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**By: Delegates Valderrama and Vallario**

Introduced and read first time: February 21, 1997

Assigned to: Judiciary

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Committee Report: Favorable

House action: Adopted

Read second time: March 21, 1997

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CHAPTER \_\_\_\_

1 AN ACT concerning

**2 Maryland Commission on Criminal Sentencing Policy - Final Report - Termination**

3 FOR the purpose of extending the date by which the Maryland Commission on Criminal  
4 Sentencing Policy is required to submit its Final Report to the General Assembly;  
5 extending the termination date of the Commission; and generally relating to the  
6 Maryland Commission on Criminal Sentencing Policy.

7 BY repealing and reenacting, with amendments,  
8 Chapter 563 of the Acts of the General Assembly of 1996  
9 Section 3

10 BY repealing and reenacting, with amendments,  
11 Article 41 - Governor - Executive and Administrative Departments  
12 Section 18-312  
13 Annotated Code of Maryland  
14 (1997 Replacement Volume)

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

17 **Chapter 563 of the Acts of 1996**

18 SECTION 3. AND BE IT FURTHER ENACTED, That the Maryland Commission  
19 on Criminal Sentencing Policy shall submit an Interim Report of its activities and  
20 recommendations to the General Assembly, in accordance with § 2-1312 of the State  
21 Government Article, on or before December 31, 1996. The Commission shall submit a  
22 Final Report of its recommendations to the General Assembly, in accordance with §  
23 2-1312 of the State Government Article, on or before [September 30, 1997] DECEMBER

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1 31, 1998. The Final Report of the Commission shall include a detailed rationale for each of  
2 its recommendations.

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

4 18-312.

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

6 (2) "Chairperson" means the Chairperson of the Commission.

7 (3) "Commission" means the Maryland Commission on Criminal Sentencing  
8 Policy.

9 (4) "Correctional options program" means a criminal sanction other than  
10 traditional probation, traditional parole, or total confinement.

11 (5) (i) "Descriptive sentencing guidelines" means a sentencing structure  
12 that reflects the actual sentencing practices of judges in the State over a specified period.

13 (ii) "Descriptive sentencing guidelines" includes the current Maryland  
14 sentencing guidelines.

15 (6) "Good time credits" means deductions from an inmate's term of  
16 confinement under Article 27, § 700(d) of the Code.

17 (7) (i) "Guided discretion sentencing guidelines" means a sentencing  
18 structure that includes:

19 1. Elements of determinant sentencing that bring greater levels  
20 of rationality and uniformity to the sentencing process (such as presumptive or ordinary  
21 sentences); and

22 2. Elements of discretionary sentencing that allow a judge to  
23 impose a sentence that is fair and just under the circumstances of a particular case (such  
24 as the ability to depart from a presumptive or ordinary sentence under certain specified  
25 circumstances).

26 (ii) "Guided discretion sentencing guidelines" does not include the  
27 federal sentencing guidelines or any similar type of mechanical sentencing structure.

28 (8) "Mandatory supervision" has the meaning stated in Article 41, §  
29 4-501(13) of the Code.

30 (9) "Parole" has the meaning stated in Article 41, § 4-501(5) of the Code.

31 (b) There is a Maryland Commission on Criminal Sentencing Policy.

32 (c) The Commission shall consist of 19 members as follows:

33 (1) A Chairperson, appointed by the Governor;

34 (2) The Chief Judge of the Maryland Court of Appeals or a designee of the  
35 Chief Judge who is a judge or former judge on the Maryland Court of Appeals or the  
36 Maryland Court of Special Appeals;

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1 (3) One judge of the circuit court of Maryland, appointed by the Chief  
2 Judge of the Court of Appeals;

3 (4) One judge of the District Court of Maryland, appointed by the Chief  
4 Judge of the Court of Appeals;

5 (5) The Attorney General or a designee of the Attorney General;

6 (6) One State's Attorney who is recommended by the President of the  
7 Maryland State's Attorneys Association, appointed by the Governor;

8 (7) The Maryland Public Defender or a designee of the Public Defender;

9 (8) A criminal defense attorney who is recommended by the President of the  
10 Maryland Criminal Defense Lawyers Association, appointed by the Governor;

11 (9) Three members of the Senate of Maryland with at least one member  
12 being from the Senate Judicial Proceedings Committee, appointed by the President of the  
13 Senate;

14 (10) Three members of the House of Delegates with at least one member  
15 being from the House Judiciary Committee, appointed by the Speaker of the House;

16 (11) The Secretary of the Department of Public Safety and Correctional  
17 Services or a designee of the Secretary;

18 (12) One representative from a victim's advocacy group, appointed by the  
19 Governor;

20 (13) One representative from law enforcement, appointed by the Governor;

21 (14) One member with a background in criminal justice or corrections policy  
22 who is a recognized expert in the field, appointed by the Governor; and

23 (15) One representative of local detention centers, appointed by the  
24 Governor.

25 (d) (1) The Commission shall have its first meeting no later than June 14, 1996,  
26 at the call of the Chairperson.

27 (2) The Commission shall meet at least six times.

28 (3) The Commission may also hold other meetings at the call of the  
29 Chairperson or of any six members of the Commission after proper notice is given in the  
30 manner established by the rules of the Commission.

31 (4) A majority of the members of the Commission shall constitute a quorum.

32 (5) The Commission may establish subcommittees or advisory committees  
33 composed of Commission members to accomplish the duties imposed by this section.

34 (6) The Commission may establish rules governing the administration and  
35 proceedings of the Commission.

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1 (7) The Commission may require State, county, and municipal agencies to  
2 provide data as requested by the Commission.

3 (8) The Commission may apply for, accept, and use grants or financial or  
4 other aid from any public or private source to accomplish the duties provided for in this  
5 section.

6 (9) A member of the Commission:

7 (i) May not receive compensation; but

8 (ii) Shall be reimbursed for expenses under the Standard State Travel  
9 Regulations, as provided in the State budget.

10 (10) The Commission shall hold a public hearing for the purpose of hearing  
11 comments from the general public concerning the issues that are being studied by the  
12 Commission.

13 (e) (1) The primary staff for the Commission shall be selected jointly by the  
14 Governor, the President of the Senate, the Speaker of the House, and the Chief Judge of  
15 the Court of Appeals.

16 (2) The following State agencies shall cooperate fully with the Commission:

17 (i) The Governor's Office of Crime Control and 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 Services;

22 (vi) The Department of Budget and Management;

23 (vii) The Department of Juvenile Justice;

24 (viii) The Department of State Police; and

25 (ix) The State Board of Victim Services.

26 (3) All county and municipal governments and State agencies shall  
27 cooperate fully with the Commission.

28 (f) (1) The purpose of the Commission is to evaluate the State's sentencing and  
29 correctional laws and policies and make recommendations to the Governor and the  
30 General Assembly regarding the following issues:

31 (i) Whether descriptive sentencing guidelines should be retained by  
32 the State as a sentencing structure, either in their current form or in a modified form;

33 (ii) Whether the State should adopt guided discretion sentencing  
34 guidelines and, if so, what type of guided discretion sentencing guidelines should be  
35 adopted;

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1 (iii) Whether the State should retain parole as a correctional option or  
2 eliminate parole for all inmates or any particular category of inmates;

3 (iv) Whether the State should increase the minimum portion of a  
4 sentence that must be served by all inmates or any particular category of inmates before  
5 becoming eligible for parole;

6 (v) Whether the State should eliminate good time credits or otherwise  
7 alter the manner in which an inmate may obtain release on mandatory supervision;

8 (vi) Whether the State needs to take action to ensure that there is a  
9 coordinated system of correctional options programs at the State and county levels and, if  
10 so, what action should be taken; and

11 (vii) Any other matter relating to State and local laws and policies  
12 governing sentencing, parole, mandatory supervision, and correctional options programs.

13 (2) The sentencing and correctional process shall pursue the following  
14 objectives:

15 (i) Promote sentencing that more accurately reflects the time that an  
16 offender will actually be incarcerated;

17 (ii) Concentrate prison capacity on the incarceration of violent and  
18 career offenders;

19 (iii) Reduce unwarranted disparity in sentences for offenders who have  
20 committed similar offenses and have similar criminal histories;

21 (iv) Preserve meaningful judicial discretion in the imposition of  
22 sentences and sufficient flexibility to permit individualized sentences; and

23 (v) Ensure that sentencing judges in every jurisdiction in the State are  
24 able to impose the most appropriate criminal penalties, including correctional options  
25 programs for appropriate nonviolent offenders.

26 (3) (i) The Commission shall develop a correctional population  
27 simulation model to assist in determining the State and local correctional resources that:

28 1. Are required under current laws, policies, and practices  
29 relating to sentencing, parole, and mandatory supervision; and

30 2. Would be required to implement the Commission's  
31 recommendations.

32 (ii) If the Commission's recommendations would result in State and  
33 local inmate populations that would exceed the operating capacities of available facilities,  
34 then the Commission shall present additional sentencing model alternatives consistent  
35 with these capacities.

36 (g) This section shall terminate and be of no effect after [September 30, 1997]  
37 DECEMBER 31, 1998.

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