
By: Senator Currie

Introduced and read first time: January 31, 1997

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Regulated Firearms - Possession After Conviction of Crime of Violence - Penalties**

3 FOR the purpose of establishing certain mandatory sentences for a person who is
4 convicted of possessing a regulated firearm after having been previously convicted
5 of a crime of violence; establishing that a person convicted of a first offense is not
6 eligible for parole for a certain period of time; establishing that a person convicted
7 of a second or subsequent offense is not eligible for parole; establishing certain
8 exceptions; prohibiting a court from suspending a sentence provided in this Act;
9 prohibiting a court from staying the entry of a judgment and placing a person on
10 probation for possessing a regulated firearm after having been previously convicted
11 of a crime of violence; providing for the application of this Act; and generally
12 relating to the penalties for possessing a regulated firearm after being convicted of
13 a crime of violence.

14 BY repealing and reenacting, with amendments,
15 Article 27 - Crimes and Punishments
16 Section 445(d)(1) and 641
17 Annotated Code of Maryland
18 (1996 Replacement Volume)

19 BY adding to
20 Article 27 - Crimes and Punishments
21 Section 449(f)
22 Annotated Code of Maryland
23 (1996 Replacement Volume)

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

26 **Article 27 - Crimes and Punishments**

27 445.

28 (d) A person may not possess a regulated firearm if the person:

29 (1) Has been convicted of:

30 (i) A crime of violence;

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1 (ii) Any violation classified as a felony in this State;

2 (iii) Any violation classified as a misdemeanor in this State that carries
3 a statutory penalty of more than 2 years; or

4 (iv) Any violation classified as a common law offense where the person
5 received a term of imprisonment of more THAN 2 years.

6 449.

7 (F) (1) A PERSON WHO VIOLATES § 445(D)(1)(I) OF THIS SUBHEADING IS
8 GUILTY OF A FELONY AND ON CONVICTION SHALL:

9 (I) FOR A FIRST OFFENSE, BE SENTENCED TO IMPRISONMENT FOR
10 NOT LESS THAN 5 YEARS AND NOT MORE THAN 20 YEARS, AND:

11 1. IT IS MANDATORY ON THE COURT TO IMPOSE NO LESS
12 THAN THE MINIMUM SENTENCE OF 5 YEARS; AND

13 2. EXCEPT AS PROVIDED IN ARTICLE 31B, § 11 OF THE CODE,
14 THE PERSON IS NOT ELIGIBLE FOR PAROLE IN LESS THAN 5 YEARS; AND

15 (II) FOR A SECOND OR SUBSEQUENT OFFENSE, BE SENTENCED TO
16 IMPRISONMENT FOR NOT LESS THAN 10 YEARS AND NOT MORE THAN 20 YEARS,
17 AND:

18 1. IT IS MANDATORY FOR THE COURT TO IMPOSE NO LESS
19 THAN THE MINIMUM SENTENCE OF 10 YEARS; AND

20 2. EXCEPT AS PROVIDED IN ARTICLE 31B, § 11 OF THE CODE,
21 THE PERSON IS NOT ELIGIBLE FOR PAROLE.

22 (2) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A COURT MAY
23 NOT SUSPEND A MANDATORY MINIMUM SENTENCE ESTABLISHED UNDER THIS
24 SUBSECTION.

25 641.

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

39 2. In Charles County, St. Mary's County, and Calvert County,
40 the court may impose a sentence of confinement as a condition of probation.

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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) NOTWITHSTANDING PARAGRAPH (1) OF THIS SUBSECTION, A COURT
33 MAY NOT STAY THE ENTERING OF JUDGMENT AND PLACE A PERSON ON PROBATION
34 FOR A VIOLATION OF § 445(D)(1)(I) OF THIS ARTICLE.

35 [(5)] (6) By consenting to and receiving a stay of entering of the judgment
36 as provided by this subsection, the person waives the right to appeal from the judgment of
37 guilt by the court at any time. Prior to the person consenting to the stay of entering of the
38 judgment, the court shall notify the person that by consenting to and receiving a stay of
39 entry of judgment, the person waives the right to appeal from the judgment of guilt by the
40 court at any time.

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

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

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed
10 only prospectively and may not be applied or interpreted to have any effect on or
11 application to any offenses that are committed before the effective date of this Act.

12 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
13 October 1, 1997.