

SENATE BILL 355

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1999 Regular Session
9r1438
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By: **Senator Stone (Committee to Revise Article 27 - Crimes and Punishments)**

Introduced and read first time: February 5, 1999

Assigned to: Judicial Proceedings

A BILL ENTITLED

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
26 Annotated Code of Maryland
27 (1996 Replacement Volume and 1998 Supplement)

28 BY adding to

29 Article 27 - Crimes and Punishments
30 Section 136 through 139, inclusive, to be under the amended subheading
31 "Escape and Contraband in Places of Confinement"

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

3 BY repealing and reenacting, with amendments,
4 Article 27 - Crimes and Punishments
5 Section 372, 410, 413(g)(1), and 441
6 Annotated Code of Maryland
7 (1996 Replacement Volume and 1998 Supplement)

8 BY repealing and reenacting, with amendments,
9 Article 88B - Department of State Police
10 Section 26
11 Annotated Code of Maryland
12 (1998 Replacement Volume)

13 BY repealing
14 Article - Correctional Services
15 Section 8-801 through 8-806
16 Annotated Code of Maryland
17 (As enacted by Chapter ____ (H.B. 11) of the Acts of the General Assembly of
18 1999)

19 BY renumbering
20 Article - Correctional Services
21 Section 8-807 and 8-808, respectively
22 to be Section 8-801 and 8-802, respectively
23 Annotated Code of Maryland
24 (As enacted by Chapter ____ (H.B. 11) of the Acts of the General Assembly of
25 1999)

26 BY repealing and reenacting, with amendments,
27 Article - Correctional Services
28 Section 3-305(c)(2), 3-409(c), 3-803(b)(2), 3-807(i)(2), 3-808(d), 3-811(c),
29 9-602(e), 11-319(a)(5), 11-702(b)(8), 11-703(d)(5)(iii), 11-705(i) through
30 (s), 11-708(b)(8) and (c)(4)(ii)2., 11-709(b)(4)(ii)2., 11-711(h)(3) and (4),
31 11-712(b)(4)(iii)2., (c)(6), and (d)(4)(ii)2., 11-714(d)(4)(ii)2., 11-715(g),
32 11-716(h)(3) and (4) and (k)(3) and (4), 11-717(f)(3), 11-723(b)(4)(ii)2. and
33 (8), and 11-724(h)(3) and (4) and (i)(2)
34 Annotated Code of Maryland
35 (As enacted by Chapter ____ (H.B. 11) of the Acts of the General Assembly of
36 1999)

37 BY repealing
38 Article - Correctional Services

1 Section 11-703(f)(4), 11-705(h), 11-706(b)(8), 11-711(h)(2), 11-714(c)(6),
 2 11-716(h)(2) and (k)(2), 11-717(f)(2), and 11-724(h)(2)
 3 Annotated Code of Maryland
 4 (As enacted by Chapter ____ (H.B. 11) of the Acts of the General Assembly of
 5 1999)

6 BY adding to
 7 Article - Correctional Services
 8 Section 11-726
 9 Annotated Code of Maryland
 10 (As enacted by Chapter ____ (H.B. 11) of the Acts of the General Assembly of
 11 1999)

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

16 SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 8-807 and
 17 8-808, respectively, of Article - Correctional Services of the Annotated Code of
 18 Maryland (as enacted by Chapter ____ (H.B. 11) of the Acts of the General Assembly
 19 of 1999) be renumbered to be Section(s) 8-801 and 8-802, respectively.

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

22 **Article 27 - Crimes and Punishments**

23 [139.

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

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

37 1. Detention centers and youth centers operated by the
 38 Department of Juvenile Justice;

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

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

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

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

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

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

26 [Escapes From] ESCAPE AND CONTRABAND IN PLACES OF Confinement
27 136.

28 (A) IN THIS SUBHEADING THE FOLLOWING WORDS HAVE THE MEANINGS
29 INDICATED.

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

31 (C) "PLACE OF CONFINEMENT" MEANS:

32 (1) A CORRECTIONAL FACILITY AS DEFINED IN § 1-101 OF THE
33 CORRECTIONAL SERVICES ARTICLE;

34 (2) A PLACE IDENTIFIED IN A HOME DETENTION ORDER OR
35 AGREEMENT;

36 (3) A FACILITY OF THE DEPARTMENT OF HEALTH AND MENTAL
37 HYGIENE;

1 (4) A DETENTION AND YOUTH CENTER FOR JUVENILES OPERATED BY
2 OR UNDER CONTRACT WITH THE DEPARTMENT OF JUVENILE JUSTICE; OR

3 (5) ANY OTHER FACILITY IN WHICH A PERSON IS CONFINED UNDER
4 COLOR OF LAW.

5 COMMITTEE NOTE (COMMITTEE TO REVISE ARTICLE 27): The definition
6 of escape is intended to include the case law interpreting former Art. 27, § 139. See
7 e.g., *Stewart v. State*, 275 Md. 258, 340 A.2d 290 (1975); *Beasly v. State*, 17 Md. App.
8 7, 299 A.2d 482 (1973); *Best v. Warden*, 235 Md. 633, 201 A.2d 490 (1964). It is not
9 intended to refer to the common law definition of escape.

10 137.

11 (A) A PERSON MAY NOT KNOWINGLY ESCAPE FROM A PLACE OF
12 CONFINEMENT.

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

14 (I) TEMPORARILY RELEASED FROM A PLACE OF CONFINEMENT;
15 OR

16 (II) COMMITTED TO HOME DETENTION UNDER THE TERMS OF
17 PRETRIAL RELEASE OR BY THE DIVISION OF CORRECTION UNDER TITLE 3, SUBTITLE
18 4 OF THE CORRECTIONAL SERVICES ARTICLE.

19 (2) A PERSON MAY NOT KNOWINGLY:

20 (I) VIOLATE ANY RESTRICTION ON MOVEMENT IMPOSED UNDER
21 THE TERMS OF TEMPORARY RELEASE OR A HOME DETENTION ORDER OR
22 AGREEMENT; OR

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

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

29 COMMITTEE NOTE (COMMITTEE TO REVISE ARTICLE 27): Former Art. 27,
30 § 139 applied to escapes by persons "legally detained." Because escape has been
31 defined to retain its judicially determined meaning, the former reference to a person
32 "legally detained" has been omitted. In this regard see *Vucci v. State*, 18 Md. App.157,
33 305 A.2d 483 (1973), holding that a person who is illegally detained because of
34 procedural defects is not entitled to resort to self-help, but rather must apply for
35 release through regular legal channels.

36 Former Art. 27, § 139 also prohibited a person from aiding the escape of an
37 individual. This revision eliminates this provision because the current common law

1 on accomplice liability adequately addresses this situation. This Committee has
2 previously recommended the deletion of similar provisions for this reason. See e.g.,
3 "Arson and Burning" subheading of this article.

4 137A.

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

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

10 (3) A PERSON WHO IS SERVING A SENTENCE IN A HOME DETENTION
11 PROGRAM OTHER THAN THE DIVISION OF CORRECTION HOME DETENTION PROGRAM
12 UNDER TITLE 3, SUBTITLE 4 OF THE CORRECTIONAL SERVICES ARTICLE MAY NOT
13 KNOWINGLY:

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

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

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

22 (2) IF AN ESCAPE FROM A DETENTION AND YOUTH CENTER FOR
23 JUVENILES OPERATED BY OR UNDER CONTRACT WITH THE DEPARTMENT OF
24 JUVENILE JUSTICE DOES NOT INVOLVE AN ASSAULT, A VIOLATOR IS GUILTY OF
25 ESCAPE IN THE SECOND DEGREE AND PUNISHABLE AS PROVIDED IN PARAGRAPH (1)
26 OF THIS SUBSECTION.

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

30 138.

31 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
32 INDICATED.

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

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

1 (I) IS NOT AUTHORIZED FOR INMATE POSSESSION BY THE
2 MANAGING OFFICIAL; OR

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

5 (4) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
6 PARAGRAPH, "CONTROLLED DANGEROUS SUBSTANCE" HAS THE MEANING STATED IN
7 § 277(F) OF THIS ARTICLE.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 (II) A PERSON MAY NOT POSSESS AN ALCOHOLIC BEVERAGE WITH
22 INTENT TO DELIVER TO A PERSON DETAINED OR CONFINED IN A PLACE OF
23 CONFINEMENT.

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

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

29 (II) A PERSON MAY NOT POSSESS A CONTROLLED DANGEROUS
30 SUBSTANCE WITH INTENT TO DELIVER TO A PERSON DETAINED OR CONFINED IN A
31 PLACE OF CONFINEMENT.

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

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

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

3 139.

4 (A) A SENTENCE IMPOSED FOR A VIOLATION OF § 137 OR § 137A OF THIS
5 SUBHEADING:

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

8 (2) MAY NOT BE SUSPENDED; AND

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

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

15 372.

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

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

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

25 410.

26 All murder which shall be committed in the perpetration of, or attempt to
27 perpetrate, any rape in any degree, sexual offense in the first or second degree,
28 sodomy, mayhem, robbery, carjacking or armed carjacking, burglary in the first,
29 second, or third degree, a violation of § 139C of this article concerning destructive
30 devices, kidnapping as defined in §§ 337 and 338 of this article, or in the escape IN
31 THE FIRST DEGREE or attempt to escape IN THE FIRST DEGREE from the Patuxent
32 Institution, any institution or facility under the jurisdiction of the Division of
33 Correction or the Division of Pretrial Detention and Services, or from any jail or penal
34 institution in any of the counties of this State, shall be murder in the first degree.

1 413.

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

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

14 441.

15 (e) "Crime of violence" means:

- 16 (1) Abduction;
- 17 (2) Arson in the first degree;
- 18 (3) Assault in the first or second degree;
- 19 (4) Burglary in the first, second, or third degree;
- 20 (5) Carjacking and armed carjacking;
- 21 (6) Escape IN THE FIRST DEGREE;
- 22 (7) Kidnapping;
- 23 (8) Voluntary manslaughter;
- 24 (9) Maiming;
- 25 (10) Mayhem as previously proscribed under former § 384 of this article;
- 26 (11) Murder in the first or second degree;
- 27 (12) Rape in the first or second degree;
- 28 (13) Robbery;
- 29 (14) Robbery with a dangerous or deadly weapon;
- 30 (15) Sexual offense in the first, second, or third degree;
- 31 (16) An attempt to commit any of the aforesaid offenses; or

1 (17) Assault with intent to commit any of the aforesaid offenses or any
2 offense punishable by imprisonment for more than 1 year.

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

4 26.

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

12 **Article - Correctional Services**

13 3-305.

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

16 3-409.

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

20 3-803.

21 (b) (2) An inmate who violates paragraph (1) of this subsection is guilty of a
22 felony and on conviction is subject to the penalties established under Article 27, [§
23 139] § 137 of the Code.

24 3-807.

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

28 3-808.

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

32 3-811.

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

1 9-602.

2 (e) An inmate who escapes while temporarily removed under this section is
3 guilty of escape and subject to the penalties established under Article 27, [§ 139] §
4 137 of the Code.

5 11-319.

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

8 11-702.

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

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

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

15 11-703.

16 (d) (5) A participant who violates a regulation adopted under this section:

17 (iii) [for willful failure to return to the assigned local correctional
18 facility in violation of a regulation adopted under this section, is subject to
19 prosecution under Article 27, § 139 of the Code] IS SUBJECT TO THE PROVISIONS OF
20 § 11-726 OF THIS SUBTITLE.

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

24 11-705.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 (2) If the Administrator establishes a home detention program, the
22 Administrator:

23 (i) shall establish eligibility criteria for participation in the
24 program; and

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

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

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

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

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

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

4 (3) the Administrator has approved the application.

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

7 (1) after imposing a sentence; or

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

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

11 (i) at any time;

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

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

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

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

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

19 (2) has been found guilty of:

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

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

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

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

25 11-706.

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

28 11-708.

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

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

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

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

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

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

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

10 11-709.

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

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

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

15 11-711.

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

18 [(3)] (2) If a condition that a court imposes on an inmate is inconsistent
19 with a regulation adopted under this section, the condition imposed by the court
20 controls as to that inmate.

21 [(4)] (3) If an inmate violates a trust or a condition that the court or the
22 County Department of Corrections establishes, the County Department of Corrections
23 shall notify the sentencing court in writing of the violation.

24 11-712.

25 (b) (4) An individual is eligible for the Pretrial Release Program if the
26 individual:

27 (iii) is not in detention for:

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

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

- 1 [1.] (I) removal from the work release program; and
2 [2.] (II) cancellation of any earned diminution of the inmate's
3 term of confinement.

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

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

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

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

10 11-714.

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

13 (d) (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 11-715.

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

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

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

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

25 11-716.

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

28 [(3)] (2) If a condition that a court imposes on an inmate is inconsistent
29 with a regulation adopted under this section, the condition imposed by the court
30 controls as to that inmate.

1 [(4)] (3) If an inmate violates a trust or a condition that a court or the
2 detention center establishes, the Kent County Detention Center shall notify the
3 sentencing court in writing of the violation.

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

6 [(3)] (2) An inmate who is granted compassionate leave may be required
7 to reimburse the Kent County Detention Center for any expenses that the detention
8 center incurs in granting the leave.

9 [(4)] (3) The warden shall adopt regulations necessary to carry out this
10 subsection.

11 11-717.

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

14 [(3)] (2) If an inmate violates a condition or a term of the program and
15 the Director or the Director's designee removes the inmate from the program because
16 of the violation, a judge of the committing court may redesignate the Division of
17 Correction as the agency of custody for the remaining term of the inmate's
18 confinement.

19 11-723.

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

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

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

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

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

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

30 11-724.

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

33 [(3)] (2) If a condition that a court imposes on an inmate is inconsistent
34 with a regulation adopted under this section, the condition imposed by the court
35 controls as to that inmate.

1 [(4)] (3) If an inmate violates a trust or a condition that a court or the
2 County Department of Corrections establishes, the County Department of Corrections
3 shall notify the sentencing court in writing of the violation.

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

7 11-726.

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

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

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

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