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1996 Regular Session  
6lr1598

CF 6lr1786

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**By: The President (Administration) and Senators McCabe, Jimeno, Kelley, Middlebrooks, Stone, Colburn, Ferguson, and Haines ~~Haines, and Forehand~~**

Introduced and read first time: January 22, 1996

Rule 32(d) suspended

Assigned to: Judicial Proceedings

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Committee Report: Favorable with amendments

Senate action: Adopted with floor amendments

Read second time: March 20, 1996

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CHAPTER \_\_\_\_

1 AN ACT concerning

2 **Maryland Commission on Criminal Sentencing ~~Reform~~ Policy**

3 [TAG ftpt]FOR the purpose of creating a ~~Sentencing and Policy Advisory Commission; Maryland~~

4 Commission on Criminal Sentencing Policy; providing for the appointment or

5 designation of members of the Commission; establishing that members of the

6 Commission may not receive a salary but shall be reimbursed for certain expenses;

7 designating staff for the Commission; requiring the Commission to hold its first

8 meeting by a certain date; requiring the Commission to perform certain duties;

9 granting the Commission certain powers; requiring the Commission to make certain

10 recommendations; ~~requiring the Commission to submit certain draft legislation to~~

11 ~~the General Assembly by a certain date~~; providing for the termination of the

12 Commission; defining certain terms; ~~establishing certain policy goals and objectives;~~

13 ~~providing for the application of the established policies; making this Act contingent~~

14 on the inclusion of certain funds in the Capital Budget for Fiscal Year 1997; and

15 generally relating to the Maryland Commission on Criminal Sentencing ~~Reform~~

16 Policy.

17 BY adding to

18 Article 41 - Governor - Executive and Administrative Departments

19 Section 18-310

20 Annotated Code of Maryland

21 (1993 Replacement Volume and 1995 Supplement)

1 Preamble

2 WHEREAS, The effective administration of justice and protection of public  
3 safety require a sentencing and correctional process that has credibility with the general  
4 public and with criminal offenders; and

5 WHEREAS, The credibility and effectiveness of the current sentencing and  
6 correctional process is diminished by common beliefs that prisoners do not serve an  
7 adequate portion of their sentences, that traditional probation and parole supervision are  
8 not meaningful punishments, and that there is substantial unwarranted disparity in  
9 sentences for similar crimes; and

10 WHEREAS, Over the past 10 years, the Maryland prison population has grown 72  
11 percent, from 12,400 to 21,300 inmates, at a cost of more than \$465 million in capital  
12 funds and more than \$206 million annually in operating funds, and a substantial portion  
13 of the growth has been low level, nonviolent offenders and probation violators; and

14 WHEREAS, The criminal justice system often fails to adequately consider the  
15 rights and concerns of victims of crime, and to require offenders to restore to the fullest  
16 extent possible the damages they have inflicted on individuals and the community; and

17 WHEREAS, There exist effective intermediate punishments, such as boot camps  
18 and home detention, which protect public safety, which serve to punish and incapacitate  
19 offenders, which hold offenders accountable to crime victims and the community, and  
20 which, because of their emphasis on discipline and the work ethic, are perceived by many  
21 offenders to be stricter punishment than incarceration; and

22 WHEREAS, The insufficient availability of intermediate punishments throughout  
23 the State means that some offenders receive sentences that are too lenient while other  
24 offenders occupy prison space that should be used to lengthen sentences for violent  
25 offenders; and

26 WHEREAS, The development of a sentencing structure that provides for a full  
27 continuum of intermediate punishments and sufficient determinacy in sentencing is  
28 essential to the most effective allocation of correctional resources for the protection of  
29 public safety; now, therefore,

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

32 **Article 41 - Governor - Executive and Administrative Departments**

33 18-310.

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

36 (2) "CHAIRPERSON" MEANS THE CHAIRPERSON OF THE COMMISSION.

37 (3) "COMMISSION" MEANS THE MARYLAND COMMISSION ON CRIMINAL  
38 SENTENCING ~~REFORM~~ POLICY.

3

1 (4) (I) "DESCRIPTIVE SENTENCING GUIDELINES" MEANS A  
 2 SENTENCING STRUCTURE THAT REFLECTS THE ACTUAL SENTENCING PRACTICES OF  
 3 JUDGES IN THE STATE OVER A SPECIFIED PERIOD.

4 (II) "DESCRIPTIVE SENTENCING GUIDELINES" INCLUDES THE  
 5 CURRENT MARYLAND SENTENCING GUIDELINES.

6 (5) "GOOD TIME CREDITS" MEANS DEDUCTIONS FROM AN INMATE'S  
 7 TERM OF CONFINEMENT UNDER ARTICLE 27, § 700(D) OF THE CODE.

8 (6) (I) "GUIDED DISCRETION SENTENCING GUIDELINES" MEANS A  
 9 SENTENCING STRUCTURE THAT INCLUDES:

10 1. ELEMENTS OF DETERMINANT SENTENCING THAT BRING  
 11 GREATER LEVELS OF RATIONALITY AND UNIFORMITY TO THE SENTENCING  
 12 PROCESS (SUCH AS PRESUMPTIVE OR ORDINARY SENTENCES); AND

13 2. ELEMENTS OF DISCRETIONARY SENTENCING THAT  
 14 ALLOW A JUDGE TO IMPOSE A SENTENCE THAT IS FAIR AND JUST UNDER THE  
 15 CIRCUMSTANCES OF A PARTICULAR CASE (SUCH AS THE ABILITY TO DEPART FROM  
 16 A PRESUMPTIVE OR ORDINARY SENTENCE UNDER CERTAIN SPECIFIED  
 17 CIRCUMSTANCES).

18 (II) "GUIDED DISCRETION SENTENCING GUIDELINES" DOES NOT  
 19 INCLUDE THE FEDERAL SENTENCING GUIDELINES OR ANY SIMILAR TYPE OF  
 20 MECHANICAL SENTENCING STRUCTURE.

21 ~~(4)~~ (7) "INTERMEDIATE PUNISHMENT" MEANS A CRIMINAL SANCTION  
 22 OTHER THAN TRADITIONAL PROBATION, TRADITIONAL PAROLE, OR TOTAL  
 23 CONFINEMENT.

24 (8) "MANDATORY SUPERVISION" HAS THE MEANING STATED IN  
 25 ARTICLE 41, § 4-501(13) OF THE CODE.

26 (9) "PAROLE" HAS THE MEANING STATED IN ARTICLE 41, § 4-501(5) OF  
 27 THE CODE.

28 (B) THERE IS A MARYLAND COMMISSION ON CRIMINAL SENTENCING  
 29 ~~REFORM~~ POLICY.

30 (C) THE COMMISSION SHALL CONSIST OF ~~33~~ 17 MEMBERS AS FOLLOWS:

31 (1) A CHAIRPERSON, APPOINTED BY THE GOVERNOR;

32 (2) THE CHIEF JUDGE OF THE MARYLAND COURT OF APPEALS OR A  
 33 DESIGNEE OF THE CHIEF JUDGE WHO IS A JUDGE OR FORMER JUDGE ON THE  
 34 MARYLAND COURT OF APPEALS OR THE MARYLAND COURT OF SPECIAL APPEALS;

35 ~~(3) TWO JUDGES~~ ONE JUDGE OF THE ~~A~~ CIRCUIT COURT OF MARYLAND,  
 36 APPOINTED BY THE GOVERNOR ~~CHIEF JUDGE OF THE COURT OF APPEALS;~~

37 ~~(4) TWO JUDGES~~ ONE JUDGE OF THE DISTRICT COURT OF MARYLAND,  
 38 APPOINTED BY THE GOVERNOR ~~CHIEF JUDGE OF THE COURT OF APPEALS;~~

4

1 (5) THE ATTORNEY GENERAL OR A DESIGNEE OF THE ATTORNEY  
2 GENERAL;

3 (6) ~~TWO ONE~~ STATE'S ATTORNEYS ATTORNEY WHO ~~ARE~~ IS  
4 RECOMMENDED BY THE PRESIDENT OF THE MARYLAND STATE'S ATTORNEYS  
5 ASSOCIATION, APPOINTED BY THE GOVERNOR;

6 (7) THE MARYLAND PUBLIC DEFENDER OR A DESIGNEE OF THE PUBLIC  
7 DEFENDER;

8 (8) A CRIMINAL DEFENSE ATTORNEY WHO IS RECOMMENDED BY THE  
9 PRESIDENT OF THE MARYLAND CRIMINAL DEFENSE LAWYERS ASSOCIATION,  
10 APPOINTED BY THE GOVERNOR;

11 (9) ~~THREE~~ TWO MEMBERS OF THE SENATE OF MARYLAND WITH AT  
12 LEAST ONE MEMBER BEING FROM THE SENATE JUDICIAL PROCEEDINGS  
13 COMMITTEE, APPOINTED BY THE PRESIDENT OF THE SENATE;

14 (10) ~~THREE~~ TWO MEMBERS OF THE HOUSE OF DELEGATES WITH AT  
15 LEAST ONE MEMBER BEING FROM THE HOUSE JUDICIARY COMMITTEE, APPOINTED  
16 BY THE SPEAKER OF THE HOUSE;

17 ~~(11) THE PRESIDENT OF THE MARYLAND CORRECTIONAL~~  
18 ~~ADMINISTRATORS ASSOCIATION OR A DESIGNEE OF THE PRESIDENT;~~

19 ~~(12)~~ (11) THE SECRETARY OF THE DEPARTMENT OF PUBLIC SAFETY  
20 AND CORRECTIONAL SERVICES OR A DESIGNEE OF THE SECRETARY;

21 (12) ONE REPRESENTATIVE OF LOCAL DETENTION CENTERS, APPOINTED  
22 BY THE GOVERNOR;

23 (13) ONE REPRESENTATIVE OF VICTIM ADVOCACY GROUPS OR VICTIM  
24 ORGANIZATIONS, APPOINTED BY THE GOVERNOR; AND

25 ~~(13) THE SECRETARY OF THE DEPARTMENT OF BUDGET AND FISCAL~~  
26 ~~PLANNING OR A DESIGNEE OF THE SECRETARY;~~

27 ~~(14) THE CHAIRPERSON OF THE MARYLAND PAROLE COMMISSION OR A~~  
28 ~~DESIGNEE OF THE CHAIRPERSON;~~

29 ~~(15) THE SECRETARY OF THE DEPARTMENT OF JUVENILE JUSTICE OR A~~  
30 ~~DESIGNEE OF THE SECRETARY;~~

31 ~~(16) THE CHAIRPERSON OF THE STATE BOARD OF VICTIM SERVICES OR~~  
32 ~~A DESIGNEE OF THE CHAIRPERSON;~~

33 ~~(17) TWO REPRESENTATIVES FROM SEPARATE VICTIMS' ADVOCACY~~  
34 ~~GROUPS OR VICTIMS' ORGANIZATIONS, APPOINTED BY THE GOVERNOR;~~

35 ~~(18) THE SECRETARY OF THE STATE POLICE OR A DESIGNEE OF THE~~  
36 ~~SECRETARY;~~

37 ~~(19) THE PRESIDENT OF THE MARYLAND SHERIFF'S ASSOCIATION OR A~~  
38 ~~DESIGNEE OF THE PRESIDENT;~~

5

1 ~~(20) THE PRESIDENT OF THE MARYLAND CHIEFS OF POLICE OR A~~  
2 ~~DESIGNEE OF THE PRESIDENT;~~

3 ~~(21) THE PRESIDENT OF THE FRATERNAL ORDER OF POLICE,~~  
4 ~~MARYLAND STATE LODGE, OR A DESIGNEE OF THE PRESIDENT;~~

5 ~~(22) TWO MEMBERS OF THE GENERAL PUBLIC, APPOINTED BY THE~~  
6 ~~GOVERNOR; AND~~

7 ~~(23)~~ (14) TWO MEMBERS WITH BACKGROUNDS IN CRIMINAL JUSTICE OR  
8 CORRECTIONS POLICY WHO ARE EITHER A MEMBER OF THE FACULTY OF A  
9 COLLEGE OR UNIVERSITY WITHIN THIS STATE, A MEMBER OF A NONPROFIT PUBLIC  
10 POLICY RESEARCH ORGANIZATION, OR OTHER RECOGNIZED EXPERT IN THE FIELD,  
11 APPOINTED BY THE GOVERNOR.

12 (D) (1) THE COMMISSION SHALL HAVE ITS FIRST MEETING NO LATER THAN  
13 JUNE 14, 1996, AT THE CALL OF THE CHAIRPERSON.

14 (2) THE COMMISSION SHALL MEET AT LEAST SIX TIMES.

15 (3) THE COMMISSION MAY ALSO HOLD OTHER MEETINGS AT THE CALL  
16 OF THE CHAIRPERSON OR OF ANY ~~ELEVEN~~ SIX MEMBERS OF THE COMMISSION  
17 AFTER PROPER NOTICE IS GIVEN IN THE MANNER ESTABLISHED BY THE RULES OF  
18 THE COMMISSION.

19 (4) A MAJORITY OF THE MEMBERS OF THE COMMISSION SHALL  
20 CONSTITUTE A QUORUM.

21 (5) THE COMMISSION MAY ESTABLISH SUBCOMMITTEES OR ADVISORY  
22 COMMITTEES COMPOSED OF COMMISSION MEMBERS TO ACCOMPLISH THE DUTIES  
23 IMPOSED BY THIS SECTION.

24 (6) THE COMMISSION MAY ESTABLISH RULES GOVERNING THE  
25 ADMINISTRATION AND PROCEEDINGS OF THE COMMISSION.

26 (7) THE COMMISSION MAY REQUIRE STATE, COUNTY, AND MUNICIPAL  
27 AGENCIES TO PROVIDE DATA AS ~~IT IS~~ REQUESTED BY THE COMMISSION.

28 ~~(8) ALL MEETINGS OF THE COMMISSION SHALL BE OPEN TO THE PUBLIC~~  
29 ~~AND THE INFORMATION PRESENTED TO THE COMMISSION SHALL BE AVAILABLE TO~~  
30 ~~ANY STATE AGENCY OR MEMBER OF THE GENERAL ASSEMBLY.~~

31 ~~(9)~~ (8) THE COMMISSION MAY APPLY FOR, ACCEPT, AND USE GRANTS  
32 OR FINANCIAL OR OTHER AID FROM ~~THE FEDERAL OR STATE GOVERNMENT OR~~  
33 ~~AGENCY OR ANY OTHER~~ PUBLIC OR PRIVATE SOURCE TO ACCOMPLISH THE DUTIES  
34 PROVIDED FOR IN THIS SECTION.

35 ~~(10)~~ (9) A MEMBER OF THE COMMISSION:

36 (I) MAY NOT RECEIVE COMPENSATION; BUT

37 (II) SHALL BE REIMBURSED FOR EXPENSES UNDER THE  
38 STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

6

1 (10) THE COMMISSION SHALL HOLD A PUBLIC HEARING FOR THE  
 2 PURPOSE OF HEARING COMMENTS FROM THE GENERAL PUBLIC CONCERNING THE  
 3 ISSUES THAT ARE BEING STUDIED BY THE COMMISSION.

4 ~~(E) (1) THE GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION~~  
 5 ~~SHALL SERVE AS PRINCIPAL STAFF TO THE COMMISSION.~~

6 ~~(2) THE DEPARTMENT OF LEGISLATIVE REFERENCE, THE DEPARTMENT~~  
 7 ~~OF FISCAL SERVICES, THE ADMINISTRATIVE OFFICE OF THE COURTS, THE~~  
 8 ~~DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES, AND THE~~  
 9 ~~DEPARTMENT OF BUDGET AND FISCAL PLANNING SHALL PROVIDE STAFF TO~~  
 10 ~~COMMISSION.~~

11 (E) (1) THE PRIMARY STAFF FOR THE COMMISSION SHALL BE SELECTED  
 12 JOINTLY BY THE GOVERNOR, THE PRESIDENT OF THE SENATE, THE SPEAKER OF  
 13 THE HOUSE, AND THE CHIEF JUDGE OF THE COURT OF APPEALS.

14 (2) THE FOLLOWING STATE AGENCIES SHALL COOPERATE FULLY WITH  
 15 THE COMMISSION:

16 (I) THE GOVERNOR'S OFFICE OF CRIME CONTROL AND  
 17 PREVENTION;

18 (II) THE DEPARTMENT OF LEGISLATIVE REFERENCE;

19 (III) THE DEPARTMENT OF FISCAL SERVICES;

20 (IV) THE ADMINISTRATIVE OFFICE OF THE COURTS;

21 (V) THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL  
 22 SERVICES;

23 (VI) THE DEPARTMENT OF BUDGET AND FISCAL PLANNING;

24 (VII) THE DEPARTMENT OF JUVENILE JUSTICE;

25 (VIII) THE DEPARTMENT OF STATE POLICE; AND

26 (IX) THE STATE BOARD OF VICTIM SERVICES.

27 (3) ALL COUNTY AND MUNICIPAL GOVERNMENTS AND AGENCIES  
 28 SHALL COOPERATE FULLY WITH THE COMMISSION.

29 (F) (1) THE PURPOSE OF THE COMMISSION IS TO EVALUATE THE STATE'S  
 30 SENTENCING AND CORRECTIONAL LAWS AND POLICIES AND MAKE  
 31 RECOMMENDATIONS TO THE GOVERNOR AND THE GENERAL ASSEMBLY IN  
 32 ~~ACCORDANCE WITH THE POLICY GOALS AND OBJECTIVES OF THIS SUBSECTION~~  
 33 REGARDING THE FOLLOWING ISSUES:

34 (I) WHETHER DESCRIPTIVE SENTENCING GUIDELINES SHOULD BE  
 35 RETAINED BY THE STATE AS A SENTENCING STRUCTURE, EITHER IN THEIR  
 36 CURRENT FORM OR IN A MODIFIED FORM;

7

1 (II) WHETHER THE STATE SHOULD ADOPT GUIDED DISCRETION  
 2 SENTENCING GUIDELINES AND, IF SO, WHAT TYPE OF GUIDED DISCRETION  
 3 SENTENCING GUIDELINES SHOULD BE ADOPTED;

4 (III) WHETHER THE STATE SHOULD RETAIN PAROLE AS A  
 5 CORRECTIONAL OPTION OR ELIMINATE PAROLE FOR ALL INMATES OR ANY  
 6 PARTICULAR CATEGORY OF INMATES;

7 (IV) WHETHER THE STATE SHOULD INCREASE THE MINIMUM  
 8 PORTION OF A SENTENCE THAT MUST BE SERVED BY ALL INMATES OR ANY  
 9 PARTICULAR CATEGORY OF INMATES BEFORE BECOMING ELIGIBLE FOR PAROLE;

10 (V) WHETHER THE STATE SHOULD ELIMINATE GOOD TIME  
 11 CREDITS OR OTHERWISE ALTER THE MANNER IN WHICH AN INMATE MAY OBTAIN  
 12 RELEASE ON MANDATORY SUPERVISION;

13 (VI) WHETHER THE STATE NEEDS TO TAKE ACTION TO ENSURE  
 14 THAT THERE IS A COORDINATED SYSTEM OF INTERMEDIATE PUNISHMENTS AT THE  
 15 STATE AND COUNTY LEVELS AND, IF SO, WHAT ACTION SHOULD BE TAKEN; AND

16 (VII) ANY OTHER MATTER RELATING TO STATE AND LOCAL LAWS  
 17 AND POLICIES GOVERNING SENTENCING, PAROLE, MANDATORY SUPERVISION, AND  
 18 INTERMEDIATE PUNISHMENTS.

19 ~~(2) THE GOALS OF THE SENTENCING AND CORRECTIONAL PROCESS~~  
 20 ~~ARE:~~

21 ~~(I) JUST AND APPROPRIATE PUNISHMENT OF OFFENDERS;~~

22 ~~(II) PROTECTION OF PUBLIC SAFETY AND PREVENTION OF CRIME~~  
 23 ~~THROUGH:~~

24 ~~1. GENERAL AND SPECIFIC DETERRENCE OF CRIMINAL~~  
 25 ~~CONDUCT;~~

26 ~~2. INCAPACITATION OF OFFENDERS; AND~~

27 ~~3. REMEDIATION OF OFFENDERS;~~

28 ~~(III) RESTORATION OF CRIME VICTIMS AND THE COMMUNITY; AND~~

29 ~~(IV) PUBLIC CONFIDENCE IN THE ADMINISTRATION OF JUSTICE~~  
 30 ~~AND RESPECT FOR THE LAW.~~

31 ~~(3) THE SENTENCING AND CORRECTIONAL PROCESS SHALL PURSUE ITS~~  
 32 ~~POLICY GOALS THROUGH THE FOLLOWING PRIORITIES AND OBJECTIVES:~~

33 ~~(I) PROMOTE TRUTH IN SENTENCING THROUGH A SENTENCING~~  
 34 ~~STRUCTURE THAT ENSURES THAT THE SENTENCES IMPOSED WILL DETERMINE THE~~  
 35 ~~SENTENCES SERVED;~~

36 ~~(II) CONCENTRATE PRISON CAPACITY ON THE INCARCERATION OF~~  
 37 ~~VIOLENT AND CAREER OFFENDERS;~~

1                   ~~(III) REDUCE UNWARRANTED DISPARITY IN SENTENCES FOR~~  
2 ~~OFFENDERS WHO HAVE COMMITTED SIMILAR OFFENSES AND HAVE SIMILAR~~  
3 ~~CRIMINAL HISTORIES;~~

4                   ~~(IV) PRESERVE MEANINGFUL JUDICIAL DISCRETION IN THE~~  
5 ~~IMPOSITION OF SENTENCES AND SUFFICIENT FLEXIBILITY TO PERMIT~~  
6 ~~INDIVIDUALIZED SENTENCES;~~

7                   ~~(V) ENSURE THAT SENTENCING JUDGES IN EVERY JURISDICTION~~  
8 ~~IN THE STATE ARE ABLE TO IMPOSE THE MOST APPROPRIATE CRIMINAL PENALTIES~~  
9 ~~BY DEVELOPING A FULL CONTINUUM OF CREDIBLE SANCTIONS, INCLUDING~~  
10 ~~INTERMEDIATE PUNISHMENTS FOR APPROPRIATE OFFENDERS;~~

11                  ~~(VI) ENSURE THE CREDIBILITY AND EFFECTIVENESS OF~~  
12 ~~INTERMEDIATE PUNISHMENTS THROUGH STRICT ENFORCEMENT OF SENTENCE~~  
13 ~~CONDITIONS AND ENHANCED INTERAGENCY COORDINATION;~~

14                  ~~(VII) ELEVATE THE SIGNIFICANCE OF VICTIMS OF CRIME AND THE~~  
15 ~~IMPACT OF CRIME ON VICTIMS AND THE COMMUNITY THROUGH INCREASED~~  
16 ~~NOTIFICATION AND PARTICIPATION PROCEDURES, INCREASED EMPHASIS ON~~  
17 ~~RESTITUTION PAYMENTS AND COMMUNITY SERVICE AS CRIMINAL SANCTIONS, AND~~  
18 ~~IMPLEMENTATION OF OTHER CONCEPTS OF "RESTORATIVE JUSTICE";~~

19                  ~~(VIII) INCREASE THE USE AND ENFORCEMENT OF ECONOMIC~~  
20 ~~SANCTIONS, SUCH AS FEES, FORFEITURES, AND MEANS-BASED FINES, TO BE~~  
21 ~~COLLECTED AFTER RESTITUTION PAYMENTS TO VICTIMS ARE MADE IN FULL; AND~~

22                  ~~(IX) ENSURE A RESPONSIBLE RELATIONSHIP BETWEEN SENTENCES~~  
23 ~~AND CORRECTIONAL RESOURCES.~~

24           ~~(G) (1) THE COMMISSION SHALL GATHER DATA AND OTHER AVAILABLE~~  
25 ~~INFORMATION RELEVANT TO STATE SENTENCING PATTERNS AND PRACTICES,~~  
26 ~~INCLUDING:~~

27                   ~~(I) THE DISTRIBUTION AND MEDIAN AVERAGE OF CURRENT~~  
28 ~~SENTENCES IMPOSED FOR EACH CRIMINAL OFFENSE;~~

29                   ~~(II) THE DISTRIBUTION AND MEDIAN AVERAGE OF CURRENT~~  
30 ~~SENTENCES SERVED FOR EACH CRIMINAL OFFENSE;~~

31                   ~~(III) TRENDS IN THE GROWTH OF THE CORRECTIONAL~~  
32 ~~POPULATION, INCARCERATION RATES, AND CORRECTIONAL COSTS;~~

33                   ~~(IV) TRENDS IN THE DEMOGRAPHIC AND OFFENSE PROFILE OF~~  
34 ~~INCARCERATED OFFENDERS, INCLUDING TRENDS IN INMATES' MOST SERIOUS~~  
35 ~~CURRENT CONVICTION OFFENSE;~~

36                   ~~(V) THE PREVALENCE OF INTERMEDIATE PUNISHMENTS IN~~  
37 ~~JURISDICTIONS THROUGHOUT THE STATE, AND THE NUMBER OF OFFENDERS~~  
38 ~~ASSIGNED TO SUCH SANCTIONS; AND~~



1                   ~~(VI) TRENDS IN REPORTED CRIME AND CRIME RATES, ARRESTS~~  
2 ~~AND ARREST RATES, CONVICTIONS AND CONVICTION RATES, AND VICTIMIZATION~~  
3 ~~RATES.~~

4                   (2) ~~(H)~~ THE COMMISSION SHALL DEVELOP A CORRECTIONAL  
5 POPULATION SIMULATION MODEL TO ~~PREDICT~~ ASSIST IN DETERMINING THE STATE  
6 AND LOCAL CORRECTIONAL RESOURCES THAT ARE REQUIRED UNDER CURRENT  
7 ~~SENTENCING PRACTICES~~ LAWS, POLICIES, AND PRACTICES RELATING TO  
8 SENTENCING, PAROLE, AND MANDATORY SUPERVISION AND THOSE RESOURCES  
9 THAT WOULD BE REQUIRED TO IMPLEMENT THE COMMISSION'S  
10 RECOMMENDATIONS.

11                   ~~(II) THE COMMISSION SHALL APPLY THE MODEL TO A GIVEN FACT~~  
12 ~~SITUATION OR THEORETICAL CHANGE IN THE SENTENCING LAWS OR POLICIES~~  
13 ~~WHEN REQUESTED TO DO SO BY THE CHAIRPERSON OR THE COMMISSION AS A~~  
14 ~~WHOLE.~~

15                   ~~(III) THE CHAIRPERSON SHALL MAKE THE MODEL AVAILABLE TO~~  
16 ~~RESPOND TO ANY INQUIRY FROM A STATE LEGISLATOR OR FROM THE SECRETARY~~  
17 ~~OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.~~

18                   ~~(3) THE COMMISSION SHALL DEVELOP AND RECOMMEND A~~  
19 ~~STRUCTURED SENTENCING MODEL CONSISTENT WITH THE POLICY GOALS AND~~  
20 ~~OBJECTIVES PROVIDED IN SUBSECTION (F) OF THIS SECTION FOR USE BY~~  
21 ~~SENTENCING COURTS AND CORRECTIONAL AGENCIES IN DETERMINING THE MOST~~  
22 ~~APPROPRIATE SENTENCE TO BE IMPOSED ON A CRIMINAL OFFENDER. IN~~  
23 ~~DEVELOPING THE STRUCTURED SENTENCING MODEL, THE COMMISSION SHALL:~~

24                   ~~(I) DEVELOP FOR EACH CRIMINAL OFFENSE A STANDARD RANGE~~  
25 ~~OF SENTENCES TO BE IMPOSED ON AND SERVED BY ORDINARY OFFENDERS IN~~  
26 ~~ORDINARY CASES, SUBJECT TO THE FOLLOWING:~~

27                               1. ~~STANDARD SENTENCE RANGES SHALL BE BASED ON THE~~  
28 ~~GRAVITY OF THE CONVICTION OFFENSE, WITH ADJUSTMENT FOR THE OFFENDER'S~~  
29 ~~CRIMINAL HISTORY;~~

30                               2. ~~THE BREADTH OF THE STANDARD SENTENCE RANGES~~  
31 ~~SHALL BE DEFINED SO AS TO AVOID UNWARRANTED DISPARITIES IN SENTENCES~~  
32 ~~AND TO PERMIT REASONABLY ACCURATE FORECASTS OF THE AGGREGATE OF~~  
33 ~~SENTENCING DECISIONS FOR PURPOSES OF CORRECTIONAL RESOURCE PLANNING;~~

34                               3. ~~EACH STANDARD SENTENCE RANGE SHALL SPECIFY THE~~  
35 ~~APPROPRIATE LEVEL OF SEVERITY OF SENTENCE AND THE PERMISSIBLE TYPES OF~~  
36 ~~SANCTIONS;~~

37                               4. ~~PERMISSIBLE TYPES OF SANCTIONS SHALL INCLUDE, BUT~~  
38 ~~NOT BE LIMITED TO: TOTAL CONFINEMENT; INTERMITTENT CONFINEMENT; BOOT~~  
39 ~~CAMP OR SHOCK INCARCERATION; HOME DETENTION WITH OR WITHOUT~~  
40 ~~ELECTRONIC MONITORING; RESIDENTIAL OR OUTPATIENT DRUG AND ALCOHOL~~  
41 ~~TREATMENT WITH MANDATORY URINALYSIS; RESIDENTIAL WORK RELEASE; WORK~~  
42 ~~RELEASE WITH ELECTRONIC MONITORING; RESTITUTION CENTERS; DAY OR NIGHT~~  
43 ~~REPORTING CENTERS; ECONOMIC SANCTIONS, INCLUDING VICTIM RESTITUTION;~~

10

1 COMMUNITY SERVICE, AND DAY FINES; ACKNOWLEDGMENT SANCTIONS;  
2 INCLUDING PAID NOTICES ANNOUNCING CONVICTIONS; INTENSIVE SUPERVISION;  
3 SUPERVISED OR UNSUPERVISED PROBATION WITH OR WITHOUT CONDITIONS; AND

4 5. RESTITUTION TO VICTIMS, COMMUNITY SERVICES, OR  
5 OTHER VICTIM COMPENSATION SHALL BE A PERMISSIBLE SANCTION IN ALL CASES;

6 (II) CLASSIFY EACH TYPE OF SANCTION ACCORDING TO ITS  
7 RELATIVE LEVEL OF SEVERITY AND RELATIVE EMPHASIS ON THE GOALS OF  
8 PUNISHMENT, GENERAL DETERRENCE, SPECIFIC DETERRENCE, REMEDIATION,  
9 INCAPACITATION AND RESTITUTION TO FACILITATE THE IMPOSITION OF  
10 COMPOSITE AND INDIVIDUALIZED SENTENCES;

11 (III) DEVELOP CRITERIA AND PROCEDURES FOR THE IMPOSITION  
12 OF SENTENCES OUTSIDE THE STANDARD SENTENCE RANGES IN CASES WHERE  
13 THERE ARE SUBSTANTIAL AND COMPELLING REASONS JUSTIFYING DEPARTURE.  
14 SUCH CRITERIA SHALL INCLUDE:

15 1. AGGRAVATING FACTORS;

16 2. MITIGATING FACTORS;

17 3. TIME ELAPSED SINCE AN OFFENDER'S MOST RECENT  
18 PRIOR CONVICTION OR RELEASE FROM PRISON;

19 4. ACKNOWLEDGMENT OF RESPONSIBILITY;

20 5. COOPERATION WITH THE PROSECUTION; AND

21 6. OTHER PERSONAL CHARACTERISTICS OF INDIVIDUAL  
22 OFFENDERS THAT SHOULD BE TAKEN INTO ACCOUNT, SUCH AS ECONOMIC  
23 CIRCUMSTANCES;

24 (IV) PROVIDE A STATEMENT ESTIMATING THE EFFECT OF THE  
25 RECOMMENDED STRUCTURED SENTENCING MODEL ON STATE AND LOCAL  
26 CORRECTIONAL POPULATIONS, BOTH IN TERMS OF FISCAL IMPACT AND NUMBERS  
27 OF OFFENDERS. IF THE COMMISSION FINDS THAT THE PROPOSED SENTENCING  
28 STRUCTURE WOULD RESULT IN STATE AND LOCAL INMATE POPULATIONS THAT  
29 EXCEED THE OPERATING CAPACITIES OF AVAILABLE FACILITIES, THEN THE  
30 COMMISSION SHALL PRESENT AN ADDITIONAL STRUCTURE THAT SHALL BE  
31 CONSISTENT WITH SUCH CAPACITIES;

32 (V) REVIEW AND RECOMMEND, IF NECESSARY, REVISIONS TO  
33 PROCEDURES RELATING TO THE IMPOSITION OF SENTENCE, INCLUDING  
34 STATEMENTS OR SUMMARIES OF FACT, STATEMENTS OF THE PRECISE TERMS OF  
35 SENTENCES IMPOSED, AND REASONS FOR THE SELECTION OF THE LEVEL OF  
36 SEVERITY AND TYPES OF SANCTIONS IMPOSED;

37 (VI) DEVELOP PROCEDURES FOR APPELLATE REVIEW OF  
38 DEPARTURE SENTENCES AT THE INITIATIVE OF THE OFFENDER OR THE  
39 PROSECUTOR;

1                   ~~(VII) REVIEW AND RECOMMEND, IF NECESSARY, REVISIONS TO~~  
2 ~~STANDARDS RELATING TO THE CONTENTS, PREPARATION, AND SUBSTANTIATION~~  
3 ~~OF PRESENTENCE REPORTS;~~

4                   ~~(VIII) DEVELOP GUIDELINES AND PROCEDURES, INCLUDING~~  
5 ~~ADMINISTRATIVE ACTION, FOR THE SWIFT AND CERTAIN IMPOSITION OF~~  
6 ~~REGRESSIVE SANCTIONS FOR VIOLATIONS OF SENTENCE CONDITIONS AND~~  
7 ~~PROGRESSIVE INCENTIVES FOR COMPLIANCE;~~

8                   ~~(IX) DEVISE A SYSTEM OF BEHAVIORAL INCENTIVES AND~~  
9 ~~DISINCENTIVES FOR INCARCERATED OFFENDERS THAT ELIMINATES~~  
10 ~~DISCRETIONARY PAROLE RELEASE, UNEARNED DIMINUTION CREDITS, AND ANY~~  
11 ~~OTHER AUTOMATIC MECHANISMS FOR EARLY RELEASE;~~

12                   ~~(X) DEVISE AND INTEGRATE INTO THE STRUCTURED SENTENCING~~  
13 ~~MODEL A SYSTEM OF POST PRISON SUPERVISION;~~

14                   ~~(XI) EXAMINE AND MAKE RECOMMENDATIONS REGARDING THE~~  
15 ~~ROLE OF EXISTING MANDATORY MINIMUM SENTENCES IN THE RECOMMENDED~~  
16 ~~STRUCTURED SENTENCING MODEL; AND~~

17                   ~~(XII) DEVELOP A MECHANISM AND A COMMON STANDARD TO~~  
18 ~~MEASURE THE EFFECTIVENESS OF THE VARIOUS TYPES OF SANCTIONS IN MEETING~~  
19 ~~THEIR SPECIFIC GOALS.~~

20                   ~~(4) THE COMMISSION SHALL RECOMMEND A STRATEGY AND~~  
21 ~~ORGANIZATIONAL STRUCTURE FOR A COORDINATED SYSTEM OF INTERMEDIATE~~  
22 ~~PUNISHMENTS AT THE STATE AND LOCAL LEVELS. THE PARTNERSHIP PLAN SHALL~~  
23 ~~INCLUDE:~~

24                   ~~(I) AUTHORIZATION FOR EACH LOCAL JURISDICTION IN THE~~  
25 ~~STATE TO ESTABLISH A FULL CONTINUUM OF INTERMEDIATE PUNISHMENTS;~~

26                   ~~(II) A SYSTEM OF FINANCIAL INCENTIVES AND DISINCENTIVES TO~~  
27 ~~ENCOURAGE LOCAL JURISDICTIONS TO ESTABLISH AND EXPAND INTERMEDIATE~~  
28 ~~PUNISHMENTS, INCLUDING THE LINKAGE OF STATE FUNDS FOR LOCAL DETENTION~~  
29 ~~CENTER CONSTRUCTION TO THE ESTABLISHMENT AND EXPANSION ENHANCEMENT~~  
30 ~~OF LOCAL INTERMEDIATE PUNISHMENTS;~~

31                   ~~(III) AN INCENTIVE TO LOCAL JURISDICTIONS FOR THE~~  
32 ~~ESTABLISHMENT OF LOCAL INTERMEDIATE PUNISHMENT BOARDS, CONSISTING OF~~  
33 ~~KEY CRIMINAL JUSTICE ORGANIZATIONS AND VICTIMS' REPRESENTATIVES, TO~~  
34 ~~DEVELOP LOCAL PLANS FOR THE EXPANSION AND USE OF INTERMEDIATE~~  
35 ~~PUNISHMENTS;~~

36                   ~~(IV) AN INCENTIVE TO LOCAL JURISDICTIONS FOR THE~~  
37 ~~ESTABLISHMENT OR DESIGNATION OF COMMUNITY SERVICE ORIENTED COURTS,~~  
38 ~~COMMUNITY ACCOUNTABILITY BOARDS, OR OTHER MECHANISMS TO~~  
39 ~~INSTITUTIONALIZE THE INVOLVEMENT OF VICTIMS AND THE COMMUNITY IN THE~~  
40 ~~FASHIONING OF REPARATIVE SENTENCES FOR PUBLIC ORDER VIOLATORS AND~~  
41 ~~OTHER MINOR OFFENDERS;~~

12

1                   ~~(V) A FORM OF STATE OVERSIGHT AND COORDINATION TO~~  
2 ~~ENSURE THAT STATE AND LOCAL INTERMEDIATE PUNISHMENTS PROMOTE PUBLIC~~  
3 ~~SAFETY AND THE ADMINISTRATION OF JUSTICE, WHICH SHALL INCLUDE~~  
4 ~~MECHANISMS FOR THE SWIFT AND CERTAIN IMPOSITION OF REGRESSIVE~~  
5 ~~SANCTIONS FOR VIOLATIONS OF SENTENCE CONDITIONS AND PROGRESSIVE~~  
6 ~~INCENTIVES FOR COMPLIANCE, AND GREATER LINKAGES AMONG STATE AND~~  
7 ~~LOCAL AGENCIES THAT MONITOR OFFENDER COMPLIANCE WITH SENTENCE~~  
8 ~~CONDITIONS AND THAT PROVIDE OFFENDER REMEDIATION SERVICES; AND~~

9                   ~~(VI) IDENTIFICATION OF FUNDING SOURCES FOR INTERMEDIATE~~  
10 ~~PUNISHMENTS, INCLUDING PAROLE AND PROBATION SUPERVISION FEES, COURT~~  
11 ~~FEES, AND ECONOMIC SANCTIONS IMPOSED ON OFFENDERS, AND STATE AND~~  
12 ~~FEDERAL AID.~~

13                   ~~(5) THE COMMISSION SHALL RECOMMEND THE ESTABLISHMENT OR~~  
14 ~~DESIGNATION OF A PERMANENT STATEWIDE AGENCY OR AGENCIES TO~~  
15 ~~ADMINISTER THE STRUCTURED SENTENCING MODEL AND STATE LOCAL~~  
16 ~~INTERMEDIATE PUNISHMENT PARTNERSHIP AND DEFINE THE RESPONSIBILITIES~~  
17 ~~AND AUTHORITY OF SUCH AGENCY OR AGENCIES.~~

18                   ~~(H) THE COMMISSION SHALL SUBMIT A FINAL REPORT OF ITS~~  
19 ~~RECOMMENDATIONS IN THE FORM OF DRAFT LEGISLATION TO THE GENERAL~~  
20 ~~ASSEMBLY ON OR BEFORE DECEMBER 31, 1996.~~

21                   ~~(H)~~ (G) THIS SECTION SHALL TERMINATE AND BE OF NO EFFECT AFTER  
22 JUNE 30, 1997.

23                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act is contingent on  
24 the authorization of planning, design, and site work funds in the amount of \$1 million for  
25 the Western Maryland Correctional Institution, Housing Unit Number 5, 384 beds, in the  
26 Fiscal Year 1997 Capital Budget (Senate Bill 296/House Bill 349) that is enacted into law  
27 in 1996. If the Fiscal Year 1997 Capital Budget that is enacted into law in 1996 does not  
28 include an authorization of planning, design, and site work funds in the amount of \$1  
29 million for the Western Maryland Correctional Institution, Housing UnitNumber 5, 384  
30 beds, this Act is null and void without the necessity of any further action by the General  
31 Assembly.

32                   SECTION 3. AND BE IT FURTHER ENACTED, That the Maryland Commission  
33 on Criminal Sentencing Reform shall submit an Interim Report of its activities and  
34 recommendations to the General Assembly on or before December 31, 1996. The  
35 Commission shall submit a Final Report of its recommendations to the General Assembly  
36 on or before September 30, 1997. The Final Report of the Commission shall include a  
37 detailed rationale for each of its recommendations. The Commission may draft legislation  
38 relating to any recommendation that requires a modification of current law or otherwise  
39 requires the enactment of a statute.

40                   SECTION 2: 3, 4. AND BE IT FURTHER ENACTED, That , subject to Section 2  
41 of this Act, this Act shall take effect June 1, 1996.

