

HOUSE BILL 463

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1999 Regular Session
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By: **Delegate Doory (Committee to Revise Article 27 - Crimes and Punishments) and Delegates Menes, Eckardt, Guns, W. Baker, Schisler, and Walkup**

Introduced and read first time: February 10, 1999
Assigned to: Judiciary

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 16, 1999

CHAPTER _____

1 AN ACT concerning

2 **Crimes - Escape Revision**

3 FOR the purpose of revising and restating the laws relating to escape, contraband,
4 and related offenses; prohibiting a person from escaping from a place of
5 confinement; prohibiting a person from violating certain restrictions on
6 movement under temporary release or a home detention order or agreement;
7 prohibiting a person who has been lawfully arrested from departing from
8 custody under certain circumstances; prohibiting a person from failing to obey a
9 court order to report to a place of confinement; establishing certain penalties;
10 providing for certain conditions on sentences; allowing a court to order payment
11 of certain expenses under certain circumstances; providing that voluntary
12 intoxication is not a defense to certain charges; prohibiting the deposit or
13 concealment of a weapon in certain places to effect an escape; establishing that
14 sentence for a certain offense is separate from certain other offenses; clarifying
15 and establishing that violations of certain restrictions on movement by certain
16 persons temporarily released from a place of confinement or subject to certain
17 home detention orders or agreements are guilty of escape; prohibiting certain
18 persons from violating certain other restrictions imposed as conditions of certain
19 releases or in certain home detention orders or agreements; establishing
20 penalties; making conforming and stylistic changes; defining certain terms;
21 providing that certain notes contained in this Act are not law; and generally
22 relating to escape, contraband, and related offenses.

23 BY repealing
24 Article 27 - Crimes and Punishments
25 Section 139

1 Annotated Code of Maryland
2 (1996 Replacement Volume and 1998 Supplement)

3 BY adding to
4 Article 27 - Crimes and Punishments
5 Section 136 through 139, inclusive, to be under the amended subheading
6 "Escape and Contraband in Places of Confinement"
7 Annotated Code of Maryland
8 (1996 Replacement Volume and 1998 Supplement)

9 BY repealing and reenacting, with amendments,
10 Article 27 - Crimes and Punishments
11 Section 372, 410, 413(g)(1), and 441
12 Annotated Code of Maryland
13 (1996 Replacement Volume and 1998 Supplement)

14 BY repealing and reenacting, with amendments,
15 Article 88B - Department of State Police
16 Section 26
17 Annotated Code of Maryland
18 (1998 Replacement Volume)

19 BY repealing
20 Article - Correctional Services
21 Section 8-801 through 8-806
22 Annotated Code of Maryland
23 (As enacted by Chapter ____ (H.B. 11) of the Acts of the General Assembly of
24 1999)

25 BY renumbering
26 Article - Correctional Services
27 Section 8-807 and 8-808, respectively
28 to be Section 8-801 and 8-802, respectively
29 Annotated Code of Maryland
30 (As enacted by Chapter ____ (H.B. 11) of the Acts of the General Assembly of
31 1999)

32 BY repealing and reenacting, with amendments,
33 Article - Correctional Services
34 Section 3-305(c)(2), 3-409(c), 3-803(b)(2), 3-807(i)(2), 3-808(d), 3-811(c),
35 9-602(e), 11-319(a)(5), 11-702(b)(8), 11-703(d)(5)(iii), 11-705(i) through
36 (s), 11-708(b)(8) and (c)(4)(ii)2., 11-709(b)(4)(ii)2., 11-711(h)(3) and (4),
37 11-712(b)(4)(iii)2., (c)(6), and (d)(4)(ii)2., 11-714(d)(4)(ii)2., 11-715(g),
38 11-716(h)(3) and (4) and (k)(3) and (4), 11-717(f)(3), 11-723(b)(4)(ii)2. and

1 (8), and 11-724(h)(3) and (4) and (i)(2)
2 Annotated Code of Maryland
3 (As enacted by Chapter ____ (H.B. 11) of the Acts of the General Assembly of
4 1999)

5 BY repealing

6 Article - Correctional Services
7 Section 11-703(f)(4), 11-705(h), 11-706(b)(8), 11-711(h)(2), 11-714(c)(6),
8 11-716(h)(2) and (k)(2), 11-717(f)(2), and 11-724(h)(2)
9 Annotated Code of Maryland
10 (As enacted by Chapter ____ (H.B. 11) of the Acts of the General Assembly of
11 1999)

12 BY adding to

13 Article - Correctional Services
14 Section 11-726
15 Annotated Code of Maryland
16 (As enacted by Chapter ____ (H.B. 11) of the Acts of the General Assembly of
17 1999)

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
19 MARYLAND, That Section(s) 8-801 through 8-806 of Article - Correctional Services
20 of the Annotated Code of Maryland (as enacted by Chapter ____ (H.B. 11) of the Acts
21 of the General Assembly of 1999) be repealed.

22 SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 8-807 and
23 8-808, respectively, of Article - Correctional Services of the Annotated Code of
24 Maryland (as enacted by Chapter ____ (H.B. 11) of the Acts of the General Assembly
25 of 1999) be renumbered to be Section(s) 8-801 and 8-802, respectively.

26 SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland
27 read as follows:

28 **Article 27 - Crimes and Punishments**

29 [139.

30 (a) (1) If any individual who is legally detained in the State penitentiary or
31 a jail, house of correction, reformatory, station house, or other place of confinement in
32 this State or who is committed to the Alcohol and Drug Abuse Administration for
33 examination or inpatient treatment escapes, the individual is guilty of a felony and on
34 conviction by the circuit court for the county in which the escape takes place, is
35 subject to confinement in the State penitentiary or a jail or house of correction for an
36 additional period not exceeding 10 years. The sentence imposed under this subsection
37 shall be consecutive to any sentence which was being served at the time of the escape,
38 or any sentence which had been imposed but was not yet being served at the time of

1 sentencing on the escape. A sentence imposed under this subsection may not be
2 suspended.

3 (2) (i) The following are places of confinement for the purposes of this
4 section:

5 1. Detention centers and youth centers operated by the
6 Department of Juvenile Justice;

7 2. The programs for committed delinquent or detained youth
8 at the Charles H. Hickey, Jr. School, the Thomas O'Farrell Youth Center, the
9 Doncaster Facility, and the Victor Cullen Center; and

10 3. The programs for committed delinquent youth operated by
11 the Department of Juvenile Justice at the Cheltenham Youth Facility.

12 (ii) The sentence for escape from a facility designated in this
13 paragraph that does not involve an assault may not exceed confinement for 3 years.

14 (3) If any individual escapes from a facility of the Department of Health
15 and Mental Hygiene after commitment as incompetent to stand trial or not criminally
16 responsible, the individual is guilty of a felony and on conviction is subject to
17 confinement in the State penitentiary or a jail or house of correction for a period not
18 exceeding 10 years.

19 (b) An escapee who is convicted under subsection (a)(1) of this section is liable
20 for all expenses incurred in the return of the escapee to the jurisdiction of the Division
21 of Correction, State penitentiary, or a jail, house of correction, reformatory, station
22 house, other place of confinement in this State, or the Alcohol and Drug Abuse
23 Administration. The Commissioner, sheriff, or director of the appropriate facility
24 shall notify the returned escapee of any charges. A hearing shall be granted to any
25 returned escapee who wishes to challenge the reasonableness of the charges. The
26 Commissioner, sheriff, or director of the appropriate facility may establish
27 appropriate rules, regulations, and procedures for charging an escapee with expenses,
28 collecting those expenses, and for hearings to challenge those expenses.

29 (c) A person who aids in the escape of the individual under this section is
30 guilty of a felony and on conviction by the circuit court for the county in which the
31 escape takes place is subject to imprisonment not exceeding 10 years.]

32 [Escapes From] ESCAPE AND CONTRABAND IN PLACES OF Confinement

33 136.

34 (A) IN THIS SUBHEADING THE FOLLOWING WORDS HAVE THE MEANINGS
35 INDICATED.

36 (B) "ESCAPE" RETAINS ITS JUDICIALLY DETERMINED MEANING.

37 (C) "PLACE OF CONFINEMENT" MEANS:

- 1 (1) A CORRECTIONAL FACILITY AS DEFINED IN § 1-101 OF THE
2 CORRECTIONAL SERVICES ARTICLE;
- 3 (2) A PLACE IDENTIFIED IN A HOME DETENTION ORDER OR
4 AGREEMENT;
- 5 (3) A FACILITY OF THE DEPARTMENT OF HEALTH AND MENTAL
6 HYGIENE;
- 7 ~~(4) A DETENTION AND YOUTH CENTER FOR JUVENILES OPERATED BY~~
8 ~~OR UNDER CONTRACT WITH THE DEPARTMENT OF JUVENILE JUSTICE; OR~~
- 9 (4) A DETENTION CENTER FOR JUVENILES OR A FACILITY FOR
10 JUVENILES LISTED IN ARTICLE 83C, § 2-117(A)(2) OF THE CODE; OR
- 11 (5) ANY OTHER FACILITY IN WHICH A PERSON IS CONFINED UNDER
12 COLOR OF LAW.

13 COMMITTEE NOTE (COMMITTEE TO REVISE ARTICLE 27): The definition
14 of escape is intended to include the case law interpreting former Art. 27, § 139. See
15 e.g., Stewart v. State, 275 Md. 258, 340 A.2d 290 (1975); Beasley v. State, 17 Md. App.
16 7, 299 A.2d 482 (1973); Best v. Warden, 235 Md. 633, 201 A.2d 490 (1964). It is not
17 intended to refer to the common law definition of escape.

18 137.

19 (A) A PERSON MAY NOT KNOWINGLY ESCAPE FROM A PLACE OF
20 CONFINEMENT.

21 (B) (1) THIS SUBSECTION APPLIES TO A PERSON:

22 (I) TEMPORARILY RELEASED FROM A PLACE OF CONFINEMENT;
23 OR

24 (II) COMMITTED TO HOME DETENTION UNDER THE TERMS OF
25 PRETRIAL RELEASE OR BY THE DIVISION OF CORRECTION UNDER TITLE 3, SUBTITLE
26 4 OF THE CORRECTIONAL SERVICES ARTICLE.

27 (2) A PERSON MAY NOT KNOWINGLY:

28 (I) VIOLATE ANY RESTRICTION ON MOVEMENT IMPOSED UNDER
29 THE TERMS OF TEMPORARY RELEASE OR A HOME DETENTION ORDER OR
30 AGREEMENT; OR

31 (II) FAIL TO RETURN TO A PLACE OF CONFINEMENT UNDER THE
32 TERMS OF TEMPORARY RELEASE OR A HOME DETENTION ORDER OR AGREEMENT.

33 (C) EXCEPT AS PROVIDED IN § 137A OF THIS SUBHEADING, A PERSON WHO
34 VIOLATES THIS SECTION IS GUILTY OF THE FELONY OF ESCAPE IN THE FIRST
35 DEGREE AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$20,000 OR
36 IMPRISONMENT NOT EXCEEDING 10 YEARS OR BOTH.

1 COMMITTEE NOTE (COMMITTEE TO REVISE ARTICLE 27): Former Art. 27,
2 § 139 applied to escapes by persons "legally detained." Because escape has been
3 defined to retain its judicially determined meaning, the former reference to a person
4 "legally detained" has been omitted. In this regard see *Vucci v. State*, 18 Md. App.157,
5 305 A.2d 483 (1973), holding that a person who is illegally detained because of
6 procedural defects is not entitled to resort to self-help, but rather must apply for
7 release through regular legal channels.

8 Former Art. 27, § 139 also prohibited a person from aiding the escape of an
9 individual. This revision eliminates this provision because the current common law
10 on accomplice liability adequately addresses this situation. This Committee has
11 previously recommended the deletion of similar provisions for this reason. See e.g.,
12 "Arson and Burning" subheading of this article.

13 137A.

14 (A) (1) A PERSON WHO HAS BEEN LAWFULLY ARRESTED MAY NOT
15 KNOWINGLY DEPART FROM CUSTODY WITHOUT THE AUTHORIZATION OF A LAW
16 ENFORCEMENT OR JUDICIAL OFFICER.

17 (2) A PERSON MAY NOT KNOWINGLY FAIL TO OBEY A COURT ORDER TO
18 REPORT TO A PLACE OF CONFINEMENT.

19 (3) A PERSON WHO IS SERVING A SENTENCE IN A HOME DETENTION
20 PROGRAM OTHER THAN THE DIVISION OF CORRECTION HOME DETENTION PROGRAM
21 UNDER TITLE 3, SUBTITLE 4 OF THE CORRECTIONAL SERVICES ARTICLE MAY NOT
22 KNOWINGLY:

23 (I) VIOLATE ANY RESTRICTION ON MOVEMENT IMPOSED UNDER
24 THE TERMS OF THE HOME DETENTION ORDER OR AGREEMENT; OR

25 (II) FAIL TO RETURN TO A PLACE OF CONFINEMENT UNDER THE
26 TERMS OF THE HOME DETENTION ORDER OR AGREEMENT.

27 (B) (1) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF THE
28 MISDEMEANOR OF ESCAPE IN THE SECOND DEGREE AND ON CONVICTION IS
29 SUBJECT TO A FINE NOT EXCEEDING \$5,000 OR IMPRISONMENT NOT EXCEEDING 3
30 YEARS OR BOTH.

31 (2) ~~IF AN ESCAPE FROM A DETENTION AND YOUTH CENTER FOR~~
32 ~~JUVENILES OPERATED BY OR UNDER CONTRACT WITH THE DEPARTMENT OF~~
33 ~~JUVENILE JUSTICE CENTER FOR JUVENILES OR A FACILITY FOR JUVENILES LISTED~~
34 ~~IN ARTICLE 83C, § 2-117(A)(2) OF THE CODE DOES NOT INVOLVE AN ASSAULT, A~~
35 ~~VIOLATOR IS GUILTY OF ESCAPE IN THE SECOND DEGREE AND PUNISHABLE AS~~
36 ~~PROVIDED IN PARAGRAPH (1) OF THIS SUBSECTION.~~

37 COMMITTEE NOTE (COMMITTEE TO REVISE ARTICLE 27): The
38 prohibition in subsection (a)(2) of this section is intended to apply to an order to report
39 for service of a weekend or other periodic sentence.

1 138.

2 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
3 INDICATED.

4 (2) "ALCOHOLIC BEVERAGE" MEANS BEER, WINE, OR DISTILLED SPIRITS.

5 (3) "CONTRABAND" MEANS ANY ITEM, MATERIAL, SUBSTANCE, OR
6 OTHER THING OF VALUE THAT:

7 (I) IS NOT AUTHORIZED FOR INMATE POSSESSION BY THE
8 MANAGING OFFICIAL; OR

9 (II) IS BROUGHT INTO THE CORRECTIONAL FACILITY IN A MANNER
10 PROHIBITED BY THE MANAGING OFFICIAL.

11 (4) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
12 PARAGRAPH, "CONTROLLED DANGEROUS SUBSTANCE" HAS THE MEANING STATED IN
13 § 277(F) OF THIS ARTICLE.

14 (II) "CONTROLLED DANGEROUS SUBSTANCE" DOES NOT INCLUDE A
15 DRUG OR SUBSTANCE THAT IS LEGALLY POSSESSED BY AN INDIVIDUAL UNDER A
16 WRITTEN PRESCRIPTION ISSUED BY A PERSON AUTHORIZED BY LAW AND
17 DESIGNATED BY THE MANAGING OFFICIAL TO PRESCRIBE INMATE MEDICATION.

18 (5) "MANAGING OFFICIAL" MEANS THE ADMINISTRATOR, DIRECTOR,
19 WARDEN, SUPERINTENDENT, SHERIFF, OR OTHER INDIVIDUAL RESPONSIBLE FOR
20 THE MANAGEMENT OF A PLACE OF CONFINEMENT.

21 (6) "PLACE OF CONFINEMENT" DOES NOT INCLUDE A PLACE
22 IDENTIFIED IN A HOME DETENTION ORDER OR AGREEMENT.

23 (7) "WEAPON" MEANS A GUN, KNIFE, CLUB, EXPLOSIVE, OR OTHER
24 ARTICLE THAT CAN BE USED TO KILL, MAIM, OR INFLICT BODILY INJURY.

25 (B) (1) (I) A PERSON MAY NOT DELIVER A WEAPON TO A PERSON
26 DETAINED OR CONFINED IN A PLACE OF CONFINEMENT.

27 (II) A PERSON MAY NOT POSSESS A WEAPON WITH INTENT TO
28 DELIVER TO A PERSON DETAINED OR CONFINED IN A PLACE OF CONFINEMENT.

29 (III) A PERSON MAY NOT DEPOSIT OR CONCEAL A WEAPON IN OR
30 ABOUT A PLACE OF CONFINEMENT OR ON ANY LAND APPURTENANT TO THE PLACE
31 OF CONFINEMENT TO EFFECT AN ESCAPE.

32 (IV) A PERSON DETAINED OR CONFINED IN A PLACE OF
33 CONFINEMENT MAY NOT RECEIVE A WEAPON.

34 (2) A PERSON WHO VIOLATES THIS SUBSECTION IS GUILTY OF A FELONY
35 AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$5,000 OR
36 IMPRISONMENT NOT EXCEEDING 10 YEARS OR BOTH.

1 (C) (1) (I) A PERSON MAY NOT DELIVER CONTRABAND WITH INTENT TO
2 EFFECT AN ESCAPE TO A PERSON DETAINED OR CONFINED IN A PLACE OF
3 CONFINEMENT.

4 (II) A PERSON MAY NOT POSSESS CONTRABAND WITH INTENT TO
5 DELIVER TO A PERSON DETAINED OR CONFINED IN A PLACE OF CONFINEMENT TO
6 EFFECT AN ESCAPE.

7 (III) A PERSON MAY NOT DEPOSIT OR CONCEAL ANY CONTRABAND
8 IN OR ABOUT A PLACE OF CONFINEMENT OR ON ANY LAND APPURTENANT TO THE
9 PLACE OF CONFINEMENT TO EFFECT AN ESCAPE.

10 (IV) A PERSON DETAINED OR CONFINED IN A PLACE OF
11 CONFINEMENT MAY NOT RECEIVE CONTRABAND TO EFFECT AN ESCAPE.

12 (2) A PERSON WHO VIOLATES THIS SUBSECTION IS GUILTY OF A FELONY
13 AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$5,000 OR
14 IMPRISONMENT NOT EXCEEDING 10 YEARS OR BOTH.

15 (D) (1) (I) A PERSON MAY NOT DELIVER ANY CONTRABAND TO A PERSON
16 DETAINED OR CONFINED IN A PLACE OF CONFINEMENT.

17 (II) A PERSON MAY NOT POSSESS ANY CONTRABAND WITH INTENT
18 TO DELIVER TO A PERSON DETAINED OR CONFINED IN A PLACE OF CONFINEMENT.

19 (2) A PERSON WHO VIOLATES THIS SUBSECTION IS GUILTY OF A
20 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$1,000
21 OR IMPRISONMENT NOT EXCEEDING 3 YEARS OR BOTH.

22 (E) (1) THIS SUBSECTION DOES NOT APPLY TO AN ALCOHOLIC BEVERAGE
23 DELIVERED OR POSSESSED IN A MANNER AUTHORIZED BY THE MANAGING
24 OFFICIAL.

25 (2) (I) A PERSON MAY NOT DELIVER AN ALCOHOLIC BEVERAGE TO A
26 PERSON DETAINED OR CONFINED IN A PLACE OF CONFINEMENT.

27 (II) A PERSON MAY NOT POSSESS AN ALCOHOLIC BEVERAGE WITH
28 INTENT TO DELIVER TO A PERSON DETAINED OR CONFINED IN A PLACE OF
29 CONFINEMENT.

30 (3) A PERSON WHO VIOLATES THIS SUBSECTION IS GUILTY OF A
31 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$1,000
32 OR IMPRISONMENT NOT EXCEEDING 3 YEARS OR BOTH.

33 (F) (1) (I) A PERSON MAY NOT DELIVER A CONTROLLED DANGEROUS
34 SUBSTANCE TO A PERSON DETAINED OR CONFINED IN A PLACE OF CONFINEMENT.

35 (II) A PERSON MAY NOT POSSESS A CONTROLLED DANGEROUS
36 SUBSTANCE WITH INTENT TO DELIVER TO A PERSON DETAINED OR CONFINED IN A
37 PLACE OF CONFINEMENT.

1 (2) A PERSON WHO VIOLATES THIS SUBSECTION IS GUILTY OF A
2 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$1,000
3 OR IMPRISONMENT NOT EXCEEDING 3 YEARS OR BOTH.

4 (G) A SENTENCE IMPOSED UNDER THIS SECTION MAY BE SEPARATE FROM
5 AND CONSECUTIVE TO OR CONCURRENT WITH A SENTENCE FOR ANY OFFENSE
6 BASED ON THE ACT ESTABLISHING THE OFFENSE UNDER THIS SECTION.

7 COMMITTEE NOTE (COMMITTEE TO REVISE ARTICLE 27): This section is
8 based on former Art. 27, § 122A.

9 139.

10 (A) A SENTENCE IMPOSED FOR A VIOLATION OF § 137 OR § 137A OF THIS
11 SUBHEADING:

12 (1) SHALL BE CONSECUTIVE TO ANY TERM OF CONFINEMENT BEING
13 SERVED OR TO BE SERVED AT THE TIME OF THE ESCAPE;

14 (2) MAY NOT BE SUSPENDED; AND

15 (3) MAY INCLUDE THE ENTRY OF A JUDGMENT FOR ALL REASONABLE
16 EXPENSES INCURRED IN RETURNING THE PERSON TO THE PLACE OF CONFINEMENT,
17 PROVIDED THAT THE DEFENDANT HAS RECEIVED TIMELY NOTICE OF AND AN
18 OPPORTUNITY TO CONTEST THE ACCURACY OF THE EXPENSES ALLEGEDLY OWED.

19 (B) VOLUNTARY INTOXICATION IS NOT A DEFENSE TO A CHARGE OF ESCAPE
20 UNDER THIS SUBHEADING.

21 372.

22 "Machine gun" as used in this subtitle, means a weapon, of any description, by
23 whatever name known, loaded or unloaded, from which more than one shot or bullet
24 may be automatically discharged from a magazine, by a single function of the firing
25 device.

26 "Crime of violence" applies to and includes any of the following crimes or an
27 attempt to commit any of the same, namely, murder of any degree, manslaughter,
28 kidnapping, rape in any degree, assault in the first degree, robbery, burglary in any
29 degree, ESCAPE IN THE FIRST DEGREE, and theft.

30 "Person" applies to and includes firm, partnership, association, or corporation.

31 410.

32 All murder which shall be committed in the perpetration of, or attempt to
33 perpetrate, any rape in any degree, sexual offense in the first or second degree,
34 sodomy, mayhem, robbery, carjacking or armed carjacking, burglary in the first,
35 second, or third degree, a violation of § 139C of this article concerning destructive
36 devices, kidnapping as defined in §§ 337 and 338 of this article, or in the escape IN

1 THE FIRST DEGREE or attempt to escape IN THE FIRST DEGREE from the Patuxent
2 Institution, any institution or facility under the jurisdiction of the Division of
3 Correction or the Division of Pretrial Detention and Services, or from any jail or penal
4 institution in any of the counties of this State, shall be murder in the first degree.

5 413.

6 (g) If the court or jury finds, beyond a reasonable doubt, that one or more of
7 these aggravating circumstances exist, it shall then consider whether, based upon a
8 preponderance of the evidence, any of the following mitigating circumstances exist:

9 (1) The defendant has not previously (i) been found guilty of a crime of
10 violence; (ii) entered a plea of guilty or nolo contendere to a charge of a crime of
11 violence; or (iii) had a judgment of probation on stay of entry of judgment entered on
12 a charge of a crime of violence. As used in this paragraph, "crime of violence" means
13 abduction, arson in the first degree, escape IN THE FIRST DEGREE, kidnapping,
14 manslaughter, except involuntary manslaughter, mayhem, murder, robbery,
15 carjacking or armed carjacking, or rape or sexual offense in the first or second degree,
16 or an attempt to commit any of these offenses, or the use of a handgun in the
17 commission of a felony or another crime of violence.

18 441.

19 (e) "Crime of violence" means:

- 20 (1) Abduction;
- 21 (2) Arson in the first degree;
- 22 (3) Assault in the first or second degree;
- 23 (4) Burglary in the first, second, or third degree;
- 24 (5) Carjacking and armed carjacking;
- 25 (6) Escape IN THE FIRST DEGREE;
- 26 (7) Kidnapping;
- 27 (8) Voluntary manslaughter;
- 28 (9) Maiming;
- 29 (10) Mayhem as previously proscribed under former § 384 of this article;
- 30 (11) Murder in the first or second degree;
- 31 (12) Rape in the first or second degree;
- 32 (13) Robbery;

- 1 (14) Robbery with a dangerous or deadly weapon;
- 2 (15) Sexual offense in the first, second, or third degree;
- 3 (16) An attempt to commit any of the aforesaid offenses; or
- 4 (17) Assault with intent to commit any of the aforesaid offenses or any
5 offense punishable by imprisonment for more than 1 year.

6 **Article 88B - Department of State Police**

7 26.

8 The Department may agree with the Division of Correction or the person having
9 charge of any jail for the performance of labor and services, by any prisoner under
10 sentence, in and about the facilities of the Department. Such agreement shall include
11 provisions for the custody, supervision, transportation, and subsistence of such
12 prisoners. Escape of any prisoner assigned to perform labor and services for the
13 Department pursuant to this section shall be deemed a violation of [§ 139 of] Article
14 27, § 137 OF THE CODE.

15 **Article - Correctional Services**

16 3-305.

17 (c) (2) An inmate who escapes while on leave under this section is subject to
18 the penalties established under Article 27, [§ 139] § 137 of the Code.

19 3-409.

20 (c) An inmate who ~~willfully~~ **KNOWINGLY** violates § 3-406 of this subtitle is
21 guilty of escape and on conviction is subject to the penalties established under Article
22 27, [§ 139] § 137 of the Code.

23 3-803.

24 (b) (2) An inmate who **KNOWINGLY** violates paragraph (1) of this subsection
25 is guilty of a ~~felony~~ **ESCAPE** and on conviction is subject to the penalties established
26 under Article 27, [§ 139] § 137 of the Code.

27 3-807.

28 (i) (2) An inmate who **KNOWINGLY** violates paragraph (1) of this subsection
29 is guilty of a ~~misdemeanor~~ **ESCAPE** and on conviction is subject to the penalties
30 established under Article 27, [§ 139] § 137 of the Code.

1 3-808.

2 (d) The failure of an inmate to comply with the terms of the inmate's
3 authorization for compassionate leave is a violation of Article 27, [§ 139] § 137 of the
4 Code.

5 3-811.

6 (c) The failure of an inmate to comply with the terms of the authorization for
7 family leave is a violation of Article 27, [§ 139] § 137 of the Code.

8 9-602.

9 (e) An inmate who escapes while temporarily removed under this section is
10 guilty of escape and subject to the penalties established under Article 27, [§ 139] §
11 137 of the Code.

12 11-319.

13 (a) (5) An inmate who escapes while on leave under this section is subject to
14 the penalties established under Article 27, [§ 139] § 137 of the Code.

15 11-702.

16 (b) (8) An inmate who knowingly ~~or willfully~~ violates a term or a condition of
17 the home detention program[:

18 (i) is guilty of a misdemeanor and on conviction is subject to a fine
19 not exceeding \$10,000, imprisonment not exceeding 1 year, or both; and

20 (ii)] is subject to THE PENALTIES PROVIDED UNDER § 11-726 OF THIS
21 SUBTITLE AND other disciplinary action provided by law.

22 11-703.

23 (d) (5) A participant who KNOWINGLY violates a regulation adopted under
24 this section:

25 (iii) [for willful failure to return to the assigned local correctional
26 facility in violation of a regulation adopted under this section, is subject to
27 prosecution under Article 27, § 139 of the Code] IS SUBJECT TO THE PROVISIONS OF
28 § 11-726 OF THIS SUBTITLE.

29 (f) [(4) An inmate who escapes while released from actual confinement
30 under a farm labor plan is guilty of a misdemeanor and on conviction is subject to the
31 penalties provided in Article 27, § 139 of the Code.]

32 11-705.

33 [(h) An inmate who violates a term of leave granted under this section is
34 subject to the penalties established under Article 27, § 139 of the Code.]

1 [(i)] (H) (1) The Administrator shall collect each participant's total
2 earnings, less payroll deductions.

3 (2) From the participant's earnings, the Administrator:

4 (i) may pay the reasonable cost to the County of providing food,
5 lodging, and clothing for the participant;

6 (ii) may make court-ordered payments for dependents;

7 (iii) may pay court-ordered costs, fines, and restitution;

8 (iv) if ordered by the court, may reimburse the State for the
9 court-appointed counsel; and

10 (v) if ordered by the court, may reimburse the State for the services
11 of the public defender.

12 (3) Any balance that remains after payments are made under paragraph
13 (2) of this subsection:

14 (i) shall be credited to an account held by the Administrator for the
15 participant; and

16 (ii) if the Administrator approves, shall be disposed of as requested
17 by the participant.

18 (4) Any balance remaining in the participant's account when the
19 participant is released from the detention facility shall be paid to the participant.

20 [(j)] (I) A participant employed in the community under this section is not an
21 agent or employee of Baltimore County, the Administrator, any judicial officer, or any
22 other public officer of the County or State.

23 [(k)] (J) The Administrator may charge a participant a reasonable fee in an
24 amount not to exceed the actual costs incurred by the county for food, travel, and
25 other expenses related to the participant's participation in the work release program.

26 [(l)] (K) (1) The Administrator may establish and administer a home
27 detention program.

28 (2) If the Administrator establishes a home detention program, the
29 Administrator:

30 (i) shall establish eligibility criteria for participation in the
31 program; and

32 (ii) for each participant, shall establish a home detention plan that
33 includes the terms and conditions of the home detention.

1 [(m)] (L) (1) Participation in the home detention program is a privilege
2 authorized by court.

3 (2) This section does not create a right to participate in the home
4 detention program or to remain in the program after the participant has been
5 suspended or removed from the program.

6 [(n)] (M) The Administrator may recommend to a court that an individual
7 participate in the home detention program if:

8 (1) the individual has applied to participate in the program;

9 (2) except for a violation of the Transportation Article or other traffic law
10 or ordinance for which a penalty of incarceration is not authorized, the individual has
11 no other charges pending in any municipal corporation, county, or state; and

12 (3) the Administrator has approved the application.

13 [(o)] (N) If the Administrator recommends participation in the home detention
14 program, a court may authorize an individual to participate in the program:

15 (1) after imposing a sentence; or

16 (2) at any time during the individual's confinement.

17 [(p)] (O) (1) The Administrator may suspend or remove a participant from
18 the home detention program:

19 (i) at any time;

20 (ii) without prior approval from the court; and

21 (iii) for any reason that the Administrator determines.

22 (2) The Administrator shall notify the court within 15 days after the
23 Administrator suspends or removes a participant from the home detention program.

24 [(q)] (P) A participant is not eligible for the home detention program if the
25 participant:

26 (1) is serving a sentence for a crime of violence; or

27 (2) has been found guilty of:

28 (i) child abuse under Article 27, § 35C of the Code; or

29 (ii) escape under Article 27, [§ 139]§ 137 of the Code.

30 [(r)] (Q) The Administrator may charge a reasonable fee for the actual cost of
31 electronic supervision and other administrative costs of the program.

1 [(s)] (R) The Administrator may adopt regulations to carry out this section.

2 11-706.

3 (b) [(8) The failure of an inmate to comply with the terms of the inmate's
4 authorization for leave is a violation of Article 27, § 139 of the Code.]

5 11-708.

6 (b) (8) [(i)] An inmate who violates a condition or provision of trust that a
7 court, the Sheriff, or Sheriff's designee establishes is subject to:

8 [1.] (I) removal from the work release program; and

9 [2.] (II) cancellation of any earned diminution of the inmate's
10 term of confinement.

11 [(ii) A violation of a term of leave under this section is a violation of
12 Article 27, § 139 of the Code.]

13 (c) (4) An inmate is not eligible for the home detention program if the
14 inmate:

15 (ii) has been found guilty of the crime of:

16 2. escape under Article 27, [§ 139] § 137 of the Code.

17 11-709.

18 (b) (4) An inmate is not eligible for the home detention program if the
19 inmate:

20 (ii) has been found guilty of the crime of:

21 2. escape under Article 27, [§ 139] § 137 of the Code.

22 11-711.

23 (h) [(2) The failure of an inmate to comply with the terms of the inmate's
24 authorization for leave is a violation of Article 27, § 139 of the Code.]

25 [(3)] (2) If a condition that a court imposes on an inmate is inconsistent
26 with a regulation adopted under this section, the condition imposed by the court
27 controls as to that inmate.

28 [(4)] (3) If an inmate violates a trust or a condition that the court or the
29 County Department of Corrections establishes, the County Department of Corrections
30 shall notify the sentencing court in writing of the violation.

1 11-712.

2 (b) (4) An individual is eligible for the Pretrial Release Program if the
3 individual:

4 (iii) is not in detention for:

5 2. the crime of escape under Article 27, [§ 139] § 137 of the
6 Code.

7 (c) (6) [(i)] If an inmate violates a trust or a condition that a judge or the
8 Sheriff establishes for conduct or employment, after an administrative hearing that
9 upholds the violation, the inmate is subject to:

10 [1.] (I) removal from the work release program; and

11 [2.] (II) cancellation of any earned diminution of the inmate's
12 term of confinement.

13 [(ii)] The failure of an inmate to comply with the terms of the
14 inmate's authorization for leave is a violation of Article 27, § 139 of the Code.]

15 (d) (4) An inmate is not eligible for the home detention program if the
16 inmate:

17 (ii) has been found guilty of the crime of:

18 2. escape under Article 27, [§ 139] § 137 of the Code.

19 11-714.

20 (c) [(6)] The failure of an inmate to comply with the terms of the inmate's
21 authorization for leave is a violation of Article 27, § 139 of the Code.]

22 (d) (4) An inmate is not eligible for the home detention program if the
23 inmate:

24 (ii) has been found guilty of the crime of:

25 2. escape under Article 27, [§ 139] § 137 of the Code.

26 11-715.

27 (g) [(1)] An inmate who violates a condition or provision of trust that the
28 sentencing judge or the Department establishes is subject to:

29 [(i)] (1) removal from the work release program; and

30 [(ii)] (2) cancellation of any earned diminution of the inmate's term
31 of confinement.

1 [(2) A violation of a term of leave under this section is a violation of
2 Article 27, § 139 of the Code.]

3 11-716.

4 (h) [(2) The failure of an inmate to comply with the terms of the inmate's
5 authorization for leave is a violation of Article 27, § 139 of the Code.]

6 [(3)] (2) If a condition that a court imposes on an inmate is inconsistent
7 with a regulation adopted under this section, the condition imposed by the court
8 controls as to that inmate.

9 [(4)] (3) If an inmate violates a trust or a condition that a court or the
10 detention center establishes, the Kent County Detention Center shall notify the
11 sentencing court in writing of the violation.

12 (k) [(2) The failure of an inmate to comply with the terms of an authorization
13 for compassionate leave is a violation under subsection (h) of this section.]

14 [(3)] (2) An inmate who is granted compassionate leave may be required
15 to reimburse the Kent County Detention Center for any expenses that the detention
16 center incurs in granting the leave.

17 [(4)] (3) The warden shall adopt regulations necessary to carry out this
18 subsection.

19 11-717.

20 (f) [(2) The failure of an inmate to comply with the terms of the inmate's
21 authorization for leave is a violation of Article 27, § 139 of the Code.]

22 [(3)] (2) If an inmate violates a condition or a term of the program and
23 the Director or the Director's designee removes the inmate from the program because
24 of the violation, a judge of the committing court may redesignate the Division of
25 Correction as the agency of custody for the remaining term of the inmate's
26 confinement.

27 11-723.

28 (b) (4) An inmate is not eligible for the home detention program if the
29 inmate:

30 (ii) has been found guilty of the crime of:

31 2. escape under Article 27, [§ 139] § 137 of the Code.

32 (8) An inmate who knowingly ~~or willfully~~ violates a term or a condition of
33 the home detention program[:

34 (i) is guilty of a misdemeanor and on conviction is subject to a fine
35 not exceeding \$10,000, imprisonment not exceeding 1 year, or both; and

1 (ii)] is subject to THE PENALTIES PROVIDED UNDER § 11-726 OF THIS
2 SUBTITLE AND TO other disciplinary action provided by law.

3 11-724.

4 (h) [(2) The failure of an inmate to comply with the terms of the inmate's
5 authorization for leave is a violation of Article 27, § 139 of the Code.]

6 [(3)] (2) If a condition that a court imposes on an inmate is inconsistent
7 with a regulation adopted under this section, the condition imposed by the court
8 controls as to that inmate.

9 [(4)] (3) If an inmate violates a trust or a condition that a court or the
10 County Department of Corrections establishes, the County Department of Corrections
11 shall notify the sentencing court in writing of the violation.

12 (i) (2) An inmate who violates the terms of an authorization for
13 compassionate leave is subject to the sanctions specified in subsection [(h)(1) and (2)]
14 (H)(1) of this section AND § 11-726 OF THIS SUBTITLE.

15 11-726.

16 (A) AN INDIVIDUAL WHO KNOWINGLY VIOLATES A RESTRICTION ON
17 MOVEMENT IMPOSED AS A CONDITION OF LEAVE, WORK RELEASE, OR A HOME
18 DETENTION ORDER OR AGREEMENT UNDER THIS SUBTITLE IS GUILTY OF ESCAPE AS
19 PROVIDED IN ARTICLE 27, §§ 136 THROUGH 139 OF THE CODE.

20 (B) AN INDIVIDUAL WHO KNOWINGLY VIOLATES ANY OTHER CONDITION OF
21 LEAVE, WORK RELEASE, OR A HOME DETENTION ORDER OR AGREEMENT IMPOSED
22 UNDER THIS SUBTITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS
23 SUBJECT TO A FINE NOT EXCEEDING \$1,000 OR IMPRISONMENT NOT EXCEEDING 1
24 YEAR OR BOTH.

25 SECTION 4. AND BE IT FURTHER ENACTED, That the Committee Notes
26 contained in this Act are not law.

27 SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect
28 October 1, 1999.