

HOUSE BILL 602

Unofficial Copy  
E2

1999 Regular Session  
(9r0800)

*ENROLLED BILL*  
*-- Judiciary/Judicial Proceedings --*

Introduced by **Delegates Vallario and Montague (Maryland Commission on Criminal Sentencing Policy)**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this  
\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_ M.

\_\_\_\_\_  
Speaker.

CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Criminal Procedure - Commission on Criminal Sentencing Policy -**  
3 **Sentencing and Parole**

4 FOR the purpose of requiring ~~ircuit~~ circuit courts at the time of imposing certain sentences  
5 to state in open court the minimum time that the defendant must serve before  
6 becoming eligible for parole; providing that the statement of minimum parole  
7 eligibility is informational and not part of a sentence; ~~repealing a provision~~  
8 ~~concerning use of judicial guidelines; requiring circuit courts to use certain~~  
9 ~~sentencing guidelines, worksheets, and departure forms under certain~~  
10 ~~circumstances; requiring clerks of the circuit courts to send certain records~~  
11 ~~relating to sentences to the State Commission on Criminal Sentencing Policy;~~  
12 ~~providing that the failure to give certain statements or make certain records~~  
13 ~~concerning sentences does not affect the legality or efficacy of a sentence;~~  
14 authorizing a certain criminal sentence review panel to order a different  
15 sentence, including a decrease in a mandatory minimum sentence otherwise  
16 required by law under certain circumstances; establishing a State Commission

1 on Criminal Sentencing Policy; establishing the intent of the General Assembly  
2 concerning criminal sentencing; establishing the membership of, appointments  
3 to, terms of the members on, and conditions concerning membership on the  
4 Commission; providing for the initial terms of appointment for the appointed  
5 members of the Commission; providing for certain meetings, rules, and  
6 procedures of the Commission; requiring the Commission to hold its first  
7 meeting no later than a certain date at the call of the Chairperson; requiring  
8 certain State units and local governments and local government units to provide  
9 information to and cooperate with the Commission under certain circumstances;  
10 providing for the employment of a staff under certain circumstances; requiring  
11 the Commission to adopt certain sentencing guidelines under certain  
12 circumstances; requiring the sentencing guidelines to contain certain elements;  
13 requiring the Commission to adopt guidelines concerning corrections options;  
14 requiring the Commission to submit an annual report to the General Assembly  
15 on or before a certain date; requiring the annual report to contain certain  
16 information; requiring the Commission to collect sentencing guideline  
17 worksheets and to automate the information in the worksheets under certain  
18 circumstances; ~~establishing procedures and requirements for changes or~~  
19 ~~modifications to the sentencing guideline matrices by the Commission~~ requiring  
20 the Commission to adopt certain sentencing guidelines as regulations subject to  
21 the Regulatory Review and Evaluation Act under certain circumstances;  
22 requiring the Commission to conduct certain training, make certain  
23 consultations, and prepare certain statements; requiring the Commission to use  
24 a certain correctional population simulation model and to make the model  
25 available to certain persons under certain circumstances; establishing that  
26 certain inmates are not eligible for parole until they have served a certain  
27 portion of their aggregate sentences under certain circumstances; ~~requiring the~~  
28 ~~publication of the sentencing guidelines in certain State documents; exempting~~  
29 ~~the Commission from the Regulatory Review and Evaluation Act;~~ defining  
30 certain terms; making stylistic changes; and generally relating to criminal  
31 sentencing, review of criminal sentences, and parole.

32 BY adding to  
33 Article 27 - Crimes and Punishments  
34 Section 640  
35 Annotated Code of Maryland  
36 (1996 Replacement Volume and 1998 Supplement)

37 BY repealing and reenacting, with amendments,  
38 Article 27 - Crimes and Punishments  
39 Section ~~643C~~, ~~645JA~~, ~~645JA~~ and 645JC  
40 Annotated Code of Maryland  
41 (1996 Replacement Volume and 1998 Supplement)

42 BY adding to  
43 Article 41 - Governor - Executive and Administrative Departments  
44 Section 21-101 through 21-108, inclusive, to be under the new title "Title 21.

1 State Commission on Criminal Sentencing Policy"  
 2 Annotated Code of Maryland  
 3 (1997 Replacement Volume and 1998 Supplement)

4 BY repealing and reenacting, with amendments,  
 5 Article - Correctional Services  
 6 Section 7-301(a)  
 7 Annotated Code of Maryland  
 8 (As enacted by Chapter \_\_\_\_\_ (H.B. 11) of the Acts of the General Assembly of  
 9 1999)

10 ~~BY repealing and reenacting, with amendments,~~  
 11 ~~Article - State Government~~  
 12 ~~Section 7-205(a) and 10-102(b)~~  
 13 ~~Annotated Code of Maryland~~  
 14 ~~(1995 Replacement Volume and 1998 Supplement)~~

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

17 **Article 27 - Crimes and Punishments**

18 640.

19 (A) AT THE TIME OF IMPOSITION OF A SENTENCE OF INCARCERATION FOR A  
 20 VIOLENT CRIME AS DEFINED IN § 7-101 OF THE CORRECTIONAL SERVICES ARTICLE  
 21 THAT IS TO BE EXECUTED AND FOR WHICH A DEFENDANT WILL BE ELIGIBLE FOR  
 22 PAROLE AS PROVIDED IN § 7-301(C) OR (D) OF THE CORRECTIONAL SERVICES  
 23 ARTICLE, THE COURT SHALL STATE IN OPEN COURT THE MINIMUM TIME THE  
 24 DEFENDANT MUST SERVE FOR THE VIOLENT CRIME BEFORE BECOMING ELIGIBLE  
 25 FOR PAROLE.

26 (B) THE STATEMENT REQUIRED UNDER SUBSECTION (A) OF THIS SECTION IS  
 27 FOR INFORMATIONAL PURPOSES ONLY AND MAY NOT BE CONSIDERED A PART OF  
 28 THE SENTENCE.

29 (C) THE FAILURE OF A COURT TO COMPLY WITH THE REQUIREMENTS OF THIS  
 30 SECTION DOES NOT AFFECT THE LEGALITY OR EFFICACY OF THE SENTENCE  
 31 IMPOSED.

32 ~~643C.~~

33 ~~((a) Nothing in this article may be construed to prohibit the use of judicial~~  
 34 ~~guidelines in setting sentences.~~

35 ~~(b) However, the guidelines may not:~~

1 (1) Prescribe a sentence exceeding the maximum sentence provided by  
2 law; or

3 (2) Be used in violation of any mandatory minimum sentence prescribed  
4 by law.]

5 (A) (1) ~~IN A CASE IN A CIRCUIT COURT INVOLVING A CRIME SUBJECT TO~~  
6 ~~THE SENTENCING GUIDELINES ESTABLISHED UNDER ARTICLE 41, TITLE 21 OF THE~~  
7 ~~CODE, THE COURT SHALL:~~

8 (I) ~~HAVE PRESENTED TO IT THE APPROPRIATE SENTENCING~~  
9 ~~GUIDELINES WORKSHEET; AND~~

10 (II) ~~REVIEW AND CONSIDER THE SUITABILITY OF THE APPLICABLE~~  
11 ~~SENTENCING GUIDELINES.~~

12 (2) ~~IT IS VOLUNTARY FOR THE COURT TO SENTENCE WITHIN THE~~  
13 ~~GUIDELINES.~~

14 (2) (3) ~~THE COURT SHALL MAKE THE COMPLETED SENTENCING~~  
15 ~~GUIDELINES WORKSHEET PART OF THE RECORD OF THE CASE.~~

16 (B) (1) ~~EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, IN A~~  
17 ~~CASE IN A CIRCUIT COURT INVOLVING A CRIME SUBJECT TO THE SENTENCING~~  
18 ~~GUIDELINES IN WHICH THE COURT IMPOSES A SENTENCE EITHER GREATER OR~~  
19 ~~LESSER THAN THAT INDICATED IN THE GUIDELINES, THE COURT SHALL FILE A~~  
20 ~~WRITTEN RECORD OF REASONS FOR THE DEPARTURE, USING THE FORM PROVIDED~~  
21 ~~WITH THE SENTENCING GUIDELINES WORKSHEET.~~

22 (2) ~~A SENTENCE TO A CORRECTIONS OPTIONS PROGRAM THAT FALLS~~  
23 ~~WITHIN THE CORRECTIONS OPTIONS ZONE SHOWN ON A MATRIX SHALL CONSTITUTE~~  
24 ~~A SENTENCE IN COMPLIANCE WITH THE GUIDELINES.~~

25 (C) ~~FOLLOWING ENTRY OF A FINAL ORDER OF CONVICTION AND SENTENCE~~  
26 ~~IN A CASE SUBJECT TO THE SENTENCING GUIDELINES, THE CLERK OF THE CIRCUIT~~  
27 ~~COURT IN WHICH THE CASE WAS TRIED SHALL SEND A COPY OF THE ORDERS, THE~~  
28 ~~ORIGINAL OF THE SENTENCING GUIDELINES WORKSHEET, AND A COPY OF ANY~~  
29 ~~DEPARTURE EXPLANATION TO THE STATE COMMISSION ON CRIMINAL SENTENCING~~  
30 ~~POLICY AS SOON AS POSSIBLE AND NO LATER THAN 30 DAYS AFTER SENTENCING.~~

31 [(c)] (D) (1) ~~If a court prepares a Maryland sentencing guidelines~~  
32 ~~worksheet, the clerk of the court shall deliver to the agency that has been ordered by~~  
33 ~~the court to retain custody of the defendant a copy of the Maryland sentencing~~  
34 ~~guidelines worksheet with the commitment order or as soon as practicable after~~  
35 ~~issuance of the commitment order.~~

36 (2) ~~The Parole Commission shall review a Maryland sentencing~~  
37 ~~guidelines worksheet for purposes of complying with the requirements of Article 41,~~  
38 ~~Title 4, Subtitle 5 of the Code.~~

1 ~~(E) THE FAILURE OF A COURT TO COMPLY WITH THE REQUIREMENTS OF THIS~~  
2 ~~SECTION DOES NOT AFFECT THE LEGALITY OR EFFICACY OF THE SENTENCE~~  
3 ~~IMPOSED.~~

4 645JA.

5 (a) Unless [no different sentence could have been imposed or unless] the  
6 sentence was imposed by more than one trial judge, every person convicted of a crime  
7 by any trial court of this State and sentenced to serve, with or without suspension, a  
8 total of more than two years imprisonment in any penal or correctional institution in  
9 this State shall be entitled to have the sentence reviewed by a panel of three or more  
10 trial judges of the judicial circuit in which the sentencing court is located. However, a  
11 person has no right to have any sentence reviewed more than once pursuant to this  
12 section. Notwithstanding any rule of the Court of Appeals to the contrary, the judge  
13 who sentenced the convicted person shall not be one of the members of the panel, but  
14 if he so desires he may sit with the panel in an advisory capacity only.

15 (b) The review of a sentence of death is governed by the provisions of § 414 of  
16 this article.

17 645JC.

18 (a) The panel shall have the right to require the Division of Parole and  
19 Probation to investigate, report, and make recommendations with regard to any such  
20 application for review.

21 (b) (1) The panel shall consider each application for review and shall have  
22 the power, with a hearing, to order a different sentence to be imposed or served,  
23 including, by way of illustration and not by way of limitation, an increased or  
24 decreased sentence, or a suspended sentence to be served in whole or in part, or a  
25 sentence to be suspended with or without probation, upon such terms and conditions  
26 as the panel may deem just and which could lawfully have been imposed by the  
27 sentencing court at the time of the imposition of the sentence under review, or the  
28 panel may decide that the sentence under review should remain unchanged.

29 (2) (I) IN THE MANNER PROVIDED IN THIS SECTION, AND SUBJECT TO  
30 ITEM (II) OF THIS PARAGRAPH, THE PANEL MAY ORDER A DIFFERENT SENTENCE,  
31 INCLUDING A DECREASE, IN A MANDATORY MINIMUM SENTENCE OTHERWISE  
32 REQUIRED BY LAW.

33 (II) A PANEL MAY NOT ORDER A DECREASE IN A MANDATORY  
34 MINIMUM SENTENCE UNLESS THE PANEL'S DECISION IS UNANIMOUS.

35 (c) Without holding a hearing, the panel may decide that the sentence under  
36 review should remain unchanged.

37 (d) The panel may not increase a sentence for imprisonment for life,  
38 imprisonment for life without the possibility of parole, or a term of years to the  
39 sentence of death.

1 (e) The decision of the panel in each review shall be rendered by a majority of  
 2 the members of the panel and shall be rendered within thirty days from the filing  
 3 date of the application for review.

4 (f) If the panel orders any different sentence, the panel shall resentence and  
 5 notify the convicted person in accordance with the order of the panel.

6 (g) Time served on any sentence under review shall be deemed to have been  
 7 served on the sentence substituted.

8 **Article 41 - Governor - Executive and Administrative Departments**

9 TITLE 21. STATE COMMISSION ON CRIMINAL SENTENCING POLICY.

10 21-101.

11 IN THIS TITLE, "COMMISSION" MEANS THE STATE COMMISSION ON CRIMINAL  
 12 SENTENCING POLICY.

13 21-102.

14 IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT:

15 (1) SENTENCING SHOULD BE FAIR AND PROPORTIONAL AND THAT  
 16 SENTENCING POLICIES SHOULD REDUCE UNWARRANTED DISPARITY, INCLUDING  
 17 ANY RACIAL DISPARITY, IN SENTENCES FOR OFFENDERS WHO HAVE COMMITTED  
 18 SIMILAR OFFENSES AND HAVE SIMILAR CRIMINAL HISTORIES;

19 (2) SENTENCING POLICIES SHOULD AID CITIZEN UNDERSTANDING OF  
 20 THE TIME THAT AN OFFENDER WILL ACTUALLY BE INCARCERATED, IF ANY;

21 ~~(3)~~ (3) SENTENCING GUIDELINES ARE VOLUNTARY AND THAT IT IS  
 22 VOLUNTARY FOR THE COURT TO SENTENCE WITHIN THE GUIDELINES.

23 ~~(4)~~ (4) PRISON CAPACITY AND PRISON USAGE SHOULD GIVE PRIORITY  
 24 TO THE INCARCERATION OF VIOLENT AND CAREER OFFENDERS;

25 ~~(5)~~ (5) SENTENCING POLICIES SHOULD PRESERVE MEANINGFUL  
 26 JUDICIAL DISCRETION IN THE IMPOSITION OF SENTENCES AND SUFFICIENT  
 27 FLEXIBILITY TO PERMIT INDIVIDUALIZED SENTENCES; AND

28 ~~(6)~~ (6) SENTENCING JUDGES IN EVERY JURISDICTION IN THE STATE  
 29 SHOULD BE ABLE TO IMPOSE THE MOST APPROPRIATE CRIMINAL PENALTIES,  
 30 INCLUDING CORRECTIONS OPTIONS PROGRAMS FOR APPROPRIATE OFFENDERS.

31 21-103.

32 THERE IS A STATE COMMISSION ON CRIMINAL SENTENCING POLICY.

1 21-104.

2 (A) THE COMMISSION CONSISTS OF 19 MEMBERS AS FOLLOWS:

3 (1) A CHAIRPERSON, APPOINTED BY THE GOVERNOR;

4 (2) THE CHIEF JUDGE OF THE COURT OF APPEALS OR A JUDGE OR  
5 FORMER JUDGE OF THE COURT OF APPEALS OR THE COURT OF SPECIAL APPEALS  
6 DESIGNATED BY THE CHIEF JUDGE OF THE COURT OF APPEALS;

7 (3) ONE CIRCUIT COURT JUDGE, APPOINTED BY THE CHIEF JUDGE OF  
8 THE COURT OF APPEALS;

9 (4) ONE DISTRICT COURT JUDGE, APPOINTED BY THE CHIEF JUDGE OF  
10 THE COURT OF APPEALS;

11 (5) THE ATTORNEY GENERAL OR THE ATTORNEY GENERAL'S DESIGNEE;

12 (6) ONE STATE'S ATTORNEY WHO IS RECOMMENDED BY THE PRESIDENT  
13 OF THE MARYLAND STATE'S ATTORNEYS ASSOCIATION, APPOINTED BY THE  
14 GOVERNOR;

15 (7) THE PUBLIC DEFENDER OR THE PUBLIC DEFENDER'S DESIGNEE;

16 (8) A CRIMINAL DEFENSE ATTORNEY WHO IS RECOMMENDED BY THE  
17 PRESIDENT OF THE MARYLAND CRIMINAL DEFENSE LAWYERS ASSOCIATION,  
18 APPOINTED BY THE GOVERNOR;

19 (9) TWO MEMBERS OF THE SENATE OF MARYLAND, WITH AT LEAST ONE  
20 MEMBER BEING FROM THE SENATE JUDICIAL PROCEEDINGS COMMITTEE,  
21 APPOINTED BY THE PRESIDENT OF THE SENATE;

22 (10) TWO MEMBERS OF THE HOUSE OF DELEGATES, WITH AT LEAST ONE  
23 MEMBER BEING FROM THE HOUSE JUDICIARY COMMITTEE, APPOINTED BY THE  
24 SPEAKER OF THE HOUSE;

25 (11) THE SECRETARY OF THE DEPARTMENT OF PUBLIC SAFETY AND  
26 CORRECTIONAL SERVICES OR THE SECRETARY'S DESIGNEE;

27 (12) ONE REPRESENTATIVE FROM A VICTIM'S ADVOCACY GROUP,  
28 APPOINTED BY THE GOVERNOR;

29 (13) ONE REPRESENTATIVE FROM LAW ENFORCEMENT, APPOINTED BY  
30 THE GOVERNOR;

31 (14) ONE MEMBER WITH A BACKGROUND IN CRIMINAL JUSTICE OR  
32 CORRECTIONS POLICY WHO IS A RECOGNIZED EXPERT IN THE FIELD, APPOINTED BY  
33 THE GOVERNOR;

34 (15) ONE REPRESENTATIVE OF LOCAL DETENTION CENTERS, APPOINTED  
35 BY THE GOVERNOR; AND

1           (16)    TWO REPRESENTATIVES OF THE PUBLIC, APPOINTED BY THE  
2 GOVERNOR.

3       (B)     (1)    THE TERM OF AN APPOINTED MEMBER IS 4 YEARS.

4           (2)    THE TERMS OF THE APPOINTED MEMBERS ARE STAGGERED.

5           (3)    AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A  
6 SUCCESSOR IS APPOINTED AND QUALIFIES.

7           (4)    A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES  
8 ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND  
9 QUALIFIES.

10          (5)    AFTER AN APPOINTED MEMBER'S TERM ENDS, THE APPOINTED  
11 MEMBER MAY BE REAPPOINTED.

12 21-105.

13       (A)     A MAJORITY OF THE AUTHORIZED MEMBERSHIP OF THE COMMISSION IS A  
14 QUORUM.

15       (B)     (1)    THE COMMISSION SHALL MEET QUARTERLY AT THE TIMES AND  
16 PLACES THAT IT DETERMINES.

17          (2)    THE COMMISSION MAY HOLD ADDITIONAL MEETINGS AT THE CALL  
18 OF THE CHAIRPERSON OR ANY SIX MEMBERS OF THE COMMISSION AFTER GIVING  
19 PROPER NOTICE IN THE MANNER PROVIDED IN THE COMMISSION'S RULES.

20       (C)     THE COMMISSION MAY ESTABLISH SUBCOMMITTEES OR ADVISORY  
21 COMMITTEES COMPOSED OF COMMISSION MEMBERS TO ACCOMPLISH THE DUTIES  
22 IMPOSED UNDER THIS SECTION.

23       (D)     (1)    THE COMMISSION MAY ESTABLISH RULES GOVERNING THE  
24 ADMINISTRATION AND PROCEEDINGS OF THE COMMISSION.

25          (2)    CHANGES TO THE GUIDELINES SHALL BE ADOPTED BY A MAJORITY  
26 OF THE TOTAL NUMBER OF MEMBERS OF THE COMMISSION.

27       (E)     THE COMMISSION MAY REQUIRE STATE UNITS AND LOCAL  
28 GOVERNMENTS AND LOCAL GOVERNMENT UNITS TO PROVIDE INFORMATION AS  
29 REQUESTED BY THE COMMISSION.

30       (F)     THE COMMISSION MAY APPLY FOR, ACCEPT, AND USE GRANTS OR  
31 FINANCIAL OR OTHER AID FROM ANY PUBLIC OR PRIVATE SOURCE TO ACCOMPLISH  
32 THE DUTIES ESTABLISHED IN THIS TITLE.

33       (G)     A MEMBER OF THE COMMISSION:

34          (1)    MAY NOT RECEIVE COMPENSATION FOR SERVING ON THE  
35 COMMISSION; BUT



1 (2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE  
2 STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

3 (H) THE COMMISSION SHALL HOLD AT LEAST ANNUALLY A PUBLIC HEARING  
4 FOR THE PURPOSE OF HEARING COMMENTS FROM THE PUBLIC CONCERNING THE  
5 ISSUES THAT ARE BEING STUDIED BY THE COMMISSION.

6 (I) IN ACCORDANCE WITH THE STATE BUDGET THE COMMISSION MAY  
7 EMPLOY A STAFF SELECTED BY THE CHAIRPERSON.

8 ~~(J) THE FOLLOWING STATE UNITS SHALL COOPERATE FULLY WITH THE~~  
9 ~~COMMISSION:~~

10 ~~(1) THE GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION;~~

11 ~~(2) THE DEPARTMENT OF LEGISLATIVE SERVICES;~~

12 ~~(3) THE ADMINISTRATIVE OFFICE OF THE COURTS;~~

13 ~~(4) THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL~~  
14 ~~SERVICES;~~

15 ~~(5) THE DEPARTMENT OF BUDGET AND MANAGEMENT;~~

16 ~~(6) THE DEPARTMENT OF JUVENILE JUSTICE;~~

17 ~~(7) THE DEPARTMENT OF STATE POLICE; AND~~

18 ~~(8) THE STATE BOARD OF VICTIM SERVICES.~~

19 ~~(K)~~ (J) ALL LOCAL GOVERNMENTS AND UNITS OF STATE GOVERNMENT  
20 SHALL COOPERATE ~~FULLY~~ WITH THE COMMISSION.

21 21-106.

22 (A) SUBJECT TO REVISION BY THE COMMISSION, AND AFTER CONSIDERATION  
23 OF THE RECOMMENDATIONS OF THE MARYLAND COMMISSION ON CRIMINAL  
24 SENTENCING POLICY, THE COMMISSION SHALL ADOPT:

25 ~~(1)~~ EXISTING SENTENCING GUIDELINES FOR SENTENCING WITHIN THE  
26 LIMITS ESTABLISHED BY LAW WHICH SHALL BE CONSIDERED BY THE SENTENCING  
27 COURT IN DETERMINING THE APPROPRIATE SENTENCE FOR DEFENDANTS WHO  
28 PLEAD GUILTY OR NOLO CONTENDERE TO, OR WHO WERE FOUND GUILTY OF CRIMES  
29 IN A CIRCUIT COURT; ~~AND~~

30 ~~(2) THE RECOMMENDATIONS OF THE MARYLAND CRIMINAL~~  
31 ~~SENTENCING POLICY COMMISSION CONCERNING THE SENTENCING GUIDELINES.~~

32 (B) THE SENTENCING GUIDELINES SHALL:

1 (1) SPECIFY THE RANGE OF SENTENCES APPLICABLE TO CRIMES OF A  
2 GIVEN DEGREE OF SERIOUSNESS;

3 (2) SPECIFY A RANGE OF INCREASED SEVERITY FOR DEFENDANTS  
4 PREVIOUSLY CONVICTED OF OR ADJUDICATED DELINQUENT FOR ONE OR MORE  
5 CRIMES BEFORE THE CURRENT OFFENSE; AND

6 (3) PROVIDE A LIST OF AGGRAVATING OR MITIGATING CIRCUMSTANCES.

7 (C) (1) THE COMMISSION SHALL ADOPT GUIDELINES TO IDENTIFY  
8 DEFENDANTS WHO WOULD BE APPROPRIATE FOR PARTICIPATION IN CORRECTIONS  
9 OPTIONS PROGRAMS.

10 (2) THE GUIDELINES FOR CORRECTIONS OPTIONS SHALL BE  
11 CONSIDERED BY THE SENTENCING COURT IN DETERMINING WHETHER TO  
12 SENTENCE A DEFENDANT TO CORRECTIONS OPTIONS OR THE ORDINARY SENTENCE  
13 OTHERWISE CALLED FOR BY THE SENTENCING GUIDELINES.

14 (3) IN DECIDING WHETHER TO SENTENCE A DEFENDANT TO  
15 CORRECTIONS OPTIONS, THE SENTENCING COURT SHALL GIVE PRIMARY  
16 CONSIDERATION TO PROTECTION OF PUBLIC SAFETY.

17 (D) (1) THE COMMISSION SHALL UNDERTAKE AN ANNUAL REVIEW OF  
18 SENTENCING POLICY AND PRACTICE AND MAKE A REPORT TO THE GENERAL  
19 ASSEMBLY IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE ON  
20 OR BEFORE DECEMBER 1 OF EACH YEAR.

21 (2) THE ANNUAL REPORT SHALL INCLUDE ANY CHANGES TO THE  
22 GUIDELINES MADE DURING THE PRECEDING YEAR.

23 (3) (I) THE ANNUAL REPORT SHALL REVIEW JUDICIAL COMPLIANCE  
24 WITH THE GUIDELINES, INCLUDING COMPLIANCE BY OFFENSE AND BY JUDICIAL  
25 CIRCUIT.

26 (II) IN DETERMINING WHETHER A SENTENCE IS WITHIN THE  
27 GUIDELINES, THE COMMISSION SHALL CONSIDER A SENTENCE TO A CORRECTIONS  
28 OPTIONS PROGRAM AS BEING WITHIN THE GUIDELINES IF THE SENTENCE FALLS  
29 WITHIN A CORRECTIONS OPTIONS ZONE SHOWN ON THE MATRIX.

30 (E) (1) THE COMMISSION SHALL COLLECT SENTENCING GUIDELINES  
31 WORKSHEETS AND AUTOMATE THE INFORMATION WITH THE ASSISTANCE OF THE  
32 ADMINISTRATIVE OFFICE OF THE COURTS.

33 (2) THE COMMISSION SHALL MONITOR SENTENCING PRACTICE AND  
34 ~~RECOMMEND~~ ADOPT CHANGES TO THE GUIDELINE MATRICES CONSISTENT WITH  
35 THE INTENT OF THIS TITLE.

36 ~~(F) (1) WHEN THE COMMISSION ADOPTS CHANGES TO THE GUIDELINES,~~  
37 ~~THE CHANGES SHALL BE PUBLISHED IN THE MARYLAND REGISTER AND IN THE~~  
38 ~~CODE OF MARYLAND REGULATIONS.~~

1           (2)     ~~CHANGES TO THE GUIDELINES SHALL BE EFFECTIVE ON THE LATER~~  
2 ~~OF:~~

3           (1)     ~~30 DAYS AFTER PUBLICATION IN THE MARYLAND REGISTER; OR~~

4           (1)     ~~THE DATE SPECIFIED BY THE COMMISSION AND PUBLISHED IN~~  
5 ~~THE MARYLAND REGISTER.~~

6     (F)     (1)     SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE COMMISSION  
7 SHALL ADOPT SENTENCING GUIDELINES AND ANY CHANGES TO THOSE GUIDELINES  
8 AS REGULATIONS SUBJECT TO THE REQUIREMENTS OF TITLE 10, SUBTITLE 1 OF THE  
9 STATE GOVERNMENT ARTICLE.

10           (2)     ANY REGULATIONS ADOPTED UNDER PARAGRAPH (1) OF THIS  
11 SUBSECTION ARE VOLUNTARY GUIDELINES THAT MAY NOT BE CONSTRUED TO  
12 REQUIRE A COURT TO ADOPT OR IMPOSE ANY GUIDELINE CONTAINED IN THE  
13 REGULATIONS.

14           (3)     ANY CHANGE TO THE GUIDELINES SHALL BE EFFECTIVE ON THE  
15 DATE THAT THE REGULATIONS TAKE EFFECT AS PROVIDED UNDER TITLE 10,  
16 SUBTITLE 1 OF THE STATE GOVERNMENT ARTICLE.

17 21-107.

18     (A)     THE COMMISSION SHALL CONDUCT TRAINING AND ORIENTATION FOR  
19 TRIAL COURT JUDGES, ATTORNEYS, PROBATION OFFICERS, AND OTHER INTERESTED  
20 PARTIES ~~BEFORE THE EFFECTIVE DATE OF THE GUIDELINES~~ PERIODICALLY AS MAY  
21 BE REQUIRED.

22     (B)     THE COMMISSION SHALL CONSULT WITH THE GENERAL ASSEMBLY WITH  
23 REFERENCE TO IMPLEMENTATION, MANAGEMENT, MAINTENANCE, AND  
24 OPERATIONS OF THE SENTENCING GUIDELINES SYSTEM.

25     (C)     THE COMMISSION SHALL PREPARE STATEMENTS CONTAINING FISCAL  
26 AND STATISTICAL INFORMATION ON PROPOSED LEGISLATION AFFECTING  
27 SENTENCING AND CORRECTIONS PRACTICE.

28 21-108.

29     (A)     THE COMMISSION SHALL USE A CORRECTIONAL POPULATION  
30 SIMULATION MODEL TO ASSIST IN DETERMINING THE STATE AND LOCAL  
31 CORRECTIONAL RESOURCES THAT:

32           (1)     ARE REQUIRED UNDER CURRENT LAWS, POLICIES, AND PRACTICES  
33 RELATING TO SENTENCING, PAROLE, AND MANDATORY SUPERVISION; AND

34           (2)     WOULD BE REQUIRED TO IMPLEMENT ANY FUTURE COMMISSION  
35 RECOMMENDATIONS FOR LEGISLATION OR CHANGES TO THE GUIDELINES.

1 (B) IF THE COMMISSION'S RECOMMENDATIONS FOR CHANGES IN  
 2 LEGISLATION WOULD RESULT IN STATE AND LOCAL INMATE POPULATIONS THAT  
 3 WOULD EXCEED THE OPERATING CAPACITIES OF AVAILABLE FACILITIES, THEN THE  
 4 COMMISSION SHALL PRESENT ADDITIONAL SENTENCING MODEL ALTERNATIVES  
 5 CONSISTENT WITH THESE CAPACITIES.

6 (C) THE COMMISSION SHALL MAKE THE MODEL AVAILABLE TO RESPOND TO  
 7 INQUIRIES FROM ANY MEMBER OF THE GENERAL ASSEMBLY OR THE SECRETARY OF  
 8 THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES, IN SECOND  
 9 PRIORITY TO THE WORK OF THE COMMISSION.

10 **Article - Correctional Services**

11 7-301.

12 (a) (1) Except as otherwise provided in this section, the Commission shall  
 13 request that the Division of Parole and Probation make an investigation that will  
 14 enable the Commission to determine the advisability of granting parole to an inmate  
 15 who:

16 [(1)] (I) has been sentenced under the laws of the State to serve a term  
 17 of 6 months or more in a correctional facility; and

18 [(2)] (II) has served in confinement one-fourth of the inmate's aggregate  
 19 sentence.

20 (2) EXCEPT AS OTHERWISE PROVIDED BY LAW OR IN A PREDETERMINED  
 21 PAROLE RELEASE AGREEMENT, AN INMATE IS NOT ELIGIBLE FOR PAROLE UNTIL  
 22 THE INMATE HAS SERVED IN CONFINEMENT ONE-FOURTH OF THE INMATE'S  
 23 AGGREGATE SENTENCE.

24 ~~**Article - State Government**~~

25 ~~7-205.~~

26 (a) ~~Except as otherwise provided by law, the Code of Maryland Regulations~~  
 27 ~~shall contain the text of:~~

28 (1) ~~each executive order that is generally permanent in nature;~~

29 (2) ~~each regulation;~~

30 (3) ~~each document that the General Assembly requires to be published~~  
 31 ~~with a regulation; [and]~~

32 (4) ~~THE SENTENCING GUIDELINES ADOPTED BY THE STATE~~  
 33 ~~COMMISSION ON CRIMINAL SENTENCING POLICY; AND~~

34 [(4)] (5) ~~unless otherwise privileged, each other document that the~~  
 35 ~~Committee permits to be published in the Code of Maryland Regulations.~~

1 ~~10-102.~~

2 (b) ~~This subtitle does not apply to:~~

3 (1) ~~a unit in the Legislative Branch of the State government;~~

4 (2) ~~a unit in the Judicial Branch of the State government;~~

5 (3) ~~the Injured Workers' Insurance Fund;~~

6 (4) ~~a board of license commissioners; [or]~~

7 (5) ~~the Forum for Rural Maryland; OR~~

8 (6) ~~THE STATE COMMISSION ON CRIMINAL SENTENCING POLICY.~~

9 SECTION 2. AND BE IT FURTHER ENACTED, That the terms of the initial  
10 members of the State Commission on Criminal Sentencing Policy who are subject to  
11 appointment shall expire as follows:

12 (1) The circuit court judge in 2001;

13 (2) The District Court Judge in 2003;

14 (3) The State's Attorney in 2001;

15 (4) The criminal defense attorney in 2003;

16 (5) One member of the Senate of Maryland in 2001;

17 (6) One member of the Senate of Maryland in 2003;

18 (7) One member of the House of Delegates in 2001;

19 (8) One member of the House of Delegates in 2003;

20 (9) The representative from a victim's advocacy group in 2001;

21 (10) The representative from law enforcement in 2003;

22 (11) The member with a background in criminal justice or corrections policy in  
23 2001;

24 (12) One representative of the public in 2001; and

25 (13) One representative of the public in 2003.

26 SECTION 3. AND BE IT FURTHER ENACTED, That the Commission shall  
27 hold its first meeting no later than July 15, 1999, at the call of the chairperson.

28 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect  
29 July 1, 1999.

