
By: Garrett County and Allegany County Delegations

Introduced and read first time: January 27, 1997

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Allegany and Garrett Counties - Confinement as Condition of PBJ**

3 FOR the purpose of authorizing a court, under certain circumstances, to impose a
4 sentence of confinement as a condition of probation in Allegany County and in
5 Garrett County.

6 BY repealing and reenacting, with amendments,
7 Article 27 - Crimes and Punishments
8 Section 641
9 Annotated Code of Maryland
10 (1996 Replacement Volume)

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

13 **Article 27 - Crimes and Punishments**

14 641.

15 (a) (1) (i) 1. Whenever a person accused of a crime pleads guilty or nolo
16 contendere or is found guilty of an offense, a court exercising criminal jurisdiction, if
17 satisfied that the best interests of the person and the welfare of the people of the State
18 would be served thereby, and with the written consent of the person after determination
19 of guilt or acceptance of a nolo contendere plea, may stay the entering of judgment, defer
20 further proceedings, and place the person on probation subject to reasonable terms and
21 conditions as appropriate. The terms and conditions may include ordering the person to
22 pay a fine or pecuniary penalty to the State, or to make restitution, but before the court
23 orders a fine, pecuniary penalty, or restitution the person is entitled to notice and a
24 hearing to determine the amount of the fine, pecuniary penalty, or restitution, what
25 payment will be required, and how payment will be made. The terms and conditions also
26 may include any type of rehabilitation program or clinic, or similar program, or the parks
27 program or voluntary hospital program.

28 2. In ALLEGANY COUNTY, CALVERT COUNTY, Charles
29 County, GARRETT COUNTY, AND St. Mary's County, [and Calvert County,] the court
30 may impose a sentence of confinement as a condition of probation.

2

1 (ii) However, when the offense for which the judgment is being stayed
2 is for violation of any provision of § 21-902 of the Transportation Article, the court:

3 1. Shall impose a period of probation and, as a condition of the
4 probation, require the person to participate in an alcohol treatment or education program
5 approved by the Department of Health and Mental Hygiene, unless the court finds and
6 affirmatively states on the record that the interests of the person and the people of the
7 State do not require the imposition of this condition; and

8 2. May, as a condition of probation, prohibit the person from
9 operating a motor vehicle unless the motor vehicle is equipped with an ignition interlock
10 system under § 27-107 of the Transportation Article.

11 (iii) When the offense for which the judgment is being stayed is for a
12 violation of any provision of §§ 276 through 303 of this article, the court shall require the
13 person to participate in a drug treatment or education program approved by the
14 Department of Health and Mental Hygiene, unless the court finds and affirmatively states
15 on the record that the interests of the person and the people of the State do not require
16 the imposition of this condition.

17 (iv) Any fine or pecuniary penalty imposed as a term or condition of
18 probation shall be within the amount prescribed by law for a violation resulting in
19 conviction.

20 (2) Notwithstanding paragraph (1) of this subsection, a court may not stay
21 the entering of judgment and place a person on probation for a violation of any provision
22 of § 21-902 of the Transportation Article if the person has been convicted under, or has
23 been placed on probation under this section after being charged with a violation of, §
24 21-902 of the Transportation Article within the preceding 5 years.

25 (3) Notwithstanding paragraph (1) of this subsection, a court may not stay
26 the entering of judgment and place a person on probation for a second or subsequent
27 controlled dangerous substance offense under §§ 276 through 303 of this article.

28 (4) Notwithstanding paragraph (1) of this subsection, a court may not stay
29 the entering of judgment and place a person on probation for a violation of any of the
30 provisions of §§ 462 through 464B of this article for an offense involving a person under
31 the age of 16 years.

32 (5) By consenting to and receiving a stay of entering of the judgment as
33 provided by this subsection, the person waives the right to appeal from the judgment of
34 guilt by the court at any time. Prior to the person consenting to the stay of entering of the
35 judgment, the court shall notify the person that by consenting to and receiving a stay of
36 entry of judgment, the person waives the right to appeal from the judgment of guilt by the
37 court at any time.

38 (b) Upon violation of a term or condition of probation, the court may enter
39 judgment and proceed with disposition of the person as if the person had not been placed
40 on probation.

41 (c) Upon fulfillment of the terms and conditions of probation, the court shall
42 discharge the person from probation. The discharge is final disposition of the matter.

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1 Discharge of a person under this section shall be without judgment of conviction and is
2 not a conviction for purposes of any disqualification or disability imposed by law because
3 of conviction of crime.

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 October 1, 1997.