
By: Garrett County and Allegany County Delegations

Introduced and read first time: January 27, 1997

Assigned to: Judiciary

Committee Report: Favorable

House action: Adopted with floor amendments

Read second time: March 4, 1997

CHAPTER ____

1 AN ACT concerning

2 **Allegany and Garrett Counties - Confinement as Condition of ~~PBJ~~ Probation Before**
3 **Judgment**

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

7 BY repealing and reenacting, with amendments,
8 Article 27 - Crimes and Punishments
9 Section 641
10 Annotated Code of Maryland
11 (1996 Replacement Volume)

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

14 **Article 27 - Crimes and Punishments**

15 641.

16 (a) (1) (i) 1. Whenever a person accused of a crime pleads guilty or nolo
17 contendere or is found guilty of an offense, a court exercising criminal jurisdiction, if
18 satisfied that the best interests of the person and the welfare of the people of the State
19 would be served thereby, and with the written consent of the person after determination
20 of guilt or acceptance of a nolo contendere plea, may stay the entering of judgment, defer
21 further proceedings, and place the person on probation subject to reasonable terms and
22 conditions as appropriate. The terms and conditions may include ordering the person to
23 pay a fine or pecuniary penalty to the State, or to make restitution, but before the court
24 orders a fine, pecuniary penalty, or restitution the person is entitled to notice and a

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1 hearing to determine the amount of the fine, pecuniary penalty, or restitution, what
2 payment will be required, and how payment will be made. The terms and conditions also
3 may include any type of rehabilitation program or clinic, or similar program, or the parks
4 program or voluntary hospital program.

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

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

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

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

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

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

27 (2) Notwithstanding paragraph (1) of this subsection, a court may not stay
28 the entering of judgment and place a person on probation for a violation of any provision
29 of § 21-902 of the Transportation Article if the person has been convicted under, or has
30 been placed on probation under this section after being charged with a violation of, §
31 21-902 of the Transportation Article within the preceding 5 years.

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

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

39 (5) By consenting to and receiving a stay of entering of the judgment as
40 provided by this subsection, the person waives the right to appeal from the judgment of
41 guilt by the court at any time. Prior to the person consenting to the stay of entering of the
42 judgment, the court shall notify the person that by consenting to and receiving a stay of

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1 entry of judgment, the person waives the right to appeal from the judgment of guilt by the
2 court at any time.

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

6 (c) Upon fulfillment of the terms and conditions of probation, the court shall
7 discharge the person from probation. The discharge is final disposition of the matter.
8 Discharge of a person under this section shall be without judgment of conviction and is
9 not a conviction for purposes of any disqualification or disability imposed by law because
10 of conviction of crime.

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