HOUSE BILL 265

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29 program.

1998 Regular Session 8lr1327

By: Garrett County and Allegany County Delegations Introduced and read first time: January 28, 1998 Assigned to: Judiciary A BILL ENTITLED 1 AN ACT concerning 2 Allegany and Garrett Counties - Confinement as Condition of Probation 3 **Before 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, Article 27 - Crimes and Punishments 8 9 Section 641 10 Annotated Code of Maryland 11 (1996 Replacement Volume and 1997 Supplement) SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF 12 13 MARYLAND, That the Laws of Maryland read as follows: 14 **Article 27 - Crimes and Punishments** 15 641. 16 Whenever a person accused of a crime pleads guilty or nolo 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 19 State would be served thereby, and with the written consent of the person after 20 determination of guilt or acceptance of a nolo contendere plea, may stay the entering 21 of judgment, defer further proceedings, and place the person on probation subject to 22 reasonable terms and conditions as appropriate. The terms and conditions may 23 include ordering the person to pay a fine or pecuniary penalty to the State, or to make 24 restitution, but before the court orders a fine, pecuniary penalty, or restitution the 25 person is entitled to notice and a hearing to determine the amount of the fine, 26 pecuniary penalty, or restitution, what payment will be required, and how payment

27 will be made. The terms and conditions also may include any type of rehabilitation 28 program or clinic, or similar program, or the parks program or voluntary hospital

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	2. In ALLEGANY COUNTY, CALVERT COUNTY, Charle County, GARRETT COUNTY, AND St. Mary's County, [and Calvert County,] the court may impose a sentence of confinement as a condition of probation.
	(ii) However, when the offense for which the judgment is being stayed is for violation of any provision of § 21-902 of the Transportation Article, the court:
9 10	1. Shall impose a period of probation and, as a condition of the probation, require the person to participate in an alcohol treatment or education program approved by the Department of Health and Mental Hygiene, unless the court finds and affirmatively states on the record that the interests of the person and the people of the State do not require the imposition of this condition; and
12 13 14	2. May, as a condition of probation, prohibit the person from operating a motor vehicle unless the motor vehicle is equipped with an ignition interlock system under § 27-107 of the Transportation Article.
17 18 19	(iii) When the offense for which the judgment is being stayed is for a violation of any provision of §§ 276 through 303 of this article, the court shall require the person to participate in a drug treatment or education program approved by the Department of Health and Mental Hygiene, unless the court finds and affirmatively states on the record that the interests of the person and the people of the State do not require the imposition of this condition.
	(iv) Any fine or pecuniary penalty imposed as a term or condition of probation shall be within the amount prescribed by law for a violation resulting in conviction.
26 27	(2) Notwithstanding paragraph (1) of this subsection, a court may not stay the entering of judgment and place a person on probation for a violation of any provision of § 21-902 of the Transportation Article if the person has been convicted under, or has been placed on probation under this section after being charged with a violation of, § 21-902 of the Transportation Article within the preceding 5 years.
31	(3) Notwithstanding paragraph (1) of this subsection, a court may not stay the entering of judgment and place a person on probation for a second or subsequent controlled dangerous substance offense under §§ 276 through 303 of this article.
35	(4) Notwithstanding paragraph (1) of this subsection, a court may not stay the entering of judgment and place a person on probation for a violation of any of the provisions of §§ 462 through 464B of this article for an offense involving a person under the age of 16 years.
39	(5) By consenting to and receiving a stay of entering of the judgment as provided by this subsection, the person waives the right to appeal from the judgment of guilt by the court at any time. Prior to the person consenting to the stay of entering of the judgment, the court shall notify the person that by consenting to and receiving

- 1 a stay of entry of judgment, the person waives the right to appeal from the judgment 2 of guilt by the 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 5 placed 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
- 9 is not a conviction for purposes of any disqualification or disability imposed by law
- 10 because of conviction of crime.
- 11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
- 12 October 1, 1998.