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By: **Senators McCabe, Forehand, and Kelley (Maryland Commission on Criminal Sentencing Policy)**

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

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

4 FOR the purpose of requiring ~~each~~ 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  
17 on Criminal Sentencing Policy; establishing the intent of the General Assembly  
18 concerning criminal sentencing; establishing the membership of, appointments  
19 to, terms of the members on, and conditions concerning membership on the  
20 Commission; providing for the initial terms of appointment for the appointed  
21 members of the Commission; providing for certain meetings, rules, and  
22 procedures of the Commission; requiring the Commission to hold its first  
23 meeting no later than a certain date at the call of the Chairperson; requiring  
24 certain State units and local governments and local government units to provide  
25 information to and cooperate with the Commission under certain circumstances;  
26 providing for the employment of a staff under certain circumstances; requiring  
27 the Commission to adopt certain sentencing guidelines under certain

1 circumstances; requiring the sentencing guidelines to contain certain elements;  
 2 requiring the Commission to adopt guidelines concerning corrections options;  
 3 requiring the Commission to submit an annual report to the General Assembly  
 4 on or before a certain date; requiring the annual report to contain certain  
 5 information; requiring the Commission to collect sentencing guideline  
 6 worksheets and to automate the information in the worksheets under certain  
 7 circumstances; requiring the Commission to compile certain information on each  
 8 circuit court judge's use of the sentencing guidelines; establishing procedures  
 9 and requirements for changes or modifications to the sentencing guideline  
 10 matrices by the Commission requiring the Commission to adopt certain  
 11 sentencing guidelines as regulations subject to the Regulatory Review and  
 12 Evaluation Act under certain circumstances; requiring the Commission to  
 13 conduct certain training, make certain consultations, and prepare certain  
 14 statements; requiring the Commission to use a certain correctional population  
 15 simulation model and to make the model available to certain persons under  
 16 certain circumstances; establishing that certain inmates are not eligible for  
 17 parole until they have served a certain portion of their aggregate sentences  
 18 under certain circumstances; ~~requiring the publication of the sentencing~~  
 19 ~~guidelines in certain State documents; exempting the Commission from the~~  
 20 ~~Regulatory Review and Evaluation Act;~~ defining certain terms; making stylistic  
 21 changes; and generally relating to criminal sentencing, review of criminal  
 22 sentences, and parole.

23 BY adding to  
 24 Article 27 - Crimes and Punishments  
 25 Section 640  
 26 Annotated Code of Maryland  
 27 (1996 Replacement Volume and 1998 Supplement)

28 BY repealing and reenacting, with amendments,  
 29 Article 27 - Crimes and Punishments  
 30 Section 643C, 645JA, and 645JC  
 31 Annotated Code of Maryland  
 32 (1996 Replacement Volume and 1998 Supplement)

33 BY adding to  
 34 Article 41 - Governor - Executive and Administrative Departments  
 35 Section 21-101 through 21-108, inclusive, to be under the new title "Title 21.  
 36 State Commission on Criminal Sentencing Policy"  
 37 Annotated Code of Maryland  
 38 (1997 Replacement Volume and 1998 Supplement)

39 BY repealing and reenacting, with amendments,  
 40 Article - Correctional Services  
 41 Section 7-301(a)  
 42 Annotated Code of Maryland

1 (As enacted by Chapter \_\_\_\_\_ (H.B. 11) of the Acts of the General Assembly of  
2 1999)

3 ~~BY repealing and reenacting, with amendments,~~  
4 ~~Article State Government~~  
5 ~~Section 7-205(a) and 10-102(b)~~  
6 ~~Annotated Code of Maryland~~  
7 ~~(1995 Replacement Volume and 1998 Supplement)~~

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

10 **Article 27 - Crimes and Punishments**

11 640.

12 (A) AT THE TIME OF IMPOSITION OF A SENTENCE OF INCARCERATION THAT IS  
13 TO BE EXECUTED AND FOR WHICH A DEFENDANT WILL BE ELIGIBLE FOR PAROLE,  
14 THE COURT SHALL STATE IN OPEN COURT THE MINIMUM TIME THE DEFENDANT  
15 MUST SERVE BEFORE BECOMING ELIGIBLE FOR PAROLE.

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

19 (C) THE FAILURE OF A COURT TO COMPLY WITH THE REQUIREMENTS OF THIS  
20 SECTION DOES NOT AFFECT THE LEGALITY OR EFFICACY OF THE SENTENCE  
21 IMPOSED.

22 643C.

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

25 (b) However, the guidelines may not:

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

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

30 (A) (1) IN A CASE IN A CIRCUIT COURT INVOLVING A CRIME SUBJECT TO  
31 THE SENTENCING GUIDELINES ESTABLISHED UNDER ARTICLE 41, TITLE 21 OF THE  
32 CODE, THE COURT SHALL:

33 (I) HAVE PRESENTED TO IT THE APPROPRIATE SENTENCING  
34 GUIDELINES WORKSHEET; AND

1 (II) REVIEW AND CONSIDER THE SUITABILITY OF THE APPLICABLE  
2 SENTENCING GUIDELINES.

3 (2) IT IS VOLUNTARY FOR THE COURT TO SENTENCE WITHIN THE  
4 GUIDELINES.

5 ~~(2)~~ (3) THE COURT SHALL MAKE THE COMPLETED SENTENCING  
6 GUIDELINES WORKSHEET PART OF THE RECORD OF THE CASE.

7 (B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, IN A  
8 CASE IN A CIRCUIT COURT INVOLVING A CRIME SUBJECT TO THE SENTENCING  
9 GUIDELINES IN WHICH THE COURT IMPOSES A SENTENCE EITHER GREATER OR  
10 LESSER THAN THAT INDICATED IN THE GUIDELINES, THE COURT SHALL FILE A  
11 WRITTEN RECORD OF REASONS FOR THE DEPARTURE, USING THE FORM PROVIDED  
12 WITH THE SENTENCING GUIDELINES WORKSHEET.

13 (2) A SENTENCE TO A CORRECTIONS OPTIONS PROGRAM THAT FALLS  
14 WITHIN THE CORRECTIONS OPTIONS ZONE SHOWN ON A MATRIX SHALL CONSTITUTE  
15 A SENTENCE IN COMPLIANCE WITH THE GUIDELINES.

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

22 [(c)] (D) (1) If a court prepares a Maryland sentencing guidelines  
23 worksheet, the clerk of the court shall deliver to the agency that has been ordered by  
24 the court to retain custody of the defendant a copy of the Maryland sentencing  
25 guidelines worksheet with the commitment order or as soon as practicable after  
26 issuance of the commitment order.

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

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

33 645JA.

34 (a) Unless [no different sentence could have been imposed or unless] the  
35 sentence was imposed by more than one trial judge, every person convicted of a crime  
36 by any trial court of this State and sentenced to serve, with or without suspension, a  
37 total of more than two years imprisonment in any penal or correctional institution in  
38 this State shall be entitled to have the sentence reviewed by a panel of three or more  
39 trial judges of the judicial circuit in which the sentencing court is located. However, a  
40 person has no right to have any sentence reviewed more than once pursuant to this

1 section. Notwithstanding any rule of the Court of Appeals to the contrary, the judge  
2 who sentenced the convicted person shall not be one of the members of the panel, but  
3 if he so desires he may sit with the panel in an advisory capacity only.

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

6 645JC.

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

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

18 (2) IN THE MANNER PROVIDED IN THIS SECTION, AND SUBJECT TO  
19 PARAGRAPH (3) OF THIS SUBSECTION, THE PANEL MAY ORDER A DIFFERENT  
20 SENTENCE, INCLUDING A DECREASE, IN A MANDATORY MINIMUM SENTENCE  
21 OTHERWISE REQUIRED BY LAW.

22 (3) A PANEL MAY NOT ORDER A DECREASE IN A MANDATORY MINIMUM  
23 SENTENCE UNLESS:

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

25 (II) THE PANEL DETERMINES THAT THE MANDATORY SENTENCE  
26 IMPOSED WOULD RESULT IN A MISCARRIAGE OF JUSTICE.

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

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

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

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

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

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

4 TITLE 21. STATE COMMISSION ON CRIMINAL SENTENCING POLICY.

5 21-101.

6 IN THIS TITLE, "COMMISSION" MEANS THE STATE COMMISSION ON CRIMINAL  
7 SENTENCING POLICY.

8 21-102.

9 IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT:

10 (1) SENTENCING SHOULD BE FAIR AND PROPORTIONAL AND THAT  
11 SENTENCING POLICIES SHOULD REDUCE UNWARRANTED DISPARITY, INCLUDING  
12 ANY RACIAL DISPARITY, IN SENTENCES FOR OFFENDERS WHO HAVE COMMITTED  
13 SIMILAR OFFENSES AND HAVE SIMILAR CRIMINAL HISTORIES;

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

16 (3) PRISON CAPACITY AND PRISON USAGE SHOULD GIVE PRIORITY TO  
17 THE INCARCERATION OF VIOLENT AND CAREER OFFENDERS;

18 (4) SENTENCING POLICIES SHOULD PRESERVE MEANINGFUL JUDICIAL  
19 DISCRETION IN THE IMPOSITION OF SENTENCES AND SUFFICIENT FLEXIBILITY TO  
20 PERMIT INDIVIDUALIZED SENTENCES; AND

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

24 21-103.

25 THERE IS A STATE COMMISSION ON CRIMINAL SENTENCING POLICY.

26 21-104.

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

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

29 (2) THE CHIEF JUDGE OF THE COURT OF APPEALS OR A JUDGE OR  
30 FORMER JUDGE OF THE COURT OF APPEALS OR THE COURT OF SPECIAL APPEALS  
31 DESIGNATED BY THE CHIEF JUDGE OF THE COURT OF APPEALS;

32 (3) ONE CIRCUIT COURT JUDGE, APPOINTED BY THE CHIEF JUDGE OF  
33 THE COURT OF APPEALS;

1 (4) ONE DISTRICT COURT JUDGE, APPOINTED BY THE CHIEF JUDGE OF  
2 THE COURT OF APPEALS;

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

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

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

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

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

14 (10) TWO MEMBERS OF THE HOUSE OF DELEGATES, WITH AT LEAST ONE  
15 MEMBER BEING FROM THE HOUSE JUDICIARY COMMITTEE, APPOINTED BY THE  
16 SPEAKER OF THE HOUSE;

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

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

21 (13) ONE REPRESENTATIVE FROM LAW ENFORCEMENT, APPOINTED BY  
22 THE GOVERNOR;

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

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

28 (16) TWO REPRESENTATIVES OF THE PUBLIC, APPOINTED BY THE  
29 GOVERNOR.

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

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

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

1 (4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES  
2 ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND  
3 QUALIFIES.

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

6 21-105.

7 (A) A MAJORITY OF THE AUTHORIZED MEMBERSHIP OF THE COMMISSION IS A  
8 QUORUM.

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

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

14 (C) THE COMMISSION MAY ESTABLISH SUBCOMMITTEES OR ADVISORY  
15 COMMITTEES COMPOSED OF COMMISSION MEMBERS TO ACCOMPLISH THE DUTIES  
16 IMPOSED UNDER THIS SECTION.

17 (D) (1) THE COMMISSION MAY ESTABLISH RULES GOVERNING THE  
18 ADMINISTRATION AND PROCEEDINGS OF THE COMMISSION.

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

21 (E) THE COMMISSION MAY REQUIRE STATE UNITS AND LOCAL  
22 GOVERNMENTS AND LOCAL GOVERNMENT UNITS TO PROVIDE INFORMATION AS  
23 REQUESTED BY THE COMMISSION.

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

27 (G) A MEMBER OF THE COMMISSION:

28 (1) MAY NOT RECEIVE COMPENSATION FOR SERVING ON THE  
29 COMMISSION; BUT

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

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

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



1 ~~(J)~~ THE FOLLOWING STATE UNITS SHALL COOPERATE FULLY WITH THE  
2 COMMISSION:

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

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

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

6 ~~(4)~~ THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL  
7 SERVICES;

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

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

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

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

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

14 21-106.

15 (A) SUBJECT TO REVISION BY THE COMMISSION, AND AFTER CONSIDERATION  
16 OF THE RECOMMENDATIONS OF THE MARYLAND COMMISSION ON CRIMINAL  
17 SENTENCING POLICY, THE COMMISSION SHALL ADOPT:

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

23 ~~(2)~~ THE RECOMMENDATIONS OF THE MARYLAND CRIMINAL  
24 SENTENCING POLICY COMMISSION CONCERNING THE SENTENCING GUIDELINES.

25 (B) THE SENTENCING GUIDELINES SHALL:

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

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

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

32 (C) (1) SUBJECT TO THE PROVISIONS OF PARAGRAPH (2) OF THIS  
33 SUBSECTION, THE COMMISSION SHALL ADOPT GUIDELINES TO IDENTIFY

1 DEFENDANTS WHO WOULD BE APPROPRIATE FOR PARTICIPATION IN CORRECTIONS  
2 OPTIONS PROGRAMS.

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

6           ~~(2)~~   (3)     THE GUIDELINES FOR CORRECTIONS OPTIONS SHALL BE  
7 CONSIDERED BY THE SENTENCING COURT IN DETERMINING WHETHER TO  
8 SENTENCE A DEFENDANT TO CORRECTIONS OPTIONS OR THE ORDINARY SENTENCE  
9 OTHERWISE CALLED FOR BY THE SENTENCING GUIDELINES.

10          ~~(3)~~   (4)     IN DECIDING WHETHER TO SENTENCE A DEFENDANT TO  
11 CORRECTIONS OPTIONS, THE SENTENCING COURT SHALL GIVE PRIMARY  
12 CONSIDERATION TO PROTECTION OF PUBLIC SAFETY.

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

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

19          (3)   (I)     THE ANNUAL REPORT SHALL REVIEW JUDICIAL COMPLIANCE  
20 WITH THE GUIDELINES, INCLUDING COMPLIANCE BY OFFENSE AND BY JUDICIAL  
21 CIRCUIT.

22                   (II)    IN DETERMINING WHETHER A SENTENCE IS WITHIN THE  
23 GUIDELINES, THE COMMISSION SHALL CONSIDER A SENTENCE TO A CORRECTIONS  
24 OPTIONS PROGRAM AS BEING WITHIN THE GUIDELINES IF THE SENTENCE FALLS  
25 WITHIN A CORRECTIONS OPTIONS ZONE SHOWN ON THE MATRIX.

26       (E)   (1)     THE COMMISSION SHALL COLLECT SENTENCING GUIDELINES  
27 WORKSHEETS AND AUTOMATE THE INFORMATION WITH THE ASSISTANCE OF THE  
28 ADMINISTRATIVE OFFICE OF THE COURTS.

29          (2)     EACH YEAR, THE COMMISSION SHALL COMPILE THE FOLLOWING  
30 INFORMATION ON EACH CIRCUIT COURT JUDGE:

31                   (I)     THE WRITTEN EXPLANATION SUBMITTED BY EACH JUDGE  
32 REGARDING THE JUDGE'S DEPARTURE FROM THE SENTENCING GUIDELINES; AND

33                   (II)    THE NUMBER OF TIMES AND THE PERCENTAGE OF TIMES THAT  
34 THE SENTENCE IMPOSED:

35                           1.     WAS BELOW THE SENTENCING GUIDELINES;

36                           2.     WAS ABOVE THE SENTENCING GUIDELINES;

1                                   3.       FOR VIOLENT CRIMES, AS DEFINED IN § 4-501(12) OF THIS  
 2 ARTICLE, WAS BELOW THE SENTENCING GUIDELINES; AND

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

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

7                   (2)       (4)       THE COMMISSION SHALL MONITOR SENTENCING PRACTICE  
 8 AND ~~RECOMMEND~~ ADOPT CHANGES TO THE GUIDELINE MATRICES CONSISTENT  
 9 WITH THE INTENT OF THIS TITLE.

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

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

15                   (1)       ~~30 DAYS AFTER PUBLICATION IN THE MARYLAND REGISTER; OR~~

16                   (2)       ~~THE DATE SPECIFIED BY THE COMMISSION AND PUBLISHED IN~~  
 17 ~~THE MARYLAND REGISTER.~~

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

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

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

29 21-107.

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

34       (B)       THE COMMISSION SHALL CONSULT WITH THE GENERAL ASSEMBLY WITH  
 35 REFERENCE TO IMPLEMENTATION, MANAGEMENT, MAINTENANCE, AND  
 36 OPERATIONS OF THE SENTENCING GUIDELINES SYSTEM.

1 (C) THE COMMISSION SHALL PREPARE STATEMENTS CONTAINING FISCAL  
2 AND STATISTICAL INFORMATION ON PROPOSED LEGISLATION AFFECTING  
3 SENTENCING AND CORRECTIONS PRACTICE.

4 21-108.

5 (A) THE COMMISSION SHALL USE A CORRECTIONAL POPULATION  
6 SIMULATION MODEL TO ASSIST IN DETERMINING THE STATE AND LOCAL  
7 CORRECTIONAL RESOURCES THAT:

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

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

12 (B) IF THE COMMISSION'S RECOMMENDATIONS FOR CHANGES IN  
13 LEGISLATION WOULD RESULT IN STATE AND LOCAL INMATE POPULATIONS THAT  
14 WOULD EXCEED THE OPERATING CAPACITIES OF AVAILABLE FACILITIES, THEN THE  
15 COMMISSION SHALL PRESENT ADDITIONAL SENTENCING MODEL ALTERNATIVES  
16 CONSISTENT WITH THESE CAPACITIES.

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

21

#### Article - Correctional Services

22 7-301.

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

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

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

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

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**Article—State Government**2 ~~7-205.~~

3 (a) Except as otherwise provided by law, the Code of Maryland Regulations  
4 shall contain the text of:

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

6 (2) ~~each regulation;~~

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

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

11 ~~[(4)] (5) unless otherwise privileged, each other document that the~~  
12 ~~Committee permits to be published in the Code of Maryland Regulations.~~

13 ~~10-102.~~

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

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

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

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

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

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

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

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

24 (1) The circuit court judge in 2001;

25 (2) The District Court Judge in 2003;

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

27 (4) The criminal defense attorney in 2003;

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

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

- 1 (7) One member of the House of Delegates in 2001;
- 2 (8) One member of the House of Delegates in 2003;
- 3 (9) The representative from a victim's advocacy group in 2001;
- 4 (10) The representative from law enforcement in 2003;
- 5 (11) The member with a background in criminal justice or corrections policy in  
6 2001;
- 7 (12) One representative of the public in 2001; and
- 8 (13) One representative of the public in 2003.

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

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