

SENATE BILL 389

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1998 Regular Session
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By: **Senators McCabe and Kelley**
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Assigned to: Judicial Proceedings

Committee Report: Favorable
Senate action: Adopted
Read second time: March 25, 1998

CHAPTER _____

1 AN ACT concerning

2 **Maryland Commission on Criminal Sentencing Policy - Extension of**
3 **Termination**

4 FOR the purpose of extending the termination date of the Maryland Commission on
5 Criminal Sentencing Policy.

6 BY repealing and reenacting, with amendments,
7 Article 41 - Governor - Executive and Administrative Departments
8 Section 18-312
9 Annotated Code of Maryland
10 (1997 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 41 - Governor - Executive and Administrative Departments**

14 18-312.

15 (a) (1) In this section the following words have the meanings indicated.

16 (2) "Chairperson" means the Chairperson of the Commission.

17 (3) "Commission" means the Maryland Commission on Criminal
18 Sentencing Policy.

19 (4) "Correctional options program" means a criminal sanction other than
20 traditional probation, traditional parole, or total confinement.

1 (5) (i) "Descriptive sentencing guidelines" means a sentencing
2 structure that reflects the actual sentencing practices of judges in the State over a
3 specified period.

4 (ii) "Descriptive sentencing guidelines" includes the current
5 Maryland sentencing guidelines.

6 (6) "Good time credits" means deductions from an inmate's term of
7 confinement under Article 27, § 700(d) of the Code.

8 (7) (i) "Guided discretion sentencing guidelines" means a sentencing
9 structure that includes:

10 1. Elements of determinant sentencing that bring greater
11 levels of rationality and uniformity to the sentencing process (such as presumptive or
12 ordinary sentences); and

13 2. Elements of discretionary sentencing that allow a judge to
14 impose a sentence that is fair and just under the circumstances of a particular case
15 (such as the ability to depart from a presumptive or ordinary sentence under certain
16 specified circumstances).

17 (ii) "Guided discretion sentencing guidelines" does not include the
18 federal sentencing guidelines or any similar type of mechanical sentencing structure.

19 (8) "Mandatory supervision" has the meaning stated in Article 41, §
20 4-501(13) of the Code.

21 (9) "Parole" has the meaning stated in Article 41, § 4-501(5) of the Code.

22 (b) There is a Maryland Commission on Criminal Sentencing Policy.

23 (c) The Commission shall consist of 19 members as follows:

24 (1) A Chairperson, appointed by the Governor;

25 (2) The Chief Judge of the Maryland Court of Appeals or a designee of
26 the Chief Judge who is a judge or former judge on the Maryland Court of Appeals or
27 the Maryland Court of Special Appeals;

28 (3) One judge of the circuit court of Maryland, appointed by the Chief
29 Judge of the Court of Appeals;

30 (4) One judge of the District Court of Maryland, appointed by the Chief
31 Judge of the Court of Appeals;

32 (5) The Attorney General or a designee of the Attorney General;

33 (6) One State's Attorney who is recommended by the President of the
34 Maryland State's Attorneys Association, appointed by the Governor;

- 1 (7) The Maryland Public Defender or a designee of the Public Defender;
- 2 (8) A criminal defense attorney who is recommended by the President of
3 the Maryland Criminal Defense Lawyers Association, appointed by the Governor;
- 4 (9) Three members of the Senate of Maryland with at least one member
5 being from the Senate Judicial Proceedings Committee, appointed by the President of
6 the Senate;
- 7 (10) Three members of the House of Delegates with at least one member
8 being from the House Judiciary Committee, appointed by the Speaker of the House;
- 9 (11) The Secretary of the Department of Public Safety and Correctional
10 Services or a designee of the Secretary;
- 11 (12) One representative from a victim's advocacy group, appointed by the
12 Governor;
- 13 (13) One representative from law enforcement, appointed by the
14 Governor;
- 15 (14) One member with a background in criminal justice or corrections
16 policy who is a recognized expert in the field, appointed by the Governor; and
- 17 (15) One representative of local detention centers, appointed by the
18 Governor.
- 19 (d) (1) The Commission shall have its first meeting no later than June 14,
20 1996, at the call of the Chairperson.
- 21 (2) The Commission shall meet at least six times.
- 22 (3) The Commission may also hold other meetings at the call of the
23 Chairperson or of any six members of the Commission after proper notice is given in
24 the manner established by the rules of the Commission.
- 25 (4) A majority of the members of the Commission shall constitute a
26 quorum.
- 27 (5) The Commission may establish subcommittees or advisory
28 committees composed of Commission members to accomplish the duties imposed by
29 this section.
- 30 (6) The Commission may establish rules governing the administration
31 and proceedings of the Commission.
- 32 (7) The Commission may require State, county, and municipal agencies
33 to provide data as requested by the Commission.

1 (8) The Commission may apply for, accept, and use grants or financial or
2 other aid from any public or private source to accomplish the duties provided for in
3 this section.

4 (9) A member of the Commission:

5 (i) May not receive compensation; but

6 (ii) Shall be reimbursed for expenses under the Standard State
7 Travel Regulations, as provided in the State budget.

8 (10) The Commission shall hold a public hearing for the purpose of
9 hearing comments from the general public concerning the issues that are being
10 studied by the Commission.

11 (e) (1) The primary staff for the Commission shall be selected jointly by the
12 Governor, the President of the Senate, the Speaker of the House, and the Chief Judge
13 of the Court of Appeals.

14 (2) The following State agencies shall cooperate fully with the
15 Commission:

16 (i) The Governor's Office of Crime Control and Prevention;

17 (ii) The Department of Legislative Services;

18 (iii) The Administrative Office of the Courts;

19 (iv) The Department of Public Safety and Correctional Services;

20 (v) The Department of Budget and Management;

21 (vi) The Department of Juvenile Justice;

22 (vii) The Department of State Police; and

23 (viii) The State Board of Victim Services.

24 (3) All county and municipal governments and State agencies shall
25 cooperate fully with the Commission.

26 (f) (1) The purpose of the Commission is to evaluate the State's sentencing
27 and correctional laws and policies and make recommendations to the Governor and
28 the General Assembly regarding the following issues:

29 (i) Whether descriptive sentencing guidelines should be retained
30 by the State as a sentencing structure, either in their current form or in a modified
31 form;

1 (ii) Whether the State should adopt guided discretion sentencing
2 guidelines and, if so, what type of guided discretion sentencing guidelines should be
3 adopted;

4 (iii) Whether the State should retain parole as a correctional option
5 or eliminate parole for all inmates or any particular category of inmates;

6 (iv) Whether the State should increase the minimum portion of a
7 sentence that must be served by all inmates or any particular category of inmates
8 before becoming eligible for parole;

9 (v) Whether the State should eliminate good time credits or
10 otherwise alter the manner in which an inmate may obtain release on mandatory
11 supervision;

12 (vi) Whether the State needs to take action to ensure that there is a
13 coordinated system of correctional options programs at the State and county levels
14 and, if so, what action should be taken; and

15 (vii) Any other matter relating to State and local laws and policies
16 governing sentencing, parole, mandatory supervision, and correctional options
17 programs.

18 (2) The sentencing and correctional process shall pursue the following
19 objectives:

20 (i) Promote sentencing that more accurately reflects the time that
21 an offender will actually be incarcerated;

22 (ii) Concentrate prison capacity on the incarceration of violent and
23 career offenders;

24 (iii) Reduce unwarranted disparity in sentences for offenders who
25 have committed similar offenses and have similar criminal histories;

26 (iv) Preserve meaningful judicial discretion in the imposition of
27 sentences and sufficient flexibility to permit individualized sentences; and

28 (v) Ensure that sentencing judges in every jurisdiction in the State
29 are able to impose the most appropriate criminal penalties, including correctional
30 options programs for appropriate nonviolent offenders.

31 (3) (i) The Commission shall develop a correctional population
32 simulation model to assist in determining the State and local correctional resources
33 that:

34 1. Are required under current laws, policies, and practices
35 relating to sentencing, parole, and mandatory supervision; and

1 2. Would be required to implement the Commission's
2 recommendations.

3 (ii) If the Commission's recommendations would result in State and
4 local inmate populations that would exceed the operating capacities of available
5 facilities, then the Commission shall present additional sentencing model
6 alternatives consistent with these capacities.

7 (g) This section shall terminate and be of no effect after [December 31, 1998]
8 JULY 1, 1999.

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