a crime of violence that would place others at risk  |  | CR, §3-1001                                   | Misd.  | 10Y |  | Person   | V   | \$10,000  |

|                          |   |                            |                                      |       |    |  |          |     |         |
|--------------------------|---|----------------------------|--------------------------------------|-------|----|--|----------|-----|---------|
| [387-2]<br>387-3         | <b>Trespass</b><br>Trespass on posted property or private property, 1 <sup>st</sup> offense   | 2-2210<br>2-2220<br>2-2230 | CR, §6-402(b)(1)<br>CR, §6-403(c)(1) | Misd. | 3M |  | Property | VII | \$500   |
| [387-3]<br>387-4         | <b>Trespass</b><br>Trespass on posted property or private property, 2 <sup>nd</sup> offense within 2 years after first violation                    |                            | CR, §6-402(b)(2) CR, §6-403(c)(2)    | Misd. | 6M |  | Property | VII | \$1,000 |
| [387-4]<br>387-5         | <b>Trespass</b><br>Trespass on posted property or private property, 3 <sup>rd</sup> and subsequent offense within 2 years after preceding violation |                            | CR, §6-402(b)(3) CR, §6-403(c)(3)    | Misd. | 1Y |  | Property | VII | \$2,500 |
| 388—420 (text unchanged) |   |                            |                                      |       |    |  |          |     |         |

Footnotes (text unchanged)

General Rules (text unchanged)