
By: **Senator Stone (Task Force to Examine Maryland's Crime Victims' Rights Laws)**

Introduced and read first time: February 4, 1998
Assigned to: Judicial Proceedings

A BILL ENTITLED

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)

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

19 **Article 27 - Crimes and Punishments**

20 645JC.

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

24 (B) The panel shall consider each application for review and shall have the
25 power, with [or without holding] a hearing, to order a different sentence to be
26 imposed or served, including, by way of illustration and not by way of limitation, an
27 increased or decreased sentence, or a suspended sentence to be served in whole or in
28 part, or a sentence to be suspended with or without probation, upon such terms and

1 conditions as the panel may deem just and which could lawfully have been imposed by
2 the sentencing court at the time of the imposition of the sentence under review, or the
3 panel may decide that the sentence under review should [stand] REMAIN unchanged
4 [; except that the panel, without holding a hearing, shall not increase any sentence,
5 or order any suspended sentence or any suspended part of a sentence to be served;].

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

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

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

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

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

19 645JE.

20 (A) Any person who has the right to file an application for review under this
21 subtitle shall have the right to be represented by counsel retained by him, [or]
22 appointed by the sentencing judge, OR PROVIDED UNDER THE PROVISIONS OF
23 ARTICLE 27A OF THE CODE in connection with determining whether to seek such
24 review and in connection with filing application for such review. [If the panel holds a
25 hearing in connection with any review of a sentence pursuant to this subtitle, the
26 defendant shall be entitled to appear in person at the hearing and to be represented
27 by counsel retained by him, or previously appointed by the sentencing judge, or
28 appointed by one or more members of the panel. The State's Attorney or assistant
29 State's Attorney who prosecuted the case shall also be entitled to appear at the
30 hearing.]

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

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

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

