

HOUSE BILL 501

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1998 Regular Session
8lr0302
CF 8lr1582

By: **Delegate Vallario (Task Force to Examine Maryland's Crime Victims' Rights Laws) and Delegates Barve, Bobo, Bonsack, Brinkley, E. Burns, M. Burns, Cadden, Comeau, Conroy, Conway, Crumlin, Cryor, Curran, DeCarlo, Dewberry, Donoghue, Doory, Dypski, Edwards, Exum, Faulkner, Finifter, Frush, Fulton, Hammen, Harkins, Harrison, Healey, Hecht, Heller, Hixson, Howard, Hubbard, B. Hughes, Hutchins, Jacobs, Kach, Kelly, Klausmeier, Klima, Leopold, Linton, Love, McIntosh, McKee, Menes, Minnick, Mohorovic, Morhaim, O'Donnell, Owings, Palumbo, Perry, Petzold, Pitkin, Preis, Proctor, Rawlings, Redmer, Rudolph, Rzepkowski, Schade, Snodgrass, and Workman**

Introduced and read first time: February 5, 1998

Assigned to: Judiciary

Committee Report: Favorable

House action: Adopted

Read second time: March 10, 1998

CHAPTER _____

1 AN ACT concerning

2 **Criminal Sentencing - Judicial Review Panels - Victim Notification**

3 FOR the purpose of modifying the procedures a judicial review panel uses for
4 reviewing a defendant's sentence; providing that the panel need not hold a
5 hearing under certain circumstances; providing that a sentence of life
6 imprisonment without the possibility of parole may not be increased to death by
7 a judicial review panel; requiring certain persons to be notified before a judicial
8 review panel increases, modifies, or reduces a sentence; allowing a victim or a
9 victim's representative to attend the proceedings and address the panel under
10 certain circumstances; and generally relating to victims' rights in postconviction
11 proceedings.

12 BY repealing and reenacting, with amendments,
13 Article 27 - Crimes and Punishments
14 Section 645JC and 645JE
15 Annotated Code of Maryland
16 (1996 Replacement Volume and 1997 Supplement)

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

3 **Article 27 - Crimes and Punishments**

4 645JC.

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

8 (B) The panel shall consider each application for review and shall have the
9 power, with [or without holding] a hearing, to order a different sentence to be
10 imposed or served, including, by way of illustration and not by way of limitation, an
11 increased or decreased sentence, or a suspended sentence to be served in whole or in
12 part, or a sentence to be suspended with or without probation, upon such terms and
13 conditions as the panel may deem just and which could lawfully have been imposed by
14 the sentencing court at the time of the imposition of the sentence under review, or the
15 panel may decide that the sentence under review should [stand] REMAIN unchanged
16 [; except that the panel, without holding a hearing, shall not increase any sentence,
17 or order any suspended sentence or any suspended part of a sentence to be served;].

18 (C) WITHOUT HOLDING A HEARING, THE PANEL MAY DECIDE THAT THE
19 SENTENCE UNDER REVIEW SHOULD REMAIN UNCHANGED.

20 (D) [and except further that no] THE PANEL MAY NOT INCREASE A sentence
21 for IMPRISONMENT FOR life, IMPRISONMENT FOR LIFE WITHOUT THE POSSIBILITY
22 OF PAROLE, or A term of years [may be increased] to THE SENTENCE OF death [by
23 the panel with or without holding a hearing].

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

27 (F) If the panel orders any different sentence, the panel shall resentence and
28 notify the convicted person in accordance with the order of the panel.

29 (G) Time served on any sentence under review shall be deemed to have been
30 served on the sentence substituted.

31 645JE.

32 (A) Any person who has the right to file an application for review under this
33 subtitle shall have the right to be represented by counsel retained by him, [or]
34 appointed by the sentencing judge, OR PROVIDED UNDER THE PROVISIONS OF
35 ARTICLE 27A OF THE CODE in connection with determining whether to seek such
36 review and in connection with filing application for such review. [If the panel holds a
37 hearing in connection with any review of a sentence pursuant to this subtitle, the
38 defendant shall be entitled to appear in person at the hearing and to be represented
39 by counsel retained by him, or previously appointed by the sentencing judge, or

1 appointed by one or more members of the panel. The State's Attorney or assistant
2 State's Attorney who prosecuted the case shall also be entitled to appear at the
3 hearing.]

4 (B) THE PANEL MAY INCREASE, MODIFY, OR REDUCE A SENTENCE ONLY
5 AFTER NOTICE TO THE PARTIES AND NOTICE TO ANY VICTIM AS PROVIDED BY § 770
6 OR § 784 OF THIS ARTICLE.

7 (C) BEFORE ANY CHANGE IN THE SENTENCE, THE STATE AND THE
8 DEFENDANT SHALL BE ENTITLED TO APPEAR AND BE HEARD AT THE HEARING AND
9 THE VICTIM OR VICTIM'S REPRESENTATIVE SHALL HAVE THE RIGHT TO ATTEND THE
10 PROCEEDING AS PROVIDED BY § 857 OF THIS ARTICLE AND TO ADDRESS THE PANEL
11 AS PROVIDED BY § 780 OF THIS ARTICLE.

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