

SENATE BILL 388

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E2

1999 Regular Session
(9r0799)

ENROLLED BILL
-- Judicial Proceedings/Judiciary --

Introduced by **Senators McCabe, Forehand, and Kelley (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.

President.

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; ~~requiring the Commission to compile certain information on each~~
19 ~~circuit court judge's use of the sentencing guidelines; establishing procedures~~
20 ~~and requirements for changes or modifications to the sentencing guideline~~
21 ~~matrices by the Commission~~ requiring the Commission to adopt certain
22 sentencing guidelines as regulations subject to the Regulatory Review and
23 Evaluation Act under certain circumstances; requiring the Commission to
24 conduct certain training, make certain consultations, and prepare certain
25 statements; requiring the Commission to use a certain correctional population
26 simulation model and to make the model available to certain persons under
27 certain circumstances; establishing that certain inmates are not eligible for
28 parole until they have served a certain portion of their aggregate sentences
29 under certain circumstances; ~~requiring the publication of the sentencing~~
30 ~~guidelines in certain State documents; exempting the Commission from the~~
31 ~~Regulatory Review and Evaluation Act~~; defining certain terms; making stylistic
32 changes; and generally relating to criminal sentencing, review of criminal
33 sentences, and parole.

34 BY adding to
35 Article 27 - Crimes and Punishments
36 Section 640
37 Annotated Code of Maryland
38 (1996 Replacement Volume and 1998 Supplement)

39 BY repealing and reenacting, with amendments,
40 Article 27 - Crimes and Punishments
41 Section ~~643C~~, ~~645JA~~, ~~645JA~~ and 645JC
42 Annotated Code of Maryland
43 (1996 Replacement Volume and 1998 Supplement)

44 BY adding to

1 Article 41 - Governor - Executive and Administrative Departments
 2 Section 21-101 through 21-108, inclusive, to be under the new title "Title 21.
 3 State Commission on Criminal Sentencing Policy"
 4 Annotated Code of Maryland
 5 (1997 Replacement Volume and 1998 Supplement)

6 BY repealing and reenacting, with amendments,
 7 Article - Correctional Services
 8 Section 7-301(a)
 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 repealing and reenacting, with amendments,~~
 13 ~~Article - State Government~~
 14 ~~Section 7-205(a) and 10-102(b)~~
 15 ~~Annotated Code of Maryland~~
 16 ~~(1995 Replacement Volume and 1998 Supplement)~~

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

19 **Article 27 - Crimes and Punishments**

20 640.

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

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

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

34 ~~643C.~~

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

1 (b) However, the guidelines may not:

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

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

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

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

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

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

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

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

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

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

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

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

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

7 645JA.

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

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

20 645JC.

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

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

32 (2) ~~(I) IN THE MANNER PROVIDED IN THIS SECTION, AND SUBJECT TO~~
33 ~~ITEM (II) OF THIS PARAGRAPH, AND SUBJECT TO PARAGRAPH (3) OF THIS~~
34 ~~SUBSECTION, THE PANEL MAY ORDER A DIFFERENT SENTENCE, INCLUDING A~~
35 ~~DECREASE, IN A MANDATORY MINIMUM SENTENCE OTHERWISE REQUIRED BY LAW.~~

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

38 ~~(3) A PANEL MAY NOT ORDER A DECREASE IN A MANDATORY MINIMUM~~
39 ~~SENTENCE UNLESS:~~

1 ~~(I)~~ ~~THE PANEL'S DECISION IS UNANIMOUS; AND~~

2 ~~(II)~~ ~~THE PANEL DETERMINES THAT THE MANDATORY SENTENCE~~
3 ~~IMPOSED WOULD RESULT IN A MISCARRIAGE OF JUSTICE.~~

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

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

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

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

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

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

17 TITLE 21. STATE COMMISSION ON CRIMINAL SENTENCING POLICY.

18 21-101.

19 IN THIS TITLE, "COMMISSION" MEANS THE STATE COMMISSION ON CRIMINAL
20 SENTENCING POLICY.

21 21-102.

22 IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT:

23 (1) SENTENCING SHOULD BE FAIR AND PROPORTIONAL AND THAT
24 SENTENCING POLICIES SHOULD REDUCE UNWARRANTED DISPARITY, INCLUDING
25 ANY RACIAL DISPARITY, IN SENTENCES FOR OFFENDERS WHO HAVE COMMITTED
26 SIMILAR OFFENSES AND HAVE SIMILAR CRIMINAL HISTORIES;

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

29 (3) SENTENCING GUIDELINES ARE VOLUNTARY AND THAT IT IS
30 VOLUNTARY FOR THE COURT TO SENTENCE WITHIN THE GUIDELINES;

31 ~~(3)~~ (4) PRISON CAPACITY AND PRISON USAGE SHOULD GIVE PRIORITY
32 TO THE INCARCERATION OF VIOLENT AND CAREER OFFENDERS;

1 ~~(4)~~ (5) SENTENCING POLICIES SHOULD PRESERVE MEANINGFUL
2 JUDICIAL DISCRETION IN THE IMPOSITION OF SENTENCES AND SUFFICIENT
3 FLEXIBILITY TO PERMIT INDIVIDUALIZED SENTENCES; AND

4 ~~(5)~~ (6) SENTENCING JUDGES IN EVERY JURISDICTION IN THE STATE
5 SHOULD BE ABLE TO IMPOSE THE MOST APPROPRIATE CRIMINAL PENALTIES,
6 INCLUDING CORRECTIONS OPTIONS PROGRAMS FOR APPROPRIATE OFFENDERS.

7 21-103.

8 THERE IS A STATE COMMISSION ON CRIMINAL SENTENCING POLICY.

9 21-104.

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

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

12 (2) THE CHIEF JUDGE OF THE COURT OF APPEALS OR A JUDGE OR
13 FORMER JUDGE OF THE COURT OF APPEALS OR THE COURT OF SPECIAL APPEALS
14 DESIGNATED BY THE CHIEF JUDGE OF THE COURT OF APPEALS;

15 (3) ONE CIRCUIT COURT JUDGE, APPOINTED BY THE CHIEF JUDGE OF
16 THE COURT OF APPEALS;

17 (4) ONE DISTRICT COURT JUDGE, APPOINTED BY THE CHIEF JUDGE OF
18 THE COURT OF APPEALS;

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

20 (6) ONE STATE'S ATTORNEY WHO IS RECOMMENDED BY THE PRESIDENT
21 OF THE MARYLAND STATE'S ATTORNEYS ASSOCIATION, APPOINTED BY THE
22 GOVERNOR;

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

24 (8) A CRIMINAL DEFENSE ATTORNEY WHO IS RECOMMENDED BY THE
25 PRESIDENT OF THE MARYLAND CRIMINAL DEFENSE LAWYERS ASSOCIATION,
26 APPOINTED BY THE GOVERNOR;

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

30 (10) TWO MEMBERS OF THE HOUSE OF DELEGATES, WITH AT LEAST ONE
31 MEMBER BEING FROM THE HOUSE JUDICIARY COMMITTEE, APPOINTED BY THE
32 SPEAKER OF THE HOUSE;

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

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

3 (13) ONE REPRESENTATIVE FROM LAW ENFORCEMENT, APPOINTED BY
4 THE GOVERNOR;

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

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

10 (16) TWO REPRESENTATIVES OF THE PUBLIC, APPOINTED BY THE
11 GOVERNOR.

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

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

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

16 (4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES
17 ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND
18 QUALIFIES.

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

21 21-105.

22 (A) A MAJORITY OF THE AUTHORIZED MEMBERSHIP OF THE COMMISSION IS A
23 QUORUM.

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

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

29 (C) THE COMMISSION MAY ESTABLISH SUBCOMMITTEES OR ADVISORY
30 COMMITTEES COMPOSED OF COMMISSION MEMBERS TO ACCOMPLISH THE DUTIES
31 IMPOSED UNDER THIS SECTION.

32 (D) (1) THE COMMISSION MAY ESTABLISH RULES GOVERNING THE
33 ADMINISTRATION AND PROCEEDINGS OF THE COMMISSION.

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

1 (E) THE COMMISSION MAY REQUIRE STATE UNITS AND LOCAL
2 GOVERNMENTS AND LOCAL GOVERNMENT UNITS TO PROVIDE INFORMATION AS
3 REQUESTED BY THE COMMISSION.

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

7 (G) A MEMBER OF THE COMMISSION:

8 (1) MAY NOT RECEIVE COMPENSATION FOR SERVING ON THE
9 COMMISSION; BUT

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

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

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

17 ~~(J) THE FOLLOWING STATE UNITS SHALL COOPERATE FULLY WITH THE~~
18 ~~COMMISSION:~~

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

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

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

22 ~~(4) THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL~~
23 ~~SERVICES;~~

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

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

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

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

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

30 21-106.

31 (A) SUBJECT TO REVISION BY THE COMMISSION, AND AFTER CONSIDERATION
32 OF THE RECOMMENDATIONS OF THE MARYLAND COMMISSION ON CRIMINAL
33 SENTENCING POLICY, THE COMMISSION SHALL ADOPT:

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

6 ~~(2)~~ ~~THE RECOMMENDATIONS OF THE MARYLAND CRIMINAL~~
7 ~~SENTENCING POLICY COMMISSION CONCERNING THE SENTENCING GUIDELINES.~~

8 (B) THE SENTENCING GUIDELINES SHALL:

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

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

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

15 (C) (1) ~~SUBJECT TO THE PROVISIONS OF PARAGRAPH (2) OF THIS~~
16 ~~SUBSECTION,~~ THE COMMISSION SHALL ADOPT GUIDELINES TO IDENTIFY
17 DEFENDANTS WHO WOULD BE APPROPRIATE FOR PARTICIPATION IN CORRECTIONS
18 OPTIONS PROGRAMS.

19 ~~(2)~~ ~~THE GUIDELINES MAY NOT ALLOW A DEFENDANT CONVICTED OF A~~
20 ~~VIOLENT CRIME, AS DEFINED IN § 4-501(12) OF THIS ARTICLE, TO PARTICIPATE IN~~
21 ~~CORRECTIONS OPTIONS PROGRAMS.~~

22 ~~(2)~~ ~~(3)~~ (2) THE GUIDELINES FOR CORRECTIONS OPTIONS SHALL BE
23 CONSIDERED BY THE SENTENCING COURT IN DETERMINING WHETHER TO
24 SENTENCE A DEFENDANT TO CORRECTIONS OPTIONS OR THE ORDINARY SENTENCE
25 OTHERWISE CALLED FOR BY THE SENTENCING GUIDELINES.

26 ~~(3)~~ ~~(4)~~ (3) IN DECIDING WHETHER TO SENTENCE A DEFENDANT TO
27 CORRECTIONS OPTIONS, THE SENTENCING COURT SHALL GIVE PRIMARY
28 CONSIDERATION TO PROTECTION OF PUBLIC SAFETY.

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

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

35 (3) (1) THE ANNUAL REPORT SHALL REVIEW JUDICIAL COMPLIANCE
36 WITH THE GUIDELINES, INCLUDING COMPLIANCE BY OFFENSE AND BY JUDICIAL
37 CIRCUIT.

1 (II) IN DETERMINING WHETHER A SENTENCE IS WITHIN THE
 2 GUIDELINES, THE COMMISSION SHALL CONSIDER A SENTENCE TO A CORRECTIONS
 3 OPTIONS PROGRAM AS BEING WITHIN THE GUIDELINES IF THE SENTENCE FALLS
 4 WITHIN A CORRECTIONS OPTIONS ZONE SHOWN ON THE MATRIX.

5 (E) (1) THE COMMISSION SHALL COLLECT SENTENCING GUIDELINES
 6 WORKSHEETS AND AUTOMATE THE INFORMATION WITH THE ASSISTANCE OF THE
 7 ADMINISTRATIVE OFFICE OF THE COURTS.

8 ~~(2) EACH YEAR, THE COMMISSION SHALL COMPILE THE FOLLOWING~~
 9 ~~INFORMATION ON EACH CIRCUIT COURT JUDGE:~~

10 ~~(I) THE WRITTEN EXPLANATION SUBMITTED BY EACH JUDGE~~
 11 ~~REGARDING THE JUDGE'S DEPARTURE FROM THE SENTENCING GUIDELINES; AND~~

12 ~~(II) THE NUMBER OF TIMES AND THE PERCENTAGE OF TIMES THAT~~
 13 ~~THE SENTENCE IMPOSED:~~

14 ~~1: WAS BELOW THE SENTENCING GUIDELINES;~~

15 ~~2: WAS ABOVE THE SENTENCING GUIDELINES;~~

16 ~~3: FOR VIOLENT CRIMES, AS DEFINED IN § 4-501(12) OF THIS~~
 17 ~~ARTICLE, WAS BELOW THE SENTENCING GUIDELINES; AND~~

18 ~~4: FOR VIOLENT CRIMES, AS DEFINED IN § 4-501(12) OF THIS~~
 19 ~~ARTICLE, WAS ABOVE THE SENTENCING GUIDELINES.~~

20 ~~(3) THE COMMISSION SHALL MAKE THE INFORMATION COMPILED~~
 21 ~~UNDER THIS SUBSECTION AVAILABLE, ON REQUEST, TO THE GENERAL ASSEMBLY.~~

22 ~~(2) (1) THE COMMISSION SHALL MONITOR SENTENCING~~
 23 ~~PRACTICE AND RECOMMEND ADOPT CHANGES TO THE GUIDELINE MATRICES~~
 24 ~~CONSISTENT WITH THE INTENT OF THIS TITLE.~~

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

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

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

31 ~~(II) THE DATE SPECIFIED BY THE COMMISSION AND PUBLISHED IN~~
 32 ~~THE MARYLAND REGISTER.~~

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

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

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

8 21-107.

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

13 (B) THE COMMISSION SHALL CONSULT WITH THE GENERAL ASSEMBLY WITH
14 REFERENCE TO IMPLEMENTATION, MANAGEMENT, MAINTENANCE, AND
15 OPERATIONS OF THE SENTENCING GUIDELINES SYSTEM.

16 (C) THE COMMISSION SHALL PREPARE STATEMENTS CONTAINING FISCAL
17 AND STATISTICAL INFORMATION ON PROPOSED LEGISLATION AFFECTING
18 SENTENCING AND CORRECTIONS PRACTICE.

19 21-108.

20 (A) THE COMMISSION SHALL USE A CORRECTIONAL POPULATION
21 SIMULATION MODEL TO ASSIST IN DETERMINING THE STATE AND LOCAL
22 CORRECTIONAL RESOURCES THAT:

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

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

27 (B) IF THE COMMISSION'S RECOMMENDATIONS FOR CHANGES IN
28 LEGISLATION WOULD RESULT IN STATE AND LOCAL INMATE POPULATIONS THAT
29 WOULD EXCEED THE OPERATING CAPACITIES OF AVAILABLE FACILITIES, THEN THE
30 COMMISSION SHALL PRESENT ADDITIONAL SENTENCING MODEL ALTERNATIVES
31 CONSISTENT WITH THESE CAPACITIES.

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

1

Article - Correctional Services

2 7-301.

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

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

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

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

15

~~Article - State Government~~16 ~~7-205.~~

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

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

20 (2) ~~each regulation;~~

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

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

25 [(4)] (5) ~~unless otherwise privileged, each other document that the~~
 26 ~~Committee permits to be published in the Code of Maryland Regulations.~~

27 ~~10-102.~~

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

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

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

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

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

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

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

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

6 (1) The circuit court judge in 2001;

7 (2) The District Court Judge in 2003;

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

9 (4) The criminal defense attorney in 2003;

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

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

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

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

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

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

16 (11) The member with a background in criminal justice or corrections policy in
17 2001;

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

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

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

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