Unofficial Copy E2 HB 474/97 - JUD

By: Garrett County and Allegany County Delegations Introduced and read first time: January 28, 1998

Assigned to: Judiciary

Committee Report: Favorable House action: Adopted Read second time: February 24, 1998

CHAPTER_____

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,

- 8 Article 27 Crimes and Punishments
- 9 Section 641
- 10 Annotated Code of Maryland
- 11 (1996 Replacement Volume and 1997 Supplement)

12 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

13 MARYLAND, That the Laws of Maryland read as follows:

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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

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

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1 restitution, but before the court orders a fine, pecuniary penalty, or restitution the

2 person is entitled to notice and a hearing to determine the amount of the fine,

3 pecuniary penalty, or restitution, what payment will be required, and how payment

4 will be made. The terms and conditions also may include any type of rehabilitation

5 program or clinic, or similar program, or the parks program or voluntary hospital

6 program.

7 In ALLEGANY COUNTY, CALVERT COUNTY, Charles 2. 8 County, GARRETT COUNTY, AND St. Mary's County, [and Calvert County,] the court 9 may impose a sentence of confinement as a condition of probation. 10 However, when the offense for which the judgment is being (ii) 11 stayed is for violation of any provision of § 21-902 of the Transportation Article, the 12 court: 13 1. Shall impose a period of probation and, as a condition of 14 the probation, require the person to participate in an alcohol treatment or education 15 program approved by the Department of Health and Mental Hygiene, unless the court 16 finds and affirmatively states on the record that the interests of the person and the 17 people of the State do not require the imposition of this condition; and 18 May, as a condition of probation, prohibit the person from 2. 19 operating a motor vehicle unless the motor vehicle is equipped with an ignition 20 interlock system under § 27-107 of the Transportation Article. 21 (iii) When the offense for which the judgment is being stayed is for a 22 violation of any provision of §§ 276 through 303 of this article, the court shall require 23 the person to participate in a drug treatment or education program approved by the 24 Department of Health and Mental Hygiene, unless the court finds and affirmatively 25 states on the record that the interests of the person and the people of the State do not 26 require the imposition of this condition. 27 Any fine or pecuniary penalty imposed as a term or condition of (iv) 28 probation shall be within the amount prescribed by law for a violation resulting in 29 conviction. 30 (2)Notwithstanding paragraph (1) of this subsection, a court may not 31 stay the entering of judgment and place a person on probation for a violation of any 32 provision of § 21-902 of the Transportation Article if the person has been convicted 33 under, or has been placed on probation under this section after being charged with a 34 violation of, § 21-902 of the Transportation Article within the preceding 5 years. 35 Notwithstanding paragraph (1) of this subsection, a court may not (3)36 stay the entering of judgment and place a person on probation for a second or 37 subsequent controlled dangerous substance offense under §§ 276 through 303 of this 38 article. 39 (4)Notwithstanding paragraph (1) of this subsection, a court may not 40 stay the entering of judgment and place a person on probation for a violation of any of

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1 the provisions of §§ 462 through 464B of this article for an offense involving a person2 under the age of 16 years.

3 (5) By consenting to and receiving a stay of entering of the judgment as 4 provided by this subsection, the person waives the right to appeal from the judgment 5 of guilt by the court at any time. Prior to the person consenting to the stay of entering 6 of the judgment, the court shall notify the person that by consenting to and receiving 7 a stay of entry of judgment, the person waives the right to appeal from the judgment 8 of guilt by the court at any time.

9 (b) Upon violation of a term or condition of probation, the court may enter 10 judgment and proceed with disposition of the person as if the person had not been 11 placed on probation.

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

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect 18 October 1, 1998.

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