

HOUSE BILL 81

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HB 1389/93 - JUD

1998 Regular Session
8r0837

(PRE-FILED)

By: **Delegates Arnick and Montague**

Requested: November 14, 1997

Introduced and read first time: January 14, 1998

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Sentences - Review**

3 FOR the purpose of authorizing a certain criminal sentence review panel to increase
4 or decrease any mandatory minimum sentence otherwise required by law;
5 making stylistic changes; and generally relating to review of criminal sentences.

6 BY repealing and reenacting, with amendments,
7 Article 27 - Crimes and Punishments
8 Section 645JA and 645JC
9 Annotated Code of Maryland
10 (1996 Replacement Volume and 1997 Supplement)

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 645JA.

15 (a) Unless [no different sentence could have been imposed or unless] the
16 sentence was imposed by more than one trial judge, every person convicted of a crime
17 by any trial court of this State and sentenced to serve, with or without suspension, a
18 total of more than two years imprisonment in any penal or correctional institution in
19 this State shall be entitled to have the sentence reviewed by a panel of three or more
20 trial judges of the judicial circuit in which the sentencing court is located. However, a
21 person has no right to have any sentence reviewed more than once pursuant to this
22 section. Notwithstanding any rule of the Court of Appeals to the contrary, the judge
23 who sentenced the convicted person shall not be one of the members of the panel, but
24 if he so desires he may sit with the panel in an advisory capacity only.

25 (b) The review of a sentence of death is governed by the provisions of § 414 of
26 this article.

1 645JC.

2 (A) The panel shall have the right to require the [Department] DIVISION of
3 Parole and Probation to investigate, report, and make recommendations with regard
4 to any such application for review.

5 (B) [The] EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, THE
6 panel shall consider each application for review and shall have the power, with or
7 without holding a hearing, to order a different sentence to be imposed or served,
8 including, by way of illustration and not by way of limitation[, an]:

9 (1) AN increased or decreased sentence, [or a] INCLUDING A MINIMUM
10 MANDATORY SENTENCE;

11 (2) A suspended sentence to be served in whole or in part[, or a]; AND

12 (3) A sentence to be suspended with or without probation, upon such
13 terms and conditions as the panel may deem just and which could lawfully have been
14 imposed by the sentencing court at the time of the imposition of the sentence under
15 review[, or the].

16 (C) THE panel may decide that the sentence under review should stand
17 unchanged[; except that the].

18 (D) THE panel, without holding a hearing, shall not increase any sentence, or
19 order any suspended sentence or any suspended part of a sentence to be served; and
20 except further that no sentence for life or term of years may be increased to death by
21 the panel with or without holding a hearing.

22 (E) (1) The decision of the panel in each review shall be rendered by a
23 majority of the members of the panel and shall be rendered within thirty days from
24 the filing date of the application for review.

25 (2) If the panel orders any different sentence, the panel shall resentence
26 and notify the convicted person in accordance with the order of the panel.

27 (3) Time served on any sentence under review shall be deemed to have
28 been served on the sentence substituted.

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
30 October 1, 1998.